

MURFREESBORO CITY COUNCIL
Regular Session Agenda
Council Chambers – City Hall – 6:00 PM
May 5, 2022

PRAYER

Vice Mayor Madelyn Scales Harris

PLEDGE OF ALLEGIANCE

Ceremonial Items

Proclamation: Raeven Brown, national Milken Family Foundation Educator of the Year

Recognition: Paramedic Tara Melton and EMT Maclin Eckardt; LaShan Dixon, 2022 National Title Holder for the United States of America's Mrs. pageant system crowned February 19, 2022

Consent Agenda

1. Agreements for Psychological Evaluation Services (Police)
2. NEOGOV Services Agreement for PowerDMS Software (Police)
3. Solid Waste 10-yr Plan Update and FY35 Pro Forma (Solid Waste)
4. Asphalt and Concrete Purchase Report (Street)
5. Asphalt Purchases Report (Water Resources)
6. 2022 Water Treatment Plant Chemical Contracts (Water Resources)
7. Barton Lawn Care – Contract Amendment (Water Resources)
8. Contract for Custodial Services (Water Resources)
9. High Service Pump Station & Membrane Feed Pump (Water Resources)
10. Specific Energy Annual Service Fee (Water Resources)
11. Cross Connection Control Vehicle Replacement (Water Resources)
12. Purchase of Ultraviolet (UV) Disinfection Parts (Water Resources)

Minutes

13. City Council Minutes April 7, through April 27, 2022 (Finance)

Old Business

14. Ordinance 22-O-03: Amend City Code Regarding Retail Liquor Store Regulations (2nd and final reading) (Finance)
15. Ordinance 22-O-04: Amend City Code Regarding Special Event Hours for Beer Sales (2nd and final reading) (Finance)

New Business

Resolution

16. Resolution 22-R-11: FY22 City Schools Budget Amendment #8 (Schools)

Ordinance

17. FY23 Recommended Water Rate Increase (Water Resources)

- a. First Reading: Ordinance 22-O-09

Land Use Matters

18. Zoning for property along Northwest Broad Street Amending Ordinance 22-OZ-08 (Planning)

- a. Public Hearing: Removal of approximately 238 acres
b. First Reading: Ordinance 22-OZ-08

19. Amending the Zoning Ordinance Regarding Industrial Accessory Structures, Recreation Field Lighting, and Floodplain Regulations (Planning)

- a. Public Hearing: Amend Zoning Ordinance
b. First Reading: Ordinance 22-O-06

On Motion

20. Hanger 1 Change Order No. 5 (Administration)
21. Purchase Two 90 Passenger Transit Style School Buses (Schools)
22. Contract for Replacement of Bleachers (Schools)
23. Construction Contract for Floor Replacement at Erma Siegel Elementary
24. HVAC Preventative Maintenance Contract (Street)
25. Purchase of Rock Salt (Street)
26. Purchase of Jet/Vacuum Sewer Cleaner (Water Resources)
27. Lagoon Water Treatment Residuals Removal 2nd Renewal (Water Resources)
28. Task Order Amendment for Smith Seckman Reid (Water Resources)
29. Update Existing Water Model (Water Resources)

Licensing

Board & Commission Appointments

30. Public Building Authority

Payment of Statements

Other Business

Adjournment

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Agreements for Psychological Evaluation Services

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Agreements for psychological evaluation services.

Staff Recommendation

Approve agreements with Catherine Capelli, Ph.D.; Jennifer Hanket PsyD.; Jeffery Viers M.A. for psychological evaluation services.

Background Information

Peace Officer Standards and Training (P.O.S.T.) Commission and state law require all candidates for police officer to pass a psychological assessment prior to employment. Drs. Capelli, Hanket and Mr. Viers are all licensed by the State of Tennessee and are qualified to administer the required assessments.

Council Priorities Served

Maintaining Public Safety

Compliance is state standards are critical to maintain public safety.

Fiscal Impacts

Funding is provided for in the Department's operating expenses within the FY22 budget. The total cost will be dependent on the number of potential new hires that receive services.

Attachments:

Agreements for Psychological Evaluations

**AGREEMENT BETWEEN
CITY OF MURFREESBORO
AND
JENNIFER HANKET, PsyD
FOR
PSYCHOLOGICAL EVALUATIONS**

This Agreement is entered into on this _____ by and the **CITY OF MURFREESBORO, TENNESSEE**, a municipal corporation of the State of Tennessee (hereinafter "City"), on behalf of the Murfreesboro Police (hereinafter "MPD") and **JENNIFER HANKET, PsyD**, a licensed clinical psychologist of the State of Tennessee ("Contractor").

1. **Duties and Responsibilities of Contractor.** Contractor agrees to employ staff that will provide confidential psychological fitness-for-duty evaluations for police officers and police recruits as set for in Contractor's proposal dated March 2, 2022.
 - a. The psychological assessments shall meet the requirements set forth in T.C.A. § 38-8-106 (9) and the Tennessee Peace Officer Standards.
 - b. The psychological assessment may include the following:
 - i. Clinical interview;
 - ii. Mental status examination;
 - iii. Brief measure of cognitive ability; and
 - iv. Comprehensive objective personality inventory.
 - c. The psychological assessment shall be synthesized into a written confidential psychological report.
 - d. The psychological clinician who performed the examination shall provide a statement whether the officer is qualified to serve as a police officer per the Tennessee Peace Officer Standards.
 - e. The interview process may take place at Contractor's office.
2. **Duties and Responsibilities of City.** City shall provide a suitable location to conduct any necessary testing.
3. **Non-Exclusive Contract.** This is not an exclusive contract. The City specifically reserves the right to contract with other professionals for similar work if it deems such an action to be in the City's best interest.
4. **Term; Termination.** The term of this Agreement will be from _____ (effective date) to July 30, 2025. This agreement will automatically renew for one additional three-year term, unless otherwise terminated in accordance with this section. Contractor or City may terminate this agreement, with or without cause, upon providing the other party with at least thirty-days' written notice.
5. **Payment to Contractor.** City shall pay the Contractor \$450.00 per examination as set forth in Contractor's proposal dated March 2, 2022. Payment shall be made within thirty (30) calendar days of receipt of invoice for services delivered.
6. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
7. **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:
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8. **Insurance.** The Contractor must maintain commercial general liability insurance for bodily injury and property damage (minimum \$1,000,000), workers' compensation insurance as required by the State of Tennessee, and professional liability insurance for any of Contractor's employees who are medical professionals. Contractor's commercial general liability policy shall list City of Murfreesboro as an additional named insured. A certificate of insurance to this effect and the additional insured endorsement(s) to the policies must be presented to the City prior to the signing of the contract. Contractor must notify City if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.

9. **Maintenance of Records.**

- a. **Financial Records** - Contractor shall maintain documentation for all charges associated with services provided pursuant to this Contract. The books, records, and documents, of Contractor, insofar as they relate to 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 MCS or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principals.
- b. **Psychological Evaluation Records** - Contractor shall maintain psychological evaluation records associated with the services provided pursuant to this Contract for the duration of the individual's employment with the Murfreesboro Police Department or thirty years, which ever comes first.

10. **Confidentiality of Records.** Except as specifically permitted by this Agreement or as required by law, Consultant shall keep confidential, not disclose to any third party, and not use any information or data acquired under this Agreement and relating in any manner to or disclosed by (1) the City or (2) any employee receiving evaluation. Contractor shall impose this confidentiality requirement on its employees, agents, and independent contractors that come in contact with confidential information under this Agreement. Any exchanges of information deemed necessary to fulfill the service components of this Agreement will meet all HIPPA regulations as well as adhere to all applicable laws and/or any existing policies of either party. The obligations set forth in this section shall survive the termination or expiration of this Agreement.

11. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.

12. **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.

13. **Wavier.** No wavier of any provision of this Agreement 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.
14. **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, or which is in violation of application laws concerning the employment of individuals with disabilities.
15. **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.
16. **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.
17. **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.

18. **Integration.** This Agreement and Contractor's Proposal dated March 2, 2022, 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.
19. **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.
20. **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.
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CITY OF MURFREESBORO

JENNIFER HANKET, PsyD

Shane McFarland, Mayor



Jennifer Hanket, PsyD.

Approved as to form:

Adam F. Tucker, City Attorney

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AND
CATHERINE A. CAPELLI, Ph.D.
FOR
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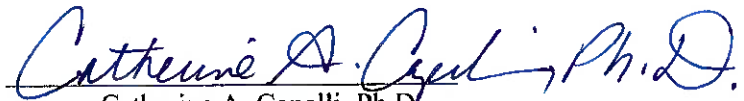
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Shane McFarland, Mayor

CATHERINE A. CAPELLI, Ph.D.


Catherine A. Capelli, Ph.D.

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Adam F. Tucker, City Attorney

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- 15. 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.
- 16. 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.
- 17. 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.

- 18. Integration.** This Agreement and Contractor's Proposal dated March 2, 2022, 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.
- 19. 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.
- 20. 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.
- 21. 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.
- 22. 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.
- 23. 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.

CITY OF MURFREESBORO

JEFFERY VIERS, M.A.

Shane McFarland, Mayor

Jeffery Viers, M.A.

Approved as to form:

Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: NEOGOV Services Agreement for PowerDMS Software

Department: Police and Fire

Presented by: Bill Terry, Public Safety IT Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

NEOGOV Services Agreement for PowerDMS Software.

Staff Recommendation

Approve The NEOGOV Services Agreement for PowerDMS Software.

Background Information

PowerDMS is a document management software. The Police and Fire Departments have been using this software for policy management, assessment, training, surveys and testing since 2016. This agreement will extend our services for an additional three years.

The total expenditure for the three-year contract is billed in a lump sum of \$48,193. This expense will be shared between the departments' operating budgets.

Council Priorities Served

Maintain Public Safety

PowerDMS provides readily available information on policy and procedures to all personnel.

Fiscal Impact

The total expenditure , \$48,193 is funded by the Police and Fire Rescue departmental FY22 Operating Budgets.

Attachments

1. Services Agreement
2. PowerDMS Service Order

SERVICES AGREEMENT

V032122

You agree that by placing an order through a NEOGOV standard ordering document entitled an “Order Form”, “Service Order,” or “SOW” (each, an “Order Form” for purposes of this Agreement) you agree to follow and be bound by the terms and conditions set forth herein. “Governmentjobs.com”, “NEOGOV”, “we”, and “our” means Governmentjobs.com, Inc. (D/B/A/ NEOGOV), for and on behalf of itself and its subsidiaries PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360) (collectively, “NEOGOV” and, where applicable, its other affiliates; “Customer”, “you”, “your” means the NEOGOV client, customer, or subscriber identified in the Order Form).

If you are placing an order on behalf of a legal entity, you represent that you have the authority to bind such entity to the terms and conditions of the Order Form and these terms and, in such event, “you” and “your” as used in these agreement terms shall refer to such entity. “Agreement” shall be used to collectively refer to this NEOGOV Services Agreement (the “Services Agreement” or the “Agreement”), documents incorporated herein including the applicable Order Form, Exhibits, Schedule(s), and Special Conditions (if any). “Special Conditions” means individually negotiated variations, amendments and/or additions to this Service Agreement of which are either drafted, or incorporated by reference, into the Order Form.

1. Provision of Services. Subject to the terms of this Agreement NEOGOV hereby agrees to provide Customer with access to its SaaS Applications and Professional Services (each defined below) included or ordered by Customer in the applicable Order Form (collectively referred to as the “Services”). Customer hereby acknowledges and agrees that NEOGOV’s provision and performance of, and Customer’s access to, the Services is dependent and conditioned upon Customer’s full performance of its duties, obligations and responsibilities hereunder. This Agreement entered into as of the date of your signature on an applicable Order Form or use of the Services commences (the “Effective Date”). The Agreement supersedes any prior and contemporaneous discussions, agreements or representations and warranties.
2. SaaS Subscription.
 - a) Subscription Grant. “SaaS Applications” means each proprietary NEOGOV web-based software-as-a-service application that may be set forth on an Order Form and subsequently made available by NEOGOV to Customer, and associated components as described in any written service specifications made available to Customer by NEOGOV (the “Service Specifications”). Subject to and conditioned on Customer’s and its Authorized Users’ compliance with the terms and conditions of this Agreement, NEOGOV hereby grants to Customer a limited, non-exclusive, non-transferable, and non-sublicensable right to (a) onboard, access and use, and to permit Authorized Users to onboard, access and use, the SaaS Applications specified in the Order Form solely for Customer’s internal, non-commercial purposes; (b) generate, print, and download Customer Data as may result from any access to or use of the SaaS Applications; and (c) train Authorized Users in uses of the SaaS Applications permitted hereunder (these rights shall collectively be referred to as the “SaaS Subscription”). “Authorized Users” means (i) Customer employees, agents, contractors, consultants (“Personnel”) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Services Agreement and (ii) for whom access to the Services has been purchased hereunder. You may not access the SaaS Applications if you are a direct competitor of NEOGOV or its affiliates. In addition, you may not access the SaaS Applications for purposes of monitoring their availability, performance, or functionality, or for any other benchmarking or competitive purposes. You shall be responsible for each Authorized User’s access to and use of the SaaS Applications and compliance with applicable terms and conditions of this Agreement.
 - b) Subscription Term. Unless otherwise specified in an applicable Order Form, SaaS Subscriptions shall commence on the Effective Date and remain in effect for twelve (12) consecutive months, unless terminated earlier in accordance with this Agreement (the “Initial Term”). Thereafter, SaaS Subscriptions shall automatically renew for successive twelve (12) month terms (each a “Renewal Term” and together with the Initial Term, collectively, the “Term”) unless a party delivers to the other party, at least thirty (30) days prior to the expiration of the Initial Term or the applicable Renewal Term, written notice of such party’s intention to not renew this Agreement, or unless terminated earlier in accordance with this Agreement. The Term for the Services is a continuous and non-divisible commitment for the full duration regardless of any invoice schedule. The purchase of any Service is separate from any other order for any other Service. Customer may purchase certain Services independently of other Services. Your obligation to pay for any Service is not contingent on performance of any other Service or delivery of any other Service.
3. Customer Responsibilities. Customer will not, and will ensure its Authorized Users do not (a) make any of the Services available to anyone other than Authorized Users or use any Services for the benefit of anyone other than Customer and its Authorized Users, unless otherwise agreed in writing by the parties, (b) sell, resell, license, sublicense, distribute, make available, rent or lease any of the Services, or include any of the Services in a service bureau or outsourcing offering, unless otherwise agreed in writing by the parties, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful

or tortious material, or to store or transmit material in violation of the privacy rights, publicity rights, copyright rights, or other rights of any person or entity, (d) use the Services to store or transmit code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses, (e) interfere with or disrupt the integrity or performance of the Services (including, without limitation, activities such as security penetration tests, stress tests, and spamming activity), (f) attempt to gain unauthorized access to the Services or its related systems or networks, (g) disassemble, reverse engineer, or decompile the Services, or modify, copy, or create derivative works based on the Services or any part, feature, function or user interface thereof, (h) remove the copyright, trademark, or any other proprietary rights or notices included within NEOGOV Intellectual Property and on and in any documentation or training materials, or (i) use the Services in a manner which violates the terms of this Agreement, any Order Form or any applicable laws.

4. Professional Services. “Professional Services” shall mean consulting, training services purchased by Customer in an applicable Order Form or detailed in a NEOGOV Scope of Work (SOW) relating to assistance, training, deployment, usage, customizations, accessory data processing, and best practices of and concerning the SaaS Applications. Professional Services may be ordered by Customer pursuant to a SOW and Service Specifications describing the work to be performed, fees, and any applicable milestones, dependencies, and other technical specifications or related information. Order Forms or SOWs must be signed by Customer before NEOGOV shall commence work. If Customer does not execute a separate SOW, the Services shall be provided as stated on the Order Form and this Agreement and documents incorporated herein shall control. All Professional Services purchased by Customer must be utilized within twelve (12) months of the date of the applicable Order Form or SOW.
5. Payment Terms.
 - a) Fees. Unless otherwise stated in an Order Form, Customer shall pay all Subscription, Onboarding and Set-Up fees (“Subscription Fees”) and Professional Service fees (“Professional Service Fees”, collectively the “Fees”) within thirty (30) days of Customer’s receipt of NEOGOV’s invoice. Fees shall be invoiced annually in advance and in a single invoice for each Term. Invoices shall be delivered to the stated “Bill To” party on the Order Form. Unless explicitly provided otherwise, once placed the Order Form is non-cancellable and sums paid nonrefundable. Any invoiced amount that is not received by NEOGOV when due as set forth in an Order Form will be subject to a late payment fee of 1.5% per month or the maximum rate permitted by law, whichever is lower. If any amount owing by Customer is more than 30 days overdue, NEOGOV may, without limiting its other rights and remedies, suspend the Services until such amounts are paid in full. Subscription Fees are based upon the Authorized User count unless otherwise stated in an Order Form and Customer shall owe NEOGOV supplemental Subscription Fees to the extent Customer exceeds the number of Authorized Users set forth in the Order Form. Except as otherwise specifically stated in the Order Form, NEOGOV may change the charges for the Services with effect from the start of each Renewal Term by providing Customer with a new Order Form at least thirty (30) day notice prior to commencement of a Renewal Term. The new Order Form shall be deemed to be effective if Customer (a) returns the executed Order Form to NEOGOV, (b) remits payment to NEOGOV of the fees set forth in the invoice referencing the Order Form, or (c) the Customer or any of its Authorized Users access or use the Services after the expiration of the previous Term.
 - b) Taxes. Customer will pay all taxes, duties and levies imposed by all federal, state, and local authorities (including, without limitation, export, sales, use, excise, and value-added taxes) based on the transactions or payments under this Agreement, except those taxes imposed or based on NEOGOV’s net income or those exempt by applicable state law. Customer shall provide NEOGOV with a certificate or other evidence of such exemption within ten (10) days of NEOGOV’s request therefor.
 - c) Customer Purchase Orders. Except as otherwise specified in an Order Form, Customer will not require any purchase order to pay fees due or otherwise to perform its obligations with respect to any Order Form. Any reference to a purchase order in an Order Form or any associated invoice is solely for Customer’s convenience in record keeping, and no such reference or any delivery of services to Customer following receipt of any purchase order shall be deemed an acknowledgement of or an agreement to any terms or conditions referenced or included in any such purchase order. If a purchase order is delivered by Customer in connection with the purchase of Services, none of the terms and conditions contained in such purchase order shall modify or supersede the terms and conditions of this Agreement. NEOGOV’s failure to object to terms contained in any such purchase order shall not be a waiver of the terms set forth in this provision or in this Agreement.
6. Term and Termination.
 - a) Term. Unless otherwise specified in an applicable Order Form, this Agreement shall commence on the Effective Date. This Agreement shall remain in effect until all SaaS Subscriptions have expired and/or both parties have achieved full performance of Professional Services or other services detailed in a SOW, unless it is terminated earlier in accordance with this Agreement.

- b) Termination for Cause; Effect of Termination. Either Party may terminate this Agreement immediately if the other is in material breach of this Agreement and such breach is not cured within thirty (30) days following non-breaching party's written specification of the breach. NEOGOV may suspend the Services or terminate this Agreement immediately in the event the Services or Customer's use of the Services provided hereunder pose a security risk to the Services, NEOGOV or any third party, or become illegal or contrary to any applicable law, rule, regulation, or public policy. Upon expiration or any termination of this Agreement, Customer shall cease all use and refrain from all further use of the Services and other NEOGOV Intellectual Property. Additionally, Customer shall be obligated to pay, as of the effective date of such expiration or termination, all amounts due and unpaid to NEOGOV under this Agreement. Unless otherwise specified, after expiration or termination of this Agreement NEOGOV may remove Customer Data from NEOGOV Services and without Customer consent or notice.
7. Audit Rights. Upon reasonable notice, NEOGOV or its agent shall have the right to audit Customer's records relating to its compliance with this Agreement. Customer shall cooperate fully with this audit. If any audit conducted under this Section indicates that any amount due to NEOGOV was underpaid, Customer shall within three (3) business days pay to NEOGOV the amount due. All expenses associated with any such audit shall be paid by NEOGOV unless the audit reveals underpayment in excess of five percent (5%), in which case Customer shall pay such expenses as well as any amount due to NEOGOV.
8. Maintenance; Modifications; Support Services.
- a) Maintenance, Updates, Upgrades. NEOGOV maintains NEOGOV's hardware and software infrastructure for the Services and is responsible for maintaining the NEOGOV server operation and NEOGOV database security. NEOGOV may in its sole discretion, periodically modify, Update, and Upgrade the features, components, and functionality of the Services during the Term. "Update" means any update, bug fix, patch or correction of the Services or underlying NEOGOV software that NEOGOV makes generally available to its customers of the same module, excluding Upgrades. Updates are automatic and available upon Customer's next login to the Services following an Update at no additional cost to Customer. "Upgrade" means any update of the Services or underlying NEOGOV software such as platform updates, and major product enhancements and/or new features that NEOGOV makes commercially available. NEOGOV shall have no obligation to provide Upgrades to customers and retains the right to offer Upgrades free of cost or on a per customer basis at additional cost. NEOGOV shall have no liability for, or any obligations to, investments in, or modifications to Customer's hardware, systems or other software which may be necessary to use or access the Services due to a modification, Update, or Upgrade of the Services.
- b) Program Documentation; Training Materials. "Program Documentation" shall mean all user guides, training, and implementation material, and Service descriptions provided by NEOGOV to Customer in connection with the Services. NEOGOV hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use, print, and distribute internally via non-public platforms, the Program Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services. Primary training of NEOGOV Services is conducted by self-review of online materials. NEOGOV's pre-built, online training consists of a series of tutorials to introduce the standard features and functions (the "Training Materials"). The Training Materials may be used as reference material by Customer Personnel conducting day-to-day activities.
- c) Implementation. For Services requiring implementation, NEOGOV implementation supplements the Training Materials and is conducted off-site unless otherwise agreed in the Order Form. NEOGOV personnel will provide consultation on best practices for setting up the Services, answer Customer questions during the implementation period, and use commercially reasonable efforts to ensure Authorized User Admins grasp the system. The length of the implementation time is dependent on the type of Service and the Customer's responsiveness. NEOGOV is not responsible or liable for any delay or failure to perform implementation caused in whole or in part by Customer's delay in performing its obligations hereunder and, in the event of any such delay, NEOGOV may, in its sole discretion, extend all performance dates as NEOGOV deems reasonably necessary.
- d) Support. Phone support for the Services is available to Customer Monday through Friday, excluding NEOGOV holidays. Customer may submit a request for online support for the Services 24 hours a day, seven days a week, and the NEOGOV support desk will acknowledge receipt of the request within a reasonable time. The length of time for a resolution of any problem is dependent on the type of case.
- e) Limitations. Unless otherwise specified in the Order Form, this Agreement does not obligate NEOGOV to render any maintenance or support services that are not expressly provided herein, including, but not limited to data uploads, manual data entry, migration services, data conversion, refinement, purification, reformatting, SQL dump, or process consultation.

9. NEOGOV Intellectual Property. NEOGOV shall exclusively own all right, title and interest in and to all pre-existing and future intellectual property developed or delivered by NEOGOV including all Services, products, systems, software (including any source code or object code) or Service Specifications related thereto, Updates or Upgrades, trademarks, service marks, logos and other distinctive brand features of NEOGOV and all proprietary rights embodied therein (collectively, the “NEOGOV Intellectual Property”). This Agreement does not convey or transfer title or ownership of the NEOGOV Intellectual Property to Customer or any of its users. All rights not expressly granted herein are reserved by NEOGOV. Other than recommendation use or as required by law, all use of NEOGOV trademarks must be pre-approved by NEOGOV prior to use. Trademarks shall include any word, name, symbol, color, designation or device, or any combination thereof that functions as a source identifier, including any trademark, trade dress, service mark, trade name, logo, design mark, or domain name, whether or not registered.

10. Data Processing and Privacy.
 - a) Customer Data. “Customer Data” shall mean all data that is owned or developed by Customer, whether provided to NEOGOV by Customer or provided by a third party to NEOGOV in connection with NEOGOV’s provision of Services to Customer, including Personnel data collected, loaded into, or located in Customer data files maintained by NEOGOV. NEOGOV Intellectual Property, including but not limited to the Services and all derivative works thereof, NEOGOV Confidential Information, and Platform Data do not fall within the meaning of the term “Customer Data”. Customer exclusively owns all right, title, and interest in and to all Customer Data. Customer grants NEOGOV a license to host, use, process, display, create non-personal derivative works of, and transmit Customer Data to provide the Services. NEOGOV reserves the right to delete or disable Customer Data stored, transmitted or published by Customer using the Services upon receipt of a bona fide notification that such content infringes upon the Intellectual Property Rights of others, or if NEOGOV otherwise reasonably believes any such content is in violation of this Agreement.

 - b) Platform Data. “Platform Data” shall mean any anonymized data reflecting the access or use of the Services by or on behalf of Customer or any user, including statistical or other analysis and performance information related to the provision and operation of the Services including any end user visit, session, impression, clickthrough or click stream data, as well as log, device, transaction data, or other analysis, information, or data based on or derived from any of the foregoing. NEOGOV shall exclusively own all right, title and interest in and to all Platform Data. Customer acknowledges NEOGOV may compile Platform Data based on Customer Data input into the Services. Customer agrees that NEOGOV may use Platform Data to the extent and in the manner permitted under applicable law.

 - c) Data Processing Agreement. To the extent Customer uses the Services to target and collect personal information from users located in the European Union, European Economic Area, or Switzerland (the “EU”) or the United Kingdom (“UK”), or has Authorized Users accessing the Services from the EU or UK, the following NEOGOV Data Processing Addendum (“DPA”) is incorporated herein by reference:
<https://www.neogov.com/hubfs/Legal%20Documents/Customer%20Data%20Processing%20Addendum-signed.pdf>.

 - d) Data Responsibilities.
 - i) NEOGOV will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by NEOGOV personnel except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by applicable law, or (c) as Customer expressly permits in writing. Customer acknowledges and agrees that it is commercially reasonable for NEOGOV to rely upon the security processes and measures utilized by NEOGOV’s cloud infrastructure providers.

 - ii) Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Data. NEOGOV will have no responsibility or liability for the accuracy of the Customer Data prior to receipt of such data into the Services. Customer shall be solely responsible for and shall comply with all applicable laws and regulations relating to (i) the accuracy and completeness of all information input, submitted, or uploaded to the Services, (ii) the privacy of users of the Services, including, without limitation, providing appropriate notices to and obtaining appropriate consents from any individuals to whom Customer Data relates; and (iii) the collection, use, modification, alteration, extraction, retention, copying, external storage, disclosure, transfer, disposal, and other processing of any Customer Data. NEOGOV is not responsible for lost data caused by the action or inaction of Customer or Authorized Users. Unless otherwise mutually agreed in writing, Customer shall not maintain any financial, health, payment card, or similarly sensitive data that imposes specific data security or data protection obligations within the Services.

 - e) Breach Notice. NEOGOV will notify Customer of unauthorized access to, or unauthorized use, loss or disclosure of Customer Data within its custody and control (a “Security Breach”) within 72 hours of NEOGOV’s confirmation of the

nature and extent of the same or when required by applicable law, whichever is earlier. Each party will reasonably cooperate with the other with respect to the investigation and resolution of any Security Breach. If applicable law or Customer's policies require notification of its Authorized Users or others of the Security Breach, Customer shall be responsible for such notification.

- f) Data Export, Retention and Destruction. Customer may export or delete Customer Data from the Services at any time during a Subscription Term, using the existing features and functionality of the Services. Customer is solely responsible for its data retention obligations with respect to Customer Data. If and to the extent Customer cannot export or delete Customer Data stored on NEOGOV's systems using the then existing features and functionality of the Services, NEOGOV will, upon Customer's written request, make the Customer Data available for export by Customer or destroy the Customer Data. If Customer requires the Customer Data to be exported in a different format than provided by NEOGOV, such additional services will be subject to a separate agreement on a time and materials basis. Except as otherwise required by applicable law, NEOGOV will have no obligation to maintain or provide any Customer Data more than ninety (90) days after the expiration or termination of this Agreement.
11. Third Party Services. The Services may permit Customer and its Authorized Users to access services or content provided by third parties through the Services ("Third Party Services"). Customer agrees that NEOGOV is not the original source and shall not be liable for any inaccuracies contained in any content provided in any of the Third Party Services. NEOGOV makes no representations, warranties or guarantees with respect to the Third Party Services or any content contained therein. NEOGOV may discontinue access to any Third Party Services through the Services if the relevant agreement with the applicable third party no longer permits NEOGOV to provide such access. If loss of access to any Third Party Services (to which Customer has a subscription under this Agreement) occurs during a Subscription Term, NEOGOV will refund to Customer any prepaid fees for such Third Party Services covering the remainder of the Subscription Term.
12. Nondisclosure.
- a) Definition of Confidential Information. "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer's Confidential Information includes its Customer Data. NEOGOV Confidential Information includes the NEOGOV Intellectual Property and the Services. The Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party.
- b) Obligations. The Receiving Party will: (i) use the same degree of care it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care); (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (iii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its employees and contractors who need access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not less protective of the Confidential Information than those herein.
- c) Exceptions. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.
- d) Equitable Relief. The parties recognize and agree there is no adequate remedy at law for breach of the provisions of the confidentiality obligations set forth in this Section 12, that such a breach would irreparably harm the Disclosing Party and the Disclosing Party is entitled to seek equitable relief (including, without limitation, an injunction) with respect to any such breach or potential breach in addition to any other remedies available to it at law or in equity.
13. Representations, Warranties, and Disclaimers.
- a) Mutual Representations. Each party represents and warrants to the other party that (i) it has full power and authority under all relevant laws and regulations and is duly authorized to enter into this Agreement; and (ii) to its knowledge, the

execution, delivery and performance of this Agreement by such party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it.

- b) Service Performance Warranty. NEOGOV warrants that it provides the Services using a commercially reasonable level of care and skill. THE FOREGOING WARRANTY DOES NOT APPLY, AND NEOGOV STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD PARTY SERVICES.
- c) No Other Warranty. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS WARRANTY SECTION, THE SERVICES ARE PROVIDED ON AN “AS IS” BASIS, AND CUSTOMER’S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE, OR THAT ANY ERROR WILL BE CORRECTED.
- d) Disclaimer of Actions Caused by and/or Under the Control of Third Parties. NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER’S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIALY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

14. Indemnification.

- a) Customer Indemnity. To the extent permitted by applicable law, Customer will defend and indemnify NEOGOV from and against claim, demand, suit or proceeding made or brought against NEOGOV (a) by a third party alleging that any Customer Data infringes or misappropriates such third party's intellectual property rights, (b) in connection with Customer’s violation of any applicable laws, or (c) any claim or allegation by any third party resulting from or related to Customer’s or any of its Authorized User’s breach of Section 3 of this Agreement, in each case provided that Customer is promptly notified of any and all such claims, demands, suits or proceedings and given reasonable assistance and the opportunity to assume sole control over defense and settlement.
- b) NEOGOV Indemnity. Subject to subsections 14(b)(i) through 14(b)(iii) of this Section, if a third party makes a claim against Customer that any NEOGOV intellectual property furnished by NEOGOV and used by Customer infringes a third party’s intellectual property rights, NEOGOV will defend the Customer against the claim and indemnify the Customer from the damages and liabilities awarded by the court to the third-party claiming infringement or the settlement agreed to by NEOGOV, provided that NEOGOV is promptly notified of any and all such claims, demands, suits or proceedings and given reasonable assistance and the opportunity to assume sole control over defense and settlement.
 - i) Alternative Resolution. If NEOGOV believes or it is determined that any of the Services may have violated a third party’s intellectual property rights, NEOGOV may choose to either modify the Services to be non-infringing or obtain a license to allow for continued use. If these alternatives are not commercially reasonable, NEOGOV may end the subscription or license for the Services and refund a pro-rata portion of any fees covering the whole months that would have remained, absent such early termination, following the effective date of such early termination.
 - ii) No Duty to Indemnify. NEOGOV will not indemnify Customer if Customer alters the Service or Service Specifications, or uses it outside the scope of use or if Customer uses a version of the Service or Service Specifications which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Services or Service Specifications which was provided to Customer, or if the Customer continues to use the infringing material after the subscription expires. NEOGOV will not indemnify the Customer to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by NEOGOV. NEOGOV will not indemnify Customer for any portion of an infringement claim that is based upon the combination of Service or Service Specifications with any products or services not provided by NEOGOV. NEOGOV will not indemnify Customer for infringement caused by Customer’s actions against any third party if the Services as delivered to Customer and used in accordance with the terms of the Agreement would not otherwise infringe any third-party intellectual property rights.

- iii) Exclusive Remedy. This Section provides the exclusive remedy for any intellectual property infringement claims or damages against NEOGOV.

15. Limitations of Liability.

- a) EXCLUSION OF DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) COST OF REPLACEMENT GOODS OR SERVICES; (e) LOSS OF GOODWILL, LOSS OF BUSINESS OPPORTUNITY OR PROFIT, OR LOSS OF REPUTATION; OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
 - a) CAP ON MONETARY LIABILITY. EXCEPT FOR DAMAGES ARISING OUT OF LIABILITY WHICH CANNOT BE LAWFULLY EXCLUDED OR LIMITED, CUSTOMER'S OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF NEOGOV INTELLECTUAL PROPERTY RIGHTS, THE TOTAL LIABILITY OF EITHER PARTY FOR ANY AND ALL CLAIMS AGAINST THE OTHER PARTY UNDER THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL NOT EXCEED THE AMOUNT OF ALL PAYMENTS ACTUALLY RECEIVED BY NEOGOV FROM CUSTOMER IN CONNECTION WITH THIS AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE DATE OF THE EVENT INITIALLY GIVING RISE TO SUCH LIABILITY. THE FOREGOING LIMITATION OF LIABILITY IS CUMULATIVE WITH ALL PAYMENTS FOR CLAIMS OR DAMAGES IN CONNECTION WITH THIS AGREEMENT BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT. THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS LIMITATION OF LIABILITY IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.
16. Text Message Communications. NEOGOV may offer Personnel the opportunity to receive text messages regarding job application or hiring process reminders, applicant status updates, or other human resource related notices. Since these text message services depend on the functionality of third-party providers, there may be technical delays on the part of those providers. NEOGOV may make commercially reasonable efforts to provide alerts in a timely manner with accurate information, but cannot guarantee the delivery, timeliness, or accuracy of the content of any alert. NEOGOV shall not be liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert; or for any actions taken or not taken by you or any third party in reliance on an alert. NEOGOV cannot vouch for the technical capabilities of any third parties to receive such text messages. To the extent you utilize text messaging features, NEOGOV shall not be responsible for your use of such features, and you shall indemnify NEOGOV with respect to any damages resulting from your use including but not limited any violations of applicable law. NEOGOV MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, STATUTORY, OR IMPLIED AS TO: (i) THE AVAILABILITY OF TELECOMMUNICATION SERVICES; (ii) ANY LOSS, DAMAGE, OR OTHER SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES; AND (iii) ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS, OR SETTINGS CONNECTED WITH THE SERVICES.
17. Publicity. Unless otherwise provided in the applicable Order Form, NEOGOV may identify Customer as one of its customers and use Customer's logo for such purposes, subject to any trademark usage requirements specified by Customer.
18. Force Majeure. Except for Customer's payment obligations to NEOGOV, neither party shall be liable for any damages, costs, expenses or other consequences incurred by the other party or by any other person or entity for any act, circumstance, event, impediment or occurrence beyond such party's reasonable control, including, without limitation: (a) acts of God; (b) changes in or in the interpretation of any law, rule, regulation or ordinance; (c) strikes, lockouts or other labor problems; (d) transportation delays; (e) unavailability of supplies or materials; (f) fire or explosion; (g) riot, pandemic, military action or

usurped power; (h) actions or failures to act on the part of a governmental authority; (i) internet service interruptions or slowdowns, vandalism or cyber-attacks, or (j) any other cause beyond the reasonable control of such party.

19. Independent Contractor; No Third Party Beneficiary; Fulfillment Partners. The relationship of the parties shall be deemed to be that of an independent contractor and nothing contained herein shall be deemed to constitute a partnership between or a joint venture by the parties hereto or constitute either party the employee or agent of the other. Customer acknowledges that nothing in this Agreement gives Customer the right to bind or commit NEOGOV to any agreements with any third parties. This Agreement is not for the benefit of any third party and shall not be deemed to give any right or remedy to any such party whether referred to herein or not. NEOGOV may designate any third-party affiliate, or other agent or subcontractor (each a "Fulfillment Partner"), without notice to, or the consent of, Customer, to perform such tasks and functions to complete any Services.
20. Entire Agreement; Amendment. This Services Agreement, the Exhibits hereto and documents incorporated herein, the applicable Order Form, and Special Conditions (if any) constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous oral and written statements of any kind whatsoever made by the parties with respect to such subject matter. Any Customer proposal for additional or different terms, or Customer attempt to vary in any degree any of the terms of this Agreement is hereby objected to and rejected but such proposal shall not operate as a rejection of this Service Agreement and Order Form unless such variances are in the terms of the description, quantity, or price but shall be deemed a material alteration thereof, and this Service Agreement and the applicable Order Form shall be deemed accepted by the Customer without said additional or different terms. It is expressly agreed that the terms of this Agreement and any NEOGOV Order Form shall supersede the terms in any non-NEOGOV purchase order or other ordering document. Notwithstanding the foregoing, any conflict of terms shall be resolved by giving priority in accordance with the following order: 1) Special Conditions (if any), 2) NEOGOV Order Form, 3) the NEOGOV Services Agreement, and 4) incorporated documents. This Agreement supersedes the terms and conditions of any clickthrough agreement associated with the Services. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the parties to be bound.
21. General. This Agreement shall be governed by and construed in accordance with the laws of the state of California, without giving effect to conflict of law rules. Any legal action or proceeding relating to this Agreement shall be instituted only in any state or federal court in Los Angeles, California. If any provision of this Agreement is held to be illegal or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that the remainder of this Agreement will continue in full force and effect. Provisions that survive termination or expiration are those relating to, without limitation, accrued rights to payment, acknowledgements and reservations of proprietary rights, confidentiality obligations, warranty disclaimers, and limitations of liability, and others which by their nature are intended to survive. All notices or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given either when personally delivered, one (1) business day following delivery by recognized overnight courier or electronic mail, or three (3) business days following deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested. All such communications shall be sent to (i) Customer at the address set forth in the Order Form and (ii) NEOGOV at the address specified in the applicable Order Form. The waiver, express or implied, by either party of any breach of this Agreement by the other party will not waive any subsequent breach by such party of the same or a different kind. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together shall constitute one and the same instrument. Delivery of a copy of this Agreement or an Order Form bearing an original signature by facsimile transmission, by electronic mail or by any other electronic means will have the same effect as physical delivery of the paper document bearing the original signature. Customer may not assign this Agreement without the express written approval of NEOGOV and any attempt at assignment in violation of this Section shall be null and void. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers as of the date set forth below, and consent to the Agreement.

Customer		GovernmentJobs.com, Inc. (D/B/A/ NEOGOV), on behalf of itself and its subsidiaries PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360)	
Entity Name:	City of Murfreesboro		
Signature:	_____	Signature:	_____
Print Name:	Shane McFarland, Mayor	Print Name:	
Date:		Date:	

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney

Exhibit A
Government Customer Addendum

If Customer is a Government Customer, the following Government Customer Addendum (“Government Addendum”) forms part of the Services Agreement, and in the case of any conflict or inconsistency between the terms and provisions of this Addendum and any other provision of the Services Agreement, the terms of this Government Addendum shall control. For purposes hereof, a “Government Customer” means a Customer which is a (a) U.S. Federal agency, (b) state government, agency, department, or political subdivision (including a city, county or municipal corporation), or (c) instrumentality of any of the foregoing (including a municipal hospital or municipal hospital district, police or fire department, public library, park district, state college or university, Indian tribal economic development organization, or port authority).

1. **Applicability.** The provisions of this Addendum shall apply only if Customer is a Government Customer under the Services Agreement.
2. **Termination for Non-Appropriation of Funds.** If Customer is subject to federal, state or local law which makes Customer’s financial obligations under this Services Agreement contingent upon sufficient appropriation of funds by the applicable legislature (or other appropriate governmental body), and if such funds are not forthcoming or are insufficient due to failure of such appropriation, then Customer will have the right to terminate the Services Agreement at no additional cost and with no penalty by giving prior written notice documenting the lack of funding. Customer will provide at least thirty (30) days advance written notice of such termination. Customer will use reasonable efforts to ensure appropriated funds are available. If Customer terminates the Services Agreement under this Section 2, Customer agrees not to replace the Services with functionally similar products or services for a period of one year after the termination of the Services Agreement.
3. **Indemnification.** If Customer is prohibited by federal, state or local law from agreeing to hold harmless or indemnify third parties, Section 14(a) of the Services Agreement shall not apply to Customer, to the extent disallowed by applicable law.
4. **Open Records.** If the Customer is subject to federal or state public records laws, including laws styled as open records, freedom of information, or sunshine laws (“Open Records Laws”) the confidentiality requirements of Section 12 of the Services Agreement apply only to the extent permitted by Open Records Laws applicable to the Customer. This Section is not intended to be a waiver of any of the provisions of the applicable Open Records Laws, including, without limitation, the requirement for the Customer to provide notice and opportunity for NEOGOV to assert an exception to disclosure requirements in accordance with the applicable Open Records laws.
5. **Cooperative Purchasing.** If Customer is a Government Customer, but is not a U.S. Federal Agency or subdivision thereof, NEOGOV agrees to allow any other state agency, department, political subdivision or instrumentality of the state but in all cases located in the same state as the Customer (“Related Agency”) to purchase Services under the terms of the Services Agreement, at the Related Agency’s discretion with the following requirements, exceptions and limitations: (a) any purchases made by a Related Agency shall be transactions between the Related Agency and NEOGOV; for clarity, Customer shall not be responsible for any transactions between the Related Agency and NEOGOV, (b) the terms (including pricing) specified in the Order Forms entered into between NEOGOV and Customer shall not be incorporated into the transactions between the Related Agency and NEOGOV, and (c) the Related Agency will confirm in writing it has the authority to use the Services Agreement for the purchase and that the use of the Services Agreement for the purchase is not prohibited by law or procurement regulations or standards applicable to the Related Agency.

Exhibit B PowerEngage Platform Addendum

If Customer is purchasing the PowerEngage Platform pursuant to an Order Form, the following terms are hereby incorporated into the Services Agreement (“PowerEngage Addendum”). This PowerEngage Platform Addendum forms part of the Services Agreement, and in the case of any conflict or inconsistency between the terms and provisions of this PowerEngage Addendum and any other provision of the Services Agreement, the terms of this PowerEngage Addendum shall control.

1. **Applicability.** The provisions of this PowerEngage Addendum shall apply only if Customer has purchased the PowerEngage Platform pursuant to an Order Form.

2. **CAD/RMS Assumptions.** The parties agree that the fees specified with respect to the PowerEngage Platform on the applicable Order Form do not include any additional fees that the Customer’s CAD or RMS vendor may charge, if any. The Services Agreement and this Exhibit B is entered into with the mutual assumption that the PowerEngage Platform will be able to make a connection to Customer’s CAD or RMS replicated or reporting database directly or will be able to read from a file produced for such a purpose.

3. **CAD/RMS Provisions.** The definition of Confidential Information in Section 12 of the Services Agreement shall also include any Customer CAD and/or RMS data made available to NEOGOV in connection with the provision of the PowerEngage Platform.

4. **SOW.** NEOGOV agrees to provide the training, configuration and support services with respect to the PowerEngage Platform, and Customer acknowledges that its cooperation is required for efficient and timely implementation of the PowerEngage Platform, in accordance with the following:

PowerEngage Software

NEOGOV will be used to survey citizens that have interacted with Customer, send messages to citizens or other stakeholders and gather and report on data. Customer will be able to configure the surveys and rules based on data received from the Computer Aided Dispatch System. The results of the surveys will be stored within PowerEngage and available for display in a Feedback Board and within the analytics component called Measure. Other rules and messages can be built to be triggered to send on certain events as driven by the rules engine.

NEOGOV and Customer Responsibilities

The bullet points below outline when NEOGOV, Customer, or both NEOGOV and Customer have responsibility with respect to a particular deliverable.

1. NEOGOV will configure a tenant and telephone number group for the Customer
2. NEOGOV will schedule a 90-minute kickoff call with the Customer to review the objectives, timeline and mutual deliverables
 - Configure Customer administrator account - NEOGOV
 - Walk Customer through the survey builder - NEOGOV
 - Walk Customer through the rules builder - NEOGOV
 - Walk Customer through the Feedback Board- NEOGOV
 - Walk Customer through Activity /Survey tools- NEOGOV
 - Walk Customer through the CueHit CAD Data Agent and what is needed for the connection to CAD - NEOGOV
3. Customer will gather information needed for Surveys, Rules, Tasks and CAD/RMS Data – Customer
4. NEOGOV will coordinate a CAD/RMS Connection Workshop with Customer
 - Configure PowerEngage CAD/RMS agent- NEOGOV and Customer
 - Connect to Customer CAD/RMS Data – Customer
 - Test data – NEOGOV and Customer
5. NEOGOV will coordinate a 2-hour Survey Workshop with Customer
 - Consult on the questions to ask in a satisfaction survey (maximum of 3 to 5 questions) = NEOGOV and Customer
 - Configure the questions in the survey tool = NEOGOV and Customer
 - Configure the acceptable responses in the survey tool = NEOGOV and Customer
 - Configure additional criteria (Follow Up question only) = NEOGOV and Customer

- Send sample survey to Customer on text message = NEOGOV and Customer
 - Review in Feedback Board and Activity Screens= NEOGOV and Customer
6. NEOGOV will coordinate a 2- 4 hour Rules Workshop with Customer to jointly
- Consult on the rules for surveys and automatic text notifications = NEOGOV and Customer
 - Configure the rules and texts = NEOGOV and Customer
 - Send example encounters to test rules = NEOGOV and Customer
 - Review in Activity= NEOGOV and Customer
7. NEOGOV will coordinate a 2 Hour Task Creation and Notification Workshop with Customer to jointly:
- Configure Tasks and Task Assignments
 - Identify Personnel information needed for notifications and digest emails
 - Import Personnel information for receiving messages and emails from Customer provided .xls or .csv
8. NEOGOV will schedule a 2-hour Analytics Workshop with the Customer to review the ideas for the Dashboards to reflect the results of the surveys.
- NEOGOV will review standard visualizations and data in the dashboard
 - NEOGOV will request from the Customer, input on the data and visualization to be presented in the Measure Tool
 - Once agreed, a maximum of 1 custom visualizations will be created by NEOGOV and deployed to the Customer's environment
9. NEOGOV will train the Customer Administrators on the use of the PowerEngage configuration tools, Measure tools and Activity logs.

Support Services

Telephone Assistance. Customer will be given the telephone number for a support line and will be entitled to contact the support line during normal operating hours, (between 7:30am and 5:30pm Central Time) on regular business days, excluding NEOGOV holidays, to consult with NEOGOV technical support staff concerning problem resolution, bug reporting, documentation clarification, and general technical guidance. Assistance may include remote connectivity, modem, or electronic bulletin board.

Software Problem Reporting. Customer may submit requests to NEOGOV identifying potential problems in the PowerEngage software. Requests should be in writing and directed to NEOGOV by e-mail, or through the NEOGOV support website. NEOGOV retains the right to determine in the final disposition of all requests and will inform Customer of the disposition of each request. If NEOGOV acts upon a request, it will do so by providing a bug fix.

Scheduled Maintenance. Software may be unavailable periodically for system maintenance. Regular system maintenance includes installation of the software updates, operating system updates/patches and updates to other third-party applications as needed. Customers are notified of maintenance periods via an email message or via a banner on the main page of the PowerEngage Platform.

Exclusions from Technical Support Services:

NEOGOV shall have no support obligations with respect to any third-party hardware or software product.

Exhibit C

HRIS Addendum

The following terms govern the use of the HRIS Services (the “HRIS Addendum”) as they relate to specific HRIS Services ordered by Customer in an Order Form. “HRIS Services” refers to the following SaaS Applications or any Add-Ons (defined below) or Professional Services related to such SaaS Applications: NEOGOV Core HR, NEOGOV Payroll, and NEOGOV Time and Attendance. If any provision within the HRIS Addendum directly conflicts with any other provision of the Services Agreement, the terms of this Addendum shall control.

Implementation; Add-Ons; and Configuration Limitation. Implementation of HRIS Services as detailed in the standard statement of work (“SOW”) and the mutually agreed-upon scope document (“Scope”) will proceed in accordance with the estimated implementation schedule provided by NEOGOV and as further detailed in the SOW and Scope. Implementation services not included in the SOW and Scope may be subject to additional fees. Customer acknowledges that the timeline for the implementation schedule is an estimate only and dependent on a number of variables, including but not limited to Customer’s responsiveness to NEOGOV’s requests during the implementation process and Customer’s obligation to fill out the “Implementation Workbook” to facilitate the implementation process. In the event that Customer does not order the full suite of HRIS services offered, NEOGOV may be required to generate custom feeds for Customer for an additional fee. During implementation, Customer may elect optional add-on services that supplement the SaaS Applications (the “Add-Ons”). After completion of implementation, any subsequent changes Customer requests to the configuration of the HRIS Services will be at cost.

NEOGOV will have no responsibility for nor any duty to review, verify, correct or otherwise perform any investigation as to the completeness, accuracy or sufficiency of any data or information input into the HRIS system by or on behalf of the Customer. Customer is solely responsible for ensuring that all data entered into and stored in the HRIS system is accurate and complete, and for correcting any errors or discrepancies in such data.

CORE HR and Benefits – Additional Terms

The following terms shall apply to the extent that Customer orders the NEOGOV Core HR, and HRIS Services involving benefits administration (the “Benefits Module”):

1. **Benefits Module Representative.** Customer shall designate one or more persons who shall serve as NEOGOV’s designated contact for the Benefits Module (the “Benefits Representative”). Customer represents and warrants to NEOGOV that the Benefits Representative has, and shall at all times have, the requisite authority to transmit information, directions and instructions on behalf of Customer, each “plan administrator” defined in Section 3(16)(A) of the ERISA and Section 414(g) of the Code and, if applicable, each “fiduciary” (as defined in Section 3(21) of ERISA) of each separate employee benefit plan covered by the Benefits Module (each, a “Benefit Plan”). The Benefits Representative also shall be deemed to have authority to issue, execute, grant, or provide any approvals, requests, notices, or other communications required or permitted under the Services Agreement or requested by NEOGOV in connection with the Benefits Module.
2. **Use of the Benefits Module.**
 - a) **HR Users.** Customer shall authorize an administrator to input information and access certain information relating to (i) the benefits offered by Customer and (ii) Customer’s employees/plan participants and their benefit options and elections as well as view certain personal and company information regarding company employees. The Benefits Module permits Customer’s employees/plan participants to make various benefits elections and to view and update certain personal and company information. It is Customer’s responsibility to submit instructions and information relating to the Benefits Module and to verify the accuracy and completeness of all such instructions and information submitted by Customer, employees, and plan participants.
 - b) **NEOGOV Not Fiduciary Advisor.** Customer acknowledges and agrees that, in making the Benefits Module available, NEOGOV is not acting as an investment advisor, broker-dealer, insurance agent, tax advisor, attorney or intermediary or a financial or benefit planner. NEOGOV is not providing any benefits, tax advice, or any information related thereto; Customer is responsible for making available all benefits and information related thereto referenced or included in the Benefits Module.
 - c) **NEOGOV’s Health Care Clearinghouse Status.** Customer expressly acknowledges and agrees that NEOGOV is not a “Health Care Clearinghouse”, a “Covered Entity” or a “Business Associate” within the meaning of HIPAA, and Customer shall not request or otherwise require NEOGOV to act as such. To the extent that NEOGOV is required

to enter into any additional agreement as a result of Customer's use of the Benefits module, Customer shall be responsible for any liability incurred by NEOGOV thereunder.

3. **Additional Termination Rights.** NEOGOV may terminate Core HR, the Benefits Module, or this Services Agreement immediately upon written notice to the Customer upon (a) the failure of Customer to maintain its Benefit Plan(s) in compliance with ERISA or other applicable laws or regulations or (b) NEOGOV's determination that the exercise of any of the rights granted hereunder or the continued performance by NEOGOV of its obligations under this Services Agreement would cause NEOGOV to violate any applicable international, federal, state or local law(s) and/or regulation(s).
4. **ERISA.** The terms of this Section only shall apply to the extent Customer uses services governed, in whole or in part, by the Employee Retirement Income Security Act of 1974, as amended ("ERISA")
 - a) **NEOGOV's Non-Fiduciary Status.** Customer expressly acknowledges and agrees that NEOGOV is not an "Administrator", "Plan Sponsor," or a "Plan Administrator" as defined in Section 3(16)(A) of ERISA, and Section 414(g) of the Internal Revenue Code of 1986, as amended (the "Code"), respectively, nor is NEOGOV a "fiduciary" within the meaning of ERISA Section 3(21), and Customer shall not request or otherwise require NEOGOV to act as such. NEOGOV shall not exercise any discretionary authority or control respecting management of any of Customer's benefit or welfare plans ("Plan" or "Plans") or management or disposition of any of Customer's benefit or welfare Plan assets. NEOGOV shall not render investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of any Plan, nor does NEOGOV have any authority or responsibility to do so. NEOGOV has no discretionary authority or discretionary responsibility in the administration of the Plan(s).
 - b) **Use of NEOGOV'S Name.** Customer or the Plan Administrator must obtain the prior written consent of NEOGOV to insert any references to NEOGOV or its affiliates, or to NEOGOV Services, with respect to any communication or document pertaining to a Plan prepared by Customer, or on behalf of Customer (other than documents prepared by NEOGOV), unless the reference only identifies NEOGOV as a service provider or the reference is required in a filing or document required by ERISA or any other applicable law. Without limiting the foregoing, in no event may Customer or the Plan Administrator identify or refer to NEOGOV as "administrator", "plan administrator", "third-party administrator", "plan sponsor", "fiduciary", "plan fiduciary" or similar title.
5. **Direct to Carrier Services.** Customer may elect direct to insurance carrier services (each a "Carrier Link") at its option, each for an additional cost. Reconfiguration of existing Carrier Links, establishing new Carrier Links, and additional elections are available for an additional fee and may be completed by NEOGOV at NEOGOV's then current rates. Customer may access and use the NEOGOV HRIS Services to electronically transmit employee data, including employee benefits enrollment data, to Customer's carriers or other third parties authorized by Customer. NEOGOV's ability to transmit data is subject to the provision of a current functional interface between HRIS Services and the carriers' systems. NEOGOV will not be obligated to transmit Customer's data to carriers if at any time Customer's carriers fail to provide the proper interface as solely determined by NEOGOV. If Customer requires development of any special or customized interfaces to transmit such data, all work performed by NEOGOV to create such interfaces will be at NEOGOV's then current fees for such services. NEOGOV makes no warranty that each carrier's specifications will conform with NEOGOV's current functional interfaces. In the event a carrier provides formats or specifications not supported by the NEOGOV HRIS Services, Customer will be solely responsible for transmitting the data to such carrier using an alternative system to be determined solely by Customer. Customer shall be responsible for promptly reviewing all records of transmissions to carriers and other reports prepared by NEOGOV for validity and accuracy according to Customer's records, and Customer will notify NEOGOV of any discrepancies promptly after receipt thereof.

Payroll Services – Additional Terms

The following terms shall apply to the extent that Customer orders the NEOGOV Payroll Services module:

1. **Payroll Processing and Tax Filing.** NEOGOV will deliver (i) payroll administrative services to Customer through NEOGOV's payroll software as a service (the "Payroll Module"), (ii) at Customer's election, direct deposit administration to those employees electing such service via ACH processing (collectively referred to as the "Payroll Services"), remit payroll taxes on Customer's behalf to those federal, state, and local taxing jurisdictions designated by Customer, and file related tax returns (such as remitting of payroll taxes and filing of related tax returns, the "Tax Services"). At NEOGOV's then current fees, NEOGOV may also process calendar year-end W-2 forms for Customer's employees and Forms 1099-MISC. NEOGOV will, and Customer hereby authorizes NEOGOV and Fulfillment Partners to, initiate debits or reverse wire transfers prior to each paydate for Customer's payroll ("Paydate") and credit the bank accounts of Customer's employees and others to be paid by Customer by direct deposit payment on Paydate (a "Payee"), all in compliance with the operating rules of the National Automated Clearing House Association and the terms and conditions hereof. For

purpose of clarity, the parties understand and agree that NEOGOV does not print and/or send paychecks for or on behalf of Customer.

2. Documentation and Required Information.

- a) Authorization Forms; Proof of Name. Customer will be required to complete and submit the following documents in order to use the payroll processing components of Payroll Module: (i) power of attorney forms for each jurisdiction in which Customer will use the HRIS Services (the “POA”), (ii) Authorization to Debit/Credit Bank Account(s)/Obtain Bank Account Information (the “Authorization Form”), (iii) an IRS proof of legal name/FEIN and (iv) any authorization form for Fulfillment Partner authorizing debiting and crediting Customer’s bank account.
- b) Proof of Existence. Customer will provide NEOGOV, and authorize NEOGOV to provide to Fulfillment Partner, Customer’s (i) legal name, and “doing business as” name if applicable, (ii) physical street address (not a PO Box or PMB), (iii) phone number, (iv) Primary Business Activity (Nature of Business), (v) Duns Number (if one exists), (vi) Tax ID Number, (vii) estimated transaction count and dollar volume, (viii) number of employees, and (ix) supporting evidence via (A) either certified Articles of Incorporation, IRS EIN Letter, unexpired government issued business license, trust instrument or other government-issued evidence showing legal existence, and (B) either a voided business check, copy of utility bill, other evidence of legal name, physical address, DBA Name, or Tax ID.
- c) Permitted Disclosure Authorization. Customer hereby authorizes NEOGOV to (i) provide Customer’s data to Fulfillment Partner for the purposes of performing the Payroll and Tax Services, and (ii) take such action as is necessary to perform the Payroll and Tax Services.
- d) Time and Attendance Information. Prior to commencement of Time and Attendance Services, Customer shall provide to NEOGOV all necessary information and guidance relating to its time and attendance policies and guidelines and coordinate with NEOGOV to establish standards for NEOGOV in its execution of the Time and Attendance Services. Customer agrees to promptly comply with NEOGOV’s request for such additional documentation and understands that Payroll or Tax Services may be impaired or delayed if Customer does not comply with such request.

3. Customer Obligations, Representations, and Warranties. Customer acknowledges that NEOGOV’s obligation to perform the HRIS Services is subject to Customer’s obligations, representations, and warranties. Customer represents and warrants the following:

- a) Processing Authorization. Customer authorizes NEOGOV to process payroll entries on behalf of Customer. Customer acknowledges that NEOGOV is acting solely in the capacity of data processing agent and is not a source of funds for Customer. Customer shall be liable for each payroll related transaction initiated by NEOGOV on behalf of Customer, whether by electronic entry or wire transfer. NEOGOV, or its Fulfillment Partners, electronically transmit employee data, including employee payroll data, to designated third parties, and Customer authorizes NEOGOV and its Fulfillment Partners, to provide such transmission on Customer’s behalf. Customer agrees that NEOGOV maintains specific Fulfillment Partner(s) for NEOGOV Payroll and Tax Services fulfillment during the term of and in accordance with this Services Agreement and that Customer shall not, directly or indirectly, supplement, substitute, or otherwise modify the provision of such Payroll and Tax Services without terminating this Services Agreement.
- b) Information Accuracy; Reliance; Change Notice. Customer shall input, maintain, and verify the accuracy of any and all information, including payroll and tax information, and Customer shall continually ensure that such information is kept complete, accurate, delivered on time, and up to date at all times. Customer acknowledges that NEOGOV and NEOGOV Fulfillment Partners will rely on the accuracy of this information as it performs its requested functions. NEOGOV shall not be responsible for any delays or inaccuracies in Customer’s delivery of data to NEOGOV. Customer will notify NEOGOV immediately of any change in the processing information, including the Authorization Form. Customer will also obtain a voluntary written authorization from any Payee prior to the initiation of the first credit to the account of such Payee and shall provide upon demand a copy of such written authorization to NEOGOV.
- c) Processing Deadlines. Unless otherwise agreed to by the Parties, Customer will: (a) complete and execute all required documentation so that NEOGOV or Fulfillment Partner may withdraw funds from Customer’s account to process direct deposit payrolls, (b) input or report all relevant payroll data for ACH transmissions to NEOGOV no later than 2:00 p.m. Pacific Standard Time (PST) three (3) banking days prior to each Paydate, (c) input or report all other relevant payroll data to NEOGOV no later than 2:00 p.m. Pacific Standard Time (PST) two banking days prior to each Paydate, (d) have available in Customer’s bank account good, collectable funds in a sufficient amount to cover funding disbursements, checks, direct deposits, tax payments, or recurring payments to third parties no later than the opening of business (i) two banking days prior to each Paydate for debits by electronic entry, and (ii) two banking

days prior to each Paydate for funding by wire transfer, and (e) compare all reports on credits or debits initiated by Customer to NEOGOV's records and promptly notify NEOGOV of any discrepancies. In the event Customer does not meet the deadlines specified herein, NEOGOV shall make reasonable efforts to complete processing prior to the Paydate; however, NEOGOV makes no representation or warranty that payroll will process by the Paydate where Customer fails to provide all required documentation by the deadline. Additional Fees may apply for expedited processing.

- d) Customer Review. Within seven (7) business days after receipt from NEOGOV, Customer will promptly conduct a detailed review of all payroll and tax registers produced by NEOGOV or Fulfillment Partners for accuracy, validity and conformity with Customer's records. Customer will promptly notify NEOGOV of any error or omission discovered by Customer in any payroll registers, disbursement records, payroll or tax reports and documents produced by NEOGOV or Fulfillment Partners, or any discrepancy between the information provided by NEOGOV or Fulfillment Partners, and Customer's records. Customer will not rely on any record, report or document containing any discovered error, omission or discrepancy until such error, omission or discrepancy, has been corrected. Customer will be responsible for any consequences resulting from instructions Customer may give to NEOGOV or Fulfillment Partners with regard to HRIS Services or any payroll registers, disbursement records, reports and documents prepared by NEOGOV based on information provided by Customer.
 - e) Document Retention. Customer will retain copies of all information entered into or generated by the HRIS Services and Customer shall be solely responsible for maintaining such data, and all tax records, in accordance with any legal obligations.
 - f) Special Processing. Customer understands and acknowledges that administering processing dates beyond standard payroll dates, and correcting, amending, or cancelling payroll entries or mistaken reversals (collectively "Special Processing"), are complicated, highly manual, and may result in additional expenses, tax consequences, and penalties. Therefore, Special Processing may be subject to additional NEOGOV Fees.
 - g) Recovery Cooperation. Customer agrees to undertake reasonable efforts to cooperate with NEOGOV and any other parties involved in processing any transactions hereunder to recover funds credited to any employee as a result of an error made by Customer, NEOGOV, or Fulfillment Partners, or any other loss recovery efforts and in connection with any actions that the relevant party NEOGOV may be obligated to defend or elects to pursue against any third-party.
 - h) Compliance with Laws. Customer acknowledges that, in order to put into effect the Payroll Services which include ACH transactions, Customer will be the Originator of the ACH transactions and will follow and be bound by the rules for ACH Originators as adopted from time to time by the NACHA. Customer agrees that it has assumed the responsibilities of an Originator under the ACH Rules and acknowledges that entries may not be initiated in violation of the laws of the United States. Customer agrees to be compliant with laws. Customer will comply with all laws including, but not limited to, the U.S. Patriot Act, the Unlawful Internet Gambling Enforcement Act, the Bank Secrecy Act, and Anti Money Laundering laws.
4. Effect of Failed Funds. If Customer fails to pay the taxes, direct deposits, employee payments or other charges, including fees, then Customer agrees to pay NEOGOV for all costs of collection, including reasonable attorney fees, which may be associated with collection of the amounts due. NEOGOV also may, at its sole option, terminate this Services Agreement and withhold or suspend any work in progress. This is in addition to any other rights NEOGOV may have under this contract or under law. NEOGOV also reserves the rights to reverse employee transactions and /or tax payments for which funds have not been received from Customer.
5. Rejection of Entries. NEOGOV shall reject any file or entry that does not comply with the requirements of this Services Agreement, the NACHA Rules, or uses an improper SEC Code, or if NEOGOV suspects fraud or illegal or improper activity. NEOGOV shall have no liability.
6. Resolution of Error Exceptions. For the purposes of this Section, the term "error exception(s)" shall mean any data requirements within the HRIS Services that, based on Customer's configuration, have been assigned a severity level designation of "error"; such designation shall create a requirement for an operational task to be completed by Customer in order to proceed with Customer's processing, including processing of Customer payroll for the designated period. Failure to resolve an error exception will prevent Customer's payroll from being processed as scheduled. NEOGOV is not obligated to clear any such error on behalf of Customer.
7. NEOGOV Errors and Omissions Warranty. NEOGOV warrants it will use commercially reasonable efforts to properly transmit the appropriate reports, data, or filings based on the information provided in Customer's HRIS Services. In

addition, NEOGOV will use commercially reasonable efforts to rectify any Customer report, data, or filing error, including any deposit, corrected or reversal debit or credit entry, for which NEOGOV is solely responsible; provided that, in each case Customer advises NEOGOV no later than ten (10) business days after the occurrence of such errors or omissions. This is Customer's sole remedy in the event of a breach of the foregoing warranty. Notwithstanding the foregoing, Customer will be solely responsible for payment of all tax penalties, interest, and additional NEOGOV fees if: (i) the penalty is the result of incorrect, inaccurate, or incomplete information Customer provides to NEOGOV, (ii) Customer has insufficient funds in Customer's designated bank account to process HRIS Services, or (iii) a party other than NEOGOV, or a NEOGOV Fulfillment Partner, fails to perform services in a timely manner.

8. Additional Liability and Warranty Limitations. NEOGOV, ITS PROVIDERS, AND FULFILLMENT PARTNERS, AND THE OFFICERS, DIRECTORS, EMPLOYEES, AND SUPPLIERS OF EACH WILL NOT BE LIABLE UNDER ANY CIRCUMSTANCES OR UNDER ANY THEORY OF RECOVERY (WHETHER IN CONTRACT OR TORT OR OTHERWISE) FOR (i) ANY FEES, COSTS, CHARGES, OR ANY DAMAGES CAUSED BY LOST SHIPMENT OR TRANSMISSION OF CHECKS OR ANY FORM OF DISBURSEMENT INCLUDING, BUT NOT LIMITED TO, STOP PAYMENT FEES, REPRINTING OR RETRANSMISSION COSTS, SHIPPING CHARGES, OR CONSEQUENTIAL EXPENSES AND DAMAGE, (ii) ANY CHARGES, FEES, OR EXPENSES INCURRED BY CUSTOMER, CUSTOMER'S AGENTS, OR EMPLOYEES WHICH ARE DUE TO LATE PAYCHECKS, REGARDLESS OF WHETHER SUCH PAYCHECKS ARE TO BE PREPARED AND DELIVERED BY NEOGOV, FULFILLMENT PARTNERS, OR BY CUSTOMER, (iii) NON-PERFORMANCE OF HRIS SERVICES WHICH HAVE BEEN SUSPENDED DUE TO FAILURE OR DELAY IN PAYMENT OF FEES OWED UNDER THIS SERVICES AGREEMENT, AND (IV) FOR ANY DAMAGES TO CUSTOMER ARISING FROM OR IN CONNECTION WITH A DECISION BY NEOGOV TO SUBMIT FILES FOR PROCESSING AFTER CUSTOMER HAS FAILED TO CLEAR OUTSTANDING ERROR EXCEPTIONS WITHIN THE SPECIFIED DEADLINE.
9. Additional Termination Rights.
 - a) Termination for Default. Customer's breach of the NACHA Rules, violation of any applicable federal or state regulation, or failure to maintain account funding as required by this Services Agreement (and as a result any debit to Customer's account is returned), shall each constitute a default. Upon default, NEOGOV may suspend the HRIS Services or terminate this Services Agreement in a manner that permits NEOGOV to comply with the NACHA Rules. Termination is effective immediately upon written notice of such termination to Customer. The right to suspend the HRIS Services and/or terminate this Services Agreement is in addition to any other rights and remedies provided under this Services Agreement or otherwise under law.
 - b) Effect of Termination. No termination of this Services Agreement shall release Customer from any obligation to pay NEOGOV any amount that has accrued or becomes payable at or prior to the date of termination. No suspension of HRIS Services shall release Customer from any obligation to pay NEOGOV any amounts due under this Services Agreement. Customer shall not be entitled to any refund of any amounts paid to NEOGOV as a result of a termination based on Customer's default. Notwithstanding the termination of this Services Agreement, the parties shall continue to comply with the NACHA Rules with respect to transmissions pursuant to this Services Agreement.

Exhibit D
Integration Terms Addendum

NEOGOV offers integrations and platform APIs for integrations to third party systems (“Integration Services”). Customer may use only those Integration Services purchased or subscribed to as listed within the NEOGOV Order Form. The following terms (the “Integration Terms Addendum”) shall apply to the extent that Customer utilizes a system integration between the Services and either: (a) an affiliated integrated service, including those found at <https://api.neogov.com/connect/marketplace.html> and/or <https://apidocs.powerdms.com> (“Affiliated API”) or to the extent that Customer utilizes a system integration between the Services and an unaffiliated third-party service (“Customer Application”) integrated using NEOGOV’s open API (“Open API”). Integration Services are not available for HRIS Services and this Exhibit D shall not apply to HRIS Services.

1. **Provision of Integrations.** Subject to and conditioned on compliance with all terms and conditions set forth in this Agreement, NEOGOV hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable license during the applicable Term to use and/or access the Affiliated API as described in this Agreement, or the Open API for communication between Customer’s human resource related third application(s) that will interoperate with NEOGOV Services (collectively these uses shall be referred to as the “API” or “Integration”). Customer acknowledges there are no implied licenses granted under this Agreement. NEOGOV reserves all rights that are not expressly granted. Customer may not use the API for any other purpose without our prior written consent. Customer may not share the API with any third party, must keep the API and all log-in information secure, and must use the API key as Customer sole means of accessing the API.
2. **Integration Intellectual Property.** All right, title, and interest in the API and any and all information, data, documents, materials, inventions, technologies, know-how, descriptions, requirements, plans, reports, works, intellectual property, software, hardware, systems, methods, processes, and inventions, customizations, enhancements, improvements and other modifications based on or derived from the API are and will remain, as appropriate, with NEOGOV. All right, title, and interest in and to the third-party materials, including all intellectual property rights therein, are and will remain with their respective third-party rights holders subject to the terms and conditions of the applicable third-party license agreements. Customer has no right or license with respect to any third-party materials except as expressly licensed under such third-party license agreements.
3. **Integration Terms of Use.** Except as expressly authorized under this Agreement, you may not remove any proprietary notices from the API; use the API in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; combine or integrate the API with any software, technology, services, or materials not authorized by NEOGOV; design or permit Customer Application(s) to disable, override, or otherwise interfere with any NEOGOV-implemented communications to end users, consent screens, user settings, alerts, warning, or the like; use the API in any of Customer Application(s) to replicate or attempt to replace the user experience of the Services; or attempt to cloak or conceal Customer identity or the identity of Customer Application(s) when requesting authorization to use the API.
4. **Customer Integration Responsibilities.** Customer, Customer developed web or other software services or applications, and Customer third-party vendors that integrate with the API (collectively the “Customer Applications”), shall comply with all terms and conditions of this Agreement, all applicable laws, rules, and regulations, and all guidelines, standards, and requirements that may be posted on <https://api.neogov.com/connect/index.html> and/or <https://apidocs.powerdms.com> from time to time. In addition, Customer will not use the API in connection with or to promote any products, services, or materials that constitute, promote, or are used primarily for the purpose of dealing in spyware, adware, or other malicious programs or code, counterfeit goods, items subject to U.S. embargo, unsolicited mass distribution of email (“spam”), multi-level marketing proposals, hate materials, hacking, surveillance, interception, or descrambling equipment, libelous, defamatory, obscene, pornographic, abusive, or otherwise offensive content, stolen products, and items used for theft, hazardous materials, or any illegal activities.
5. **Cooperation.** If applicable, Customer shall timely provide such cooperation, assistance, and information as NEOGOV reasonably requests to enable the API. NEOGOV is not responsible or liable for any late delivery or delay or failure of performance caused in whole or in part by Customer’s delay in performing, or failure to perform, any of its obligations under this Agreement. NEOGOV will provide Customer maintenance and support services for API issues arising from the information technology designed, developed, and under then current control of NEOGOV. NEOGOV shall have no obligation to provide maintenance or support for issues arising from the inaction or action of Customer or third parties of which are outside NEOGOV control.
6. **Provision of Open API.** In the event license fees or other payments are not due in exchange for the right to use and access the Open API, you acknowledge and agree that this arrangement is made in consideration of the mutual covenants set forth in this Agreement, including, without limitation, the disclaimers, exclusions, and limitations of liability set forth herein.

Notwithstanding the foregoing, NEOGOV reserves the right to change for access with effect from the start of each Renewal Term by giving Customer at least ninety (90) day notice prior to commencement of a Renewal Term.

7. API Key. In order to use and access the Open API, you must obtain an Open API key through the registration process. Customer agrees to monitor Customer Applications for any activity that violates applicable laws, rules and regulation, or any terms and conditions of this Agreement, including any fraudulent, inappropriate, or potentially harmful behavior. This Agreement does not entitle Customer to any support for the Open API. You acknowledge that NEOGOV may update or modify the Open API from time to time and at our sole discretion and may require you to obtain and use the most recent version(s). You are required to make any such changes to Customer Applications that are required for integration as a result of such Update at Customer sole cost and expense. Updates may adversely affect how Customer Applications communicate with the Services.
8. Efficient Processing. You must use efficient programming, which will not cause an overwhelming number of requests to be made in too short a period of time, as-determined solely by NEOGOV. If this occurs, NEOGOV reserves the right to throttle your API connections, or suspend or terminate your access to the Open API. NEOGOV shall use reasonable efforts to provide Customer notice and reasonable time to cure prior to taking such actions.
9. Open API Limitations. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL NEOGOV BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY UNDER ANY TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, LOST PROFITS, LOST OR CORRUPTED DATA, COMPUTER FAILURE OR MALFUNCTION, INTERRUPTION OF BUSINESS, OR OTHER SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THE USE OR INABILITY TO USE THE OPEN API; OR ANY DAMAGES, IN THE AGGREGATE, IN EXCESS OF FIFTY DOLLARS, EVEN IF NEOGOV HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES AND WHETHER OR NOT SUCH LOSS OR DAMAGES ARE FORESEEABLE OR NEOGOV WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH CLAIM.
10. Open API Termination. Notwithstanding the additional Termination rights herein, NEOGOV may immediately terminate or suspend Customer access to Open APIs in our sole discretion at any time and for any reason, with or without notice or cause. In addition, your Open API subscription will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement.

Contract Details		Order Details	
Account Number: A-7789		Order #: Q-159895	
Customer: Murfreesboro Police & Fire Departments (TN)		Order Date: 5/26/2022	
Sales Rep: Salesforce Administrator		Valid Until: 5/26/2022	
		Subscription Start Date: 5/26/2022	
		Subscription Term (months): 36	
Customer Contact			
Billing Contact:	Murfreesboro Police & Fire Departments (TN)	Billing Contact Email:	0417@murfreesborotn.gov
	Clayton Williams	Phone:	6292015572
Address:	PO Box 1139	Fax:	
	Attn: Accounts Payable		
	Murfreesboro, TN 37133		
Payment Terms			
Payment Term:	Net 60	Notes:	Updated product codes - 600-699 user tier - 3 yr paid up front pricing
PO Number:			
Subscription Service			

Item	Type	Start Date	End Date	Qty	Total
TLEA Manual	Recurring	5/26/2022	5/25/2023	1	\$0.00
View Standards manual electronically.					
TLEA Manual	Recurring	5/26/2023	5/25/2024	1	\$0.00
View Standards manual electronically.					
TLEA Manual	Recurring	5/26/2024	5/25/2025	1	\$0.00
View Standards manual electronically.					
PowerSTANDARDS for TLEA	Recurring	5/26/2022	5/25/2023	1	\$750.00
Attach proofs to show compliance with TLEA Standard, assign assessment tasks, track revisions, and status-based grading.					
PowerSTANDARDS for TLEA	Recurring	5/26/2023	5/25/2024	1	\$750.00
Attach proofs to show compliance with TLEA Standard, assign assessment tasks, track revisions, and status-based grading.					
PowerSTANDARDS for TLEA	Recurring	5/26/2024	5/25/2025	1	\$750.00
Attach proofs to show compliance with TLEA Standard, assign assessment tasks, track revisions, and status-based grading.					
PowerDMS Standards for CPSE/CFAI Fire & Emergency Service	Recurring	5/26/2022	5/25/2023	1	\$1,150.00
Attach proofs to show compliance with CPSE/CFAI Standard, assign assessment tasks, track revisions, and status-based grading.					
PowerDMS Standards for CPSE/CFAI Fire & Emergency Service	Recurring	5/26/2023	5/25/2024	1	\$1,150.00
Attach proofs to show compliance with CPSE/CFAI Standard, assign assessment tasks, track revisions, and status-based grading.					
PowerDMS Standards for CPSE/CFAI Fire & Emergency Service	Recurring	5/26/2024	5/25/2025	1	\$1,150.00
Attach proofs to show compliance with CPSE/CFAI Standard, assign assessment tasks, track revisions, and status-based grading.					
CPSE/CFAI Manual	Recurring	5/26/2022	5/25/2023	1	\$0.00
CPSE/CFAI Manual	Recurring	5/26/2023	5/25/2024	1	\$0.00
CPSE/CFAI Manual	Recurring	5/26/2024	5/25/2025	1	\$0.00
Legacy Training Included	Recurring	5/26/2022	5/25/2023	699	\$0.00
A training solution that lets you create, deliver, and track training content online, including videos and PowerPoint presentations. It integrates with PowerDMS Select and Professional, giving you the ability to attach policies to training courses while ensuring version control. This is granted to legacy customers.					



Service Order

Item	Type	Start Date	End Date	Qty	Total
Legacy Training Included	Recurring	5/26/2023	5/25/2024	699	\$0.00
A training solution that lets you create, deliver, and track training content online, including videos and PowerPoint presentations. It integrates with PowerDMS Select and Professional, giving you the ability to attach policies to training courses while ensuring version control. This is granted to legacy customers.					
Legacy Training Included	Recurring	5/26/2024	5/25/2025	699	\$0.00
A training solution that lets you create, deliver, and track training content online, including videos and PowerPoint presentations. It integrates with PowerDMS Select and Professional, giving you the ability to attach policies to training courses while ensuring version control. This is granted to legacy customers.					
PowerPolicy Professional Subscription	Recurring	5/26/2022	5/25/2023	699	\$14,164.46
A policy and compliance management platform that lets you create, edit, organize, and distribute content from a secure, cloud-based site. Included are key features such as automatic workflows, signature capture and tracking, side-by-side comparison, Public-Facing Documents, PowerDMS University, and Analytics for advanced reporting.					
PowerPolicy Professional Subscription	Recurring	5/26/2023	5/25/2024	699	\$14,164.46
A policy and compliance management platform that lets you create, edit, organize, and distribute content from a secure, cloud-based site. Included are key features such as automatic workflows, signature capture and tracking, side-by-side comparison, Public-Facing Documents, PowerDMS University, and Analytics for advanced reporting.					
PowerPolicy Professional Subscription	Recurring	5/26/2024	5/25/2025	699	\$14,164.46
A policy and compliance management platform that lets you create, edit, organize, and distribute content from a secure, cloud-based site. Included are key features such as automatic workflows, signature capture and tracking, side-by-side comparison, Public-Facing Documents, PowerDMS University, and Analytics for advanced reporting.					
TOTAL:					\$48,193.38

This price does not include any sales tax.

Additional Terms and Conditions

Payment Terms All invoices issued hereunder are **due upon the invoice due date**. The fees set forth in this Service Order are exclusive of all applicable taxes, levies, or duties imposed by taxing authorities and Customer shall be responsible for payment of any such applicable taxes, levies, or duties. All payment obligations are non-cancellable, and all fees paid are non-refundable.

Terms & Conditions Unless otherwise agreed in a written agreement between PowerDMS and Customer, this Service Order and the services to be furnished pursuant to this Service Order are subject to the terms and conditions set forth here: <http://www.powerdms.com/terms-and-conditions/>. The Effective Date (as defined in the terms and conditions) shall be the subscription start date.

Accepted and Agreed By Authorized Representative of:
Murfreesboro Police & Fire Departments (TN)

Signature: _____

Printed Name: _____

Title: _____

Date _____

THE INFORMATION AND PRICING CONTAINED IN THIS SERVICE ORDER IS STRICTLY CONFIDENTIAL

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Review Solid Waste 10-yr Plan Update and FY35 Pro Forma

Department: Solid Waste

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Review of an updated 10-yr planning document for solid waste and materials management for the City of Murfreesboro that reinforces an expansion of Middle Point Landfill is inconsistent with the future solid waste management goals and objectives of the City.

Recommendation

Adopt the attached 10-yr Solid Waste Plan Update dated April 7, 2022.

Background Information

The Central TN Region Solid Waste Board (CTRSWB) is required to provide an annual 10-yr plan update to the Tennessee Department of Environment and Conservation (TDEC). The 10-yr update plan is due April 30, 2022, and a public comment meeting is scheduled for April 25, 2022.

The City adopted a 10-yr plan for the first time in 2021 that properly documented the City's and Rutherford County's preparation of a Solid Waste Management Vision document in 2018 that revolved around the central assumption that the Middle Point Landfill would be closed by 2027.

The attached 10-yr plan update brings the version adopted last year by the Council on May 6, 2021, up to current actualities and documents the progress made over the past eleven months.

Significant work was done that staff believes needs to be incorporated into the 10-yr plan update that recognizes the inconsistency of Middle Point Landfill's expansion application in light of the goals and objectives stated in the City's previously adopted plan.

Minimum facilities are outlined in the 10-yr solid waste plan that would serve the needs of the City given the expectant closure of Middle Point Landfill on July 1, 2026. The document also identifies a sustainable model that would divert 90% of the City's MSW to generate a biomass fuel (e.g., coal substitute) through a process developed by WastAway. The City entered into a contract with WastAway on July 8, 2021 to determine the economic viability of their process with the main goal of identifying a buyer for the fuel. Ongoing negotiations with prospective buyers are occurring and a

pro forma for this process indicates it would be the least cost, highest return solution if a long-term buyer is identified and willing to pay the commensurate cost of coal.

Council Priorities Served

Improve economic development

The Middle Point Landfill has been a blight to the northern citizens of Murfreesboro and diminished their quality of life through continued noxious odors, traffic, and other environmental concerns. These factors compounded with an application to expand the landfill greatly diminish the social and economic benefit potential of future development in Murfreesboro.

Fiscal Impact

There are no immediate fiscal impacts associated with adopting the 10-yr solid waste plan update. There are long-term fiscal impacts associated with managing solid waste differently in lieu of receiving free tipping fees at Middle Point Landfill after it closes.

Attachments

Solid Waste Management 10-yr Update Plan for City of Murfreesboro

Solid Waste Management Plan

10-yr Update for City of Murfreesboro

DRAFT



April 7, 2022

Prepared for:

TN Dept. of Environment and Conservation Division of Solid Waste

Adopted by:

Murfreesboro City Council

April XX, 2022



DRAFT

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1 Executive Summary

1.1 Background and Introduction

In Rutherford County, TN, the Middle Point Landfill is projected to reach capacity around 2027.¹ This Class I landfill received 975,900 tons of waste in 2017—265,000 tons from within Rutherford County and 710,900 tons from other counties. , Middle Point Landfill is owned and operated by BFI Waste Services of Tennessee, LLC, a subsidiary of Republic Services, Inc. (Republic).

Table 1– Middle Point Landfill Annual MSW Tonnages Received

Year	Total Tonnage	Rutherford Tonnage	Co. Other County Tonnage
2017	1,014,574	261,334	749,921
2018	946,616	291,710	652,165
2019	962,941	311,349	649,137
2020	891,971	307,523	581,859

Both Rutherford County (the “County”) and the City of Murfreesboro (the “City”) enjoy financial benefits related to the Landfill. They receive free disposal of approximately 82,750 tons of residential waste delivered from the County and the City. Republic also pays the County a host community fee of \$1.20 per ton of out-of-county waste disposed at the Landfill. Currently, these benefits are worth approximately \$4.1 million per year.²

When the Middle Point Landfill reaches its permitted capacity and closes, the County will lose the financial benefits they have with the Middle Point Landfill. The other counties contributing to Middle Point will then need to dispose of waste in another location. To evaluate the situation and plan for the future, the County, along with Rutherford County’s municipalities—Eagleville, LaVergne, Murfreesboro, and Smyrna (collectively, the “Cities” or the “Rutherford Municipalities”) created the Solid Waste Advisory/Steering Council (SWAC) in 2016. The Cities and the County sought to consider various proven solid waste management strategies, including recycling, composting, conversion technologies, and other diversion programs, and to evaluate implementing one or more of these strategies through public-private partnerships.

The SWAC engaged Gershman, Brickner and Bratton, Inc., to prepare a “vision” document outlining the future solid waste disposal and materials management pathway for Rutherford County and Murfreesboro. This document, completed in 2018, recommended a Middle Point 2.0 option, which entailed an expansion of the landfill onto the construction and demolition (C&D) landfill property owned by Rutherford County that adjoins Middle Point Landfill to the south. The Rutherford County Commission unanimously rejected the Middle Point 2.0 option.

At the end of 2020, the County prepared a request for proposals (RFP) for integrated solid waste management solutions. The RFP overview stated:

¹ 2015-2025 Solid Waste and Materials Management Plan; for the Tennessee Department of Environment and Conservation; April 22, 2015.

² Host community fees of \$853,080 + (82,750 tons of waste disposed x \$40 market rate for disposal) = \$4,163,080

In anticipation of the expected closure of the Middle Point Landfill, Rutherford County is accepting sealed proposals from qualified companies for one, some, or all functions and services needed to develop a local integrated solid waste system. These functions include comprehensive public education, residential solid waste collection, transfer and transport of materials, processing facilities and technologies, landfill disposal, and landfill mining with reclamation of the existing County landfills.

The purpose of this Request for Proposals (RFP) is to solicit proposals and gain adequate information from which the County may evaluate and compare options, support development of infrastructure, and provide long-term efficient, effective, economically feasible, environmentally responsible solutions for development of an integrated solid waste system in Rutherford County, Tennessee. The County intends to enter into long-term agreements, and possibly partnerships, to establish and maintain infrastructure and services to responsibly manage residential solid waste materials generated in Rutherford County.

This RFP clearly anticipated that the Landfill would close and precludes any expansion of the Landfill from its presently permitted boundaries.

Rutherford County received nine proposals that have been sequentially evaluated beginning in April and ending in May of 2021. The County has identified Pratt Recycling Inc. ("Pratt") as one of the preferred vendors to advance the County's goals when Middle Point Landfill closes; however, no pro forma or cost-benefit financial analysis has been created for review by the Cities to determine if an agreement with Pratt is in their best interests. Therefore, a future path forward is still yet to be determined at this point and time.

In July 2021, the City entered into an agreement with WasteAway Services to determine the viability of a waste-to-fuel or waste-to-energy project. In addition, the Tennessee Valley Authority (TVA) has formed a specific project team to fully examine the likelihood of combusting Waste Away's SE3 Fuel at one or more of their existing coal-fired plants. Ongoing discussions are occurring with TVA.

At present, the County and the Rutherford Municipalities independently manage their own solid waste. The SWAC recommended that they address the impending closure of Middle Point Landfill by working together and forming a Solid Waste Management Authority under the Tennessee Solid Waste Authority Act of 1991. This approach was seen as offering the best balance of strength and feasibility. The other option for all of the municipalities working together would be for the County to develop interlocal agreements (ILA's) between municipalities that wished to jointly cooperate in meeting the County's solid waste needs and recycling or material recovery goals.

1.2 Purpose of the 10-yr Planning Document

The purpose of this document is to provide updated information in accordance with T.C.A. § 68-211-815(b) and as required to update progress in accordance with T.C.A. § 68-211-814 (a)(2) and (3) which states:

(2) The plan may be revised at any time to reflect subsequent developments in the region. Each revised plan shall be submitted to, reviewed by and approved or disapproved by the department of environment and conservation in the same manner as the initial plan.



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(3) Each municipal solid waste region shall submit an annual progress report to the department covering the next ten (10) years that includes, at a minimum, the information contained in §68-211-815(b).



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2 10-Yr Plan Objectives

The following plan objectives provide a top-level description of this 10-yr plan as a business plan for handling of solid waste in Rutherford County for the next ten years. Figure 1below shows the four plan objectives.



Figure 1– 10-yr Planning Update Document Objectives

2.1 Stabilize Planning

The first objective of this 10-yr planning document is to lay a foundation for future solid waste planning in Rutherford County.

From the onset of this project, the County was committed to build partnerships with the Rutherford Municipalities. This 10-yr Planning Document presents a county-wide approach to solid waste planning which could advance the development of a cost-effective and fair system that promotes significantly higher levels of recycling and landfill diversion as well as provide for access to disposal capacity once the Middle Point Landfill closes 5 to 7 years from now.

2.2 Improve Solid Waste Services

The next objective of the 10-yr Planning Document is to improve access to recycling, especially at the curb—i.e., at people’s homes. It will also seek to facilitate synchronized services, which will improve efforts at community education and participation. At present, the County and the Rutherford Municipalities have different sets of services and systems for their residents. With a consolidated set of service offerings and expanded access to curbside recycling, residents will enjoy greater and easier opportunities to reduce waste sent to landfill and benefit from cost savings associated with economies of scale. In other words, broader consolidated service can improve services as well as reduce costs for individual customers.

2.3 Increase Recycling and Waste Reduction

The third objective of the 10-yr Planning Document is to use goal-setting and growth in recycling participation to increase recycling tons and improve efforts to divert or reduce waste. There is a three-prong approach to this objective: Access, Information, and Implementation. A comprehensive effort to improve access to services, provide easy-to-use information on how to participate, and engage participants actively is part of the planning process that underlies this objective.



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2.4 Provide for Disposal

In the fourth objective, the 10-yr Planning Document describes how Rutherford County can secure waste disposal capacity beyond the closure of Middle Point in about 2027.^{3,4} The 10-yr Planning Document also describes how the disposal capacity can be secured and managed. The most effective approach is for the municipalities and the County to work together so that long-term contracts can be offered, opening the door for greater economies of scale and better technology applications.

³ 2018 Remaining Life Survey: Sanitary Landfills in Tennessee; State of Tennessee Department of Environment and Conservation, Division of Solid Waste Management; April 2018.

⁴ 2015-2025 Solid Waste and Materials Management Plan; for the Tennessee Department of Environment and Conservation; April 22, 2015.

3 Current System

Rutherford County is one of the top five most populated counties in Tennessee, and its rate of population growth is expected to be the highest in the State of Tennessee⁵. The 2020 U.S. Census estimate for Rutherford County’s population was an estimated 341,48, and by 2030 the population is expected to be 420,000.

3.1 Public Sector

Waste originating from all generators in the County that is disposed at the Middle Point Landfill is currently estimated at approximately 350,000 tons of solid waste per year, based on tonnage reports from the Middle Point Landfill. This includes the 82,750 tons disposed for free per the host community agreement, in addition to other tons collected by private haulers. The County provides solid waste disposal and recycling services to its residents through 14 convenience centers (branded as Recycling Centers) and one recycle-only center. The County Solid Waste Department operates the 14 convenience centers and provides front-end loader recycling and waste collection and transportation services for all 60 County and City of Murfreesboro (City) schools. The County also owns and operates the Rutherford County Landfill, a Class III/IV facility, which is limited to the receipt of yard waste, brush, construction and demolition waste, and shredded tires. In late February 2018, the Rutherford County Landfill stopped accepting C&D materials and now only accepts brush and tires. Figure 2 lists details of the Rutherford County solid waste system.

Figure 2– Rutherford County Solid Waste System and Services

Recycling Centers	<ul style="list-style-type: none"> •14 for solid waste and recycling •1 for recycling only
Limited Curbside Collection of solid waste and Recycling	<ul style="list-style-type: none"> •Private subscription service •~ \$17/month solid waste •~ \$14/month recycling •~\$31/month for both solid waste and recycling
Rutherford County Landfill	<ul style="list-style-type: none"> •County owned and operated •Brush and tires only •Nearing capacity
Middle Point Landfill	<ul style="list-style-type: none"> •Republic Services owned and operated •Municipal solid waste •8 to 10 years capacity

⁵ Population Projections for the State of Tennessee, 2010-2030; The University of Tennessee Center for Business and Economic Research; June 2009.

Figure 3 – Rutherford County Municipal Solid Waste Generate

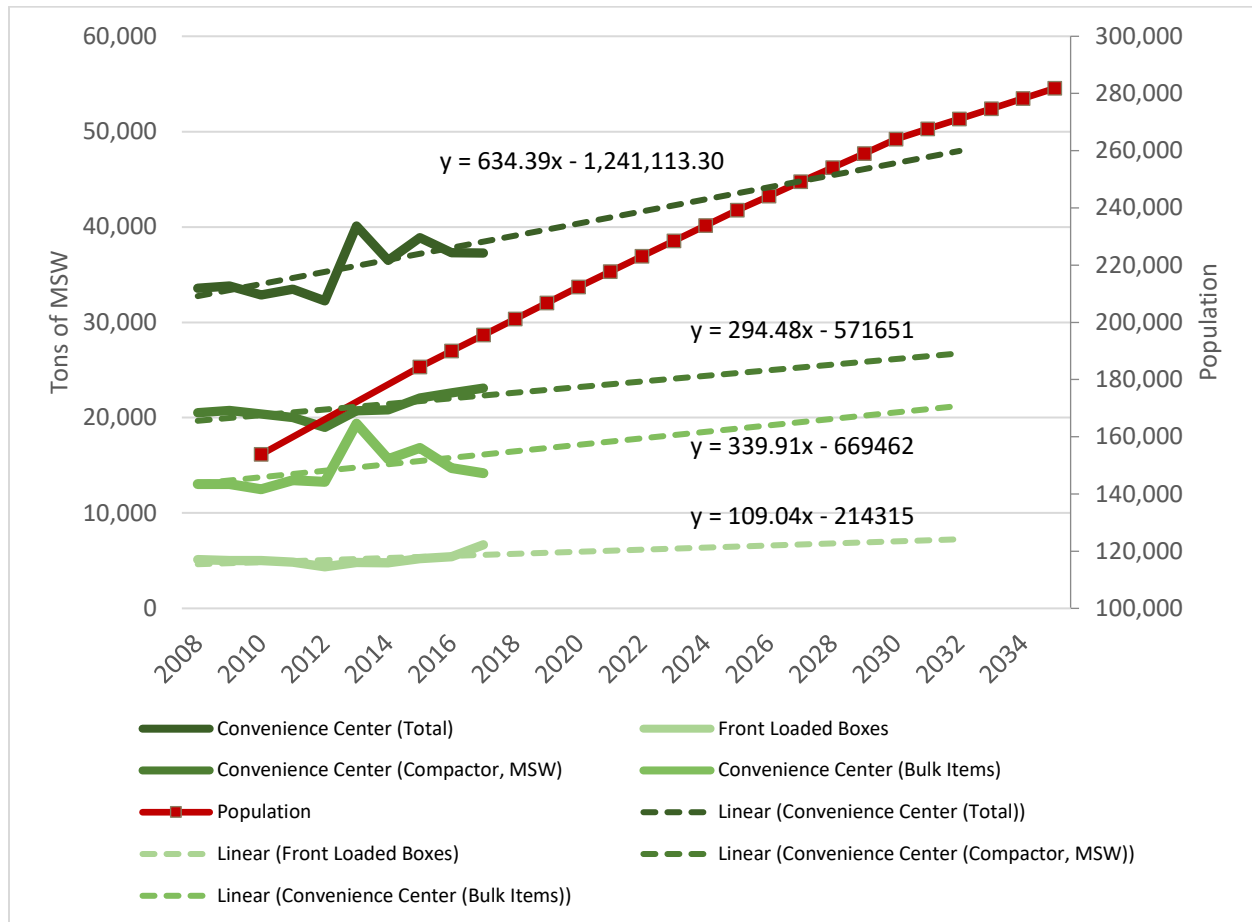


Figure 3 illustrates the total tons of MSW generated by Rutherford County through 2018 and projected through 2032.

The County’s recycling rate is approximately 17%. To improve recycling, the County launched a campaign known as “Operation: Rutherford Recycles.” This campaign includes better signage at the convenience centers and a public education initiative, although efforts have been modest and there is great opportunity to expand this brand, benefitting from the engagement www.renewalrutherford.com has built.

The City, which serves as the County seat, operates one convenience center and provides residential curbside garbage and yard waste collection services. Small businesses that generate waste similarly to residences can also receive collection services through the City. Recycling services are provided at the convenience center. The City also operates a mulching facility to manage yard waste and brush.

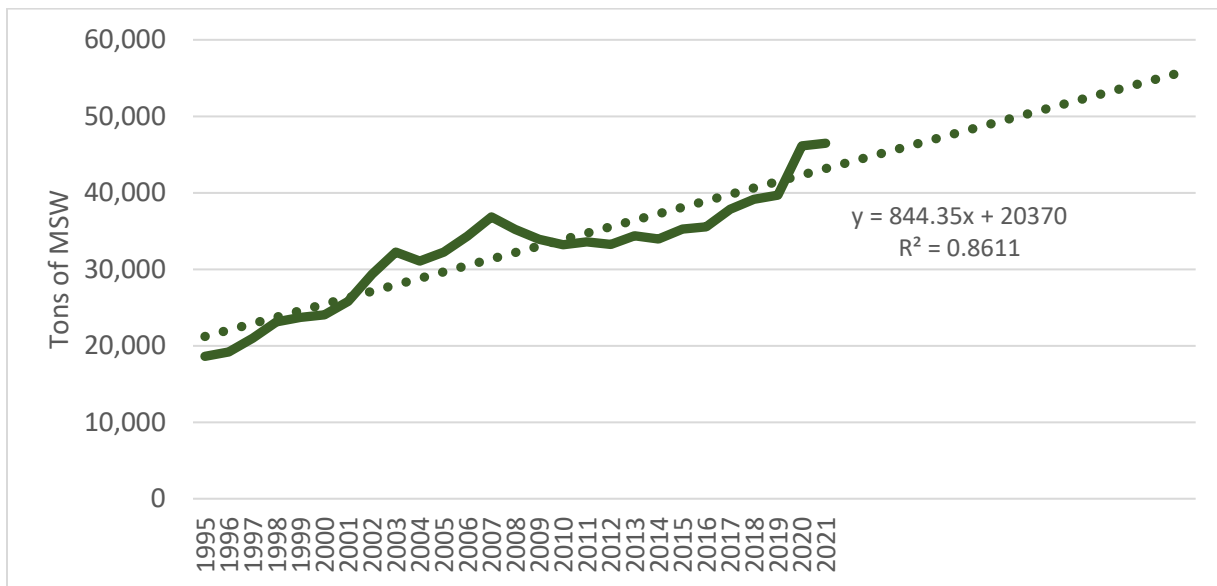
Figure 4 through Figure 8 list details of the solid waste systems in the cities and towns of Rutherford County.

Figure 4 – City of Murfreesboro Solid Waste System and Services

Residential curbside collection	<ul style="list-style-type: none"> •Solid waste in 96 gallon carts •Brush •Residents and small businesses
Mulch facility	<ul style="list-style-type: none"> •Processes yard waste and brush •Mulch is offered free of charge
Convenience center	<ul style="list-style-type: none"> •Includes recycling

Murfreesboro’s municipal solid waste generation for the past 27 years can be summarized in the chart below:

Figure 5 – City of Murfreesboro Municipal Solid Waste Generation



Murfreesboro citizens have generated an average of 0.30 tons per person per year or approximately 1.64 pounds of municipal solid waste per person per day in the last 10 years. Note that these averages are based on MSW collected by the City and does not account for a per capita waste load generated by other private commercial or food service establishments.

Smyrna, LaVergne, and Eagleville provide information and services to their residents, in addition to access to the Rutherford County Recycling Centers.

Figure 6 – Town of Smyrna Solid Waste System and Services



Figure 7 – City of LaVergne Solid Waste System

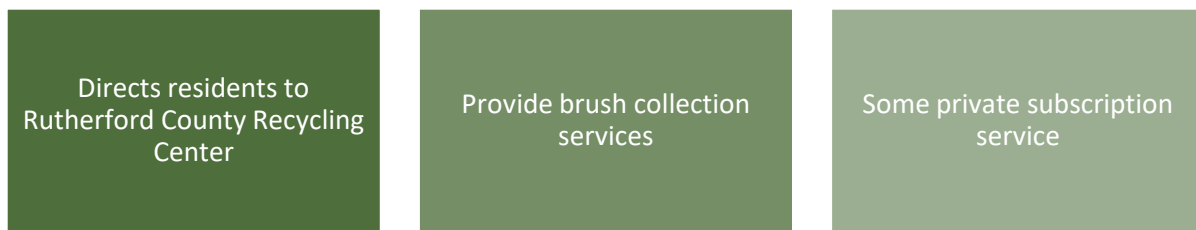
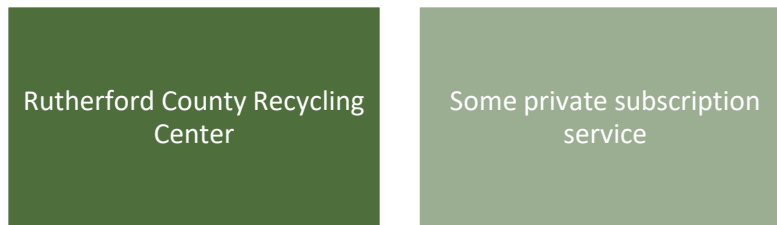


Figure 8 – City of Eagleville Solid Waste System



3.2 Private Sector

Middle Point Landfill is owned and operated by BFI Waste Services of Tennessee, LLC, a subsidiary of Republic Services, Inc. (Republic). Middle Point is a Class I landfill and has an annual permitted capacity of 1.092 million tons; in CY2020, it received 891,971 tons. Given that the County only disposed 307,523 tons in 2020, the remaining 581,859 tons originated from 18 other counties. This 10-yr Planning Document assumes that the Landfill, in its current configuration, will be closed to waste at the end of 2027.

Both the County and City enjoy host community relationships and significant benefits with Republic related to the Landfill. (See Attachment 1 and Attachment 2 for the host community agreements.) Free disposal is provided to the County for residential waste delivered from the County and the City. In CY2020, the quantity of solid waste delivered from the City to the Landfill was 46,478 tons. The County receives a host benefit from Republic of \$1.20 per ton of out-of-county waste disposed at the Landfill.

The Landfill discharges leachate to the City’s sewer system. In addition to free solid waste disposal, the City also receives other benefits related to solid waste and recycling services such as the provision and hauling of solid waste dumpsters at several City properties, provision and hauling of containers for solid waste and recycling at the City’s convenience center, and revenues from the sale of recyclables collected at the City’s convenience center.

Republic sources other waste for the Landfill from contracts it has with other local governments (e.g. Metropolitan Government of Nashville and Davidson County), its own collection services in the region, and from private haulers and local governments that deliver waste either directly to the Landfill or to Republic's nearby transfer station in Nashville.

In 2027, or when the current permitted capacity is exhausted, per the terms of their respective host community agreements, the County's host community benefits will end. To frame the potential economic impact of this, consider if future landfill gate rates in the region might be \$40 per ton and the cost for a transfer station and hauling services to add another \$15 to \$20 per ton—i.e., \$55 to 60 per ton, total, for estimating purposes. For the 82,750 tons per year that the County and City collectively generate and have managed through Republic and its Landfill, there could be an annual expense of approximately \$4.5 million to \$4.9 million, in addition to the annual loss of about \$750,000 in host community financial benefits that the County enjoys from Republic until the landfill closes. Also, an additional 182,000 tons of waste managed by others will need to find a new place for disposal, and the County will be competing in the marketplace with other customers of Middle Point and the regional landfills that are closing in the near-term.⁶ Because of this, and to ensure for the proper management of their solid wastes and that managed by others in the County, the County and the City must explore alternatives to prepare for a future when Middle Point Landfill reaches capacity and closes.

Republic had previously indicated to the City and the County that the company would probably not seek an expansion of the Landfill due to a soil deficit. The Landfill has also been under significant public scrutiny due to odors associated with its operations to the extent that in November 2015 a public meeting was held with several environmental groups and neighbors of the Landfill to discuss current and future options. The County and the City previously believed that Republic might seek to develop a transfer station and enter into a public private partnership with the County. Discussions in early 2018 about filling waste in the airspace between Middle Point Landfill and the Rutherford County Landfill did not advance when considered by the County Commissioners in April 2018. The vote taken to reject allowing preliminary testing was unanimous.⁷

⁶ "FY2016 Rutherford County Solid Waste Needs Assessment," prepared by the Greater Nashville Regional Council for the Tennessee Department of Environment and Conservation, <https://www.tn.gov/content/dam/tn/environment/solid-waste/documents/counties/sw-mm-rutherford-na-fy16.pdf>

⁷ "Middle Point Landfill expansion plans killed by Rutherford County Commission," Daily News Journal, April 16, 2018. Retrieved July 31, 2018. <https://www.dnj.com/story/news/2018/04/16/middle-point-landfill-expansion-plans-killed-rutherford-county-commission/520078002/>



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4 Data and Projections

The following figures and tables provide the projections for waste to be managed in the future in Rutherford County.

4.1 Tons

Figure 9 shows the projected waste generation for Rutherford County to the year FY2035. The Figure shows tons by the point at which they leave the generator, and also shows a trendline for state population projections, which is a strong indicator for waste generation.

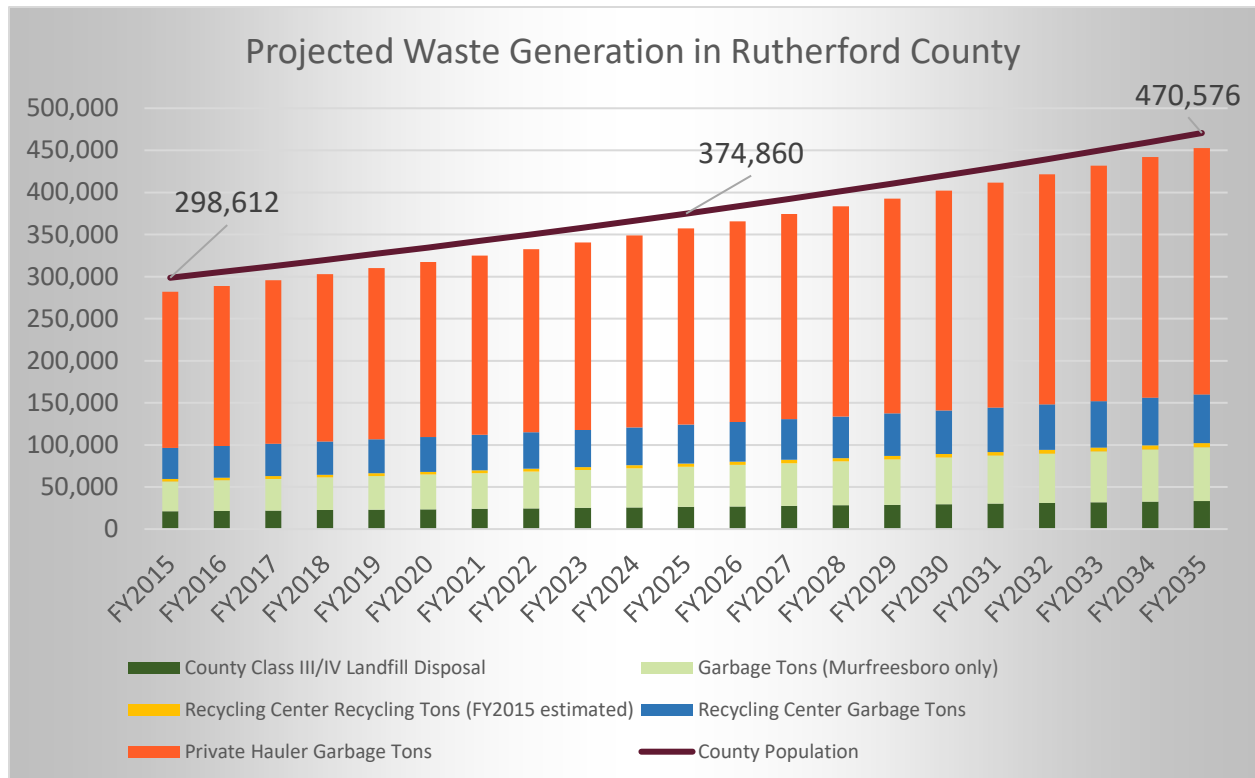


Figure 9 – Projected Waste Generation in Rutherford County to FY2035

Figure 10 shows a representative percentage of waste generation reporting for Rutherford County.

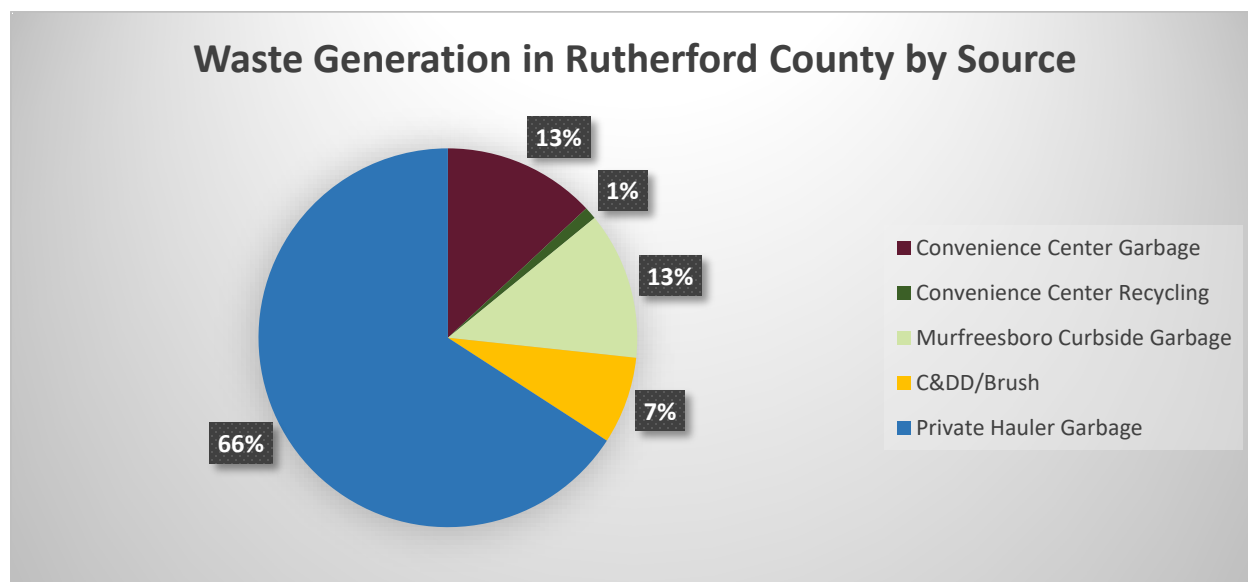


Figure 10 – Waste Generation

Figure 11 shows the estimated composition of the waste generated in Rutherford County by type of material, which also reflects the possible destinations for the waste since each type could be processed differently.

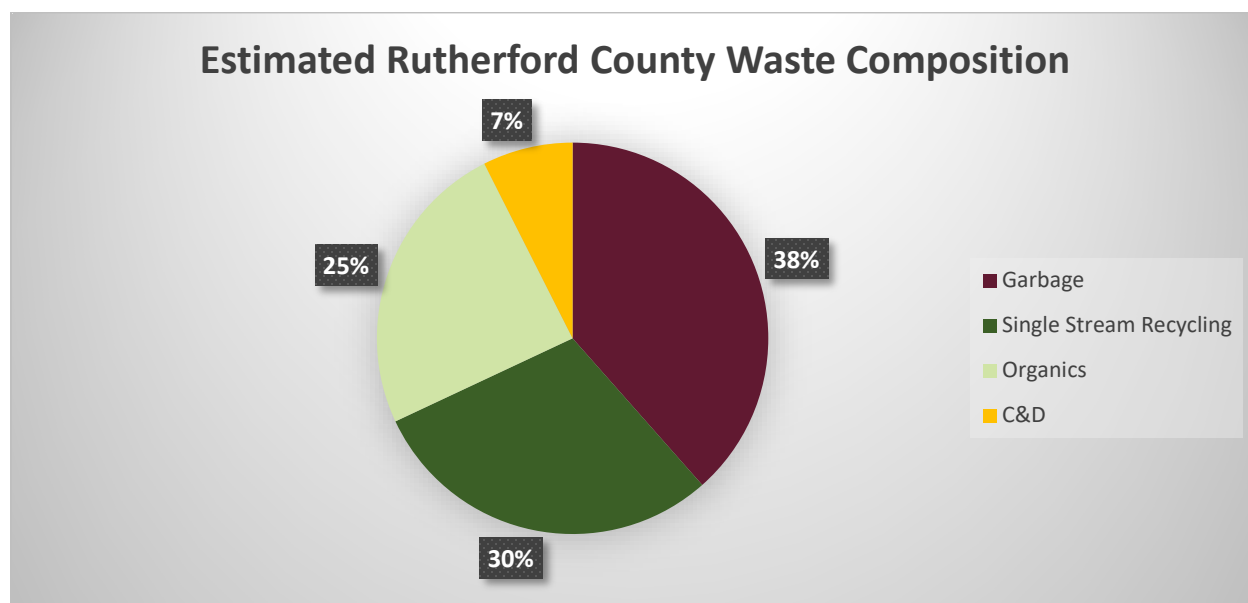


Figure 11 – Estimated Composition of Waste Generated in Rutherford County

4.2 Facilities

Residents of Rutherford County are served by a strategic network of drop-off and convenience centers called Recycling Centers, with staff on-site and comprehensive services. The facilities are staffed and most accepted both recyclables and household trash.

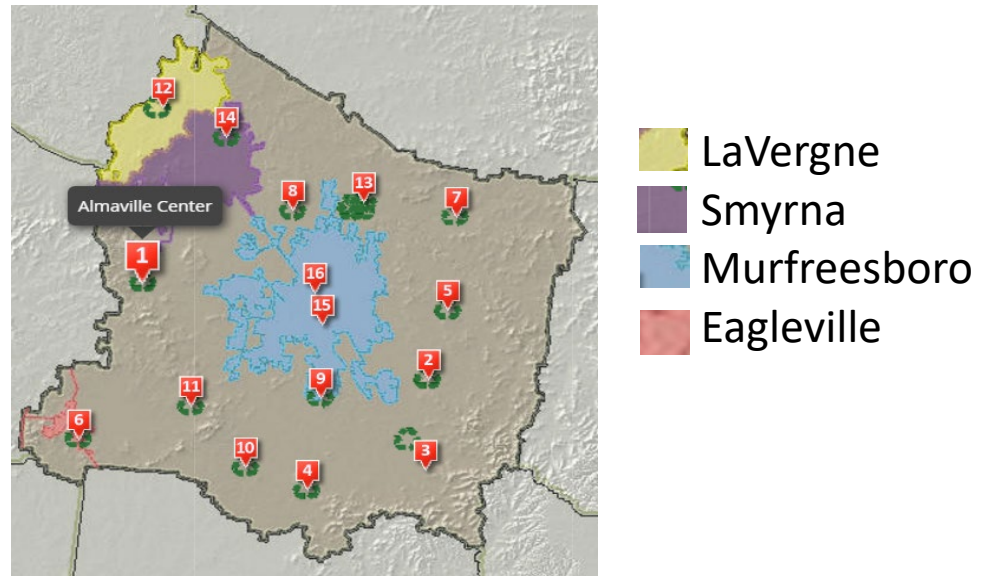


Figure 12 – Recycling Centers in Rutherford County

Figure 13 shows the relationship between the Recycling Centers with regards to what proportion of that waste sector comes from which center. The center with the largest tons by a good measure is Cranor Rd. Center in Murfreesboro, followed by the Buchanan Center, also in Murfreesboro. Together, these two centers account for 45 percent—nearly half—of the Recycling Center Tons.

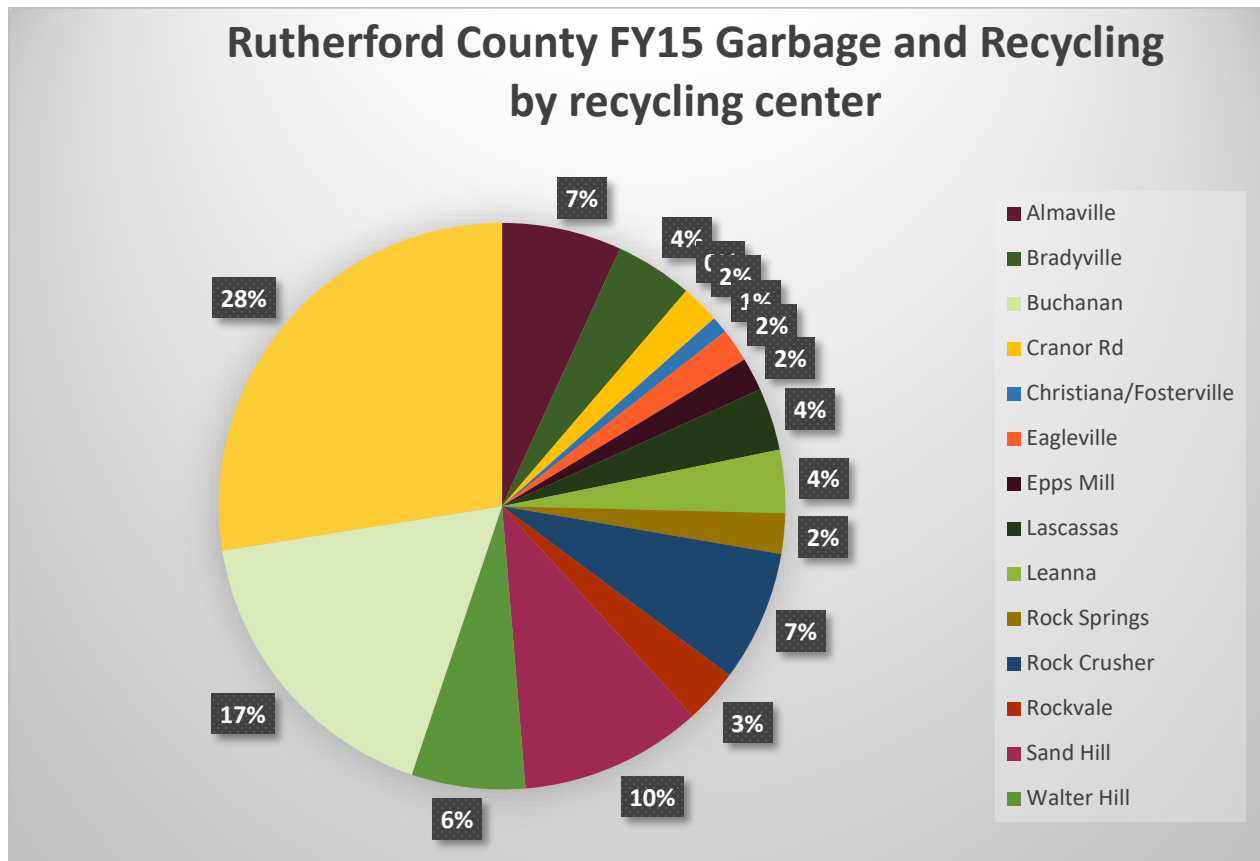


Figure 13 – Proportion of Rutherford County Recycling Center Waste Generation by Center Name

4.3 Population

Figure 14 shows population projections from the University of Tennessee Boyd Center for Business and Economic Research for Rutherford County.

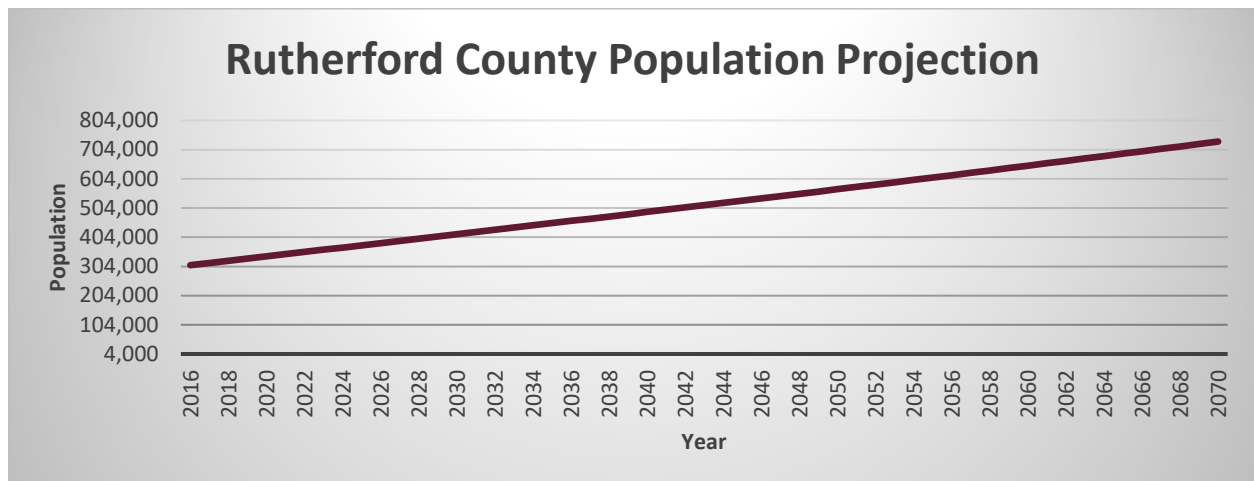


Figure 14 – State Population Projection for Rutherford County, 2016 – 2070

Source: Boyd Center for Business and Economic Research, University of Tennessee, Knoxville - September 2017

5 Organization, Funding, and Financials

5.1 SWAC or County ILA Recommendation of a Solid Waste Authority

As a result of the County's decision to reject an expansion of the Middle Point Landfill as a means of dealing with its future solid waste disposal, decisions about the collection service levels, facility development, and disposal capacity must be made.

On February 27, 2018, at its final meeting, the SWAC endorsed the organizational option of creating a solid waste management authority (Authority) under the Tennessee Solid Waste Authority Act of 1991 as the best balance of strength and feasibility. The County also has the option to also develop interlocal agreements (ILA) between participating municipalities to manage the County's solid waste disposal, recycling and material recovery needs.

5.1.1 Rutherford County Interlocal Agreements (ILA)

The County can provide strong leadership for the Rutherford Municipalities that want to participate. The County would take primary responsibility for solid waste management planning, implementation, and reporting. The City's Solid Waste Department could provide the oversight of a new solid waste management system, subject to the approvals of the Mayor and County Commissioners. An interlocal agreement can be entered into among the County and the Rutherford Municipalities to participate in the County system. Elements of the new system could be provided through public-private partnerships, or the County could proceed with additional assets itself.

A critical part of this organizational arrangement will be that the County will bear the financial and operational responsibilities for the transition. Any debt issuance, property ownership, or human resource responsibilities would remain with Rutherford County Government. The municipalities would be both partners and customers of the County Government; the degree to which one relationship outweighs the other would depend on the terms of the interlocal agreement.

5.1.2 Solid Waste Authority

A county in Tennessee can create a solid waste authority consisting of itself and any willing municipalities in the county by approving a resolution to that effect in each governing body. State law places certain stipulations on the authority, described in T.C.A. § 68-211-901 et. seq., the Solid Waste Authority Act of 1991. Some of the powers and responsibilities a solid waste authority can have include:

- Be a party in court (to sue or be sued, and to prosecute or defend charges);
- Have and use a corporate seal;
- Construct and operate projects and facilities;
- Acquire and dispose of property, including the use of eminent domain;
- Collect or receive solid waste from any party (including other governments) and enter into contracts related to that operation;
- Sell or otherwise distribute energy, steam, or any material or commodity resulting from operation of a project, facility, or service;
- Incur debts, borrow money, issue bonds and provide for the rights of the holders of such bonds;
- Charge fees and collect revenues, and pledge those receipts to debt;
- Retain paid employees that participate in the Tennessee consolidated retirement system; and,
- Employ or use the property, facilities, equipment or employees of a county or municipality, pursuant to an agreement.

In fulfillment of its powers, the following benefits are imparted to an authority.

- **Flow Control.** An authority may also restrict access to its solid waste disposal facilities by excluding waste originating outside the region and may regulate the flow of all MSW within the authority as long as the assets are publicly owned. The authority may require the delivery of any waste originating in the County to one of its transfer station(s) for transportation to a specific solid waste disposal facility.⁸
- **Debt and Finances.** No member locality of an authority is responsible for the debts or performance obligations of the authority. Costs related to planning are not the responsibility of any one government; they are shared amongst members per agreement. The costs and risks are spread broadly and proportionately among the rate payers and backed by the ability of the authority to reach out to ratepayers to support its annual and long-term financial requirements. To improve cost effectiveness and ease the initial transition, an authority can hire or contract for use of a locality's resources as it would any other vendor. For example, staff, facilities, vehicles, office space, etc.
- **Professional Clarity of Mission.** The sole mission of a solid waste authority for Rutherford County would be to provide solid waste management planning and services to the members of the Authority and protect the environmental resources of Rutherford County. By contrast, staff and local officials from a government or legislative body have many obligations and responsibilities that also require constant attention and dispatch.

The start-up funding and resources for the authority to operate would come from the founding members in the form of financial contributions and operational assets such as offices, computers, vehicles, and even staff positions or business services (such as IT support). In subsequent budget periods, operational funding would come from ratepayers, although contributions from the member governments could be needed also. Capital funding would come from the issuance of project revenue backed debt.

Based on the most recent population count in Rutherford County and its associated municipalities, a proportionate breakdown of a seven-member Solid Waste Authority Board would be as follows:

Table 2 – Proportionate Representation for a Rutherford County Solid Waste Authority

Municipality	Population	% of Total	# SW Board Members
Murfreesboro	152,769	45.03%	3
Smyrna	53,070	15.64%	1
LaVergne	38,719	11.41%	1
Eagleville	813	0.24%	0
Uninc County	93,890	27.67%	2
Total	339,261	100.0%	7

5.2 Methods of Funding a Solid Waste System

A new or revised solid waste system funding approach should accomplish the following objectives:

⁸ Note: A County has the same waste flow control abilities as long as the assets are publicly owned.

- Ensure sufficient revenues are generated to cover the costs and reserve fund requirements of the system and programs, with reliable sources of revenue that are not dependent on the amount of waste generated—i.e., per-ton fees;
- Provide an equitable distribution of costs among residents and businesses; and,
- Promote the environmentally responsible practices of waste reduction and recycling.

Solid waste generator fees are a stable way to raise revenues and tie individual costs to the participation in the system. Types of generator fees include:

- Residential and commercial assessments or improved lot assessments as a special charge on tax bills;
- Fees charged directly to certain types of generators based on their typical waste generation;
- Special solid waste fees or surcharges added to utility bills;
- Solid waste development impact fees assessed to new residential and commercial construction, usually at the time of building permit application;
- Fees charged for special identifying stickers or tickets, used by a community resident to access disposal or processing facilities; and
- Other charges that vary by location, including contributions from general funds and various taxes.

A pro forma was developed for the County and the City to evaluate current and projected costs, anticipated growth, capital improvements and schedule, and sources of revenue related to a new solid waste authority.

The pro forma also considered the debt service that would be incurred to construct and operate new facilities under the solid waste authority's responsibility.

5.3 Deliberation of Integrated Solid Waste Proposals Solicited by Rutherford County

The County solicited a request for information of interested parties in 2020 to help solve the future solid waste disposal and material management requirements set forth by the County.

At the end of 2020, the County prepared a request for proposals (RFP) for integrated solid waste management solutions. The RFP overview stated:

In anticipation of the expected closure of the Middle Point Landfill, Rutherford County is accepting sealed proposals from qualified companies for one, some, or all functions and services needed to develop a local integrated solid waste system. These functions include comprehensive public education, residential solid waste collection, transfer and transport of materials, processing facilities and technologies, landfill disposal, and landfill mining with reclamation of the existing County landfills.

The purpose of this Request for Proposals (RFP) is to solicit proposals, and gain adequate information from which the County may evaluate and compare options, support development of infrastructure, and provide long-term efficient, effective, economically feasible, environmentally responsible solutions for development of an integrated solid waste system in Rutherford County, Tennessee. The County intends to enter into long-term agreements, and possibly partnerships, to establish and maintain infrastructure and services to responsibly manage residential solid waste materials generated in Rutherford County.

The County received nine proposals that have been sequentially evaluated beginning in April and ending in May of 2021. No determination of a future path forward with any proposer has been made as of the time of this update to the 10-yr Planning Document.

5.4 Solid Waste Authority or ILA Minimum Facilities Recommended by the SWAC

The City is currently engaged in designing a southern transfer station (“Southern Materials Management Facility”) with sufficient capacity to transfer out MSW.

The City purchased the site below off of Butler Drive near Joe B. Jackson Parkway to construct and operate a transfer station for just over \$2,000,000. The remaining capital funding programmed in the City’s 5-yr community investment plan (CIP) for construction of the transfer station is \$9,000,000. Recent cost estimates provided by the design architect and engineer itemize the construction costs at over double this amount, or \$18,000,000. Given this information, the transfer station timeline for construction will be delayed until a more concrete date of Middle Point’s landfill closure date is determined.



Figure 15 – Map Location and Aerial Photography of City of Murfreesboro Transfer Station Site

The County has the ability to repurpose its property that served as a C&D landfill off of Jefferson Pike as a potential site for a northern transfer station.

The details for the southern and northern materials management facilities could change moving forward. In other terms, the southern materials management facility may include the ability to operate a mixed waste processing facility (MWPF) and C&D materials. Additionally, the County has the option to create its own southern materials management facility, independent of the City’s current plans. The Rutherford County Rock Quarry site was identified as a potential location for a southern MWPF, source-separated recyclables and C&D materials.

5.4.1 Southern Materials Management Facility

The City anticipates constructing the Southern Materials Management Facility. The City has designated \$9.0M in funds for construction and, if an authority is formed in the future, an agreement can be executed

to assign the debt and operating expenses to the new Authority. If an interlocal agreement is executed, the debt service and costs to operate may continue as part of the City's general fund budget, and a potential special credit may be afforded the City's residents.

This 10-yr Planning Document assumes the southern transfer station will be open at the time Middle Point landfill closes. It will be sized to handle all waste generated in Murfreesboro and Rutherford County through the 2035 population projections.

Another option that was being explored in 2021 involved determining the economic viability of a waste-to-fuel or waste-to-energy Mixed Waste Processing Facility (MWPF). The City entered into a contract with Griggs and Maloney to explore WastAway's self-sustaining model of taking the City's MSW through a process that creates a marketable biomass fuel (SE3™) (i.e., coal-equivalent), with the possibility of using the SE3 to power a waste-to-energy power plant.

WastAway Services is in Morrison, TN and has demonstrated an ability to create a biomass fuel from MSW, which was significantly enhanced in 2019 with receipt of a comfort letter from the EPA that specified WastAway's product (SE3) as a non-waste fuel. This designation exempts the SE3 fuel from strict federal waste incineration requirements. SE3 is considered a Non-Hazardous Secondary Material (NHSM) and therefore has less stringent Federal standards on air emissions and residue testing.

The deliverables of the report will include:

- Determine MTEMC and TVA's requirements for electrical sales:
Develop an understanding of MTEMC and TVA's requirements and suggestions to maximize the value of the green power produced. Of particular importance will be obtaining their guidance on possible power plant site locations to maximize system advantages and minimize interconnect costs.
- Identify fuel buyers:
Research area and regional fuel buyers who can benefit from purchasing SE3™ Fuel produced by a facility in The City of Murfreesboro. Contacting those to gauge interest.
- Optimize project size for current and future needs: Work with officials in the City of Murfreesboro to insure a "right-sized" project for both current and future solid waste management requirements.
Demonstrate positive economic viability:
Working with City staff, WastAway will produce financial models which demonstrate that the project is economically viable based on tip fees and electricity savings/sales.

5.4.2 Northern Materials Management Facility

This 10-yr Planning Document assumes that a transfer station and/or a mixed waste processing facility (MWPF) will open at the Northern Materials Management Facility as described at the Southern Materials Management Facility above. No site has been identified for this northern facility, but the existing County landfill property is a likely candidate. The full-service transfer station and the MWPF are the core functions of the future system. The transfer station and/or MWPF would hopefully be constructed prior to the closure of the Middle Point Landfill (prior to 2027).

Most readily a C&D processing facility could open at the northern material management facility site as well. Typically, 60 to 90 percent of C&D materials can be diverted from disposal. The residue from the C&D processing can be transferred out via the transfer station; therefore, the C&D processing facility can

open as soon as the transfer station opens. There is sufficient space at the site and, as mentioned, the economics of the system are improved whenever the tonnage that needs to be transferred out can be reduced, due to the costs associated with transportation. The C&D processing facility would be hosted at the site but should be operated as a public/private partnership. This is both the simplest approach and the most equitable, since the economic benefit of C&D recycling to ratepayers is indirect and limited. The private sector partner would also be responsible for transfer of commodities to buyers.

In the event that the MWPF is not a complete waste-to-fuel processing facility, the northern materials management facility site could likely also host a source separated recyclables processing facility and an organics processing facility, such as a composting operation. A more complex organics facility could be another public/private partnership; a simpler operation of grinding and aerated static piles could be a County or authority operation. The organics facility could be designed to accept whatever organics the MWPF is able to sort out, in addition to other organics source-separated by generators in the County. Brush and woody waste could be processed at the C&D facility, allowing the organics facility to focus on leaves, grass, and/or commercial food waste.

5.4.3 Community Convenience Centers

If more residents in the unincorporated areas receive curbside waste collection services (see Section 5.5, below), some of the recycling centers could be closed and the remaining ones could be improved.

5.4.4 Middle Point Landfill

Residents of the County near the Middle Point Landfill have complained about operations at the facility affecting their quality of life for decades. In the early 2000s, the landfilling of sewer sludge from Davidson County brought an onslaught of complaints about odor, and the process was discontinued in 2005.⁹ Citizen groups have organized efforts¹⁰ like “Stop the Stink,” and in February 2018, casual observations outside the fence line included strong odor from the working face of the landfill and dust and dirt along Jefferson Pike deposited by vehicles exiting the facility with dirty wheels.¹¹ In June 2018, TDEC issued a notice of violation (NOV) to Middle Point Landfill after an inspection found multiple landfill leachate breakthroughs, where leachate was entering drainage ditches, and improper initial cover of waste at the end of the working day. Wording in the NOV indicates these are ongoing issues, using language like “once again,” and “still peeling back and not being fixed.”

The Murfreesboro Water Resource Department initiated monitoring of Hydrogen Sulfide (H₂S) levels on December 31, 2020, in response to complaints of odors on Compton Rd. near City pumping stations and the Middle Point Landfill. The Department purchased five highly sensitive monitors that can monitor H₂S levels to the part per billion (ppb) or 1 part of H₂S to 1,000,000,000 total parts in the air we breathe. Scientific studies indicate that 50% of the population can detect a distinct H₂S odor at 10 ppb. 10 ppb is not dangerous to life and health. The five monitors have been periodically moved to various points around Middle Point landfill, primarily to the north, south and east. A weekly published dashboard is presented on the City’s website address: <http://www.murfreesborotn.gov/2209/Odor-Concerns>

As evidenced for over a year of odor monitoring, H₂S levels correlate with the wind direction occurring

⁹ “How did we end up with Middle Point Landfill?” Murfreesboro Post, June 12, 2007; retrieved July 31, 2018. https://www.murfreesboropost.com/news/how-did-we-end-up-with-middle-point-landfill/article_754b4dab-671c-5348-aea4-a42b615befd6.html

¹⁰ <https://socm.org/stopthestink/>

¹¹ GBB Solid Waste Consultants made these observations while driving to the Rutherford County Landfill site.



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across the landfill and are not correlated to the City's sanitary sewer collection system.

To some extent, there is also a pattern of higher H₂S concentrations based on a daily atmospheric boundary layer transitioning as depicted in the attached illustration.

In broad terms the following metrics apply for the monitoring period between December 31, 2020, through January 27, 2022:

- 43,922 sampling periods taken in 30-minute intervals over 308 days
- 5 monitoring locations (29 days with only 4 monitors recording during sampling period)
- 5,715 total observations above zero parts per billion of H₂S, or 13% of the sampling period.
- 1,026 samples above 10 parts per billion of H₂S, or 18% of the total samples observed.
- 36% of the total samples observed were recorded at the northern H₂S monitor
- 67% of the samples observed above 10 parts per billion were recorded at the northern H₂S monitor.
- There is a general trend of increasing positive hydrogen sulfide observations during the reported sampling period.

Additionally, the City opened an odor reporting portal for citizens to report complaints on September 20, 2021. Over 1,600 odor complaints were lodged in a 4 ½ month period.

Republic Services applied for a new landfill on approximately 99.5 acres adjacent to their existing 207.3 acre permitted Middle Point landfill on April 11, 2021. The Central Tennessee Region Solid Waste Board (CTRSWB) rejected the new landfill application at their July 9, 2021, Board meeting. The CTRWSB is the initial body to deliberate the proposed expansion as it relates to it's alignment with the regions 10-yr plan. The Tennessee Department of Environment and Conservation (TDEC) is does not consider the application prior to or in concert with the CTRSWB.

Republic services filed a lawsuit on August 6, 2021, against the Central Tennessee Regional Solid Waste Board in Davidson County Chancery Court after the Board voted unanimously in July to deny the new landfill adjacent to Middle Point Landfill.

The City successfully moved to intervene in the lawsuit in November. While doing so, the City signaled to the Court that it would ask to supplement the record with newly discovered information. On December 3rd, the Regional Board and the City jointly filed a motion asking the Court to allow the Board to reopen the landfill expansion proceedings in order for the Board to hear new information from the City that the Board and City did not piece together until after the Board voted in early July.

On December 20, 2021, the Court ordered that all interested parties be allowed to file a request with the Board to consider additional evidence.

The CTRSWB heard the additional information by interested parties on February 8, 2022, that primarily related to industrial aluminum waste buried in the landfill from the mid-1990s until 2007 and the environmental unacceptability of the odors being generated from the pre-existing Middle Point landfill. The CTRSWB met on February 24, 2022, and voted to allow various materials presented on February 8th to be included in the administrative record and then subsequently voted to deny the new landfill expansion proposed adjacent to the Middle Point landfill.

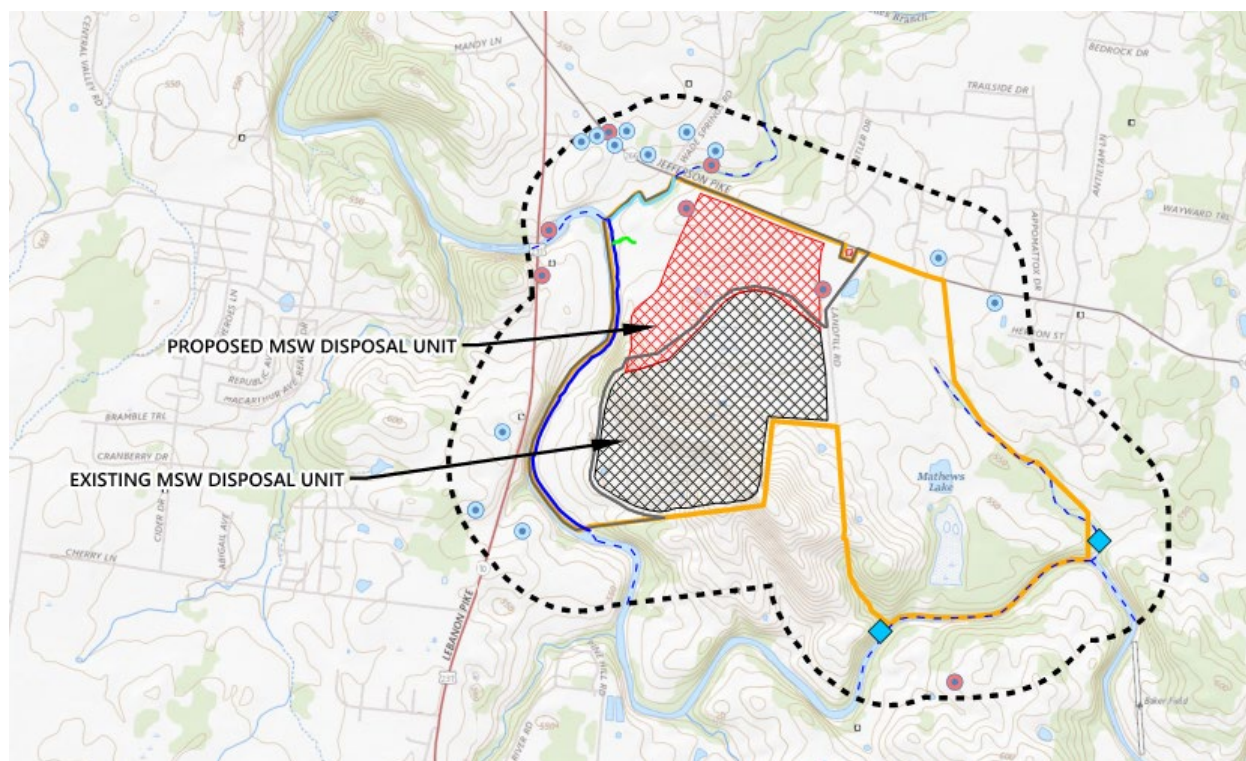


Figure 16 – Map Location of Proposed New Landfill Adjacent to Existing Middle Point Landfill

As closure is anticipated and projected to occur in 2027, the County should start progressing toward developing its plan to process solid waste and manage materials in conjunction with the City of Murfreesboro’s anticipated southern facility.

5.5 Securing Waste Disposal Capacity for the Future

The transfer stations detailed in this 10-yr Planning Document will be part of a system to transfer waste long distances for disposal, mostly likely in northern Alabama, such as the Arrowhead Landfill in Uniontown or perhaps the WTE facility in Huntsville.

As the owner of the transfer station, either the County or the solid waste authority will become the owner of the materials delivered to it. That agency will then solicit disposal capacity from one or more appropriate facilities for proper disposal. Figure 17 shows the waste types and the facilities for which the County or authority would need to secure capacity.

MSW	Unprocessed Recyclables	C&D Materials
<ul style="list-style-type: none"> •Subtitle-D landfill •Waste-to-energy 	<ul style="list-style-type: none"> •MRF •MWPF 	<ul style="list-style-type: none"> •Processor/Recycler •Debris landfill

Figure 17 – Facility Contracts Needed by Material Type

The County or the authority will negotiate long-term contracts with the facilities. The more tons that can be guaranteed, the better the price can be.

6 Transition to Future System

To transition from the current system in the County that is reliant on a private landfill that will close in 6-8 years to a system with expanded, comprehensive service and access to more comprehensive collection services, long-term disposal and processing facilities, Rutherford County and its municipalities will need to have a high level of interlocal cooperation; long term planning and leadership; and, the financial agility that comes from stable, dedicated funding.

6.1 Organization and Leadership

As alluded to and described throughout this 10-yr Planning Document, the mission of the future solid waste management system will be to provide solid waste planning, administration, and services, and, protect the environment. The organization's ambition, or vision, would be to meet and exceed the solid waste goals of the Tennessee State Solid Waste Management Plan on a local level.

6.1.1 Rutherford County Government Partnership

If the County leads solid waste planning and financing for the Rutherford Municipalities, the first step will be a memorandum of understanding (MOU) with each partner. In the MOU, the municipalities and the County will pledge their participation in the new system. This pledge would include descriptions of how financial contributions would proceed, to fund the effort. The types of services to be provided by the County to the partner(s) would be described, and the duration of the relationship could be named.

6.1.2 Rutherford County Solid Waste Authority

A solid waste authority could be created pursuant to the Tennessee Solid Waste Authority Act of 1991 (Title 68, Chapter 211, Part 9). The initial partnership to create the Authority could be established by an MOU among the founding members. The contents of the MOU could include the founding mission, vision, and scope of work for the Authority, to be further refined by the Board of Directors and the executive staff. The MOU would also adopt for the organization the bylaws required by the state enacting law. Accordingly, once the authority is created, a Board of Directors would be appointed. Representation on the Board of Directors from each of the entities in the authority would depend on which governing entities are founding members. A Board of seven to nine members is recommended. Each member organization is required to have at least one representative, although two is preferable; no one member should have more representatives than the other members, combined.

The Board of Directors would hire staff, such as an Executive Director among others, to manage the day-to-day activities of the authority. Elements of the new system could be provided through public-private partnerships. Examples include detailing staff from the County or the City to the Authority; renting or otherwise provided office space and other business tools to the Authority; and, contracting services on behalf of members.

As part of creating the Authority, a name must be chosen. According to the Tennessee Solid Waste Authority Act of 1991, the name of the authority must be inclusive of the County and all political subdivisions within the County. It is suggested that the words "Stones River materials management authority" be used, to reflect an integrated approach to solid waste management.

6.2 Funding and Financials

To govern and implement a new solid waste management system in Rutherford County, including the municipalities, a new governance structure is needed. The MOUs to assign leadership to the County or interlocal agreement to create a solid waste authority would include funding arrangements. If the county were the leader, financial management would be in compliance with other departmental standard

operating procedures. If an authority were created, standard financial management procedures in compliance with accounting principles and all laws would be put in place as part of setting up the organization.

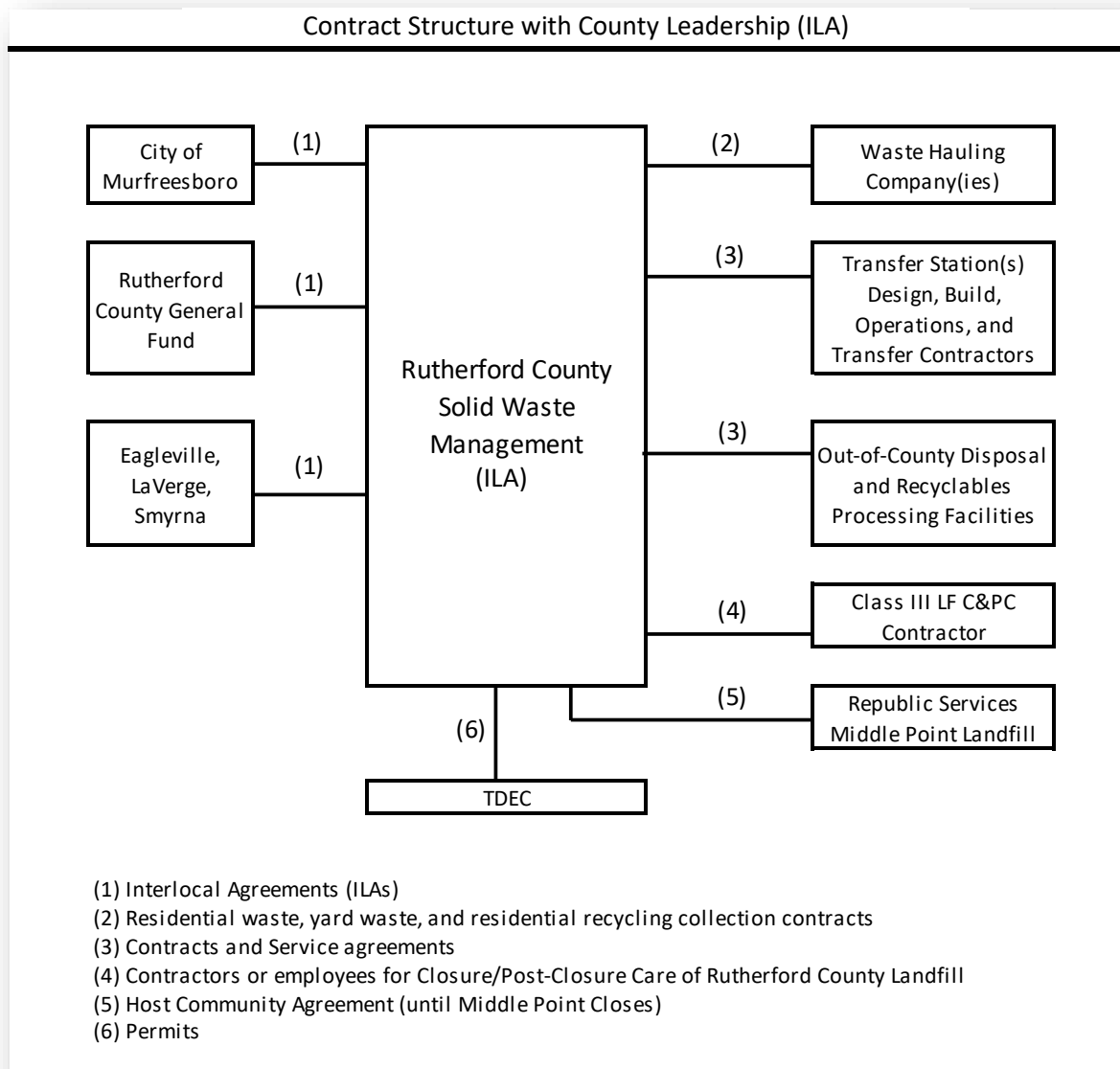


Figure 18 – Sample Contract Relationships with Rutherford County Providing Solid Waste Leadership

Figure 18 shows how the financing might work with the County providing the leadership, serving as the contractual and financial “hub” of the system.

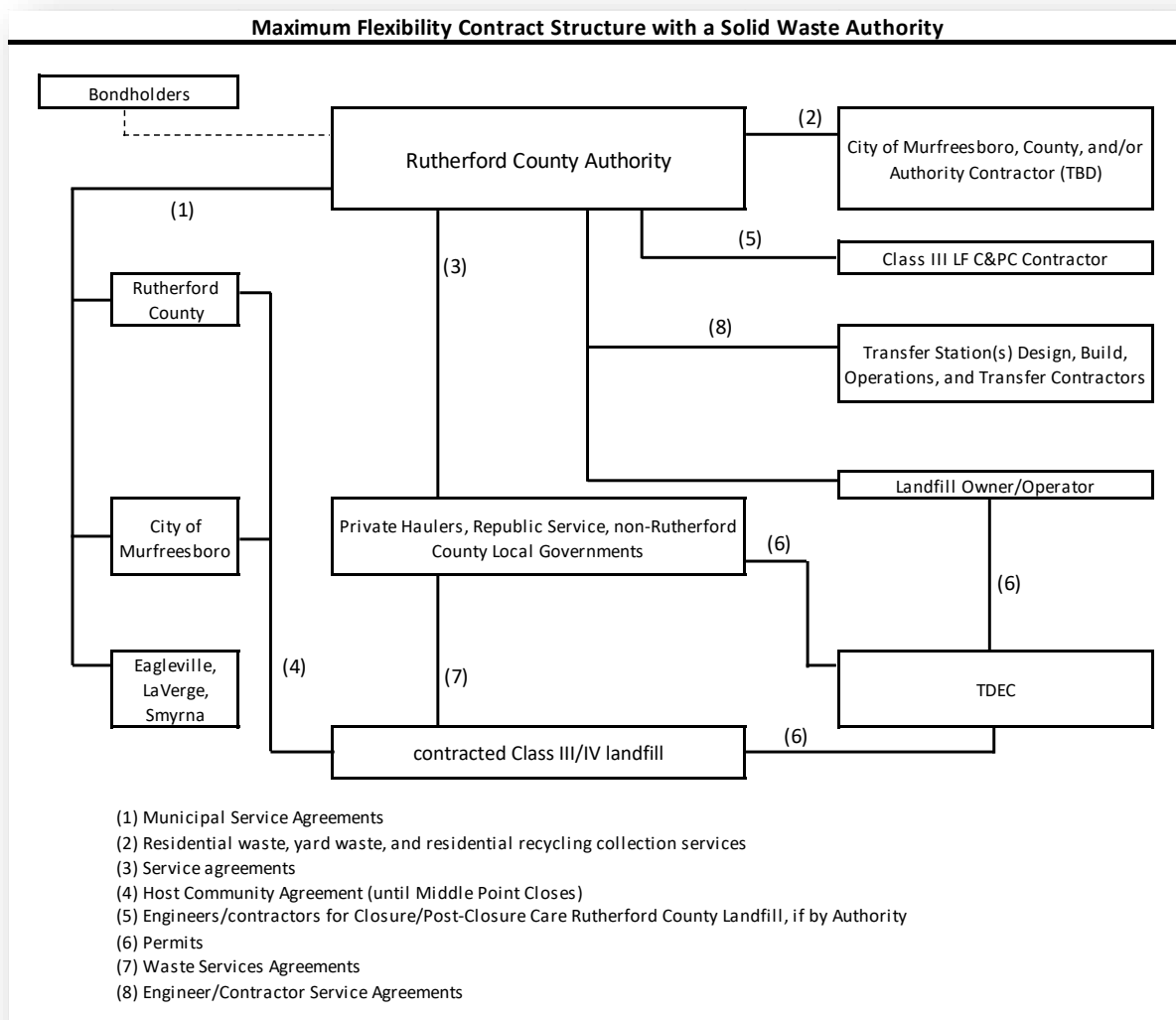


Figure 19 – Sample Contract Structures of a Solid Waste Authority

Figure 19 provides an illustration of how an authority would serve as the contractual and financial “hub.” Agreements with various vendors and agencies isolate the municipalities and the County government from direct involvement while providing top-level planning and management.

6.3 Facilities and Services

Figure 20 illustrates the set of synchronized services that would be available to all the County residents and businesses in a new system fully implemented.

Drop-off Services	All residents can use community convenience centers for recyclables, household trash, and bulky waste
	All residents can bring yard waste and tires to the Rutherford County landfill, the West Fork Materials Management Facility, or possibly community convenience centers
	All residents can bring household hazardous waste (HHW) to special collection events or certain community convenience centers
Curbside Collection	Residents in the unincorporated areas receive curbside trash, recyclables, and bulky collection; yard waste collection is optional
	Residents of City of Murfreesboro receive curbside trash, recyclables, bulky, and yard waste collection
	Residents of the other municipalities receive curbside trash, recyclables, bulky, and yard waste collection (to-be-determined)
Facilities	Southern Materials Management Facility: Transfer Station, possible recyclables drop-off center
	East Fork Materials Management Facility: Transfer Station, MWPF, possible C&D Processing Facility, possible Organics Processing Facility
	Community Convenience Centers: drop-off service for recyclables, household trash, bulky waste; possibly HHW and tires
Other Solid Waste Activity	Solid Waste planning is unified, with the unincorporated areas and each city or town participating in the Max-Flex system to standardize services and secure disposal
	Rutherford County Government or an authority secure disposal capacity and recyclables processing at one or more out-of-county facilities and provide transfer capacity to get there
	Outreach and education are dynamic, providing a solid universal message to all residents about how to participate in the system easily and properly

Figure 20 – Description of Services to be Provided by Potential Solid Waste Authority

6.4 Costs and Other Socioeconomic Factors

6.4.1 Facility Costs

Transfer Stations and Mixed Waste Processing Facility

As described in Section 5.4.1 and Section 5.4.2, a transfer station would open in in the timeframe of FY2027 at a southern site and a transfer station and at a northern site that would open in the same timeframe. Each transfer station will have sufficient bays and capacity to transfer out MSW, process MSW as a beneficially reusable biomass fuel at an MWPF or accept source-separate recyclables and C&D waste.

Figure 21 and Figure 22 illustrate a pro forma for the City operating a transfer station at the southern materials management site.

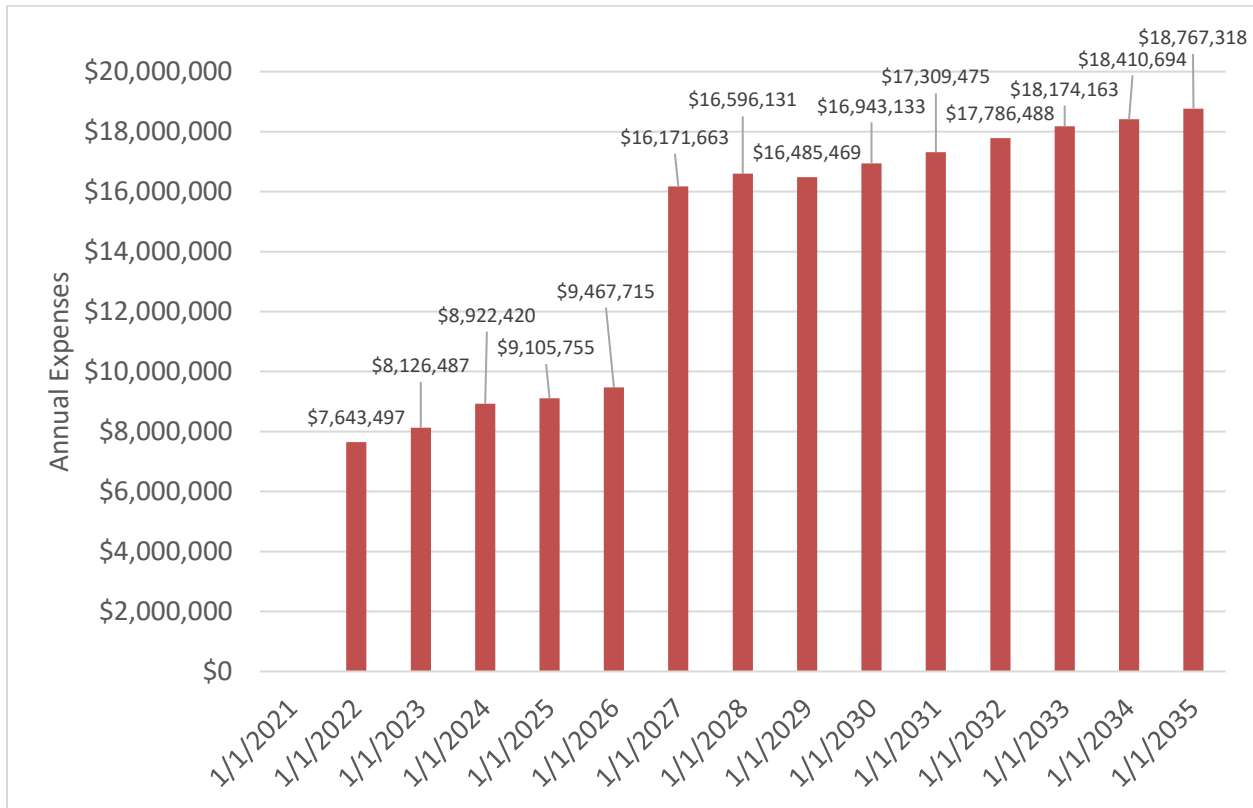


Figure 21 – Estimated Annual Operating Costs for Murfreesboro Solid Waste Disposal with Transfer Station after Middle Point Landfill Closure (assumed July 1, 2026)

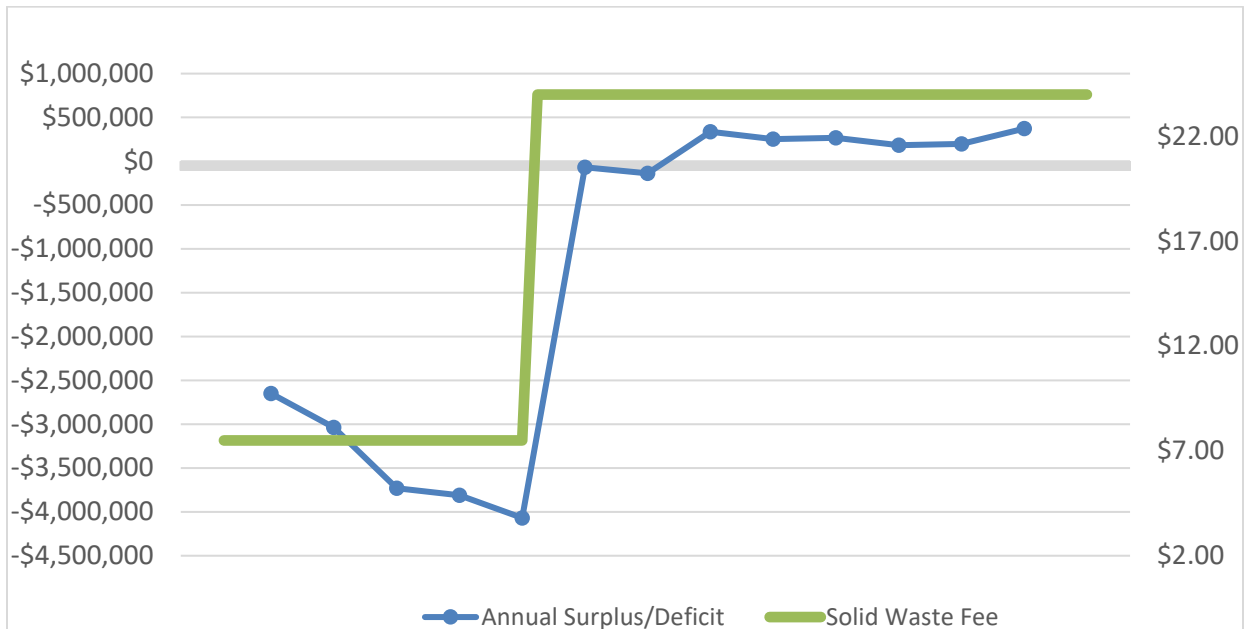


Figure 22 – Estimated Annual Surplus/Deficit for Murfreesboro Solid Waste Disposal with Transfer Station

The pro forma estimates in Figure 21 and Figure 22 are based on the following assumptions using a southern transfer station for Murfreesboro's solid waste disposal:

- Murfreesboro would be generating approximately 51,750 tons of MSW by July 1, 2026, and would be increasing that tonnage by 2.5% per year through 2035.
- The MSW taken to the southern transfer station site would be hauled in 20-ton open top semi-truck trailers to Camden, TN for \$3.50 per mile at a roundtrip distance of 225 miles.
- The tipping fees at Waste Management's Camden landfill would be \$45 per ton.
- The approximately number of 96-gallon carts picked up weekly by the City of Murfreesboro would be 49,500 for residential customers and 2,650 from commercial customers. The number of carts would increase by 2.5% per year through 2035 and the number of commercial customers would remain flat through 2035.
- Annual operating expense would increase by 3% per year through 2035.
- The southern transfer station would be a 15,000 square foot facility that would cost \$18,000,000, incurring new debt service of approximately \$1,210,000 annually (20-yr at 3% fixed interest).
- The southern transfer station site would require five new employees incurring an additional \$375,000 on the solid waste department's payroll.
- Additional annual operating costs of \$500,000 were also estimated.
- The City would charge for the solid waste residential and commercial rates per the following schedule:

Table 3 – Proposed Solid Waste Fee Schedule for Murfreesboro FY22-FY35 Transferring MSW to a Landfill in Camden, TN

Time Schedule	Residential Rate	Commercial Rate
FY22-26	\$7.50 /month	\$30 / month
FY27-35	\$24 / month	\$55 / month

The City's operational costs (payroll, maintenance, power, etc.) and capital expenses (debt service) would increase by operating a WastAway facility producing a beneficially reusable biomass fuel (SE3); however, given a monthly curbside collection fee charged to residential and commercial customers at \$21/month and \$60/month, respectively, and \$45 per ton charged to outside entities bringing their MSW to the WastAway facility, in addition to the \$1.00 per MMBTU, the revenue generated through the sale of the SE3, increased expenses to projected revenue is tabulated below:

Table 4 – Proposed Solid Waste Fee Schedule for Murfreesboro FY27-FY35 Operating a WastAway Facility

Murfreesboro MSW Annual Tonnage	Outside Entity MSW Annual Tonnage	Increase in Expenses	Increase in Revenue (Outside Tipping fees)	Increase in Revenue (SE3 sales)	Difference (Exp minus Revenue)
52,000	0	\$2,500,000	\$0	\$700,000	\$(1,800,000)
52,000	50,000	\$4,500,000	\$2,250,000	\$1,400,000	\$(850,000)
52,000	100,000	\$6,500,000	\$4,500,000	\$2,000,000	\$0
52,000	200,000	\$10,500,000	\$9,000,000	\$3,350,000	\$1,850,000

Community Convenience Centers

In February 2021 Rutherford County entered into contract with Energy Land and Infrastructure for the improvements to four existing convenience centers throughout the county. The selected centers were

Leanna, Rockvale, Walter Hill and Smyrna. The improvements included the addition of a permanent office structure for employees that included air-conditioned space and a restroom, a used oil storage building, design for better circulations within the site, the design of “ramps” to allow for debris to be dropped into containers instead of lifted up and into containers, concrete pads for compactors, asphalt surfacing of travel ways, additional recycling containers, gates and fencing around the perimeter, lighting and landscaping. The Leanna improvements design included the existing site and the addition of a new fire house and was design to allow for additional “staking” of vehicles entering into the site. The Rockvale site utilized the existing site as well as the expanding the site to include land across the street to allow for additional capacity for recycling materials. The Smyrna site was relocated from the existing site on Weakley Lane to G Street to remove traffic from Weakley Lane due to safety concerns. The Walter Hill site was relocated to a site along Landfill Road to remove traffic from Jefferson Pike also due to safety concerns.

Perry Construction was the low bidder for the improvements to the four sites with a bid of \$5,869,454.31. The Rutherford County Public Works Committee approved the low bid on 3/8/22 and is schedule for County Commission approval on 3/17/22.

6.4.2 Curbside Collection Costs

Consolidating and synchronizing collection services across the County is partly intended to derive benefit from economies of scale. The more tons of waste that flow into the future Materials Management facility, the lower the cost per ton at the transfer stations(s). As the transfer and disposal costs at the transfer station(s) could be as much as 50 percent of the customer cost, this is very important for mitigating rates. Furthermore, adding units to the customer base can reduce costs per customer—i.e., the operating cost of a collection truck for one day is only marginally different if it stops at 500 houses or 800 houses, but with more stops, that operating cost is spread out among customers. The exception is if very remote customers are added, the drive time between customers and collection areas increases average per customer costs. As such, the estimates herein are based only on residential customers with a minimum housing density.

A solid waste authority is generally responsible for long-term solid waste management for a County or multiple municipalities within a localized region. Responsibilities consist of:

- establishing the necessary infrastructure such as transfer stations, landfills and/or recycling facilities to service the participating municipalities.
- contracting with private companies to provide necessary collection, transfer, disposal and/or recycling services.
- managing the contracts and selected contractors.
- establishing an organizational structure to manage the solid waste management system; and
- achieve the system’s legal and financial objectives and goals.

The organizational structure may consist of the following positions.

- Director
- Controller
- Solid Waste Manager
- Solid Waste Engineer
- Recycling coordinator
- Customer Representatives

- Billing and administrative support positions
- Field inspectors

There are multiple elements of the cost structure of solid waste collection and recycling services. Examples of common components of these expenses include:

- Labor & Benefits
- Repairs & Maintenance of Trucks and Equipment
- Tire Repair and Replacement
- Vehicle Operations
- Fuel
- Disposal
- Facilities
- Safety and Insurance
- Administrative and Billing
- Accounts Receivable Management and Bad Debt Reserve
- Other Miscellaneous Expenses
- Legal Support

The costs associated with providing the solid waste collection and recycling services are tracked and categorized into the above components to determine the unit costs associated with each service and the total cost of providing the services. The individual cost items and the total cost are then divided by the total number of units receiving the services during a designated period resulting in the calculation of the of a per unit service dollar value such as dollars per household per month or year.

Operational Area	Percentage of Total Operating Costs
Labor & Benefits	20% to 35%
Repairs & Maintenance	11% to 15%
Tires	2% to 3%
Vehicle Operations & Fuel	10% to 15%
Disposal	30% to 45%
Equipment & Facilities	1% to 2%
Safety & Insurance	5% to 8%
Administrative and Billing	2% to 4%
Bad Debt Reserve	1% to 1%
Interest Expense	4% to 6%
Equipment Depreciation	8% to 12%

Table 5 – Sample Breakdown of Collection Operation Costs by Operational Area

The current preponderance of unknown and undecided cost parameters makes calculating collection costs for a synchronized system problematic. Based on surveys of pricing in the Middle Tennessee area, an estimated cost of \$30- \$40/ton for a comprehensive best practice set of collection services is expected

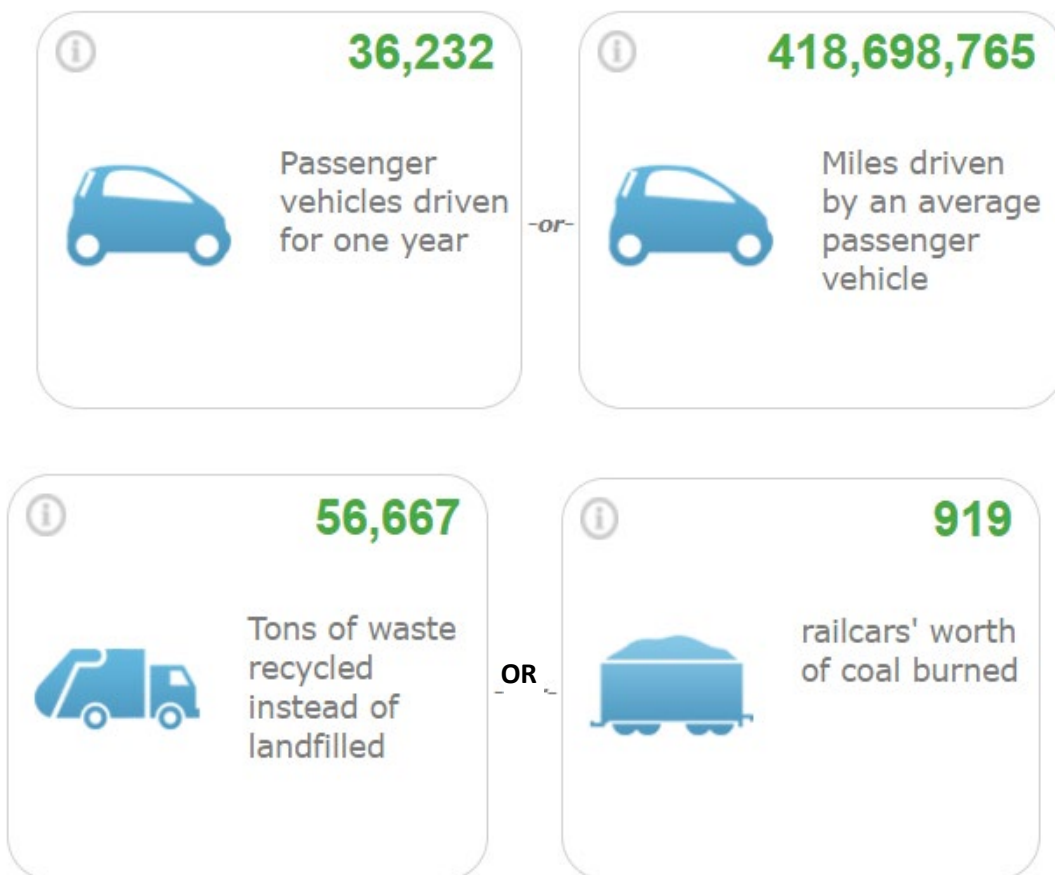
6.4.3 Other Benefits and Impacts

There are two primary benefits of reducing disposal and increasing materials recovery, beyond cost savings to ratepayers: job creation and environmental protection.

The Institute for Local Self Reliance calculates that each 10,000 tons per year of household recycling generates 25 manufacturing jobs, in addition to 10 MRF jobs. The pro forma associated with constructing a WastAway facility includes the creation of 27 technical positions. This is as compared to just 1 landfill job created by 10,000 new tons of disposal. An MWPF could create dozens of steady, semi-skilled and skilled labor jobs. The materials and commodities recovered from disposal by the MWPF, in turn, would benefit manufacturers both locally and across the Southeast. The use of recovered feedstocks saves water spent in manufacturing, reduces greenhouse gas production resulting from landfill disposal, reduces by hundreds of thousands the number of trees harvested to make paper and packaging, and avoids thousands of tons of mining waste from being generated.

For each ton of WastAway generated SE3 Fuel that replaces coal or other fossil fuels, 1.7 tons of Green House Gases (GHG) are avoided. A 400 ton/day WastAway system will eliminate 166,600 tons of GHG emissions per year; equivalent to the following:

Figure 23 – Equivalent Green House Gas (GHG) emissions to a 400 ton/day WastAway Facility



6.5 Timeline with Milestones

The deliberation currently undertaken by the Cities and County reviewing and selecting long-term solid



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waste disposal and materials management alternatives will determine the specific timeline for advancing the final selected solution. A northern and southern materials management facility is anticipated to be open and in operation prior to the 2027 expected closure of Middle Point Landfill.

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Asphalt and Concrete Purchase Report

Department: Street

Presented by: Raymond Hillis

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

Summary

Report of asphalt and concrete purchases.

Background Information

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

Pursuant to the 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 the functionality and safe drivability of roadways focuses on public safety and customer service.

Fiscal Impacts

Asphalt purchases, \$65,000, and concrete purchases, \$35,000, are funded by the Department's FY22 Budget.

Attachments

Asphalt and Concrete Purchases Report

STREET DEPARTMENT ASPHALT PURCHASES FY 22

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/9/2021	Hawkins	411-E/64-22 Asphalt Mix	\$ 66.50	7.80	\$ 518.70	\$ 518.70
12/20/2021	Hawkins	307-BM 64-22	\$ 60.50	2.07	\$ 125.24	\$ 643.94
12/28/2021	Hawkins	307-BM 64-22	\$ 60.50	2.01	\$ 121.61	\$ 765.55
12/28/2021	Hawkins	307-BM 64-22	\$ 60.50	1.95	\$ 117.98	\$ 883.53
12/31/2021	Hawkins	307-BM 64-22	\$ 60.50	2.01	\$ 121.61	\$ 1,005.14
1/12/2022	Hawkins	411-E/64-22 Asphalt Mix	\$ 68.25	21.88	\$ 1,493.31	\$ 2,498.45
2/7/2022	Hawkins	307-BM 64-22	\$ 60.75	1.50	\$ 91.13	\$ 2,589.58
2/28/2022	Hawkins	411-D 70-22 Asphalt Mix	\$ 76.72	19.15	\$ 1,469.19	\$ 4,058.76
3/14/2022	Hawkins	411-D 64-22	\$ 76.72	2.02	\$ 154.97	\$ 4,213.73
3/14/2022	Hawkins	411-D 64-22	\$ 76.72	2.01	\$ 154.21	\$ 4,367.94
3/14/2022	Hawkins	411-D 64-22	\$ 76.72	2.12	\$ 162.65	\$ 4,530.59
3/17/2022	Hawkins	411-E 64-22	\$ 70.50	3.12	\$ 219.96	\$ 4,750.55
3/25/2022	Hawkins	411E	\$ 70.50	1.97	\$ 138.89	\$ 4,889.44
3/25/2022	Hawkins	411E	\$ 70.50	1.98	\$ 139.59	\$ 5,029.03

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/7/2021	Blue Water	E Mix 64-22	\$ 68.50	2.64	\$ 180.84	\$ 180.84
7/28/2021	Blue Water	E Mix 64-22	\$ 68.50	8.11	\$ 555.54	\$ 736.38
7/29/2021	Blue Water	E Mix 64-22	\$ 68.50	9.14	\$ 626.09	\$ 1,362.47
7/30/2021	Blue Water	E Mix 64-22	\$ 68.50	2.40	\$ 164.40	\$ 1,526.87
7/31/2021	Blue Water	E Mix 64-22	\$ 68.50	2.48	\$ 169.88	\$ 1,696.75
8/9/2021	Blue Water	BM Mix 64-22 RP	\$ 57.50	18.66	\$ 1,072.95	\$ 2,769.70
8/26/2021	Blue Water	E Mix 64-22	\$ 68.50	5.11	\$ 350.04	\$ 3,119.74
8/31/2021	Blue Water	E Mix 64-22	\$ 68.50	2.06	\$ 141.11	\$ 3,260.85
9/7/2021	Blue Water	E Mix 64-22	\$ 68.50	2.28	\$ 156.18	\$ 3,417.03
9/7/2021	Blue Water	E Mix 64-22	\$ 68.50	2.49	\$ 170.57	\$ 3,587.60
9/7/2021	Blue Water	E Mix 64-22	\$ 57.50	16.81	\$ 966.58	\$ 4,554.18
9/7/2021	Blue Water	E Mix 64-22	\$ 68.50	18.29	\$ 1,252.87	\$ 5,807.05
9/7/2021	Blue Water	BM Mix 64-22 RP	\$ 57.50	12.56	\$ 722.20	\$ 6,529.25
9/14/2021	Blue Water	E Mix 64-22	\$ 68.50	18.47	\$ 1,265.20	\$ 7,794.45
9/14/2021	Blue Water	E Mix 64-22	\$ 68.50	4.09	\$ 280.17	\$ 8,074.61
9/14/2021	Blue Water	E Mix 64-22	\$ 68.50	18.24	\$ 1,249.44	\$ 9,324.05
9/14/2021	Blue Water	E Mix 64-22	\$ 68.50	15.31	\$ 1,048.74	\$ 10,372.79
9/15/2021	Blue Water	E Mix 64-22	\$ 68.50	10.25	\$ 702.13	\$ 11,074.92
9/15/2021	Blue Water	E Mix 64-22	\$ 68.50	2.59	\$ 177.42	\$ 11,252.34
9/17/2021	Blue Water	E Mix 64-22	\$ 68.50	15.20	\$ 1,041.20	\$ 12,293.54
9/20/2021	Blue Water	E Mix 64-22	\$ 68.50	9.24	\$ 632.94	\$ 12,926.48
9/22/2021	Blue Water	E Mix 64-22	\$ 68.50	2.04	\$ 139.74	\$ 13,066.22
9/22/2021	Blue Water	E Mix 64-22	\$ 68.50	2.34	\$ 160.29	\$ 13,226.51
9/27/2021	Blue Water	E Mix 64-22	\$ 68.50	2.59	\$ 177.42	\$ 13,403.93
9/30/2021	Blue Water	E Mix 64-22	\$ 68.50	2.38	\$ 163.03	\$ 13,566.96
10/11/2021	Blue Water	E Mix 64-22	\$ 68.50	3.18	\$ 217.83	\$ 13,784.79
10/13/2021	Blue Water	E Mix 64-22	\$ 68.50	2.36	\$ 161.66	\$ 13,946.45
10/18/2021	Blue Water	E Mix 64-22	\$ 68.50	2.06	\$ 141.11	\$ 14,087.56
10/18/2021	Blue Water	E Mix 64-22	\$ 68.50	2.42	\$ 165.77	\$ 14,253.33
10/28/2021	Blue Water	E Mix 64-22	\$ 68.50	2.15	\$ 147.28	\$ 14,400.61
10/19/2021	Blue Water	E Mix 64-22	\$ 68.50	2.12	\$ 145.22	\$ 14,545.83
10/27/2021	Blue Water	E Mix 64-22	\$ 68.50	14.75	\$ 1,010.38	\$ 15,556.21
10/28/2021	Blue Water	E Mix 64-22	\$ 68.50	2.22	\$ 152.07	\$ 15,708.28
10/28/2021	Blue Water	BM Mix 64-22 RP	\$ 57.50	3.62	\$ 208.15	\$ 15,916.43
11/2/2021	Blue Water	BM Mix 64-22 RP	\$ 57.50	2.16	\$ 124.20	\$ 16,040.63
11/2/2021	Blue Water	BM Mix 64-22 RP	\$ 57.50	3.22	\$ 185.15	\$ 16,225.78
11/2/2021	Blue Water	E Mix 64-22	\$ 68.50	3.45	\$ 236.33	\$ 16,462.11
11/3/2021	Blue Water	E Mix 64-22	\$ 68.50	2.39	\$ 163.72	\$ 16,625.83
11/4/2021	Blue Water	E Mix 64-22	\$ 68.50	2.26	\$ 154.81	\$ 16,780.64

11/5/2021	Blue Water	E Mix 64-22	\$	68.50	2.19	\$	150.02	\$	16,930.66
11/8/2021	Blue Water	E Mix 64-22	\$	68.50	2.04	\$	139.74	\$	17,070.40
11/8/2021	Blue Water	E Mix 64-22	\$	68.50	17.93	\$	1,228.21	\$	18,298.61
11/9/2021	Blue Water	E Mix 64-22	\$	68.50	2.42	\$	165.77	\$	18,464.38
11/9/2021	Blue Water	E Mix 64-22	\$	68.50	8.11	\$	555.54	\$	19,019.92
11/10/2021	Blue Water	E Mix 64-22	\$	68.50	2.23	\$	152.76	\$	19,172.68
11/11/2021	Blue Water	E Mix 64-22	\$	68.50	2.13	\$	145.91	\$	19,318.59
11/11/2021	Blue Water	E Mix 64-22	\$	68.50	11.05	\$	756.93	\$	20,075.52
11/16/2021	Blue Water	E Mix 64-22	\$	68.50	18.50	\$	1,267.25	\$	21,342.77
12/15/2021	Blue Water	E Mix 64-22	\$	68.50	2.52	\$	172.62	\$	21,515.39
1/28/2022	Blue Water	BM2 64-22 RP	\$	58.05	22.34	\$	1,296.84	\$	22,812.23
1/28/2022	Blue Water	E Mix 64-22 RP	\$	64.95	18.79	\$	1,220.41	\$	24,032.64
1/28/2022	Blue Water	E Mix 64-22 RP	\$	64.95	17.46	\$	1,134.03	\$	25,166.67
1/28/2022	Blue Water	E Mix 64-22 RP	\$	64.95	15.05	\$	977.50	\$	26,144.17
2/2/2022	Blue Water	BM2 64-22 RP	\$	58.05	22.37	\$	1,298.58	\$	27,442.75
2/2/2022	Blue Water	BM2 64-22 RP	\$	58.05	2.37	\$	137.58	\$	27,580.33
2/2/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.06	\$	133.80	\$	27,714.13
2/2/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.01	\$	130.55	\$	27,844.68
2/10/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.00	\$	129.90	\$	27,974.58
2/10/2022	Blue Water	E Mix 64-22 RP	\$	64.95	1.98	\$	128.60	\$	28,103.18
2/10/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.07	\$	134.45	\$	28,237.63
2/10/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.07	\$	134.45	\$	28,372.08
2/10/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.10	\$	136.40	\$	28,508.48
2/10/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.00	\$	129.90	\$	28,638.38
2/11/2022	Blue Water	BM2 64-22 RP	\$	58.05	1.98	\$	114.94	\$	28,753.32
2/11/2022	Blue Water	BM2 64-22 RP	\$	58.05	2.06	\$	119.58	\$	28,872.90
2/11/2022	Blue Water	BM2 64-22 RP	\$	58.05	2.06	\$	119.58	\$	28,992.48
3/1/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.27	\$	147.44	\$	29,139.92
3/1/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.04	\$	132.50	\$	29,272.42
3/1/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.29	\$	148.74	\$	29,421.16
3/1/2022	Blue Water	E Mix 64-22 RP	\$	64.95	16.12	\$	1,046.99	\$	30,468.15
3/2/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.14	\$	138.99	\$	30,607.14
3/2/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.14	\$	138.99	\$	30,746.13
3/2/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.45	\$	159.13	\$	30,905.26
3/2/2022	Blue Water	E Mix 64-22 RP	\$	64.95	19.43	\$	1,261.98	\$	32,167.24
3/2/2022	Blue Water	E Mix 64-22 RP	\$	64.95	18.53	\$	1,203.52	\$	33,370.76
3/3/2022	Blue Water	BM2 64-22 RP	\$	58.05	18.09	\$	1,050.12	\$	34,420.88
3/3/2022	Blue Water	E Mix 64-22 RP	\$	64.95	17.98	\$	1,167.80	\$	35,588.68
3/3/2022	Blue Water	E Mix 64-22 RP	\$	64.95	22.72	\$	1,475.67	\$	37,064.35
3/3/2022	Blue Water	E Mix 64-22 RP	\$	64.95	44.69	\$	2,902.61	\$	39,966.96
3/4/2022	Blue Water	BM2 64-22 RP	\$	58.05	18.09	\$	1,050.12	\$	41,017.08
3/4/2022	Blue Water	E Mix 64-22 RP	\$	64.95	17.98	\$	1,167.80	\$	42,184.88
3/10/2022	Blue Water	E Mix 64-22 RP	\$	64.95	10.06	\$	653.40	\$	42,838.28
3/15/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.01	\$	130.55	\$	42,968.83
3/15/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.07	\$	134.45	\$	43,103.28
3/15/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.03	\$	131.85	\$	43,235.13
3/29/2022	Blue Water	E Mix 64-22 RP	\$	64.95	9.94	\$	645.60	\$	43,880.73
3/29/2022	Blue Water	E Mix 64-22 RP	\$	64.95	2.40	\$	155.88	\$	44,036.61
3/31/2022	Blue Water	E Mix 64-22 RP	\$	64.95	12.10	\$	785.90	\$	44,822.51
3/31/2022	Blue Water	E Mix 64-22 RP	\$	64.95	12.88	\$	836.56	\$	45,659.07
4/5/2022	Blue Water	E Mix 64-22 RP	\$	64.95	5.08	\$	329.95	\$	45,989.02

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/7/2021	Vulcan	411E PG 64-22	\$ 80.85	2.20	\$ 177.87	\$ 177.87
7/15/2021	Vulcan	307BM PG 64-22	\$ 69.89	20.40	\$ 1,425.76	\$ 1,603.63
7/15/2021	Vulcan	307BM PG 64-22	\$ 69.89	18.20	\$ 1,272.00	\$ 2,875.63
8/6/2021	Vulcan	411E PG 64-22	\$ 81.02	8.82	\$ 714.60	\$ 3,590.23
8/24/2021	Vulcan	307BM PG 64-22	\$ 70.01	13.04	\$ 912.93	\$ 4,503.16
9/8/2021	Vulcan	307BM PG 64-22	\$ 69.98	18.39	\$ 1,286.94	\$ 5,790.10
9/9/2021	Vulcan	307BM PG 64-22	\$ 69.98	18.24	\$ 1,276.44	\$ 7,066.54
9/28/2021	Vulcan	307BM PG 64-22	\$ 69.98	18.23	\$ 1,275.74	\$ 8,342.28
9/28/2021	Vulcan	307BM PG 64-22	\$ 69.98	9.36	\$ 655.01	\$ 8,997.29
9/29/2021	Vulcan	411E PG 64-22	\$ 80.97	10.44	\$ 845.33	\$ 9,842.62
9/29/2021	Vulcan	411E PG 64-22	\$ 80.97	10.25	\$ 829.94	\$ 10,672.56
9/29/2021	Vulcan	411E PG 64-22	\$ 80.97	12.45	\$ 1,008.08	\$ 11,680.63
10/4/2021	Vulcan	307BM PG 64-22	\$ 69.89	10.77	\$ 752.72	\$ 12,433.35
10/4/2021	Vulcan	411E PG 64-22	\$ 80.85	18.70	\$ 1,511.89	\$ 13,945.24
10/19/2021	Vulcan	307BM PG 64-22	\$ 69.98	2.80	\$ 195.94	\$ 14,141.18
10/26/2021	Vulcan	411E PG 64-22	\$ 80.97	2.22	\$ 179.75	\$ 14,320.93
12/21/2021	Vulcan	411E PG 64-22	\$ 82.99	2.19	\$ 181.75	\$ 14,502.68
3/29/2022	Vulcan	411E PG 64-22	\$ 85.00	18.07	\$ 1,535.95	\$ 16,038.63
		BITM-AC 5.6	\$ 2.26	18.07	\$ 40.84	\$ 16,079.47
3/29/2022	Vulcan	411E PG 64-22	\$ 85.00	2.04	\$ 173.40	\$ 16,252.87
		BITM-AC 5.6	\$ 2.26	2.04	\$ 4.61	\$ 16,257.48
3/30/2022	Vulcan	411E PG 64-22	\$ 85.00	16.35	\$ 1,389.75	\$ 17,647.23
		BITM-AC 5.6	\$ 2.26	16.35	\$ 36.95	\$ 17,684.18
3/30/2022	Vulcan	411E PG 64-22	\$ 85.00	4.07	\$ 345.95	\$ 18,030.13
		BITM-AC 5.6	\$ 2.26	4.07	\$ 9.20	\$ 18,039.33
4/1/2022	Vulcan	411E PG 64-22	\$ 85.00	3.10	\$ 263.50	\$ 18,302.83
		BITM-AC 5.6	\$ 6.35	3.10	\$ 19.69	\$ 18,322.52
4/1/2022	Vulcan	411E PG 64-22	\$ 85.00	3.02	\$ 256.70	\$ 18,579.22
		BITM-AC 5.6	\$ 6.35	3.02	\$ 19.18	\$ 18,598.40
4/7/2022	Vulcan	411E PG 64-22	\$ 85.00	7.56	\$ 642.60	\$ 19,241.00
		BITM-AC 5.6	\$ 6.35	7.56	\$ 48.01	\$ 19,289.01
4/7/2022	Vulcan	411E PG 64-22	\$ 85.00	3.69	\$ 313.65	\$ 19,602.66
		BITM-AC 5.6	\$ 6.35	3.69	\$ 23.43	\$ 19,626.09
4/8/2022	Vulcan	411E PG 64-22	\$ 85.00	5.11	\$ 434.35	\$ 20,060.44
		BITM-AC 5.6	\$ 6.35	5.11	\$ 32.45	\$ 20,092.89
4/15/2022	Vulcan	411E PG 64-22	\$ 85.00	2.56	\$ 217.60	\$ 20,310.49
		BITM-AC 5.6	\$ 6.35	2.56	\$ 16.26	\$ 20,326.75
4/22/2022	Vulcan	411E PG 64-22	\$ 85.00	2.04	\$ 173.40	\$ 20,500.15
		BITM-AC 5.6	\$ 6.35	2.04	\$ 12.95	\$ 20,513.10
4/25/2022	Vulcan	411E PG 64-22	\$ 85.00	3.06	\$ 260.10	\$ 20,773.20
		BITM-AC 5.6	\$ 6.35	3.06	\$ 19.43	\$ 20,792.63

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Asphalt Purchases Report

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

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 Purchases FY 2022

<i>Invoice Date</i>	<i>Approval</i>	<i>Vendor</i>	<i>Type</i>	<i>Rate</i>	<i>Qty</i>	<i>Total</i>	<i>FY Total</i>
7/20	DH	Vulcan	307-BM	\$58.39	18.60	\$1,086.05	\$1,086.05
7/20	DH	Vulcan	307-BM	\$58.39	18.38	\$1,073.21	\$2,159.26
7/20	DH	Vulcan	307-BM	\$58.39	18.56	1,083.72	\$3,242.98
7/20	DH	Vulcan	307-BM	\$58.39	18.27	1,066.79	\$4,309.77
7/26	DH	Hawkins	411- E	\$66.50	18.70	1,243.55	\$10,074.44
7/26	DH	Hawkins	307-BM	\$59.00	13.60	802.40	\$10,876.84
8/10	DH	Vulcan	411-E	\$67.35	13.66	920.00	\$11,796.84
8/17	DH	Vulcan	307-BM	\$58.51	10.72	627.23	#REF!
10/15	DH	Hawkins	411-E	\$66.50	16.48	1,095.92	\$16,493.88
10/20	DH	Hawkins	307-BM	\$62.75	16.69	1,047.30	\$17,541.18
11/30	DH	Hawkins	307-BM	\$60.00	22.34	1,340.40	\$18,881.58
11/30	DH	Hawkins	307-BM	\$60.00	19.28	1,156.80	\$20,038.38
11/30	DH	Hawkins	307-BM	\$60.00	17.25	1,035.00	\$21,073.38
11/30	DH	Hawkins	307-BM	\$60.00	20.26	1,215.60	\$22,288.98
11/30	DH	Hawkins	307-BM	\$60.00	19.00	1,140.00	\$23,428.98
11/30	DH	Hawkins	411-E	\$67.50	17.31	1,168.43	\$24,597.41
11/30	DH	Hawkins	307-BM	\$65.00	22.37	1,454.05	\$26,051.46
11/30	DH	Hawkins	307-BM	\$65.00	19.89	1,292.85	\$27,344.31
11/30	DH	Hawkins	307-BM	\$65.00	22.86	1,485.90	\$28,830.21
11/30	DH	Hawkins	307-BM	\$65.00	17.69	1,149.85	\$29,980.06
11/30	DH	Hawkins	307-BM	\$65.00	3.06	198.90	\$30,178.96
12/13	DH	Hawkins	307-BM	\$60.50	21.02	1,271.71	\$31,450.67
12/13	DH	Hawkins	411-E	\$68.25	14.47	987.58	\$32,438.25
12/18	DH	Hawkins	411-E	\$68.25	17.62	1,202.57	\$33,640.82
12/18	DH	Hawkins	411-E	\$68.25	3.54	241.61	\$33,882.43
12/28	DH	Hawkins	307-BM	\$60.50	18.00	1,089.00	\$34,971.43
12/28	DH	Hawkins	307-BM	\$60.50	13.77	833.09	\$35,804.52
12/29	DH	Hawkins	307-BM	\$60.50	15.84	958.32	\$36,762.84
1/31	DH	Hawkins	411-E	\$68.25	11.80	805.35	\$39,868.19
2/18	DH	Hawkins	307-BM	\$60.75	11.91	723.53	\$40,591.72
2/18	DH	Hawkins	307-BM	\$58.00	20.29	1,176.82	\$41,768.54

MWRD - OPERATIONS & MAINTENANCE

Asphalt Quotes FY 2022

	Blue Water		Hawkins		Vulcan		Notes
	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	
Jul	\$65.00	\$75.00	\$59.00	\$66.50	\$58.39	\$67.35	
Aug	\$65.00	\$75.00	\$59.00	\$69.00	\$57.85	\$67.51	
Sep	\$65.00	\$75.00	\$59.00	\$66.50	\$57.81	\$67.46	
Oct	\$65.00	\$75.00	\$59.00	\$69.00	\$57.81	\$67.46	
Nov	\$65.00	\$75.00	\$60.00	\$67.50	\$57.81	\$67.46	
Dec	\$65.00	\$75.00	\$60.50	\$68.25	\$60.50	\$69.50	
Jan	\$65.00	\$75.00	\$60.50	\$68.25	\$60.50	\$69.50	
Feb	\$65.00	\$75.00	\$60.75	\$68.75	\$0.00	\$0.00	
Mar	\$65.00	\$75.00	\$61.50	\$70.50	\$63.70	\$73.76	
Apr	\$65.00	\$75.00					
May	\$65.00	\$75.00					
Jun	\$65.00	\$75.00					

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: 2022 WTP Chemical Contracts

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance ☐
Resolution ☐
Motion ☒
Direction ☐
Information ☐

Summary

Commodity chemical suppliers for the Stones River drinking water treatment plant.

Staff Recommendation

Approve the chemical contracts from the itemized suppliers for water treatment chemicals listed in the table below.

Background Information

Bids were publicly opened by the Purchasing Department on Zoom using ProcureNow on March 22, 2022, for water treatment chemicals to be used at the Stones River Water Treatment Plant. Thirteen chemicals were bid for FY23.

None of the chemical vendors would extend their contract for FY23 due to the rising costs of raw materials, fuel, and other reasons. The table below are the unit price contract amounts for each chemical. The estimated annual expense for FY23 operating budget is identified in the table below.

Company Name	Chemical	Unit Price	Estimated Annual Expense
Brenntag Mid-South, Inc	Sodium Carbonate	\$0.2200/lb	\$10,000
Brenntag Mid-South, Inc	Sodium Hydroxide	\$0.1750/lb	\$5,000
Carmeuse Lime	Calcium Oxide	\$0.13639/lb	\$370,000
G2O Technologies, LLC	Polyaluminum Hydroxychloride	\$0.2376/lb	\$30,000
Hawkins, Inc	Calcium Thiosulfate	\$0.53/lb	\$3,000
Hawkins, Inc	Hydrogen Peroxide	\$0.47/lb	\$45,000
Hawkins, Inc	Phosphate – 50/50	\$1.22/lb	\$40,000
Hawkins, Inc	Phosphate – 70/30	\$1.27/lb	\$40,000
Hawkins, Inc	Phosphate – 85/15	\$1.27/lb	\$40,000
Hawkins, Inc	Sodium Permanganate	\$1.16/lb	\$325,000
Polydyne, Inc	Polyelectrolyte Coagulant Aid	\$1.10/lb	\$70,000
Univar Solutions USA, Inc	Citric Acid	\$1.2500/lb	\$28,000
Univar Solutions USA, Inc	Fluorosilicic Acid	\$0.2200/lb	\$20,000
Univar Solutions USA, Inc	Sodium Chloride	\$0.2000/lb	\$55,000

Council Priorities Served*Responsible budgeting*

MWRD bids chemicals annually that are either not in the best interest of the Department to extend or contracts that cannot be extended.

Fiscal Impact

The price of the chemicals will be reflected in the FY23 Operating Budget with a contract price through June 30, 2023. The estimated annual expense for FY23 Operating Budget is in the previous table.

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Barton Lawn Care – Contract Amendment

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Amendment to Barton Lawn Care Contract.

Staff Recommendation

Approve amendment in the amount of \$2,160 to provide lawncare services to three additional pump stations.

Background Information

Operations and Maintenance received bids for grass cutting and landscaping services for Operations and Maintenance and the contract was awarded to Barton Lawn Care on February 3, 2022. We identified three additional pump stations that need to be serviced and are requesting approval to include them in the contract. These are 521 Warrior Dr., Sam Jared Rd, and 1917 Barfield Rd.

Council Priorities Served

Responsible budgeting

By following recommended guidelines and requesting approval to amend contract, the department is practicing responsible budgeting procedures.

Fiscal Impact

Barton Lawn Care agreed to cut each pump station for \$30. We estimate 24 cuttings per year resulting in a yearly cost of \$2,160.

Attachments

Barton Lawn Care Contract Amendment

**FIRST AMENDMENT TO
AGREEMENT FOR GRASS CUTTING AND LANDSCAPING
FOR CITY OF MURFREESBORO**

This First Amendment to the Agreement for Grass Cutting and Landscaping Service for the City of Murfreesboro for Water Resources Operations & Maintenance, dated February 3, 2022 ("Contract") is effective as of this _____ day of _____, 2022, by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee and Barton Lawn Care ("Contractor").

WHEREAS, City and Contractor entered into the Contract pursuant to City's ITB-24-2022 for certain lawn care services;

WHEREAS, pursuant to Section 11 of the Contract, said Contract may be modified by written amendment executed by all parties; and

WHEREAS, the parties desire to amend the Contract to include certain additional properties for an additional cost, all as listed below;

NOW, THEREFORE, City and Contractor hereby amend the Contract as follows:

1. The parties agree to add three (3) pump stations to be included in the areas to be maintained by Contractor as outlined in "ITB-24-2022 – Grass Cutting and Landscaping, Water Resources."

LOCATION	COST (per cutting)
521 Warrior Dr.	\$30
Sam Jared Rd.	\$30
1917 Barfield Rd.	\$30

2. All other terms of the Contract, including automatic extensions thereof, remain in full force and effect and are otherwise unchanged by this First Amendment.

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

BARTON LAWN CARE

DocuSigned by:
By Gary Barton
Gary Barton, Owner

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker

Adam Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Custodial Contract

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Contract for custodial services for Operations & Maintenance, Administration & Customer Service, and Engineering.

Staff Recommendation

Award Custodial Contract to the lowest bidder Versatile Enterprise.

Background Information

The current custodial contract expires June 30, 2022. This contract includes custodial services for Operations & Maintenance, Administration & Customer Service, and Engineering. It was advertised from March 22nd – April 12th, and we received five bids.

Council Priorities Served

Responsible budgeting

By soliciting bids, the department benefits from competitive pricing.

Fiscal Impact

Versatile Enterprise's yearly cost is \$43,016.

Attachments

Versatile Enterprise Contract

**Agreement
for
Custodial Services for Water Resources**

This Agreement is entered into and effective as of the ____ day of _____ 2022, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Versatile Enterprise, LLC**, a Limited Liability Company of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-45-2022 -Custodial Services for Water Resources issued March 22, 2022 (the "Solicitation");
- Contractor's Proposal, dated 04/12/2022("Contractor's Proposal");
- Contractor's Price Proposal (Exhibit A), dated 04/12/2022 (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 services based on Contractor's Proposal and Price Proposal and the specifications set forth in "ITB-45-2022 Custodial Services Water Resources."

2. Term.

The term of this Agreement commences on the Effective Date and expires in one year, with the option of two additional one-year renewal terms 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.

The price for the services and other items to be provided under this Agreement is set forth in the Contractor's Price Proposal, for a yearly contract price of \$36,456.00 for regular cleaning at three (3) locations and a yearly contract price of \$6,560.00 for stripping and waxing floors at three (3) locations (See Exhibit A), for a **total yearly contract price of \$43,016.00**. The prices listed in the Contractor's Price Proposal shall be firm and remain effective during the term of this Agreement. No price adjustments shall be allowed during a term; price adjustments may only be negotiated and approved by the parties in writing prior to the start of any renewal term in which the adjusted pricing will become effective. 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.

- 4. 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.

- 5. 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."

6. 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.

7. **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:
Versatile Enterprise, LLC
L. Nicole Weaver
1809 Antebellum Dr.
Murfreesboro, TN 37128
vcleaningsolutions@outlook.com

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, 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, Contractor certifies and warrants it will comply with this policy.

Contractor will also be required to acknowledge that the City is a federal government contractor, and that by virtue of this Contract, Contractor is a federal government subcontractor. Therefore, in accordance with federal law, Contractor shall specifically acknowledge and agree as follows:

- (1) **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a).** This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (2) **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a).** This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.
- (3) **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a).** This regulation prohibits discrimination against qualified individuals on the basis of disability

and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.”.

- 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 _____, 2022 (the "Effective Date").

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

Versatile Enterprise

DocuSigned by:
By: Laguitta Nicole Weaver
Laguitta Weaver, Owner

APPROVED AS TO FORM:

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

EXHIBIT A

PURCHASING DEPARTMENT BID FORM				
MUST BE COMPLETED				
Date:		Bid Title: Custodial Services for Water Resources		
Name of Company:				
INSTRUCTIONS: All prices must include all costs . Costs included in the bid prices shall include services rendered, accessories, and any cost necessary to provide this service. Pricing for each component shall be effective for one (1) year from date of bid award. The City is not subject to sales tax.				
ITEM NO.	QUANTITY (ESTIMATED)	DESCRIPTION	UNIT PRICE	TOTAL
1	1	Section 1 – 1725 S. Church Street	\$ <u>1,805</u> / mo.	\$ <u>21,660</u> /yr.
		Strip & Wax Floor		\$ <u>3,178</u> /yr
2	1	Section 2 – 300 NW Broad Street	\$ <u>683</u> / mo.	\$ <u>8,196</u> /yr
		Strip & Wax Floor		\$ <u>2,482</u> /yr
3	1	Section 3 – 220 NW Broad Street	\$ <u>550</u> / mo.	\$ <u>6,600</u> /yr
		Strip & Wax Floor		\$ <u>1,200</u> /yr

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: High Service Pump Station & Membrane Feed Pump CCF No. 4

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Change Control Form No. 4 includes the demolition of the existing concrete pipe supports under the existing high service pumps and backwash pump and the installation of new steel pipe supports under both the existing pumps and the proposed pump at the Stones River Water Treatment Plant.

Staff Recommendation

Approve the Change Control Form No. 4 from J. Cumby Construction Company, Inc.

Background Information

Pumps at the Stones River Water Treatment Plant are being rehabilitated. The construction plan anticipated reusing a portion of the existing structure. That has been determined to be infeasible and new supports are necessary. The project engineer has reviewed the proposed changes and agrees with the need for the change.

This change order is for \$13,396 and will use a \$1,919 project credit with the remaining \$11,477 paid from the contingency allowance. Note that the total contract price will not be adjusted.

Council Priorities Served

Expand infrastructure

Replacing aging infrastructure in the Water Resource Department's plant operations maintains reliability in treating high quality drinking water for the citizens and businesses of Murfreesboro.

Fiscal Impact

The adjustment of \$13,396 is funding by \$1,919 credit with the remaining \$11,477 paid from the project contingency allowance.

Attachments

High Service Pump Station and Membrane Feed Pump Improvements CCF-004 -
Pipe Supports



March 29, 2022

Mr. Alan Cranford
Manager, Water Treatment Plant
5528 Sam Jared Road
Murfreesboro, TN 37129

Transmitted Via Email

Re: **Murfreesboro Water Resources Department
High Service Pump Station and Membrane Feed Improvements
CCF No. 4
SSR No. 1941021.0**

Dear Mr. Cranford:

Attached is a copy of proposed Change Item No. 4 including a Summary Log of all proposed changes to date. The following summarizes the change item and provides recommendation for their approval.

Change Item No. 4 includes the demolition of the existing concrete pipe supports under the existing high service pumps and backwash pump and the installation of new steel pipe supports under both the existing pumps and the proposed pump.

The change item will be paid out from the remaining \$1,919 credit from the Contractor for the previously scoped Pall Membrane Feed Pump Control System update and the remaining \$11,477 will be paid out from the contingency allowance. The contingency allowance budget after this change would then be \$14,369. There will not be a change in the contract time as a result of this change.

SSR has reviewed the proposed changes and recommends they be approved. Note that the total contract price will not be adjusted. Please review the enclosures and if acceptable to you, execute and forward one (1) signed copy to me.

If you have any questions, please contact me.

Sincerely,

SMITH SECKMAN REID, INC.

A handwritten signature in black ink that reads "Luke Williams".

Luke G. Williams, PE
LGW/lgw
Enclosures

cc: Joe Russell (w/encl) – MWRD
Andy Hawken (w/encl) - SSR

T:\Team41\2019\19410210\CA\Change Orders\CCF 004\CCF-004 - Cover Letter.doc



CHANGE CONTROL FORM NO. 4

Date Issued:	March 29, 2022	Project:	High Service Pump Station and Membrane Feed Improvements
Project No.:	19-41-021.0	Contractor:	J. Cumby Construction
This Document is a: <input checked="" type="checkbox"/> Request for Proposal <input type="checkbox"/> Field Order <input type="checkbox"/> Work Change Directive <input type="checkbox"/> Contractor Change Request			
Description of Change (<i>attach necessary supporting documentation</i>): The existing concrete pipe supports used to support the existing ball check control valves for High Service Pump Nos. 1 -3 and the Backwash Pump were once thought to be able to be reutilized for the new swing check valves on the pumps. After further investigation by the Contractor, it was determined this was not possible. To properly support the discharge piping and valves on the existing pumps as well as the new high service pump, it is proposed to add one (1) steel pipe support under the discharge piping of each pump for a total of five (5) new pipe supports. The existing concrete pipe supports will also be demolished as part of this proposal. The total cost of the proposal is \$13,396 of which \$1,919 will be paid out through the credit from previously removed Pall membrane coordination and the remaining \$11,477 will be paid out through the contingency allowance.			
Initiated By: <input checked="" type="checkbox"/> Contractor <input type="checkbox"/> Engineer <input type="checkbox"/> Owner <input type="checkbox"/> Resident Project Representative			
Drawing(s) Reference: N/A		Spec. Reference: N/A	
RFI Reference: N/A		Date of RFI: N/A	
Attachments: Proposal from Contractor to Engineer dated March 28, 2022.			
REQUEST FOR PROPOSAL/CHANGE REQUEST			
We propose to perform the Work or make the Claim described above for the following change in Contract Cost and Contract Times:			
<input checked="" type="checkbox"/> No Change in Contract Amount is Required		<input type="checkbox"/> A Change in Contract Amount is Required:	
<input checked="" type="checkbox"/> No Change in Contract Time is required		<input type="checkbox"/> A Change in Contract Time is Required:	
WORK CHANGE DIRECTIVE			
You are directed to proceed to make the changes to the Work described in this Work Change Directive. Any change in Contract Price or Contract Time will be determined in accordance with the General Conditions.			
FIELD ORDER			
This Field Order issued in accordance with the General Conditions for minor changes in the Work without changes in the Contract Price or Contract Time. If you consider that a change in Contract Price or Contract Times is required, notify the Engineer immediately and before proceeding with the proposed Work.			
AUTHORIZING SIGNATURES			
ENGINEER:	CONTRACTOR:	OWNER:	RESIDENT PROJECT REPRESENTATIVE:
 <u>Luke Williams</u> (print name)	<u>Jace Chaffin</u> (print name)	_____ (print name)	_____ (print name)
Date: <u>03/29/2022</u>	Date: <u>3-29-22</u>	Date: _____	Date: <u>N/A</u>

CHANGE CONTROL LOG												
Owner: Murfreesboro Water Resources Department Project Name High Service Pump Station and Membrane Feed Improvements Contract No. 1941021 Engineer: Smith Seckman Reid, Inc. Contractor: J. Cumby Construction Revised: 03/28/22				<div>Rejected/Withdrawn</div> <div>Under Review</div> <div>Approved</div> <div>Pending</div>				Original Contract Amount: \$ 2,013,000.00 Contingency Allowance Amount: \$ 80,000.00 Adjusted Contingency Allowance Amount: \$ 14,369.00				
SSR No.	CCF No.	Change Order No.	Change Type	Brief Description of Change Item	Status (Pending/Under Review/Approved/Rejected)	Date From/To Contractor	Date Submitted to Owner	Date Approved/Rejected by Owner	Add/Deduct (+/-) Amount	Cumulative Add/Deduct Amount	Adjusted Contingency Amount	Adjusted Contract Amount
1			RFP	High Service Pump 2 Soft Starter	Approved	11/3/2021	11/4/2021	11/23/2021	\$ 54,154.00	\$ 54,154.00	\$ 25,846.00	\$ 2,013,000.00
2			RFP	Vibration Sensor Mods*	Approved	12/10/2021			\$ 4,900.00	N/A		\$ 2,013,000.00
3			RFP	Soft Starter Bypass Controls**	Approved	12/10/2021			\$ 13,081.00	N/A		\$ 2,013,000.00
4			RFP	DIP Pipe Supports***	Under Owner Review	3/28/2022	3/28/2022		\$ 11,477.00	\$ 65,631.00	\$ 14,369.00	\$ 2,013,000.00
Totals									\$ 72,135.00		\$ 14,369.00	\$ 2,013,000.00
Notes: 1. CCR - Contractor change request. 2. CL - Claim. 3. FO - Field Order. 4. RFP - Request for proposal. 5. WCD - Work change directive. 6. CCF 2 is to be paid from credit from Contractor for Pall Membrane Feed Control Modifications which has been removed from Contractor's scope of work. 7. CCF 3 is to be paid from credit from Contractor for Pall Membrane Feed Control Modifications which has been removed from Contractor's scope of work. \$1919.00 remains. 8. The remaining \$1919 from the Pall Membrane Feed Control Modifications will be used towards CCF 4. The remaining \$11477 will be paid from the contingency allowance.												

3/28/2022



J. CUMBY CONSTRUCTION GROUP PROPOSAL/ESTIMATE
JCC PROJECT #18-111

CONTRACT TITLE: MRWD - Stones River WTP

DESCRIPTION: Ductile Iron Pipe - Pipe Supports in the High Service Pump Room

JCC Quotation Number:

PCO 04

PRIME CONTRACTOR'S WORK			Revisions/Comments
1. DIRECT MATERIALS		\$8,555	
2. SALES TAX ON MATERIALS -- 0.0%	0.00%	\$0	
3. SUBTOTAL - PRIME MATERIALS		\$8,555	
4. DIRECT LABOR		\$2,978	
5. SUBTOTAL - PRIME LABOR		\$2,978	
6. RENTAL EQUIPMENT		\$0	
7. SALES TAX ON RENTAL EQUIPMENT -- 9.25%	9.25%	\$0	
8. EQUIPMENT OWNERSHIP & OPERATING EXPENSE		\$0	
9. SUBTOTAL - PRIME EQUIPMENT		\$0	
10. SUBTOTAL (ADD LINES 3, 5 & 9)		\$11,533	

Prime Remarks: NA

SUBCONTRACTOR'S WORK			Revisions/Comments
11. SUBTOTAL		\$0	

Sub's Remarks: N/A

SUMMARY			Revisions/Comments
12. PRIME CONTRACTOR'S WORK (FROM LINE 10)		\$ 11,533	
13. PRIME CONTRACTOR'S WORK (Field Costs - See Breakdown Page)		\$ -	
14. SUBCONTRACTOR'S WORK (FROM LINE 11)		\$ -	
15. FEE ON CONTRACTOR'S WORK -- 15.0 % OF LINE 12	15.00%	\$ 1,730	
17. FEE ON SUBCONTRACTOR WORK -- 15.0 % OF LINE 14	15.00%	\$ -	
18. (15% for Deleted Work)	15.00%	\$ -	
19. SUBTOTAL (ADD LINES 12 - 18)		\$ 13,263	
20. UNIT PRICE WORK		N/A	
21. BOND	1.00%	\$ 133	
22. TOTAL COST (ADD LINES 19, 20, and 21)		\$ 13,396	

NOTES:

Please review and respond by no later than 4-8-22, sooner if possible. Lead time for the new pipe supports is 3-4wks.

PRIME CONTRACTOR'S NAME: J. CUMBY CONSTRUCTION, INC

THE SCOPE OF THIS PROPOSAL IS ONLY AS LISTED HEREIN. ANY ADDITIONAL WORK REQUIRED, SHALL BE SUBJECT TO ADDITIONAL PRICING.

SIGNATURE & TITLE OF PREPARER: Jace Chaffin

Jace Chaffin, Project Manager

DATE: 3-28-22



DATE: 03/28/22
JCC QUOTE # 3

PRIME CONTRACTOR - TOTALS



Compose

Snoozed

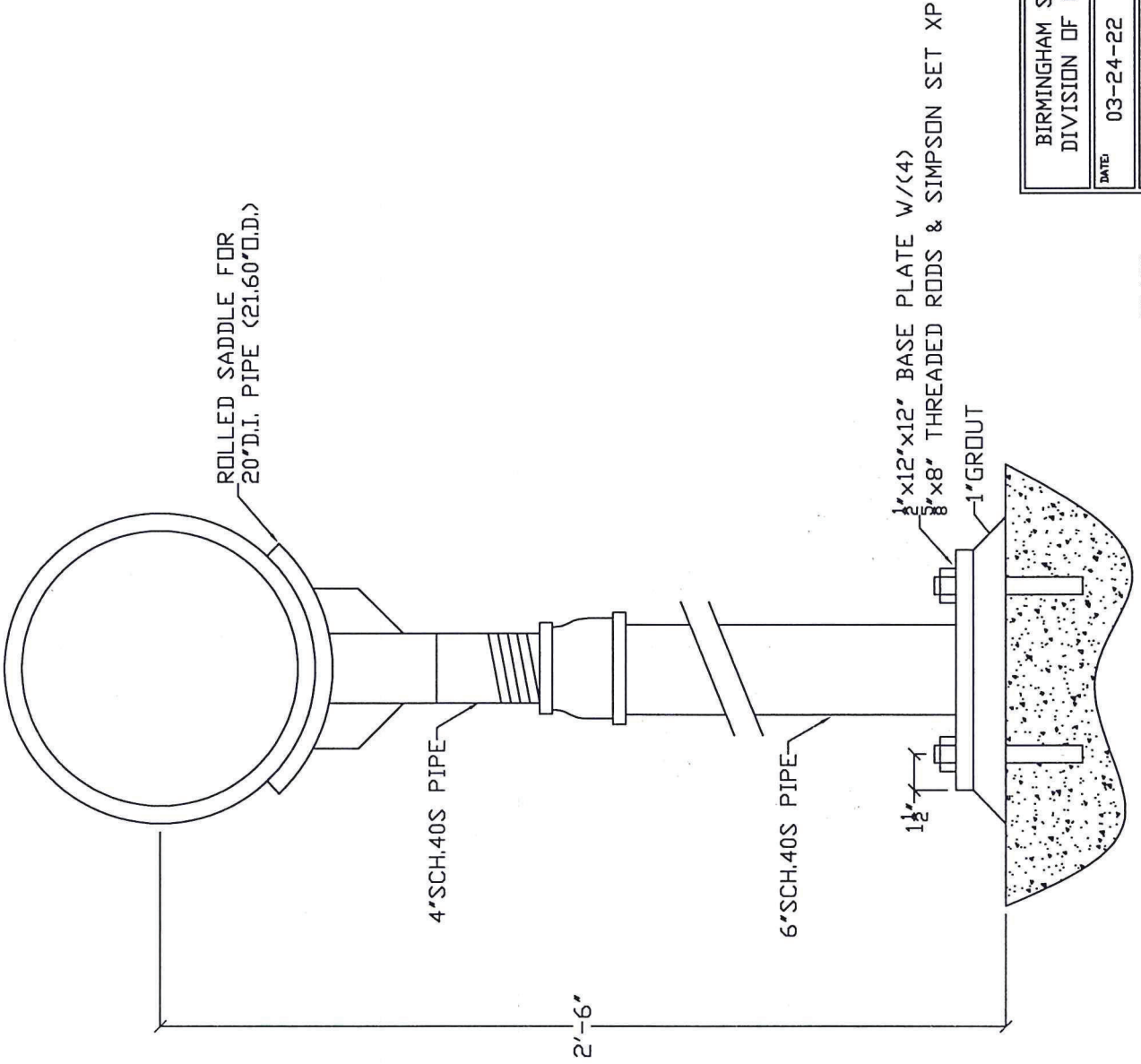
1



You: 10-4

Create or find a space

Diagram illustrating a 1/2 inch NPT female fitting connected to a 1/2 inch NPT male fitting. The female fitting is labeled "1/2\" NPT FEMALE FITTING" and the male fitting is labeled "1/2\" NPT MALE FITTING".



BIRMINGHAM STEEL FABRICATORS DIVISION OF CLOW RODGERS INC.	
DATE: 03-24-22	DRAWN BY: C. BROWN
STONE RIVER	
J. CUMBY CONSTRUCTION	SR-1

MATERIAL:	304SS
QTY:	5EA
PIECE#:	S-1

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Specific Energy Annual Service Fee

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Renewal of Specific Energy's Pump Asset Management and Optimization System software maintenance support services.

Staff Recommendation

Approve service maintenance fee with Specific Energy.

Background Information

The Specific Energy system software allows plant operators to select pumps for the specified flow at the lowest energy and operating level. Operating at an efficient level extends a pumps life and defers the expense of replacement. Additionally, the system provides analysis tools that will assist with the design for the High Service Pump Station.

Council Priorities Served

Responsible budgeting

Maintaining software provides operating information that assist MWRD in evaluating and extending the lifespan of equipment, thereby ensuring reliable operation of facilities.

Fiscal Impact

This expenditure, \$40,552, is funded by the Department's FY23 operating budget.

Attachments

Specific Energy Annual Service Fee

Specific Energy

1978 S. Austin Avenue
Georgetown, TX 78626
512-930-9415
www.specificeenergy.com



Quote

ADDRESS

Alan Cranford
Murfreesboro Water
Resources Department
PO Box 1477
Murfreesboro, TN 37133

QUOTE # MUR012**DATE 04/19/2022****EXPIRATION 06/30/2022****DATE****SALES REP**

Mike Bernard

DESCRIPTION	QTY	RATE	AMOUNT
Stones River High Service pumps annual service fee for period from July 1, 2022 - July 31, 2023	1	11,906.00	11,906.00
Lake Raw Water Pump Station annual service fee for period from July 1, 2022 - July 31, 2023	1	7,781.00	7,781.00
River Raw Water Pump Station annual service fee for period from July 1, 2022 - July 31, 2023	1	5,308.00	5,308.00
Stones River Membrane feed pump annual service fee for period July 1, 2022 - July 31, 2023	1	6,407.00	6,407.00
DSO System (5 DSO) annual service fee for period July 1, 2022 - July 31, 2023	1	9,150.00	9,150.00

TOTAL**USD 40,552.00**

Accepted By

Accepted Date

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Cross Connection Control Vehicle Replacement

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Purchase one 2022 Ford Escape to replace Unit 112 for Cross Connection Control inspection personnel.

Staff Recommendation

Approve the purchase of a 2022 Ford Escape from Lonnie Cobb Ford from the State of Tennessee Stateside Contract 209.

Background Information

On March 30, 2022, a vehicle in Cross Connection Control was totaled in an accident. MWRD has reviewed the available standing contracts and selected the most appropriate vehicle for its intended use. The details are as follows:

The vehicle is on the State of Tennessee Stateside Contract 209, Contract Number 72318 with Lonnie Cobb Ford, Henderson, Tennessee. The total cost of the vehicle is \$25,511. MWRD is working with Risk Management to determine the amount that will be covered.

Council Priorities Served

Responsible budgeting

By utilizing the statewide contract, the Department benefits from competitive pricing.

Fiscal Impact

The total cost for the referenced vehicle is \$25,511. If approved, funding will come from coverage from Risk Management and reserves.

Attachments

Vehicle Replacement Proposal



Prepared by: STEVEN BLACKSTOCK

03/02/2022

Lonnie Cobb Ford | 1618 Highway 45 North Henderson Tennessee | 383404005

2022 Escape 4dr AWD SE (U9G)

Price Level: 230

As Configured Vehicle

Code	Description	MSRP
U9G	Base Vehicle Price (U9G)	\$29,345.00
200A	Equipment Group 200A <i>Includes:</i> - Engine: 1.5L EcoBoost <i>Includes auto start-stop technology.</i> - Transmission: 8-Speed Automatic - 3.81 Axle Ratio - GVWR: TBD - Tires: 225/65R17 AS BSW - Wheels: 17" Shadow Silver-Painted Aluminum - Unique Cloth Front Bucket Seats <i>Includes 6-way manual driver (fore/aft, up/down, recline) and 4-way manual front passenger (fore/aft with manual recline).</i> - Radio: AM/FM Stereo <i>Includes 6 speakers, speed compensated volume and SiriusXM radio with a 3 month prepaid subscription. Note: SiriusXM audio and data services each require a subscription sold separately, or as a package, by Sirius XM Radio Inc. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM Customer Agreement for complete terms at www.siriusxm.com. All fees and programming subject to change. Sirius, XM and all related marks and logos are trademarks of Sirius XM Radio Inc.</i> - SYNC 3 Communications & Entertainment System <i>Includes enhanced voice recognition communications and entertainment system, 8" LCD capacitive touchscreen in center stack with swipe capability, AppLink, 911 Assist, Apple CarPlay and Android Auto compatibility and 2 smart-charging USB ports.</i> - FordPass Connect <i>Includes 4G LTE Wi-Fi hotspot that connects up to 10 devices (includes a wireless data trial that begins upon AT&T activation and expires at the end of 3 months or when 3GB of data is used, whichever comes first, but cannot extend beyond the trial subscription period for remote features. To activate, go to www.att.com/ford). Remote start with specific time scheduling, lock and unlock, locate parked vehicle and check vehicle status (the FordPass App and complimentary connected services are required for remote features (see FordPass terms for details). Connected services and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features. Connected services exclude Wi-Fi hotspot).</i>	N/C
996	Engine: 1.5L EcoBoost <i>Includes auto start-stop technology.</i>	Included
448	Transmission: 8-Speed Automatic	Included
STDAX	3.81 Axle Ratio	Included
STDGV	GVWR: TBD	Included
STDTR	Tires: 225/65R17 AS BSW	Included
STDWL	Wheels: 17" Shadow Silver-Painted Aluminum	Included
4	Unique Cloth Front Bucket Seats <i>Includes 6-way manual driver (fore/aft, up/down, recline) and 4-way manual front passenger (fore/aft with manual recline).</i>	Included
PAINT	Monotone Paint Application	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.



Prepared by: STEVEN BLACKSTOCK

03/02/2022

Lonnie Cobb Ford | 1618 Highway 45 North Henderson Tennessee | 383404005

2022 Escape 4dr AWD SE (U9G)

Price Level: 230

As Configured Vehicle (cont'd)

Code	Description	MSRP
106WB	106" Wheelbase	STD
STDRD	Radio: AM/FM Stereo	Included
SiriusXM service is not available in Alaska and Hawaii.		
Includes 6 speakers, speed compensated volume and SiriusXM radio with a 3 month prepaid subscription. Note: SiriusXM audio and data services each require a subscription sold separately, or as a package, by Sirius XM Radio Inc. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM Customer Agreement for complete terms at www.siriusxm.com . All fees and programming subject to change. Sirius, XM and all related marks and logos are trademarks of Sirius XM Radio Inc.		
Includes:		
- SYNC 3 Communications & Entertainment System		
Includes enhanced voice recognition communications and entertainment system, 8" LCD capacitive touchscreen in center stack with swipe capability, AppLink, 911 Assist, Apple CarPlay and Android Auto compatibility and 2 smart-charging USB ports.		
- FordPass Connect		
Includes 4G LTE Wi-Fi hotspot that connects up to 10 devices (includes a wireless data trial that begins upon AT&T activation and expires at the end of 3 months or when 3GB of data is used, whichever comes first, but cannot extend beyond the trial subscription period for remote features. To activate, go to www.att.com/ford). Remote start with specific time scheduling, lock and unlock, locate parked vehicle and check vehicle status (the FordPass App and complimentary connected services are required for remote features (see FordPass terms for details). Connected services and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features. Connected services exclude Wi-Fi hotspot).		
50C	Front & Rear Floor Liners w/o Carpet Mats	\$160.00
Deletes standard front and rear carpeted floor mats.		
425	50-State Emissions System	STD
4H_01	Dark Earth Gray w/Unique Cloth Front Bucket Seats	N/C
YZ_01	Oxford White	N/C
4 leds	Front and rear LED's	\$745.00
(2) LED's mounted to front grill (2) LED's mounted on rear		
SUBTOTAL		\$30,250.00
Destination Charge		\$1,245.00
TOTAL		\$31,495.00

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.



Prepared by: STEVEN BLACKSTOCK

03/02/2022

Lonnie Cobb Ford | 1618 Highway 45 North Henderson Tennessee | 383404005

2022 Escape 4dr AWD SE (U9G)

Price Level: 230

Pricing Summary - Single Vehicle

MSRP

Vehicle Pricing

Base Vehicle Price	\$29,345.00
Options	\$160.00
Colors	\$0.00
Upfitting	\$745.00
Fleet Discount	\$0.00
Fuel Charge	\$0.00
Destination Charge	\$1,245.00
Subtotal	\$31,495.00

Pre-Tax Adjustments

Code	Description	MSRP
fleet discount	fleet discount	-\$5,984.00
Total		\$25,511.00

Customer Signature

Acceptance Date

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: WRRF UV Parts – Sole Source Purchase

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Purchase of ultraviolet (UV) disinfection parts from Trojan Technologies ULC for the Water Resource Recovery Facility (WRRF).

Staff Recommendation

Approve the sole source purchase of UV parts from Trojan Technologies ULC.

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 directly distributes for this area. Cost of the parts are \$77,814, less than the estimated budgeted amount of \$90,000.

Council Priorities Served

Responsible Budgeting

Proactive maintenance of City infrastructure is a critical part of responsible budgeting.

Fiscal Impact

The expense, \$77,814, is funded by the Department's capital budget.

Attachments

Contract with Trojan Technologies ULC

**AGREEMENT BETWEEN
CITY OF MURFREESBORO
AND
TROJAN TECHNOLOGIES GROUP ULC CORPORATION
FOR PURCHASE OF TROJANUV LAMP**

This Agreement is entered into and effective as of the ____ day of _____, 2022 (“Effective Date”), by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Trojan Technologies Group ULC Corporation**, a Foreign Corporation registered in the State of Tennessee and Sole Source Provider of equipment being purchased (“Contractor”).

This Agreement consists of the following documents:

- This document
- Contractor’s Sales Quote #127131, dated March 25, 2022, (“Contractor’s Proposal”);
- Any properly executed amendments to this Agreement.
- Exhibit A – TROJANUV Sole Source Letter

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, Contractor’s Proposal.
1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase TROJANUV Lamp as set forth in Contractor’s Proposal. Furthermore, the City may utilize this Contract to procure additional equipment from Contractor throughout the term of the contract. Such future procurements shall be executed through a Purchase Order after purchases exceeding \$25,000 have been approved by City Council.
 2. **Term.** The term of this Contract shall begin on the Effective Date first listed above for a period of one year. 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 this procurement 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 Agreement is set forth in the Contractor's Proposal, which reflects a **total purchase price of \$77,841.00**, including estimated freight charges. 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 Agreement 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 shall be made within 20-22 weeks of order to: 2032 Blanton Drive, Murfreesboro, TN 37129. Delivery Contact: James Ross (tel.: 615-642-8939, email: jross@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. 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 Proposals.
 - 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.** Every item supplied by Contractor shall meet the warranty requirements set by Contractor and/or the manufacturer. The warranty period begins on the date the equipment is delivered and accepted by the City.
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. **Work Product.** Except as otherwise provided herein, all data, documents and materials produced and provided 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.
7. **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."

8. 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:
 - 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.

9. **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:	If to Contractor:
City Manager City of Murfreesboro 111 West Vine Street Murfreesboro, TN 37130	Barron Futral 3020 Gore Road London, Ontario, Canada N5V4T7 southernus@trojantechnologies.com

10. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.
11. **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.
12. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
13. **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.
14. **No Waiver of Limitations Periods.** The parties shall have and maintain any applicable limitation period provided by state law in which to provide a notice, present a claim, or initiate an action in a court of competent jurisdiction. To the extent any other provision in the documents forming this Agreement provides a shorter limitation period, the City disclaims such provision, and Contractor acknowledges such disclaimer.
15. **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.
16. **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.
17. **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.

Contractor further acknowledges that the City is a federal government contractor, and that by virtue of this Contract, Contractor is a federal government subcontractor. Therefore, in accordance with federal law, Contractor specifically acknowledges and agrees as follows:

- a. **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**
- b. **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**
- c. **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities."**

18. **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.

19. **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.
20. **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.
21. **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.
22. **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.
23. **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.
24. **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.
25. **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 _____, 2022 (the "Effective Date").

CITY OF MURFREESBORO, TENNESSEE

TROJAN TECHNOLOGIES ULC CORPORTATION

By: _____
Shane McFarland, Mayor

By: _____
Barron Futral, Regional Account Manager

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney



QUOTE

A division of Trojan Technologies Group ULC
3020 GORE ROAD
LONDON, ONTARIO, CANADA N5V 4T7
T 519.457.3400 F 519.457.3030 www.trojanuv.com

Original

QUOTE FOR: MURFREESBORO WATER RESOURCES DEPART
PO BOX 1477
MURFREESBORO, TN
37133-1477
UNITED STATES

SHIP TO: MURFREESBORO WATER RESOURCES DEPART
2032 BLANTON DR
MURFREESBORO, TN
37129-2912
UNITED STATES

FOR CUSTOMER SERVICE, CONTACT **BARRON FUTRAL**
VOICE - 1-519-457-3400
FAX - 1-205-597-3374
EMAIL - SouthernUS@trojantechnologies.

FORWARD AGENT:
CUSTOMER #: 090963
QUOTE #: 127131
QUOTE DATE: 03-25-2022
REFERENCE: 810025
LOB: W97 AFTERMARKET PARTS

We thank you for your inquiry.

QTY	UNIT	ITEM	PRICE	UNIT	AMOUNT
75.00	EA	908081-003	964.00EA	0	72300.00
		LAMP P, ASY SOLO G2 1KW SIGNA			
12.00	EA	338314-101	387.00EA	0	4644.00
		SLV REPL KIT, SIG W/LP O-RING			
1.00	EA	FREIGHT	870.00EA	0	870.00
		FREIGHT			

GOODS	COSTS	TOTAL USD
76944.00	870.00	77814.00

DELIVERY TERMS: NO URGENCY FOR DELIVERY

PAYMENT TERMS:

FREIGHT MAY BE ADDED TO THE TOTAL OF THIS QUOTE ONLY IF REQUESTED.

SUBJECT TO SALES TAX, WHERE APPLICABLE. Tax to be included if not tax exempt.

GST# R105405385

THIS QUOTE EXPIRES: 06-01-2022

U.S. CUSTOMERS MUST PROVIDE SHIP TO'S FEDERAL I.D. #'s

FOR SHIPPING PURPOSES UPON RECEIPT OF A FORMAL PURCHASE ORDER.

SOLD:

SHIP:

COUNCIL COMMUNICATION

Meeting Date: 5/5/2022

Item Title: Minutes of City Council Meetings

Department: Finance

Presented by: Jennifer Brown

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

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 7, 2022 (Public Comment)
- April 7, 2022 (Regular Meeting)
- April 13, 2022 (Regular Meeting)
- April 21, 2022 (Regular Meeting)

April 7, 2022

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in special session in the Council Chambers at City Hall at 5:30 p.m. on Thursday, April 7, 2022, with Mayor 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

The following representatives of the City were also present:

Craig Tindall, City Manager
Adam Tucker, City Attorney
Jennifer Brown, City Recorder/
Finance Director
Joshua Miller, Administrative Assistant

Mayor McFarland announced that this special meeting is being held to hear from the citizens of Murfreesboro. He reviewed the procedures for speaking and invited those present to come forward to the lectern.

There was no one present who wished to speak.

Mayor McFarland adjourned this session of the public comment meeting at 5:33 p.m.

ATTEST:

SHANE MCFARLAND – MAYOR

JENNIFER BROWN - CITY RECORDER

April 7, 2022

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 6:00 p.m. on Thursday, April 7, 2022, 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

The following representatives of the City were also present:

Craig Tindall, City Manager
Adam Tucker, City Attorney
Jennifer Brown, City Recorder/
Finance Director
Angela Jackson, Executive Director/
Community Services
Sam Huddleston, Executive Director/
Development Services
Trey Duke, City Schools Director
Greg McKnight, Planning Director
Nate Williams, Parks and Recreation Director
Rhonda Darnell, Employee Services Assistant Director
Thomas Laird, Parks and Recreation Assistant Director
Rachel Singer, Parks and Recreation Assistant Director
Valerie Smith, Water Resources Assistant Director
Marina Rush, Principal Planner
Joshua Miller, Administrative Assistant

Council Member Shawn Wright commenced the meeting with a prayer followed by the Pledge of Allegiance.

Mayor McFarland announced the passing of Mr. Miles Tate the co-founder of the Middle Half Marathon and stated that a run beginning at Civic Plaza down Main Street would be held on April 8, 2022 in his honor.

Mayor McFarland proclaimed that, in the City of Murfreesboro, April 8, 2022 through April 10, 2022 would be known as days to honor the Rutherford Arts Alliance, specifically its Leading Ladies of Rutherford County History and that the community-involved play, Party of Twelve, would be performed at the Washington Theatre on those days.

Mayor McFarland also proclaimed that, in the City of Murfreesboro, April 10, 2022 through April 16, 2022 would be known as National Public Safety Telecommunicators Week to honor the compassion, understanding, and professionalism each Public Safety Telecommunicator has exhibited while performing their duties in the past year and thanked representatives of the City Dispatchers, Mr. Seth Russell, Manager/Director of the City's Emergency Communication Center and Ms. Becki Green, Telecommunicator of the Year and a supervisor at the City's Emergency Communication Center.

The Mayor and Council honored eleven-year-old Hagan Williams and played a video showcasing his golf talent and recognizing that he placed 2nd overall at the Drive, Chip, and Putt Finals Tournament in Georgia at the Augusta National Golf Club.

The Mayor and Council recognized Mr. Cameron L. Mitchell, Murfreesboro Poet Laureate, who performed his spoken word poem, "I am".

The Consent Agenda was presented to the Council for approval:

1. Barge Design Solutions Work Authorization Amendment 2 (Airport)
 2. Tennessee Aeronautics Division Pavement Maintenance Project (Airport)
 3. Amendment to Kimley-Horne Agreement for Patterson Park Master Plan (Parks)
 4. McFadden Basketball Court Fencing (Parks)
 5. Donation of Tactical Body Armor and Helmets to Blount County Law Enforcement Training Academy (Police)
 6. Approval for City-wide Car Wash Services (Purchasing)
 7. Approval of use of Competitive Sealed Proposals for Financial Consultant Services for ARPA Grant Fund (Purchasing)
 8. Approval of use of Competitive Sealed Proposals for IT Consultant Services (Purchasing)
 9. Approval of use of Competitive Sealed Proposals for Low-Voltage Communication Cabling Services (Purchasing)
 10. Asphalt Purchases Report (Water Resources)
 11. Granular Activated Carbon First Amendment (Water Resources)
 12. Water/Wastewater Mechanical/Electrical Services Contract Task Order No. 22-03 (Water Resources)
 13. Cherry Ln. Pump Station Study-CIA Engineering Proposal (Water Resources)
- (Insert letters from Airport (2), Communications, Parks (2), Police, Purchasing (4), & Water Resources (4) Departments here.)

Mr. Shacklett made a motion to approve the Consent Agenda. Mr. Wade seconded the motion 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 7, 2022 here with regards to approval of Minutes of City Council Meetings.)

Mr. LaLance made a motion to approve the minutes as written and presented for the regular meeting held on March 9, 2022 and the regular Meeting held on March 17, 2022. Mr. Wade seconded the motion and all members of the Council voted "Aye".

The following letter from the City Schools Director was presented to the Council:

(Insert letter dated April 7, 2022 here with regards to Fiscal Year 2022 City Schools Budget Amendment #6.)

The following RESOLUTION 22-R-09 was read to the Council and offered for adoption upon motion made by Vice-Mayor Scales Harris, seconded by Mr. Wright. 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 22-R-09 here amending the 2021-2022
Murfreesboro City Schools Budget (6th Amendment).)

Mr. Shacklett made a motion to match the bonuses the City Schools were giving to the full-time and part-time City Schools employees from the General Fund. Vice-Mayor Scales Harris seconded the motion and all members of the Council voted "Aye".

Mr. Craig Tindall, City Manager, stated that a resolution and budget amendment ordinance would be coming to Council at a later date to reflect the one-time initiative matching the bonuses from the General Fund, with a \$500 bonus for the full-time employees and a \$250 bonus for the part-time employees.

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

(Insert letter dated April 7, 2022 here with regards to holding a public hearing to consider Plan of Services, annexation and zoning of approximately 258.8 acres located along Northwest Broad Street [2021-516 & 2021-433].)

Mayor McFarland announced that the next item on the agenda is to conduct a public hearing, pursuant to RESOLUTION 22-R-PH-02 adopted by the City Council on February 24, 2022, to consider (1) adoption of a Plan of Services for and annexation of approximately 258.8 acres located along Northwest Broad Street and (2) zoning of approximately 258.8 acres located along Northwest Broad Street to be zoned Commercial Highway (CH) District and Gateway Design Overlay One (GDO-1) District; which have been proposed to be annexed to the City of Murfreesboro, Tennessee, Hord Family and SEC, Inc. on behalf of Legacy Sports Tennessee, applicants [2021-516 & 2021-433]. Notice of said public hearing was published in the March 22, 2022 edition of a local newspaper as follows:

(Insert notice here.)

Mayor McFarland declared the public hearing open and invited those present who wished to speak for or against the Plan of Services and annexation for approximately 258.8 acres located along Northwest Broad Street, step forward to the podium.

Mr. David Nichols, 2021 Riverbend Drive, opposed the Plan of Services and annexation stating his concerns with noise and traffic, specifically with TDOT's classification of Broad Street and Thompson Lane as "F" roads.

Mr. Doug (Paul) Hutchins, 2220 Londonderry Drive, opposed the Plan of Services and annexation stating his concerns with flooding of the West Fork of the Stones River, traffic, noise, light, and decreased property values.

Mr. Jeffrey Smith, 2308 Londonderry Drive, opposed the Plan of Services and annexation stating his concerns with the development and its proximity to homes.

Mrs. Vicki Smith, 2308 Londonderry Drive, opposed the Plan of Services and annexation stating her concerns with light and traffic.

There was no one else present who wished to speak for or against the Plan of Services and annexation and, after ample time had been given, Mayor McFarland declared the public hearing closed.

The following RESOLUTION 22-R-PS-02 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-PS-02 to adopt a Plan of Services for approximately 258.8 acres located along Northwest Broad Street; Hord Family, applicant [2021-516].)

The following RESOLUTION 22-R-A-02 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-A-02 here to annex approximately 258.8 acres located along Northwest Broad Street (Tax Map 70, Parcel 7.02 and Tax Map 70, Parcel 7.03), and to incorporate the same within the corporate boundaries of the City of Murfreesboro, Tennessee, Hord Family, applicant [2021-516].)

Ms. Mariana Rush, Principal Planner, presented the recommendation of the Planning Commission to approve zoning approximately 258.8 acres located along Northwest Broad Street to be zoned Commercial Highway (CH) District and Gateway Design Overlay One (GDO-1) District, simultaneous with annexation.

Mayor McFarland then declared the public hearing to zone approximately 258.8 acres located along Northwest Broad Street to be zoned Commercial Highway (CH) District and Gateway Design Overlay One (GDO-1) District, simultaneous with annexation, open and invited those present who wished to speak for or against the zoning request, step forward to the lectern.

Mr. Doug (Paul) Hutchins, 2220 Londonderry Drive, opposed the zoning request stating his concerns with noise and the proximity to houses.

Mr. David Nichols, 2021 Riverbend Drive, opposed the zoning request stating his concerns with violations of the noise ordinance.

Mr. Brick Murfee, 1101 Glasgow Drive, supported the zoning request stating his intention to move to the area to live next to the development and enjoy its amenities.

Mr. Jeffrey Smith, 2308 Londonderry Drive, opposed the zoning request stating his concern with light from the development and regulations on signs and billboards.

Mr. Chad Miller, Legacy Sports Tennessee CEO, stated his desire to be a good neighbor to residents close to the development and to be a good neighbor to the City as a whole.

There was no one else present who wished to speak for or against the zoning request and, after ample time had been given, Mayor McFarland declared the public hearing closed.

Council questioned staff regarding the development's adherence to the City's noise and sign ordinances as well as how the development planned to handle light pollution.

City staff advised that meeting had taken place with TDOT commissioners regarding the increased traffic this development could bring and how the City and State planned to work together to mitigate that traffic.

An ordinance, entitled "ORDINANCE 22-OZ-02 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 258.8 acres located along Northwest Broad Street to Highway Commercial (CH) District and Gateway Design Overlay One (GDO-1) District simultaneous with annexation; SEC, Inc. on behalf of Legacy Sports Tennessee, applicant(s) [2021-433]," was read to the Council and offered for passage on first reading upon motion made by Mr. Wade, seconded by Mr. Wright. Upon roll call said ordinance was passed on first reading by the following vote:

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

Nay: None

Abstain: Ronnie Martin

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

(Insert letter dated April 7, 2022 here with regards to correcting the Zoning Boundary for the Oakland Court PRD [2019-423].)

Mr. Greg McKnight, Planning Director, presented the recommendation of the Planning Commission to approve correcting the zoning boundary for the Oakland Court PRD located along North Academy Street.

An ordinance, entitled "ORDINANCE 22-OZ-05 amending Ordinance 19-OZ-33 to correct the zoning boundary for the Oakland Court PRD along North Academy Street, East Lokey Avenue, East Hembree Street, Christy Court, Palm Court, and Jetton Drive, Planning Staff, applicant [2019-423]," was read to the Council and offered for passage on first reading upon motion made by Mr. Wright, seconded by Mr. Shacklett. Upon roll call said ordinance was passed on first reading by the following vote:

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

Nay: None

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

(Insert letter dated April 7, 2022 here with regards to scheduling a public hearing for May 5, 2022 for a proposed amendment to the Zoning Ordinance [2022-801] pertaining to Section 2: Interpretation and Definitions; Section 18: Regulations of General Applicability; Section 25: Temporary and Accessory Structures and Uses; Section 34: Floodplain Zoning and Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratio (including Chart 2 endnotes).)

The following RESOLUTION 22-R-PH-06 was read to the Council and offered for adoption upon motion made by Mr. Martin, seconded by Mr. Shacklett. 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 22-R-PH-06 here fixing the time for a Public Hearing with respect to amending the Murfreesboro City Code, Appendix A—Zoning, Sections 2, 18, 25, 34, Chart 2, and Chart 2 Endnotes, dealing with maximum building height for accessory structures in industrial districts, maximum height of light fixtures at recreation fields and regulations pertaining to development in regulatory floodways, City of Murfreesboro Planning Department, applicant [2022-801].)

The following letter from the Executive Director of Development Services was presented to the Council:

(Insert letter dated April 7, 2022 here with regards to Overall Creek FEMA LOMR Supplemental Services.)

Mr. Sam Huddleston, Executive Director of Development Services, presented the request to approve the Agreement with Neel-Schaffer, Inc. for supplemental services for FEMA Letter of Map Revision for Overall Creek at Manson Pike in the amount of \$93,045 funded from the Stormwater Utility Fund reimbursement of the General Fund.

Mr. Martin made a motion to approve the Agreement with Neel-Schaffer, Inc. for supplemental services for FEMA Letter of Map Revision for Overall Creek at Manson Pike in the amount of \$93,045 funded from the Stormwater Utility Fund reimbursement of the General Fund. Mr. Wright seconded the motion 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 7, 2022 here with regards to Contract for Siegel Indoor Training Facility Netting and Padding.)

Mr. Thomas Laird, Parks and Recreation Assistant Director, presented the request to approve the Agreement with Grand Slam Safety, LLC, pending Legal approval, in the amount of \$164,500, funded from the CIP, for Netting and Padding at the Indoor Richard Siegel Soccer Complex.

Mr. Shacklett made a motion to approve the Agreement with Grand Slam Safety, LLC, pending Legal approval, in the amount of \$164,500, funded from the CIP, for Netting and Padding at the Indoor Richard Siegel Soccer Complex. Mr. LaLance seconded the motion 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 7, 2022 here with regards to Temporary Flow Monitoring Study Basin MF08 & MF12.)

Ms. Valerie Smith, Assistant Water Resources Director, presented the request to approve the additional allowance with ADS, LLC, in the amount of \$71,250, to conduct temporary flow monitoring in Basin MF08 and MF12.

Mr. Wade made a motion to approve the additional allowance with ADS, LLC, in the amount of \$71,250, to conduct temporary flow monitoring in Basin MF08 and MF12. Vice-Mayor Scales Harris seconded the motion 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 7, 2022 here with regards to Resident Project Representative for Overall Creek Pump Station.)

Ms. Valerie Smith, Assistant Water Resources Director, presented the request to approve Task Order No. 1941018.1 with Smith Seckman Reid Inc., in the amount of \$186,500, funded by the Department's Working Capital Reserves, for a SSR Resident Project Representative to perform construction inspections for the Overall Creek Pump Station Expansion.

Mr. LaLance made a motion to approve Task Order No. 1941018.1 with Smith Seckman Reid Inc., in the amount of \$186,500, funded by the Department's Working Capital Reserves, for a SSR Resident Project Representative to perform construction inspections for the Overall Creek Pump Station Expansion. Mr. Wright seconded the motion 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 7, 2022 herewith regards to Water/Wastewater Mechanical/Electrical Services Contract Task Order No. 22-02.)

Ms. Valerie Smith, Assistant Water Resources Director, presented the request to approve Task Order No. 22-02 with John Bouchard & Sons Company, in the amount of \$103,965, funded by the Department's Capital Budget, for services related to the replacement of ten actuators for the Stones River Drinking Water Treatment Plant's Granular Activated Carbon Contactors.

Mr. LaLance made a motion to approve Task Order No. 22-02 with John Bouchard & Sons Company, in the amount of \$103,965, funded by the Department's Capital Budget, for services related to the replacement of ten actuators for the Stones River Drinking Water Treatment Plant's Granular Activated Carbon Contactors. Mr. Shacklett seconded the motion and all members of the Council voted "Aye".

Mayor McFarland announced that Item No. 24 on the Agenda, Request for Sewer Variance: 285 N Rutherford Boulevard Apartments (NRB), was to be pulled from the meeting.

Under other business the following letter from the Parks and Recreation Director was presented to the Council:

(Insert letter dated April 7, 2022 here with regards to Boyce Ballard Construction Change Order #4 at Soccer Complex.)

Mr. Nate Williams, Parks and Recreation Director, presented the request to approve Change Order #4 with Boyce Ballard Construction, LLC, in the amount of \$16,023, funded from the CIP, to repair spalled concrete on the indoor practice facility foundation.

Mr. Martin made a motion to approve Change Order #4 with Boyce Ballard Construction, LLC, in the amount of \$16,023, funded from the CIP, to repair spalled concrete on the indoor practice facility foundation. Mr. Shacklett seconded the motion 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 7, 2022 here with regards to Beer Permit Applications for for Seasoning Crab, 740 NW Broad St.; RaceTrac #2610, 3595 Shelbyville Pk.; West 22 Tacos, 2108 Medical Center Pkwy., Ste. A; Heroes Den, 2805 Old Fort Pkwy., Ste. O; Casa Blanca Mexican Restaurant Bar and Grill, 2069 Lascassas Pk. and Special Event Permits for Main Street Murfreesboro Rutherford Co. on 5/7/22 at the Downtown Public Square and on 7/23/22 at 900 N Maney Ave. and for Smyrna Lavergne Food Bank on 6/18/22 at 746 E Main St.)

Mr. Martin made a motion to approve the Beer Permits for Seasoning Crab, 740 Northwest Broad Street (Ownership & Name Change); RaceTrac #2610, 3595 Shelbyville Pike (New Location); West 22 Tacos, 2108 Medical Center Parkway, Suite A (New Location); Heroes Den, 2805 Old Fort Parkway, Suite O (Ownership & Name Change) and Casa Blanca Mexican Restaurant Bar and Grill, 2069 Lascassas Pike (Ownership & Name Change), pending Building and Codes approval, and Special Event Permits for Main Street Murfreesboro Rutherford Co. on 5/7/22 at the Downtown Public Square; on 7/23/22 at 900 North Maney Avenue; and for Smyrna-Lavergne Food Bank on 6/18/22 at 746 East Main Street. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

The City Recorder/Finance Director announced that there were no board or commission appointments, nor any statements to consider.

Mr. Craig Tindall, City Manager, announced that there would be a workshop session on April 13, 2022 and a Council Retreat scheduled for April 27, 2022.

Council Members Bill Shacklett and Ronnie Martin stated that they would be absent at the workshop meeting.

There being no further business, Mayor McFarland adjourned this meeting at 7:45 p.m.

ATTEST:

SHANE MCFARLAND – MAYOR

JENNIFER BROWN - CITY RECORDER

April 13, 2022

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session in the Business Center at the Murfreesboro Municipal Airport at 11:30 a.m. on Wednesday, April 13, 2022, with Mayor Shane McFarland present and presiding and with the following Council Members present and in attendance, to wit:

Madelyn Scales Harris
Rick LaLance
Kirt Wade
Shawn Wright

Council Members Bill Shacklett and Ronnie Martin were absent and excused from this session. Vice-Mayor Scales Harris left during the session at 12:48 p.m.

The following representatives of the City were also present:

Craig Tindall, City Manager
Adam Tucker, City Attorney
Jennifer Brown, City Recorder/
Finance Director
Darren Gore, Assistant City Manager
Gary Whitaker, Assistant City Manager
Angela Jackson, Executive Director/
Community Services
Chris Griffith, Executive Director/
Public Infrastructure
Sam Huddleston, Executive Director/
Development Services
Erin Tucker, Budget Director
Jim Kerr, Transportation Director
Matt Jarratt, IT Manager
Joshua Miller, Administrative Assistant

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

The following letter from the Budget Director was presented to the Council:

(Insert letter dated April 13, 2022 here with regards to
Fiscal Year 2022 Budget Amendment Ordinance 22-O-07.)

An ordinance, entitled "ORDINANCE 22-O-07 amending the 2021-2022 Budget (5th Amendment)," was read to the Council and offered for passage on first reading upon motion made by Vice-Mayor Scales Harris, seconded by Mr. Wright. Upon roll call said ordinance was passed on first reading by the following vote:

Aye: Madelyn Scales Harris
Rick LaLance
Kirt Wade
Shawn Wright
Shane McFarland

Nay: None

The following letter from the IT Manager was presented to the Council:

(Insert letter dated April 13, 2022 here with
regards to Renewal of Enterprise Online.)

Mr. Matt Jarratt, IT Manager, presented the request to approve the renewal of the Agreement with Insight Enterprises, Inc., in the amount of \$430,297, 75% funded by the

City's Operating Budget and 25% funded by the Water Department's Budget, for renewal of the City's Microsoft Office 365 Subscription Services.

Mr. LaLance made a motion to approve the renewal of the Agreement with Insight Enterprises, Inc., in the amount of \$430,297, 75% funded by the City's Operating Budget and 25% funded by the Water Department's Budget, for renewal of the City's Microsoft Office 365 Subscription Services. Mr. Wright seconded the motion and all members of the Council present voted "Aye".

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

(Insert letter dated April 13, 2022 here
with regards to Impact Fees Analysis.)

Mr. L. Carson Bise II, President of TischlerBise, presented an analysis of the potential revenue that could be produced with the implementation of development impact fees to the City's Parks, Road Projects, Police and Fire. He presented how the computation to determine impact fee amounts is developed, presented a maximum amount that could be charged, and answered questions from Council.

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

(Insert letter dated April 13, 2022 here with
regards to Broad Street Redevelopment.)

Mr. Sam Huddleston, Executive Director of Development Services, introduced Mr. Bart Kline, Kline Swinney Associates, and representatives of HRP Residential, who presented a proposed mixed-use development consisting of an 85-90 Million Dollar investment funded by HRP to include a boutique hotel, townhomes, and five-story apartments with retail on the bottom level as well as on-site parking. Council discussed the development and expressed their desire to see less apartments in the plan, more townhomes, and more hotel rooms.

Vice-Mayor Scales Harris left during the discussion of the Broad Street Redevelopment.

Mayor McFarland announced that Item No. 7 on the Agenda would be heard next.

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

(Insert letter dated April 13, 2022 here with regards to Review
of Solid Waster 10-yr Plan Update and FY35 Pro Forma.)

Mr. Darren Gore, Assistant City Manager, at the request of Mayor McFarland, stated that a letter of intent from Argos Cement to buy fuel from WastAway and the City had been received. He then updated Council on options for the City's solid waste disposal which included recycling with Pratt Solutions, the expansion of Middle Point Landfill, and the development of a WastAway facility. Council discussed the options with Mr. Gore, the

expense that starting a recycling center would incur, and directed staff to begin pursuing the next steps with regards to a design contract for a WastAway Facility.

Mr. LaLance made a motion reinforcing that an expansion of the Middle Point Landfill is not in consideration for the future of the City's solid waste solution. Mr. Wright seconded the motion and all members of the Council present voted "Aye".

Mayor McFarland announced that Item No. 5 on the Agenda would be heard next.

The following letter from the Transportation Director was presented to the Council:

(Insert letter dated April 13, 2022 here with regards to
Downtown Parking and Mobility Study Progress Update.)

Mr. Jim Kerr, Transportation Director, introduced Mr. Greg Judy and Ms. Patti Clare, Neel-Schaffer, Inc., who presented an analysis of the data collected regarding the Downtown Parking and Mobility Study, suggestions for improvements to wayfinding and lighting and answered questions from Council regarding the next stage of the study, stakeholder engagement.

Mayor McFarland announced that Item No. 6, FY23 Rate Review in Conjunction with FY26 Pro Forma (Water Resources) and Item No. 8, Cityworks Asset Management System (AMS) Implementation (Water Resources) were to be pulled from the Agenda.

The following letter from the Budget Director was presented to the Council:

(Insert letter dated April 13, 2022 here with
regards to February 2022 Dashboard packet.)

The February 2022 Dashboard update, which included Financial, Building & Codes, Risk Management, Construction Data, City Schools Cash Flow Statements, and Revenue & Expenditure Budget Comparison Reports, was presented to Council with no discussion taking place.

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

(Insert letter dated April 13, 2022 here with regards to a Beer Permit Application
For Mimi's Café, 2625 Medical Center Pkwy. and Special Event Beer Permit
Applications for Oakland's Association Inc. on 4/23/22, 7/16/22,
9/24/22, 12/02/22, and 12/03/22 at 901 N Maney Ave.)

Mr. Wade made a motion to approve the Beer Permit Application for Mimi's Café, 2625 Medical Center Parkway (Ownership Change) and the Special Event Beer Permit Applications for Oaklands Association Inc. on 4/23/22, 7/16/22, 9/24/22, 12/02/22, and 12/03/22 at 901 North Maney Avenue. Mr. Wright seconded the motion and all members of the Council present voted "Aye".

The City Recorder/Finance Director stated that there were no statements to be paid.

Mr. Craig Tindall, City Manager, stated that Council had all been given a Major Project Index Listing and that it detailed the projects being undertaken by City Departments.

There being no further business, Mayor McFarland adjourned this meeting at 1:55 p.m.

SHANE MCFARLAND – MAYOR

ATTEST:

JENNIFER BROWN - CITY RECORDER

April 21, 2022

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 6:00 p.m. on Thursday, April 21, 2022, 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

The following representatives of the City were also present:

Craig Tindall, City Manager
Adam Tucker, City Attorney
Jennifer Brown, City Recorder/
Finance Director
Angela Jackson, Executive Director/
Community Services
Sam Huddleston, Executive Director/
Development Services
Michael Bowen, Chief of Police
Erin Tucker, Budget Director
Randolph Wilkerson, Employee Services Director
Russell Gossett, Solid Waste Director
Matthew Blomeley, Assistant Planning Director
Rachel Singer, Assistant Parks and Recreation Director
Roman Hankins, Assistant City Attorney
Russ Brashear, Assistant Transportation Director
Joshua Miller, Administrative Assistant

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

Mr. Randolph Wilkerson, Employee Services Director, recognized STARS Award recipients Mr. David Bricker, Fire and Rescue Captain, and Mr. Jaydin Davis, MPD Officer who was unable to attend due to his enrollment in the Tennessee Law Enforcement Training Academy. Both were nominated after responding to a residence due to the water not working at the house. The two realized that the water had in fact been shut-off for nonpayment. Mr. Bricker and Mr. Davis paid out of their pockets for bottled water and snacks as well as assisting the elderly resident in contacting family to help her restore her water service. Mayor McFarland presented plaques recognizing Captain Bricker and Officer Davis'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. Hangar 1 Construction Change Order (Administration)
2. Proposed Annual Adjustment to Rental Rates (Airport)
3. Relocation of CIP Funds for New Fuel Farm (Airport)
4. Affordable Housing Program – Legacy Pointe Development (Community Development)

5. Town Creek Project ARPA Funding Shift and Budget Supplement (Development Services)
6. Purchase and Installation of Mack Engine (Fleet)
7. Annual Audit Contract (Finance)
8. FY22 City Manager Approved Budget Amendments (Finance)
9. Retail Liquor Certificate of Compliance – Warrior Wine & Spirits – Ownership Change (Finance)
10. Purchase Extrication Tools for New Ladder Truck (Fire Rescue)
11. Mandatory Referral for Abandonment of Drainage and Sanitary Sewer Easements along Manchester Pike (Planning)
12. Mandatory Refereral for Dedication of an Easement on Property along Franklin Road (Planning)
13. Purchase of RADAR Units (Police)
14. Purchase of Police Department Taser Equipment (Police)
15. Main Street Banner Request (Street)

(Insert letters from Administration, Airport (2), Community Development, Development Services, Fleet, Finance (3), Fire Rescue, Planning (2), Police (2), & Street Departments here.)

Mr. Shacklett made a motion to approve the Consent Agenda. Mr. Martin seconded the motion and all members of the Council voted "Aye".

The following letter from the Budget Director was presented to the Council:

(Insert letter dated April 21, 2022 here with regards to Fiscal Year 2022 Budget Amendment Ordinance.)

An ordinance, entitled "ORDINANCE 22-O-07 amending the 2021-2022 Budget (5th Amendment)," which passed first reading on April 13, 2022, was read to the Council and offered for passage on second and final reading, upon motion made by Mr. LaLance, seconded by Mr. Shacklett. Upon roll call said ordinance was passed on second and final reading by the following vote:

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

Nay: None

(Insert ORDINANCE 22-O-07 here.)

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

(Insert letter dated April 21, 2022 here with regards to Zoning for approximately 258.8 acres along Northwest Broad Street.)

An ordinance, entitled "ORDINANCE 22-OZ-02 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 258.8 acres located along Northwest Broad Street to Highway Commercial (CH) District and Gateway Design Overlay One (GDO-1) District simultaneous with annexation; SEC, Inc. on behalf of Legacy Sports Tennessee, applicant(s) [2021-433],” which passed first reading on April 7, 2022, was read to the Council and offered for passage on second and final reading, upon motion made by Mr. Wright, seconded by Mr. Wade. Upon roll call said ordinance was passed on second and final reading by the following vote:

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

Nay: None

Abstain: Ronnie Martin

(Insert ORDINANCE 22-OZ-02 here.)

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

(Insert letter dated April 21, 2022 here with regards to correcting the Zoning Boundary for the Oakland Court PRD.)

An ordinance, entitled “ORDINANCE 22-OZ-05 amending Ordinance 19-OZ-33 to correct the zoning boundary for the Oakland Court PRD along North Academy Street, East Lokey Avenue, East Hembree Street, Christy Court, Palm Court, and Jetton Drive, Planning Staff, applicant [2019-423],” which passed first reading on April 7, 2022, was read to the Council and offered for passage on second and final reading, upon motion made by Mr. Wright, seconded by Mr. Wade. Upon roll call said ordinance was passed on second and final reading by the following vote:

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

Nay: None

(Insert ORDINANCE 22-OZ-05 here.)

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

(Insert letter dated April 21, 2022 here with regards to Ordinance 22-O-03: Amending City Code Regarding Retail Liquor Store Regulations.)

Mr. Roman Hankins, Assistant City Attorney, summarized the changes the Ordinance made to the administrative processes of the City Records office and answered questions from Council regarding the changes.

An ordinance, entitled "ORDINANCE 22-O-03 amending the Murfreesboro City Code, Chapter 4, Alcoholic Beverages, Sections 4-2 and 4-7, regarding defined terms and retail liquor certificates of compliance; initial application; approval," was read to the Council and offered for passage on first reading upon motion made by Mr. LaLance, seconded by Mr. Wade. Upon roll call said ordinance was passed on first reading by the following vote:

Aye: Madelyn Scales Harris
Rick LaLance
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 21, 2022 here with regards to Ordinance
22-O-04: Amending City Code Regarding Special Event
Hours for Beer Sales.)

An ordinance, entitled "ORDINANCE 22-O-04 amending the Murfreesboro City Code, Chapter 4, Alcoholic Beverages, Article II, Section 4-51, regarding classification of beer permits," was read to the Council and offered for passage on first reading upon motion made by Mr. Wade, seconded by Vice-Mayor Scales Harris. Upon roll call said ordinance was passed on first reading by the following vote:

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

Nay: None

The following letter from the Budget Director was presented to the Council:

(Insert letter dated April 21, 2022 here with regards to
City Schools Resolution for Inflation-Related Bonus.)

The following RESOLUTION 22-R-10 was read to the Council and offered for adoption upon motion made by Mr. Shacklett, seconded by Mr. Wright. 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 22-R-10 here amending the 2021-2022
Murfreesboro City Schools Budget (7th Amendment).)

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

(Insert letter dated April 21, 2022 here with regards to sewer
allocation variance – Memorial Boulevard – Whataburger.)

Mr. Matthew Blomeley, Assistant Planning Director, presented the request to approve Whataburger's request for additional density above the sewer allocation ordinance's zoning allowance. He stated that the proposed development will use approximately 2.72 sfu's more than the ordinance allows, but staff views the advantages of job creation and commercial tax rate revenue as a greater benefit.

Mr. LaLance made a motion to approve Whataburger's request for additional density above the sewer allocation ordinance's zoning allowance. Mr. Wright seconded the motion and all members of the Council voted "Aye", except Mr. Martin who voted "Nay".

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

(Insert letter dated April 21, 2022 here with regards to scheduling a public hearing for May 5, 2022 for a Zoning Application [2022-409] for approximately 238 acres located along Northwest Broad Street to be removed from GDO-1 zoning overlay district (with approximately 20.8 acres remaining in the GDO-1 overlay).)

The following RESOLUTION 22-R-PH-08 was read to the Council and offered for adoption upon motion made by Mr. Wade, seconded by Mr. Shacklett. Upon roll call said resolution was adopted by the following vote:

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

Nay: Ronnie Martin

(Insert RESOLUTION 22-R-PH-08 here fixing the time for holding a Public Hearing with respect to the proposed amendment of the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, constituting a part of said Ordinance, as heretofore amended and as now in force and effect, so as to consider a proposed amendment to rezone approximately 238 acres along Northwest Broad Street by removing it from the GDO-1 Zoning Overlay District; City of Murfreesboro, applicant, [2022-409].)

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

(Insert letter dated April 21, 2022 here with regards to Fourth of July Fireworks Show Agreement.)

Ms. Rachel Singer, Assistant Parks and Recreation Director, presented the request to approve the Agreement with Pyro Shows, Inc., in the amount of \$35,000, funded from the Department's Operating Budget, for the City's Fourth of July Fireworks Show.

Mr. Wade made a motion to approve the Agreement with Pyro Shows, Inc., in the amount of \$35,000, funded from the Department's Operating Budget, for the City's Fourth of July Fireworks Show. Vice Mayor Scales Harris seconded the motion and all members of the Council voted "Aye".

The following letter from the Purchasing Director was presented to the Council:

(Insert letter dated April 21, 2022 here with regards to Purchase of Uniforms, Clothing, and Equipment Items.)

Mr. Michael Bowen, Chief of Police, presented the request to approve the Agreement with Galls, LLC for Police and Fire uniforms, in the amount of \$350,000 and \$220,000, respectively, funded by each Department's Operating Budget.

Mr. Wright made a motion to approve the Agreement with Galls, LLC for Police and Fire uniforms, in the amount of \$350,000 and \$220,000, respectively, funded by each Department's Operating Budget. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

The following letter from the Police Chief was presented to the Council:

(Insert letter dated April 21, 2022 here with regards to purchase of new Police Vehicles.)

Mr. Michael Bowen, Police Chief, presented the request to approve the Purchase Contracts with TT of F Murfreesboro and Wilson County Motors, LLC, in the amount of \$1,048,592, funded from the American Rescue Plan Act Funds, for 30 new police vehicles.

Mr. LaLance made a motion to approve the Purchase Contracts with TT of F Murfreesboro and Wilson County Motors, LLC, in the amount of \$1,048,592, funded from the American Rescue Plan Act Funds, for 30 new police vehicles. Mr. Wright seconded the motion and all members of the Council voted "Aye".

The following letter from the Solid Waste Director was presented to the Council:

(Insert letter dated April 21, 2022 here with regards to Rehrig Cart Purchase.)

Mr. Russell Gossett, Solid Waste Director, presented the request to approve the Second Amendment to the Contract with Rehrig Pacific Company in the amount of \$93,900, funded by the Department's Budget, for the purchase of 1,404 residential solid waste carts.

Vice-Mayor Scales Harris made a motion to approve the Second Amendment to the Contract with Rehrig Pacific Company in the amount of \$93,900, funded by the

Department's Budget, for the purchase of 1,404 residential solid waste carts. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

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

(Insert letter dated April 21, 2022 herewith regards Amendment 1 to Contract with Mid-Cumberland Human Resource Agency.)

Mr. Russ Brashear, Assistant Transportation Director, presented the request to approve Amendment No. 1 to the Contract with Mid-Cumberland Human Resource Agency in the amount of a \$100,000 reduction in cost to the Department's Operating Budget.

Vice-Mayor Scales Harris made a motion to approve Amendment No. 1 to the Contract with Mid-Cumberland Human Resource Agency in the amount of a \$100,000 reduction in cost to the Department's Operating Budget. Mr. Wade seconded the motion 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 21, 2022 here with regards to a Beer Permit Application for San Marcos Supermercado, 1156 E Main St.)

Mr. LaLance made a motion to approve the Beer Permit for Sam Marcos Supermercado, 1156 East Main Street (Ownership & Name Change), pending Building and Codes approval. Mr. Wright seconded the motion and all members of the Council voted "Aye".

Upon recommendation of Mayor McFarland, Mr. Wade made a motion to reappoint Mr. Roger Heinrich (term expires April 30, 2025) and Mr. Douglas Cook (term expires April 30, 2025) to the Cable Television Commission and to reappoint Mr. Robert Sain (term expires January 31, 2025), Mr. Whit Turnbow (term expires January 31, 2025), and Mr. Larry Wilkerson (term expires January 31, 2025) to the Murfreesboro Gold Commission. Mr. Martin seconded the motion and all members of the Council voted "Aye".

The following statement was presented to the Council with the recommendation of the City Manager and City Recorder/Finance Director that its payment be approved:

From CIP:

E. Evan Cope: Client Trust Account \$ 276,871.70

Mr. LaLance made a motion to approve payment of the statement as recommended by the City Manager and City Recorder/Finance Director. Mr. Shacklett seconded the motion and all members of the Council voted "Aye".

Mr. Craig Tindall, City Manager, stated that the Council Retreat Meeting would be a full-day session on April 27, 2022, beginning at 9:00 a.m.

Vice-Mayor Scales Harris suggested that the City make Good Friday a City Holiday. She also expressed her concern with the policy for full-time employees who do not receive pay increases due to being outside of the pay range.

There being no further business, Mayor McFarland adjourned this meeting at 6:46 p.m.

ATTEST:

SHANE MCFARLAND – MAYOR

JENNIFER BROWN - CITY RECORDER

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Ordinance 22-O-03: Amend City Code Regarding Retail Liquor Store Regulations (2nd Reading)

Department: Finance

Presented by: Jennifer Brown

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Amend City Code Chapter 4, Alcoholic Beverages, to define City Recorder and amend application process for retail liquor store certificates of compliance.

Staff Recommendation

Approve Ordinance 22-O-03, amendment of City Code sections 4-2 and 4-7.

Background Information

After the expiration of the State moratorium on new retail liquor stores in 2021, City staff noted certain provisions of the City Code regarding the certificate of compliance application and approval process required interpretation to implement. The proposed amendments define "City Recorder" to include, for purposes of alcoholic beverage regulation, to include the City Recorder's designee. The amendments further clarify and elaborate on the application and approval process for certificates of compliance.

Council Priorities Served

Maintain public safety

The City's role in issuing a Certificate of Compliance allows the City to be aware of locations that would like to operate as a retail liquor store, to review zoning restrictions, review applicant background issues, and check for past problems with following City Code.

Operational Issues

The proposed amendments will improve operational efficiency by clearly defining for City staff and citizens the application and approval process.

Fiscal Impacts

None.

Attachments:

Ordinance 22-O-03

ORDINANCE 22-O-03 amending the Murfreesboro City Code, Chapter 4, Alcoholic Beverages, Sections 4-2 and 4-7, regarding defined terms and retail liquor certificates of compliance; initial application; approval.

WHEREAS, the City of Murfreesboro has authorized the retail sale of liquor and spirituous beverages pursuant to state law and local election; and

WHEREAS, the City of Murfreesboro has placed certain regulations and restrictions on retail liquor stores, including the application process for obtaining a certificate of compliance, in Chapter 4, Article II, of the Murfreesboro City Code; and

WHEREAS, the City Council desires to further define certain elements of the application process in order to promote clarity in the administrative process and fairness among applicants.

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

SECTION 1. Murfreesboro City Code Section 4-2 – Terms defined, subsection (A), is amended by inserting the following as new subsection (3) and renumbering current subsections (3) through (14) as subsections (4) through (15).

(3) “*City Recorder.*” The City Recorder and/or, for the purpose of carrying out the administrative provisions of this chapter, his or her designee.

SECTION 2. Murfreesboro City Code Section 4-7 - Retail liquor certificate of compliance; initial application; approval, subsection (C)(3), is amended by deleting subsection (C)(3) in its entirety and replacing it with the following:

(3) Provide proof to the City Recorder that the applicant has satisfied any and all applicable requirements that are now or may be imposed by the Commission on applicants for a retail liquor license;

SECTION 3. Murfreesboro City Code Section 4-7 - Retail liquor certificate of compliance; initial application; approval, subsection (D), is amended by deleting subsection (D) in its entirety and replacing it with the following:

(D) Applications for a Retail Liquor Certificate of Compliance shall be received and processed by the City Recorder as follows:

(1) Upon receiving an application for a Retail Liquor Certificate of Compliance, the City Recorder shall review the application.

(2) Only complete applications shall be accepted for consideration. If the City Recorder determines that an application is incomplete, the City Recorder shall inform the applicant of any deficiency and further inform the applicant that said application will not be considered (and will have no seniority status pursuant to subsection (D)(3), below) until it is complete.

(3) Complete applications will be considered in the chronological order in which they are accepted for consideration, and no consideration will be given to the fact that other applications have subsequently been received.

- (4) Upon determining that the application meets the requirements of Section 4-7(C), the City Recorder shall present the application, along with the applicant's proposed Certificate of Compliance, to Council for consideration at the earliest possible meeting.
- (5) Once the number of complete applications equals the number of remaining available licenses in the City, the City Recorder shall notify all applicants in the process of completing an application (and of which the City Recorder is reasonably aware) that any further submitted application is subject to automatic denial due to the issuance of all available Certificates of Compliance.
- (6) Once all available Certificates of Compliance have been issued by the City Council, the City Recorder shall notify all applicants of which the City Recorder is aware with pending complete or incomplete applications that no more Certificates of Compliance are available, and all such applications shall be automatically and administratively denied. Further, the City Recorder shall not accept any further applications for review and/or acceptance until such time as a license becomes available in the City.

SECTION 4. 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: _____
Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST: APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

SEAL

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Ordinance 22-O-04: Amend City Code Regarding Special Event Hours for Beer Sales (2nd Reading)

Department: Finance

Presented by: Jennifer Brown

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Amend City Code Chapter 4, Alcoholic Beverages, to set designated prohibited hours for beer sales pursuant to a Special Event Permit.

Staff Recommendation

Approve Ordinance 22-O-04, amendment of City Code section 4-51.

Background Information

Currently, applicants for special event beer permits are required to list hours of sale on the permit application, with no more than 12 hours of sale within a 24-hour period. The proposed amendment will prohibit sales under a special event permit for certain designated time periods, thereby allowing applicants to list any non-prohibited hours of sale. This fixed approach will reduce complexity in administration and enforcement of special event permits.

Council Priorities Served

Maintain public safety

Controlling the sale of beer within the City provides enforcement tools by the City for restrictions as to where beer is sold, ability to obtain the right to sell beer, time of beer sales and onsite consumption.

Operational Issues

None.

Fiscal Impacts

None.

Attachments:

Ordinance 22-O-04

ORDINANCE 22-O-04 amending the Murfreesboro City Code, Chapter 4, Alcoholic Beverages, Article II, Section 4-51, regarding classification of beer permits.

WHEREAS, the City of Murfreesboro has authorized the retail sale of beer pursuant to a valid permit; and

WHEREAS, the City of Murfreesboro has placed certain regulations on different classes of permits, specifically special event permits; and

WHEREAS, the City Council desires to amend the time limits in which beer may be served at special event to coincide with the general hours of sale within the City.

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

SECTION 1. Murfreesboro City Code Section 4-51 – Classification of permits; permits restrictive as to class of beer business; grant of privilege, subsection (A)(6)(b), is amended by deleting subsection (A)(6)(b) in its entirety and replacing it with the following:

(b) Beer may not be sold or distributed between the hours of 12:00 A.M. and 8:00 A.M on Saturdays and Sundays nor between the hours of 12:00 A.M. and 11:00 A.M. on all other days.

SECTION 2. Murfreesboro City Code Section 4-59 – Prohibited Activity, subsection (E), is amended by deleting the subsection in its entirety and replacing it with the following:

(E) *Hours of sale.* No permit holder nor any employee thereof shall sell beer or permit beer to be sold or consumed on the permit holder's premises between the hours of 3:00 A.M. and 10:00 A.M. on Sundays and between the hours of 3:00 A.M. and 6:00 A.M. on any other day. This subsection (E) shall not apply to beer sold pursuant to a special-event permit nor to beer sold by hotels via locked in-room units operated in accordance with T.C.A. § 57-5-107.

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 _____

ATTEST:

Jennifer Brown
City Recorder

SEAL

Shane McFarland, Mayor

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: FY22 City Schools Budget Amendment #8

Department: City Schools

Presented by: Trey Duke, Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input checked="" type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Amendment # 8 to the FY22 General Purpose and Schools Federal Projects funds to increase previously approved budgets and to budget new state and federal grant awards.

Staff Recommendation

Approve Resolution 22-R-11 amending the FY22 City Schools General Purpose and Schools Federal Project budgets as presented.

Background Information

On April 26, 2022, the MCS Board approved two amendments in the General Purpose School fund:

- Budget new state grant revenues and expenditures of \$2,119,291 for the 2022 summer learning camps as required by the TN Department of Education. This grant provides teacher salaries, instructional supplies, transportation, technology, nurses, crossing guards and school resource officers.
- Budget an additional \$21,884 in Local Option Sales Tax revenue to fund a one-time vacation payout for a long-term employee, a salary increase of \$1,850 for the payroll accountant, and increase medical insurance in the Human Resources category by \$9,900 due to recent changes in employee elections.

The MCS Board approved one amendment in the Schools Federal Projects fund:

- Budget a new two-year Best for ALL federal grant of \$350,000 for FY2022 and FY2023. The award will fund nine intervention Educational Assistant salaries and related benefits to address student learning loss. MCS was awarded this additional grant as a reward for being chosen a TN Best for ALL District.

- **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 General Purpose Schools and School Federal Projects funds to address changes to previously approved budgets and to budget new state and federal grant awards. There is no change to fund balance in these two funds.

Attachments

1. Resolution 22-R-11
2. Exhibit A: MCS Budget Amendments

RESOLUTION 22-R-11 amending the 2021-2022 Murfreesboro City Schools Budget (8th Amendment).

WHEREAS, the City Council adopted Resolution 21-R-19 on May 20, 2021 to implement the 2021-2022 Murfreesboro City Schools Budget; and

WHEREAS, it is now desirable and appropriate to adjust and modify the 2021-2022 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 2021-2022 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:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker

Adam F. Tucker
City Attorney

General Purpose School Fund
Fiscal Year 2021-2022

Resolution No.

22-R-11

	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
<u>Revenues</u>			
Other State Grants	354,248	1,689,401	1,335,153
Other Federal Grants through State	\$ 136,041	920,179	784,138
Total Increase in Revenues	\$ 490,289	\$ 2,609,580	\$ 2,119,291

Summer Learning Camps Grant				
<u>Expenditures</u>	<u>Description</u>	<u>Revised Budget</u>	<u>Amended Budget</u>	<u>Increase</u>
Regular Ed	Teachers	34,391,234	34,791,234	400,000
Regular Ed	Ed Assistants	3,471,200	3,501,200	30,000
Regular Ed	Other Salaries	2,367,808	2,397,808	30,000
Regular Ed	Social Security	3,731,705	3,761,705	30,000
Regular Ed	Retirement	553,865	597,865	44,000
Regular Ed	Medicare	233,250	240,750	7,500
Regular Ed	Hybrid Retire	34,391,234	34,402,234	11,000
Regular Ed	Contract Services	25,000	27,000	2,000
Regular Ed	Instructional Supplies	389,100	1,003,967	614,867
Regular Ed	Other Materials/Supplies	189,000	191,000	2,000
Health Services	Nurses Salaries	53,025	65,025	12,000
Health Services	Social Security	11,865	12,665	800
Health Services	Retirement	27,156	28,656	1,500
Health Services	Medicare	2,774	2,974	200
Health Services	Hybrid Retire	6,120	8,120	2,000
Reg Ed Support	Other Salaries	73,344	77,944	4,600
Reg Ed Support	Social Security	102,545	103,075	530
Reg Ed Support	Retirement	170,090	170,650	560
Reg Ed Support	Medicare	23,980	24,090	110
Reg Ed Support	Hybrid Retire	-	60	60
Reg Ed Support	Travel	3,000	4,000	1,000
Office of Principal	Principal Salaries	1,388,725	1,413,725	25,000
Office of Principal	Clerical Staff	493,860	505,860	12,000
Office of Principal	Social Security	227,985	231,985	4,000
Office of Principal	Retirement	401,620	403,620	2,000
Office of Principal	Medicare	53,323	53,823	500
Office of Principal	Hybrid Retire	2,520	4,520	2,000
Sub-total Summer Learning Camps			\$	1,240,227

<u>Expenditures</u>	<u>Description</u>	<u>Revised Budget</u>	<u>Amended Budget</u>	<u>Increase</u>
Bridge Grant				
Regular Ed	Teachers	34,791,234	34,871,234	80,000
Regular Ed	Social Security	3,733,705	3,739,205	5,500
Regular Ed	Retirement	583,865	592,865	9,000
Regular Ed	Medicare	277,250	278,750	1,500
Regular Ed	Hybrid Retirement	34,398,734	34,403,734	5,000
Regular Ed	Instructional Supplies	391,100	525,079	133,979
Sub-total Bridge Grant				\$ 234,979
STREAM Grant				
Regular Ed	Teachers	34,871,234	34,951,234	80,000
Regular Ed	Social Security	3,471,200	3,476,700	5,500
Regular Ed	Retirement	2,367,808	2,376,808	9,000
Regular Ed	Medicare	3,731,705	3,733,205	1,500
Regular Ed	Hybrid Retirement	553,865	558,865	5,000
Regular Ed	Instructional Supplies	233,250	485,381	252,131
Reg Ed Support	Other Salaries	77,944	78,944	1,000
Reg Ed Support	Social Security	103,075	103,175	100
Reg Ed Support	Retirement	170,650	170,750	100
Reg Ed Support	Medicare	24,090	24,110	20
Sub-total STREAM Grant				\$ 354,351
Summer Transportation Grant				
Transportation	Bus Driver Salaries	1,299,910	1,419,910	120,000
Transportation	Bus Assistant Salaries	696,525	756,525	60,000
Transportation	Social Security	141,656	153,656	12,000
Transportation	Retirement	278,050	300,050	22,000
Transportation	Medicare	33,131	37,131	4,000
Transportation	Gasoline	208,783	280,518	71,735
Sub-total Transportation				\$ 289,735
Total Increase in Expenditures				\$ 2,119,291

CHANGE IN FUND BALANCE (CASH)

\$

-

To budget new Summer School grants for the June 2022 summer learning program.

These grants will cover the Summer Learning Camps, STREAM, Bridge programs for grades 4-6, and Transportation.

General Purpose School Fund
Fiscal Year 2021-2022

Resolution No.

22-R-11

	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
<u>Revenues</u>			
Local Option Sales Tax	\$ 13,000,000	13,021,844	21,844
Total Increase in Revenues	\$ 13,000,000	\$ 13,021,844	\$ 21,844

<u>Expenditures</u>	<u>Description</u>	<u>Budget at 3/31/22</u>	<u>Amended Budget</u>	<u>Increase</u>
Human Resources	Other Salaries	194,700	204,668	9,968
Human Resources	Social Security	17,370	17,988	618
Human Resources	Retirement	32,840	34,053	1,213
Human Resources	Medical Insurance	25,600	35,500	9,900
Human Resources	Medicare	3,928	4,073	145
Total Increase in Expenditures		\$ 274,438	\$ 296,282	\$ 21,844

CHANGE IN FUND BALANCE (CASH)

\$

-

To budget a one-time vacation payout for a long-term employee and a salary increase of \$1,850 for the payroll accountant. This amendment includes an increase to the medical insurance line-item due to changes in employee selections at January 2022. The increase in labor and benefits will be budgeted from additional local option sales tax revenues.

Murfreesboro City Schools Budget Amendment

BOE Approval

4/26/2022

Schools Federal Projects Fund 142

Fiscal Year 2021-2022

Resolution No.

22-R-11

Account Description	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
<u>Revenues</u>			
Best For All District Grant	-	350,000	350,000
Total Increase in Revenues	\$ -	\$ 350,000	\$ 350,000
<u>Expenditures</u>			
Regular Education - Educational Asst.	-	211,374	211,374
Regular Education - Social Security	-	13,105	13,105
Regular Education - Retirement	-	25,724	25,724
Regular Education - Life Insurance	-	2,500	2,500
Regular Education - Medical	-	79,297	79,297
Regular Education - Dental	-	4,000	4,000
Regular Education - Medicare	-	5,000	5,000
Regular Education - Fringe Benefits	-	9,000	9,000
Total Increase in Expenditures	\$ -	\$ 350,000	\$ 350,000

CHANGE IN FUND BALANCE (CASH)

To budget a new two-year federal award for the Best for All District grant for FY22 and FY23.

This award will be used to fund nine intervention Education Assistant salaries and related benefits to address student learning loss.

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: FY23 Recommended Water Rate Increase

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

MWRD has received its biannual cost of service study (COSS) for FY21 and integrated the anticipated recoveries (revenues to expenses) into an FY26 pro forma. The pro forma demonstrates a need for water rate adjustment in the FY23 budget.

Recommendation

Adopt Ordinance 22-O-09 increasing minimum monthly charge for water only on 5/8", 1", 1 1/2", and 2" water meters.

Background Information

Jackson Thornton provided staff MWRD's FY21 Cost of Service Study and FY26 pro forma. The results of that report are incorporated in the attached Report of Recommended Rate Increase.

Council Priorities Served

Responsible budgeting

Establishing costs for service in the City's water and sewer enterprise funds is fiduciarily responsible. Determining future expenses as compared to projected revenues also allows minor rate adjustments over time to afford customers the ability to budget appropriately for future water and sewer bills.

Attachments

Report of Recommended Rate Increase

Ordinance 22-O-09

Report of Recommended Water Rate Increase

Jackson Thornton has provided staff MWRD's FY21 COSS and FY26 pro forma. The FY2026 pro forma was run using two scenarios:

- 1) Scenario "A" that assumes no new debt was added between FY21 and FY26. This assumes using reserves on hand to pay for \$45,000,000 in capital projects.
- 2) Scenario "B" where \$45,000,000 in debt (20-yr @ 4%) is incurred to pay for projects such as the Northeast Regional Pumping Station and Force Main and the full scale biosolids drying at the Water Resource Recovery Facility (WRRF).

This memo will just present the findings for Scenario "B" as all debt incurred is assumed by the sewer fund and zero debt is incurred by the water fund in either scenario.

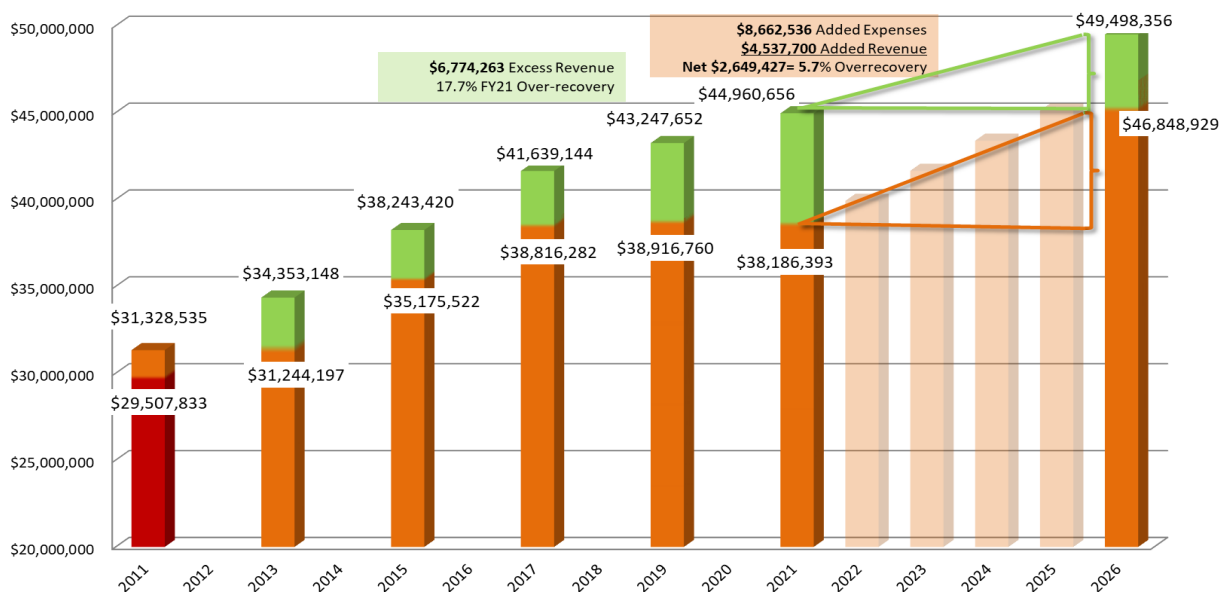
Table 1 lists the over and under recovery for the cost-of-service study performed on FY21 and the pro forma projections for FY26. The table itemizes the added expenses, revenue and net recovery for water and sewer individually and in total; assuming \$45,000,000 of debt is incurred over 20-yr at 4.0% fixed interest. As you can see, water revenue remains the same and is expected to under-recover in FY26 (as it incurs no debt), but sewer is expected to over-recover in FY26 but not to the same extent as the "no debt" scenario. Sewer still over-recovers to such a degree that it can effectively subsidize the water revenue shortfall.

**Table 1: Added Expenses, Revenue and Associated Recovery %'s for Water and Sewer Fund
(\$45M, 20-yr @ 4% Scenario)**

Category	Water	Sewer	Total
Over/(Under) Recovery (FY21)	\$203,064	\$6,571,199	\$6,774,263
Over/Under Recovery % (FY21)	1.4%	27.8%	17.7%
Added Expenses (FY21-26)	\$2,221,376	\$6,441,160	\$8,662,536
Added Revenue (FY21-26)	\$433,877	\$4,103,823	\$4,537,700
Over/(Under) Recovery (FY26)	(\$1,584,435)	\$4,233,862	\$2,649,427
Over/Under Recovery % (FY26)	-9.4%	14.1%	5.7%

Chart 1 is also a combined look at both water and sewer revenues with the assumption of \$45,000,000 in debt service (20-yr @ 4% fixed interest). The most relevant number to note is the \$2,649,427 net over-recovery in FY26, or \$49,498,356 minus \$46,848,929 (on the upper right hand of the chart). The assumptions of the \$45M in debt scenario demonstrate a 5.7% over-recovery in FY24.

Chart 1: Historical COS Studies and FY26 Pro Forma (\$45M Debt Scenario)

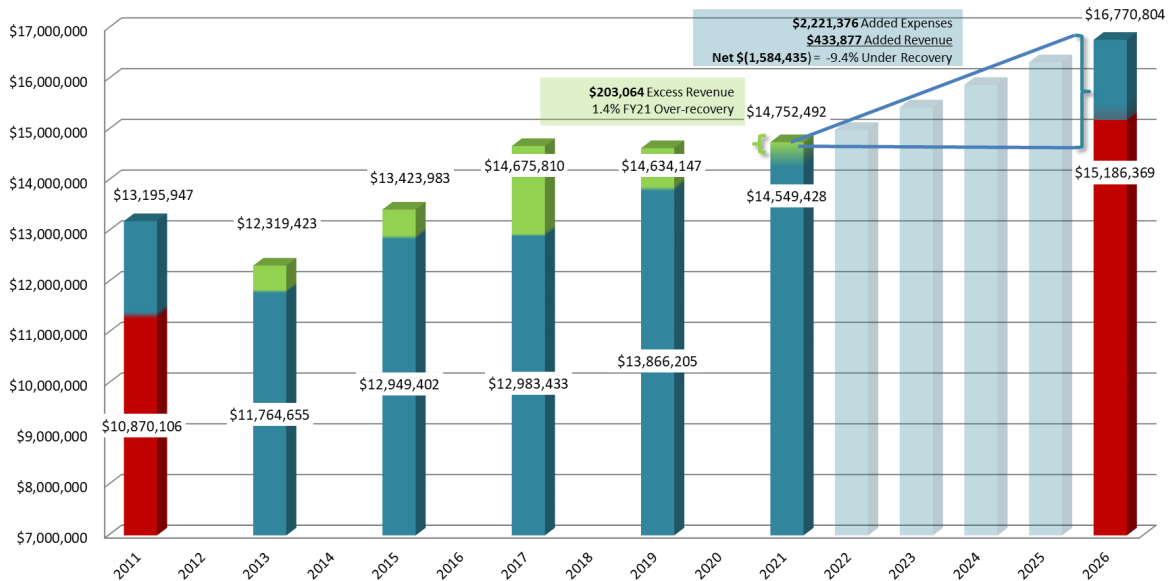


Report of Recommended Water Rate Increase

The overall over-recovery charted above entails a subsidization of sewer related revenue covering water related expenses. From a cost-of-service standpoint, this is not an ideal position and staff recommends avoiding it from occurring.

Chart 2 looks at water revenues and cost of service only. No new debt is associated with water expenses during the timeframe between FY21 and FY26, so debt service does not affect increased expenses; therefore, the increase of \$2,221,376 is associated with operations and maintenance only. Also, MWRD's water system is encompassed by Consolidated Utility District of Rutherford County; therefore, minimal revenue derived from growth has been integrated into the FY26 pro forma, or \$433,877. Using these assumptions, the water revenues are expected to fall short in an amount of \$(1,584,435) as compared to expenses in FY26; under-recovering (9.4)%.

Chart 2: Historical COS Studies and FY26 Pro Forma (Water Only)



A proposed rate design for meter sizes 5/8" to 2" below by adjusting the minimum annually as tabulated below recovers approximately 20% of the under-recovery anticipated for FY26. Making these adjustments over a 4-yr period in conjunction with FY22's water rate increase would make up 82% of the "gap" of the anticipated (\$1,584,435) shortfall.

Table 2: Proposed Minimum Monthly Water Charge Adjustments

Meter Size (INCH)	FY22 Total minimum	FY23 Proposed minimum	Difference	# of Accounts	Added Revenue
5/8"	\$8.72	\$9.72	\$1.00	25,434	\$305,213
1"	\$20.71	\$21.54	\$0.83	689	\$6,851
1-1/2"	\$43.77	\$45.08	\$1.31	344	\$5,421
2"	\$69.05	\$70.77	\$1.72	437	\$9,052
3"	\$164.40	\$164.40	\$0.00	96	\$0.00
4"	\$328.80	\$328.80	\$0.00	26	\$0.00
> 6"	\$685.00	\$685.00	\$0.00	12	\$0.00
Total				27,038	\$326,536

An alternative rate design schedule that affords a minimal increase in the average monthly combined water and sewer bill is detailed in Table 3. This more sophisticated rate design accomplishes 2 main goals – 1) gets the minimum monthly

Report of Recommended Water Rate Increase

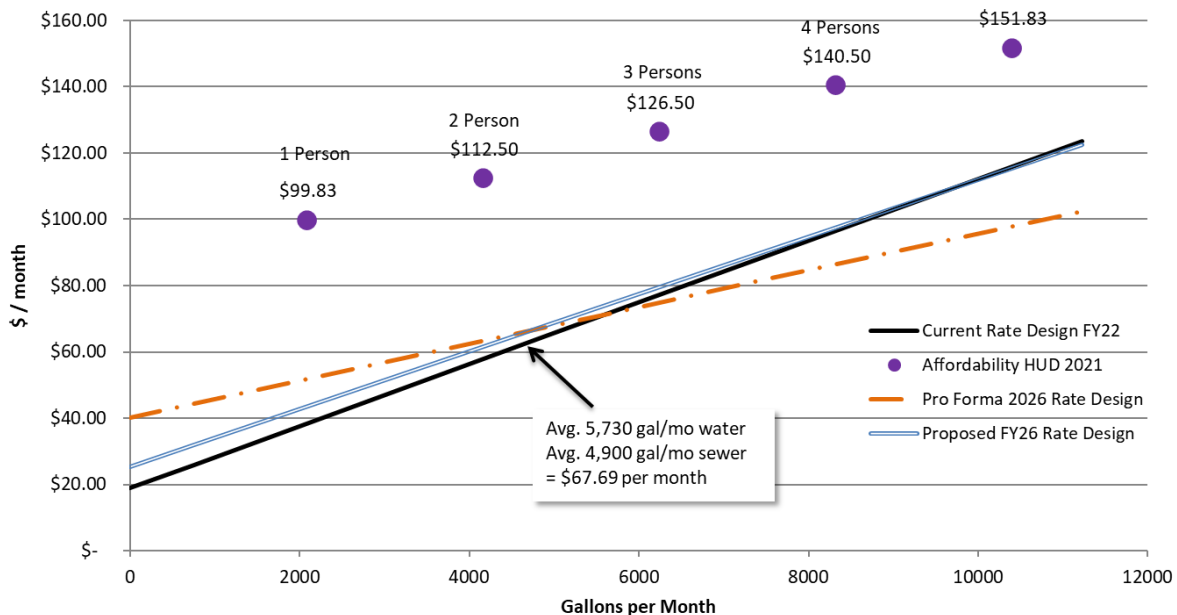
charges for water and sewer closer the cost-of-service recovery levels and 2) lowers the sewer commodity rate so that we maintain the average monthly bill while lowering the subsidization of smaller sewer customers by larger sewer customers.

Table 3: MWRD Water/Sewer Rate Design (Assuming \$45M in Debt) - Rates Adjusted thru FY26

Fiscal Year	2022 Ex Rate	2023 PF	2024 PF	2025 PF	2026 PF
Sewer Residential Min. Monthly Charge	\$10.22	\$10.22	\$10.72	\$11.72	\$12.72
Sewer Commodity Charge (\$/kgal)	\$5.67	\$5.67	\$5.50	\$5.25	\$5.00
Over/Under Recovery		122.2%	116.9%	111.8%	106.9%
Avg Sewer Bill @ 4,900 gal/month		\$38.00	\$37.67	\$37.45	\$37.22
Water Residential Min. Monthly Charge	\$8.72	\$9.72	\$10.72	\$11.72	\$12.72
Water Commodity Charge (\$/kgal)	\$3.66	\$3.66	\$3.66	\$3.66	\$3.66
Over/Under Recovery		102.1%	100.7%	100.3%	99.9%
Avg Water Bill @ 5,730 gal/month		\$30.69	\$31.69	\$32.69	\$33.69
Avg Combined Water/Sewer Bill	\$67.69	\$68.69	\$69.36	\$70.14	\$70.91
% Increase		1.48%	0.97%	1.12%	1.10%
Combined Recovery		114.8%	111.0%	107.6%	104.4%

The rate design tabulated above, when plotted against the combined recovery curves in Chart 3 below demonstrates how the minimum fee is raised, and the commodity fee slope is reduced. The FY26 proposed rate meets the FY21 Affordability index for Murfreesboro.

Chart 3: Rate Design Curves – Existing, Proposed, and COSS and Pro Forma



ORDINANCE 22-O-09 amending Chapter 33, Water and Sewers, Section 33-1 of the Murfreesboro City Code, dealing with minimum monthly water charges and minimum monthly sewer charges.

WHEREAS, the City of Murfreesboro should have water and sewer rates, fees and charges that 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, the Water and Sewer Board studied and decided to recommend these charges to the City Council on March 22, 2022.

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

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

MINIMUM MONTHLY WATER CHARGES

Meter Size	Charge*	Allowance, gallons
5/8 inch	\$ 9.72	--
1 inch	\$ 21.54	--
1 1/2 inch	\$ 45.08	--
2 inch	\$ 70.07	--
3 inch	\$ 164.40	--
4 inch	\$ 328.80	--
6 inch	\$ 685.00	--

*Tax not included

SECTION 2. That this Ordinance shall take effect for bills printed on and after July 1, 2022, following its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

Shane McFarland, Mayor

1st reading

2nd reading

ATTEST:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:

Adam F. Tucker

43A2035E51F0401...

Adam Tucker
City Attorney

SEAL

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Zoning for property along Northwest Broad Street
[Public Hearing Required]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Removal of approximately 238 acres located along Northwest Broad Street from the GDO-1 zoning overlay district.

Staff Recommendation

Conduct a public hearing and enact the ordinance establishing the requested zoning.

The Planning Commission will be conducting a public hearing and voting on this request at its May 4, 2022 regular meeting.

Background Information

The City of Murfreesboro presented a zoning application [2022-409] for approximately 238 acres located along Northwest Broad Street to be removed from the GDO-1 (Gateway Design Overlay 1) zoning district. The subject property is proposed to be developed by Legacy Sports Tennessee. The areas proposed to be removed from the GDO-1 zone include elements of the proposed development that would seem impractical to include in the GDO, including the outdoor recreation fields and the large buildings housing the indoor recreation facilities. Approximately 20.8 acres of the subject property fronting along Northwest Broad Street, proposed to be developed with retail, restaurant, and hospitality uses, are proposed to remain in the GDO-1. During its regular meeting on May 4, 2022, the Planning Commission will conduct a public hearing on this matter and vote to make a recommendation.

Council Priorities Served

Improve Economic Development

This zoning action will help to facilitate the development of Legacy Sports Tennessee a sports and entertainment facility with ancillary retail and hospitality uses, which will create employment opportunities for the community and generate tax revenue for the City.

Establish Strong City Brand

The proposed Legacy Sports Tennessee development will add to Murfreesboro's already strong reputation as a sports and recreation destination.

Attachments:

1. Ordinance 22-OZ-08
2. Maps of the area
3. Planning Commission staff comments from the 05/04/2022 meeting
4. Conceptual site plan for Legacy Sports Tennessee

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
MAY 4, 2022
PROJECT PLANNER: MARINA RUSH**

3.c. Zoning application [2022-409] for approximately 238 acres located Along Northwest Broad Street to be removed from the GDO-1 zoning overlay district (with approximately 20.8 acres remaining in the GDO-1 overlay), City of Murfreesboro applicant.

The subject property is located along the east side of Northwest Broad Street and southeast of I-840. The petition to annex it into the City limits and application to zone to CH district with GDO-1 overlay zone, to allow for the development of Legacy Sports Tennessee, a multi-use sports and entertainment complex for youth sports and other events, was approved by the City Council on April 21, 2022. The zoning and annexation will become effective on May 6, 2022. Public hearings on these initial applications were conducted by the Planning Commission, February 2, 2022, and City Council, April 7, 2022.

The current zoning proposal is to remove the GDO-1 overlay district from the majority of the property, limiting the GDO-1 to only the portion of the property along the Northwest Broad Street frontage. The area remaining with the GDO-1 overlay is approximately 20.8 acres and the area that would be taken out of the overlay district is approximately 238 acres. The Legacy Sports facility will include indoor and outdoor athletic fields, concessions, restrooms, and large athletic buildings to house indoor sporting events, as well as separate buildings along the Northwest Broad Street frontage for related retail, commercial, medical, and hospitality uses.

The purpose of the rezoning is to remove the GDO-1 overlay district from the portion of the subject property that would be developed with the athletic fields and buildings (primary and support), and to retain the GDO-1 overlay district for the portion of the property along the Northwest Broad Street frontage that would develop with commercial, and hospitality uses mentioned above. This amendment is to allow a greater degree of flexibility with the development and design of the sports facilities than the GDO-1 zoning would allow.

The property tax map numbers are:

- Tax Map 70, Parcel 7.02 (91.4 acres)
- Tax Map 70, Parcel 7.03 (167.41 acres)

Article III, Gateway Design Overlay – 1 Analysis

Given the nature of the Legacy Sports and Entertainment facility, specifically regarding the athletic fields and large buildings, several of the GDO regulations would not be practical and specific examples are provided below. The Murfreesboro Design Guidelines would still apply to the development, and these allow for a wider range of permitted building materials, site design and allows the Planning Commission authority to deviate on certain guidelines for better design. Based on review of the Zoning Ordinance GDO regulations and consultation with the Legacy design team, the following items that are required by the GDO regulations would not be practical to apply to the Legacy Sports development:

Building Design (Section E.4 and H.2)

- a. The Design Guidelines allows a wider range of permitted exterior building materials and allows for exceptions where appropriate. This will allow more flexibility in architectural design for the unique larger buildings that are proposed with the Legacy Sports development, as well as the smaller more utilitarian buildings that will be present near the recreation fields, such as concession stands, restrooms, etc.
- b. Ramps leading into the parking garage shall be screened or buffered from views. This will be difficult to do because there will be public roads within the development that will encircle the property.

Landscaping, Open Space and Tree Preservation (Section F, and subsections):

In addition to parking lot screening and buffer yard planting requirements, the GDO has additional landscaping requirements, including:

- c. Perimeter planting, in addition to what is required outside the GDO overlay district, is a minimum ACI (acquired caliper inch) of sixty caliper inches of proposed trees per acre of development site, 20% shall be minimum 4 caliper inches, 20% shall be a minimum of 3 caliper inches, and no trees less than 2 caliper inches may count as a required tree. Based on the large expanse of athletic fields, this ACI would be difficult to meet and additionally trees planted in close proximity to fields would increase maintenance due to shedding of leaves.
- d. Shrub planting, in addition to what is required outside the GDO over district, requires a minimum of thirty 18-inch shrubs per acre and parking lot screening cannot count towards this requirement. The bulk of the site will be developed with athletic fields and could not achieve this standard without potentially impacting the developable area for fields.

- e. Five (5)-foot minimum width landscape strip planted with shrubs and trees along sidewalks, base of buildings. The standard outside the GDO is a minimum of 3-feet. For remote bathrooms and concession stands, five feet planters would be excessive for these smaller, utilitarian buildings.

Temporary Uses (C.1, C.2 and C4):

- f. Prohibits the use of temporary tents for retail sales and outdoor vending of food and beverages. These uses are common at outdoor sporting events and due to the size of the facility, there would be a need to provide food and drinks for large events as needed.
- g. Prohibits the use of outdoor vending of merchandise, food and beverages. Similarly, it is common for merchandise and food sales at sporting events.
- h. Prohibits the use of woven fence material and chain link fence materials. Several outdoor fields, such as baseball, softball and pickleball courts require the use of such fencing material.

The Planning Commission requested information regarding the conceptual Legacy Sports site plan and overall layout for the subject property. Staff has attached a conceptual site plan and future lots to this report for reference.

Adjacent Zoning and Land Uses

The subject property is contiguous to the City limits along the northeastern property line and along Northwest Broad Street. The adjacent properties located to the north, northwest, west, and south are in the unincorporated portion of Rutherford County and are zoned RM (Residential Medium Density) and across Northwest Broad Street to the west are HI (Heavy Industrial), CG (Commercial General), and RM. The properties to the northeast and further east are zoned RS-15 (Single-Family Residential District 15). The RS-15 properties are located within the Riverbend Subdivision and Oakleigh Subdivision. The Murfreesboro wastewater treatment plant is located northeast of the subject property and is also zoned RS-15.

Future Land Use Map

The proposed Murfreesboro 2035 Comprehensive Plan - Future Land Use Map (FLUM) (excerpt of map below) indicates that Employment Generating (EG) is the most appropriate land use character for the subject property. This is a new land use category within the proposed update, and its characteristics include:

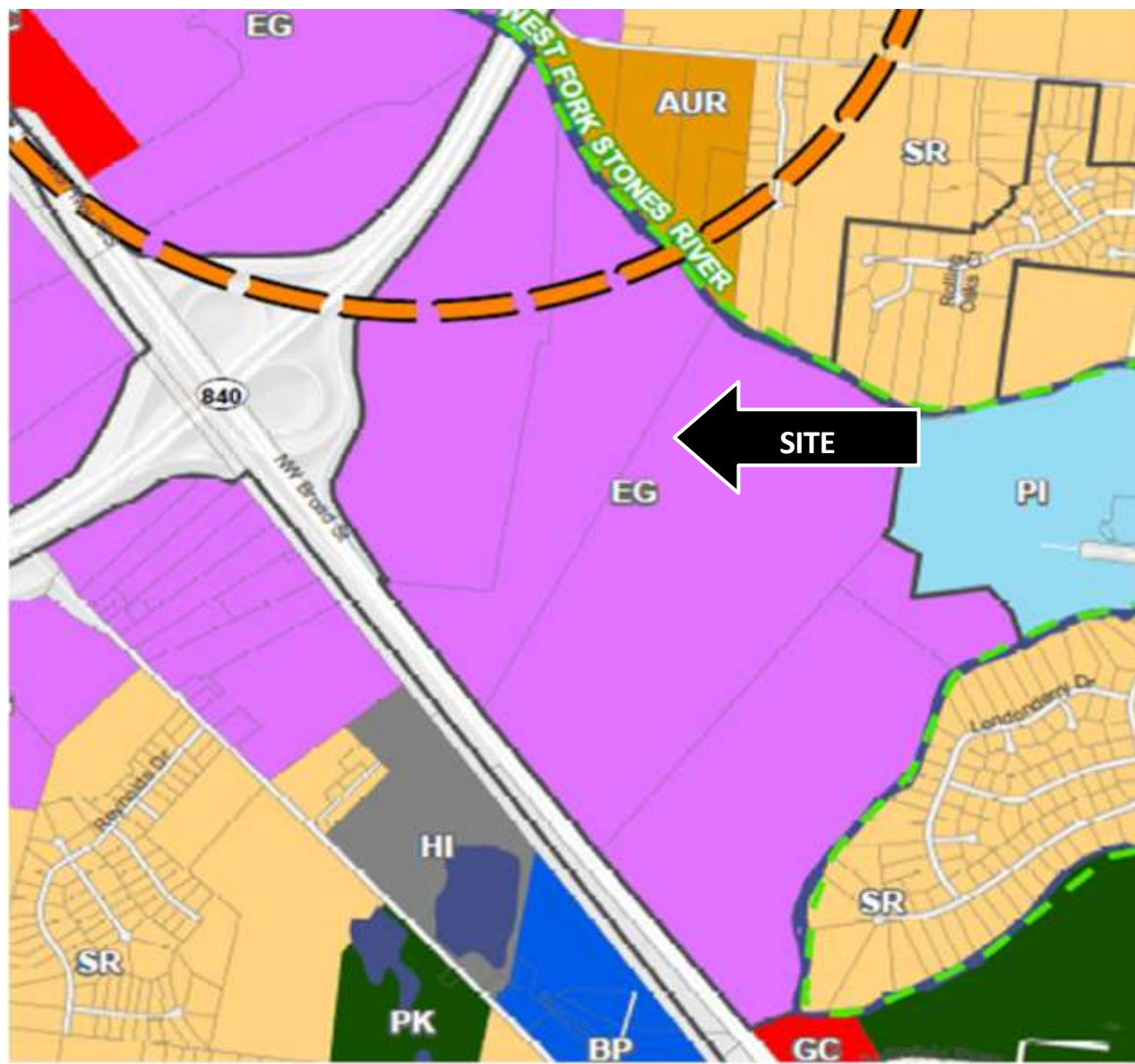
- Create and foster employment generating uses such as, office-oriented jobs including headquarters, regional operations centers, research, and development, medical, sports tourism, digital arts, tech-based innovation, and other types that

would be reasonably considered professional, technical and innovative.

- Master planning sites to provide a plan that will encourage flexibility and creativity in the design and development.
- Job creation must be in place prior to the development of residential.

The current FLUM (approved 2017) designates the subject property as “Urban Commercial / Mixed Use” (UC) and allowed uses include the following: “intensive urban character with a multiplicity of uses, including multi-family residential, entertainment, restaurants, department stores and other retail, general and professional offices, and hotels.” It is staff’s opinion that the proposed zoning request is consistent with both, the proposed EG and the current UC land use characters.

Proposed Murfreesboro 2035 Comprehensive Plan Future Land Use Map (excerpt)



Murfreesboro 2035 Comprehensive Plan Future Land Use Map (excerpt)



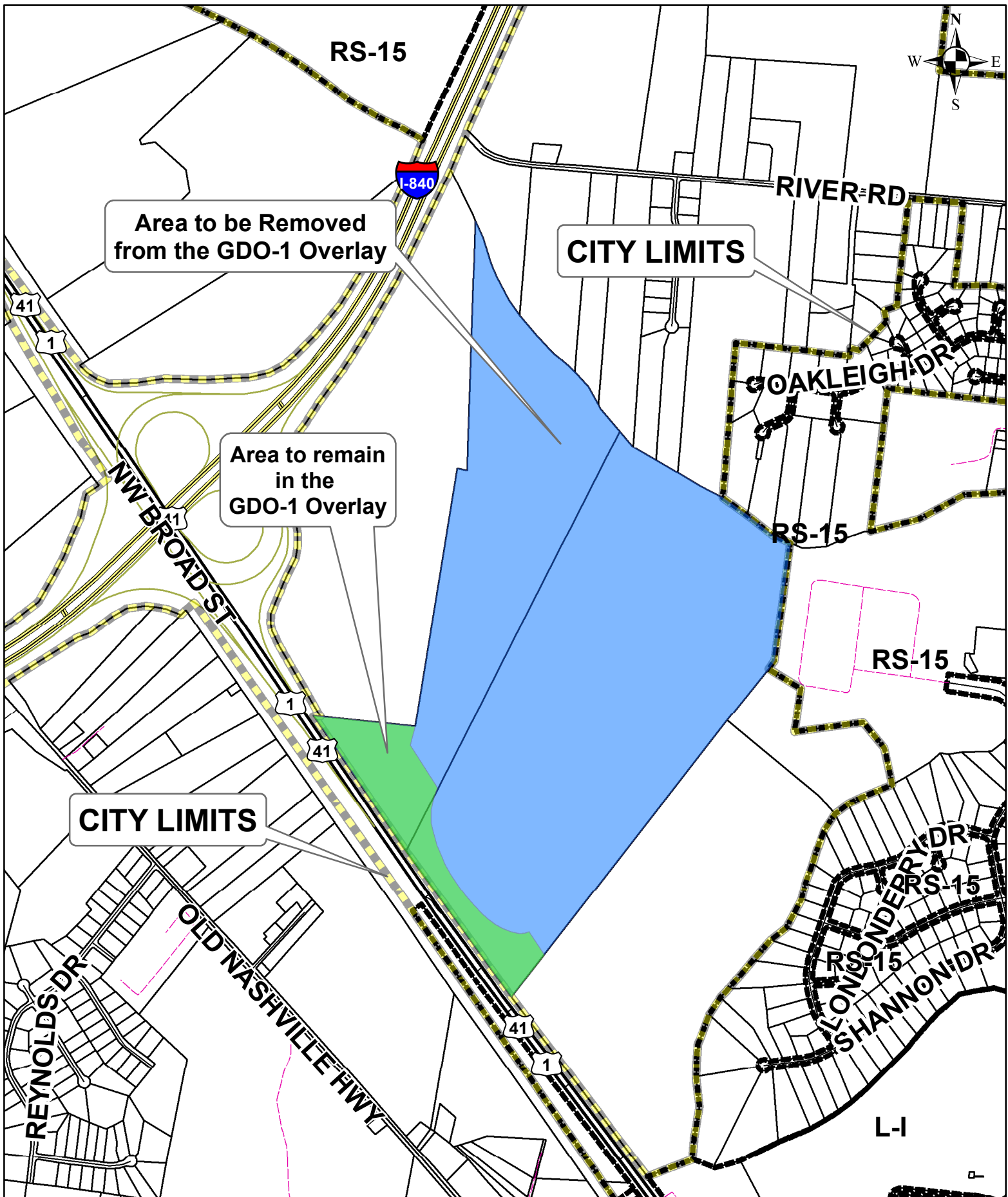
Recommendation:

Staff recommends:

1. The 238 acres to be removed from the GDO-1 zoning overlay district because the GDO design standards would not be appropriate for athletic facilities including outdoor play fields and large buildings for indoor courts and activities.
2. The GDO-1 zoning would remain on the 20.8 acres of the property located along the frontage of Northwest Broad Street to ensure high quality design and site planning for the property and to help regulate the uses that can be established.

Action needed

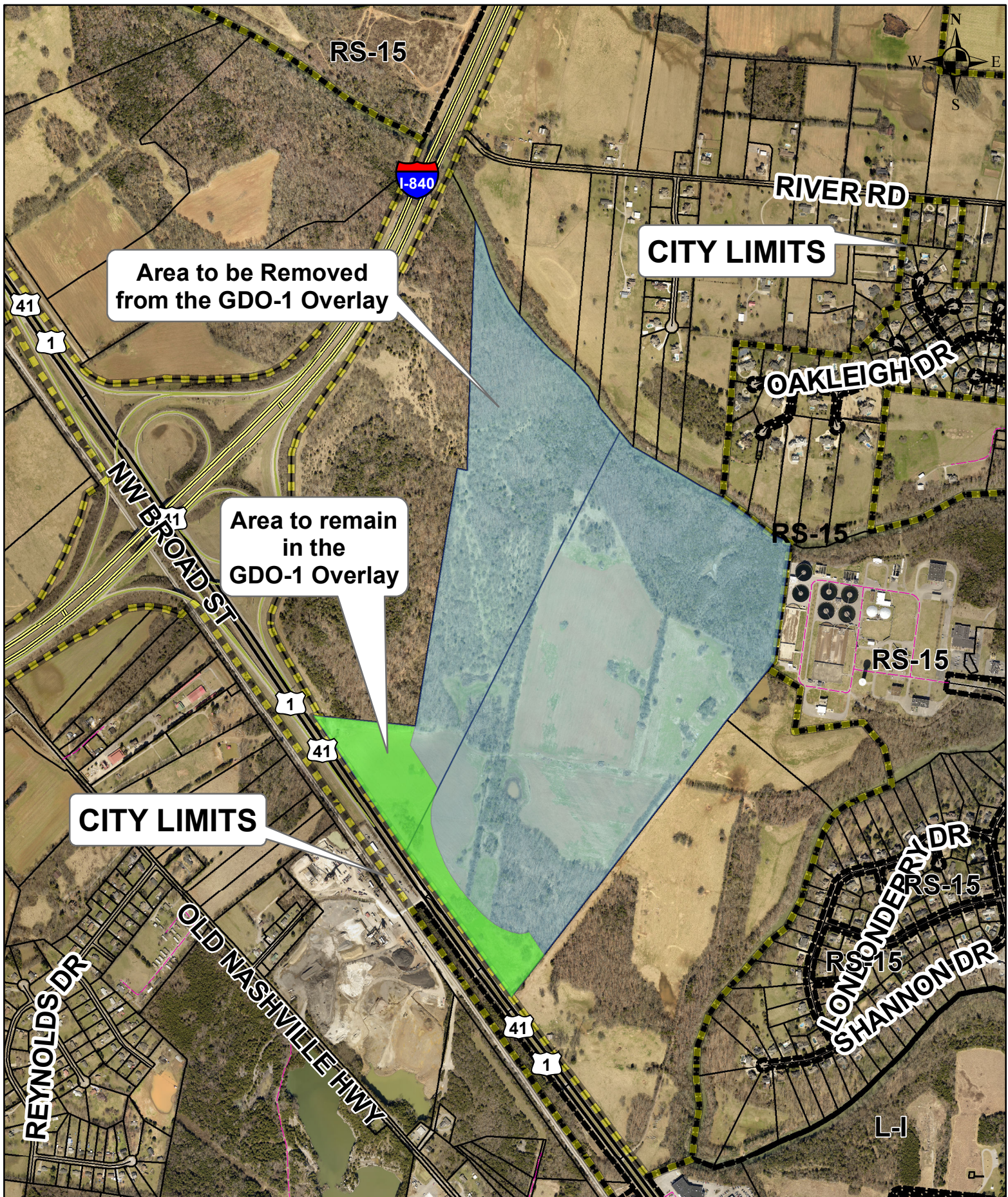
The Planning Commission will need to conduct a public hearing and then discuss this matter, after which it will need to formulate a recommendation to the City Council.



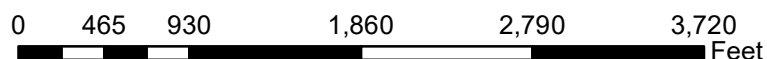
**Zoning Request for Property located along Northwest Broad Street
Approximately 238 acres to be removed from the GDO-1 Overlay**

0 465 930 1,860 2,790 3,720 Feet

Planning Department
City of Murfreesboro
111 W. Vine St.
Murfreesboro, TN 37130
www.murfreesborotn.gov



**Zoning Request for Property located along Northwest Broad Street
Approximately 238 acres to be removed from the GDO-1 Overlay**



Planning Department
City of Murfreesboro
111 W. Vine St.
Murfreesboro, TN 37130
www.murfreesborotn.gov



City of Murfreesboro
Planning and Engineering Department
111 W. Vine Street, P.O. Box 1139
Murfreesboro, TN 37133-1139
(615) 893-6441 Fax (615) 849-2606
www.murfreesborotn.gov

Creating a better quality of life

Zoning & Rezoning Applications – other than rezoning to planned unit development	\$700.00
Zoning & Rezoning Applications – Planned Unit Development, initial or amended	\$950.00

Procedure for applicant:

The applicant must submit the following information to initiate a rezoning:

1. A completed rezoning application (below).
2. A plot plan, property tax map, survey, and/or a legal description of the property proposed for rezoning. (Please attach to application.)
3. A non-refundable application fee (prices listed above).

For assistance or questions, please contact a planner at 615-893-6441.

To be completed by applicant:

APPLICANT: City of Murfreesboro

Address: 111 W. Vine St. City/State/Zip: Murfreesboro, TN 37130

Phone: 615-893-6441 E-mail address: shuddleston@murfreessborotn.gov

PROPERTY OWNER: Mary Hord Haymore Children, LP & Thomas Hord Irrevocable Trust

Street Address or property description: N. W. Broad St.

and/or Tax map #: 070 Group: — Parcel (s): 00702 & 00703

Existing zoning classification: CH & GDO-1

Proposed zoning classification: CH & GDO-1 Acreage: —
Reduction of area zoned GDO-1

Contact name & phone number for publication and notifications to the public (if different from the applicant): Sam Huddleston, Exec. Dir. of Dev't Services

E-mail: —

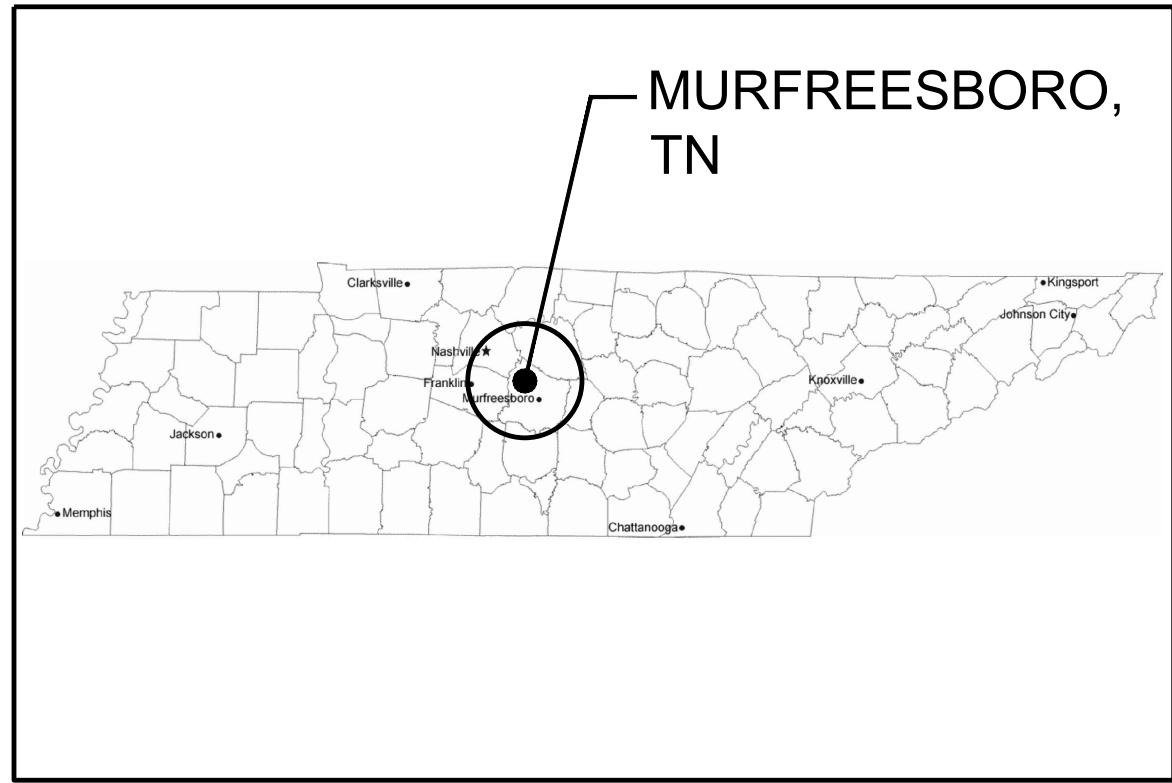
APPLICANT'S SIGNATURE (required): [Signature]

DATE: 4/11/22

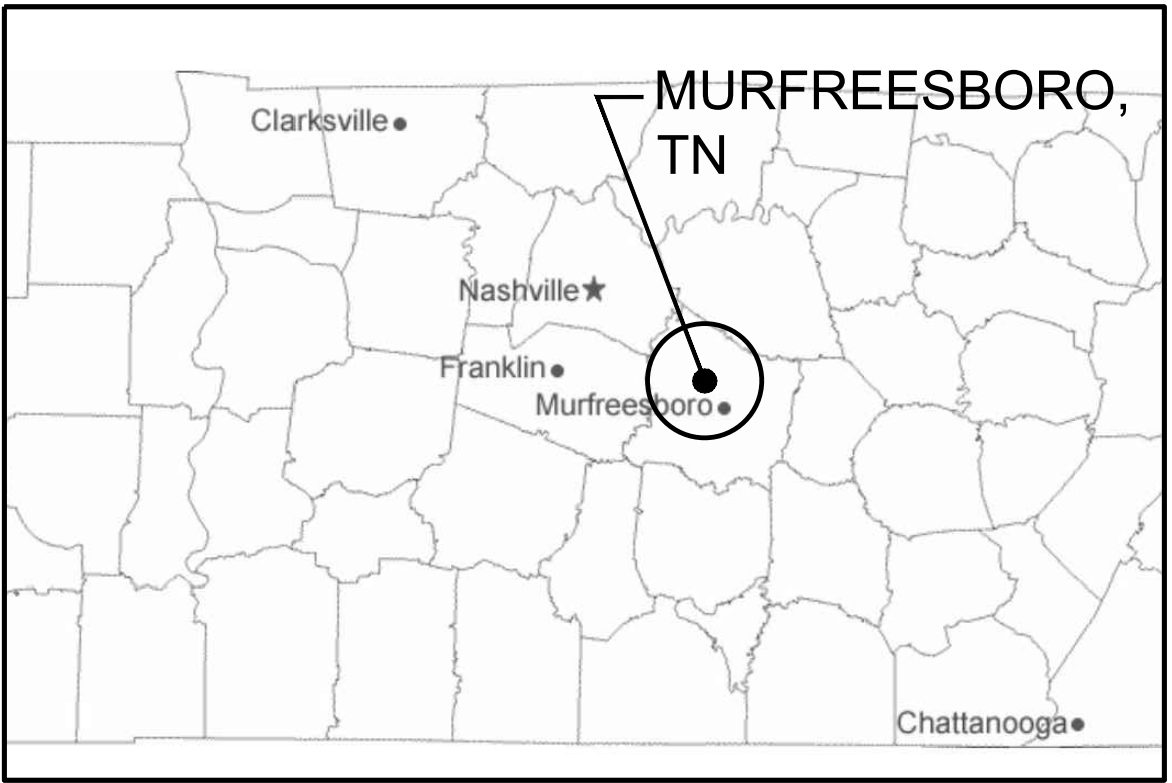
*****For Office Use Only*****

Date received: — MPC YR.: 2022 MPC #: 409

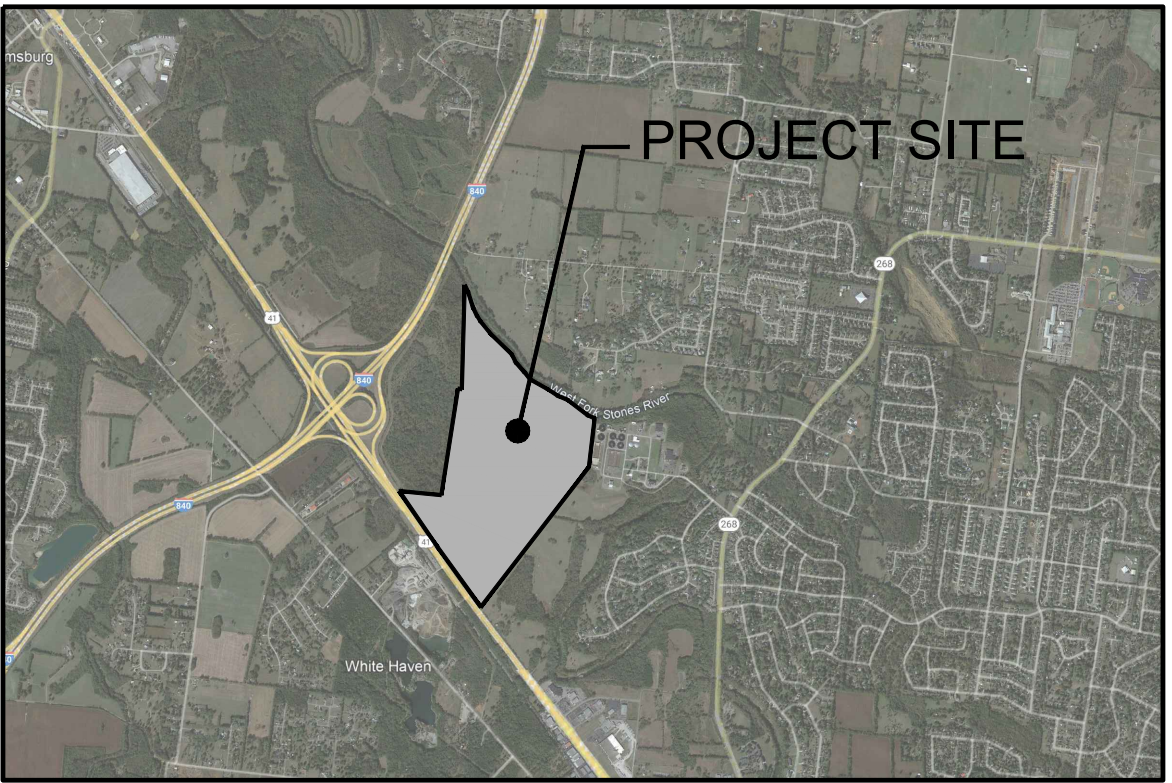
Amount paid: — Receipt #: —



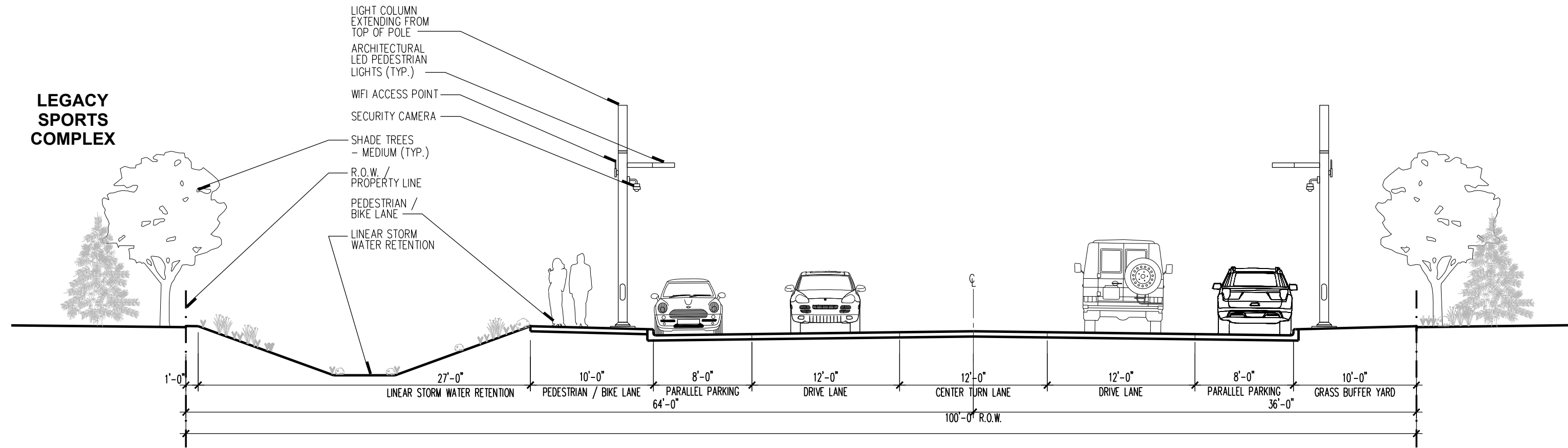
STATE CONTEXT



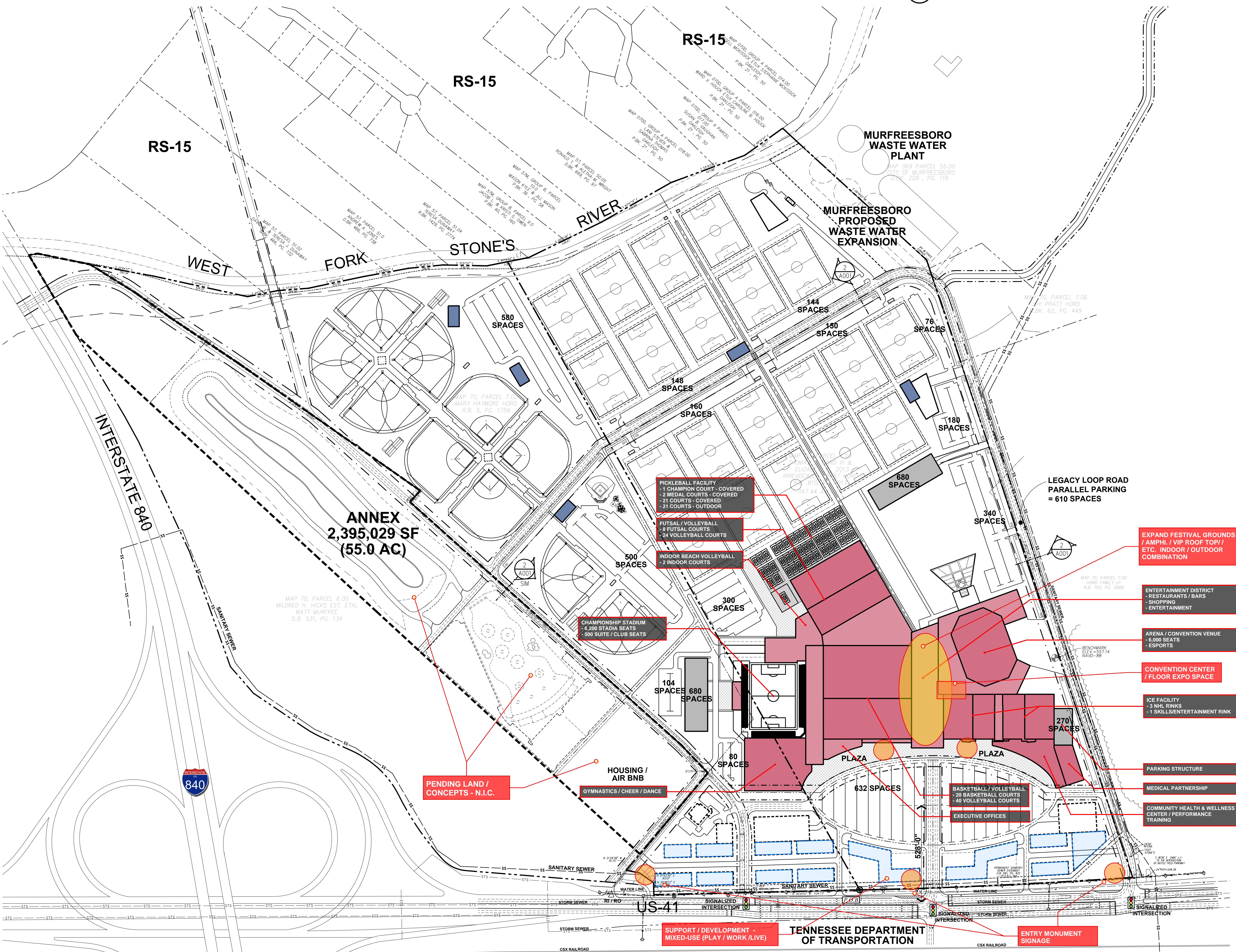
REGIONAL CONTEXT



SITE CONTEXT



SECTION AT LEGACY LOOP ROADWAY



PROPERTY INFORMATION

NAME
MARY HORD HAYMORE (LOT TR 6-C)
THOMAS E. HORD III (LOT 6-C)

LEGAL DESCRIPTION
LOT TR 6-C & LOT 6-B, UNINCORPORATED
HORD PARTITION

EXISTING ZONING:
RESIDENTIAL MEDIUM DENSITY (RUTHERFORD COUNTY)

PROPOSED ZONING:
COMMERCIAL HIGHWAY (CH) WITH GATEWAY DESIGN OVERLAY (GDO-1)

DEVELOPMENT
LEGACY SPORTS AND ENTERTAINMENT PARK

OWNER / DEVELOPER
-

SITE DATA
11,273,764 SQ FT (258.81AC) (COMBINED LOT TR 6-C & LOT 6B)

SITE DATA

Name	Surface Area	Percent Coverage
Site - Combined	11,273,764 SF (258.81 AC)	100%
Building Footprint(s) (Total)	- SF	-%
Paved Surface	- SF	-%
Green Space	- SF	-%
Impervious Surface	- SF	-%
Max Impervious Surface Area Allowed	- SF	-%

LOT, HEIGHT, AREA & YARD REQUIREMENTS

MAXIMUM HEIGHT OF ANY BUILDING SHALL NOT EXCEED - STORY / - (-) FEET.
MINIMUM YARD SETBACKS SHALL BE AS FOLLOWS:
FRONT - (DEPENDS ON LOCATION).
SIDE - % OF LOT WIDTH, MINIMUM -.
REAR - % OF LOT DEPTH, MINIMUM -.

LINE TYPE LEGEND

---	PROPERTY BOUNDARY
---	EASEMENT LINE
---	SETBACK LINE
---	WATER LINE
SS	SANITARY SEWER LINE
STS	SANITARY SEWER FM
UGE	STORM SEWER LINE
GAS	ELECTRICAL
FD	UNDERGROUND FIBER
UGT	UNDERGROUND TELE
CTV	CABLE TV
DHP	OVERHEAD POWER

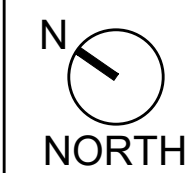
- CORE PROGRAM
- ANCILLARY PROGRAM
- SHADE STRUCTURE
- PARKING STRUCTURE
- VENUE SUPPORT PROGRAM



Drawing History

No.	Description	Date
1	02/10/22	

DRAWN BY:MK/KD JN: 21-066



ORDINANCE 22-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 238 acres along Northwest Broad Street by removing it from the GDO-1 Zoning Overlay District; City of Murfreesboro, applicant, [2022-409].

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 removed from the Gateway Design Overlay One (GDO-1) 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 _____

ATTEST:

Jennifer Brown
City Recorder

Shane McFarland, Mayor

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

SEAL

Ordinance 22-OZ-08

RS-15

CITY LIMITS



Area Removed from the GDO-1 Overlay

Area remaining in the GDO-1 Overlay

RIVER RD

OAKLEIGH DR

RS-15

RS-15

CITY LIMITS

RYAN DR

RS-15

LONGVIEW DR

SHANNON DR

L-I

L-I

41
1

1

41

41

1

41

NW BROAD ST

OLD NASHVILLE HWY

REYNOLDS DR



COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Amending the Zoning Ordinance
[Public Hearing Required]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Ordinance amending the Zoning Ordinance regarding industrial accessory structures, recreation field lighting, and floodplain regulations.

Staff Recommendation

Conduct a public hearing and enact the ordinance amendment.

The Planning Commission recommended approval of this ordinance amendment.

Background Information

The Planning Department presented an ordinance amendment [2022-801] to amend the Zoning Ordinance as it pertains to the height of industrial accessory structures, the height of lighting fixtures at recreation fields, and the City's floodplain management regulations. During its regular meeting on March 2, 2022, the Planning Commission conducted a public hearing on this matter and then voted to defer action. On March 16, 2022, the Planning Commission voted to approve the request subject to several changes to the text. The attached ordinance amendment has incorporated the changes recommended by the Planning Commission.

Council Priorities Served

Improve Economic Development

The proposed language allows for additional flexibility in the height of industrial accessory structures, removing a regulatory hurdle for potential industrial developments whose operations require taller accessory structures, such as storage silos.

Establish Strong City Brand

Murfreesboro is quickly becoming a destination for sports enthusiasts. Amending the ordinance to address the height of lighting fixtures at recreation fields will provide clear guidance on this topic for future developers of such outdoor sports facilities.

Maintain Public Safety

The City's floodplain management regulations promote the safety and security of people

and property. Maintaining accurate, clear, and user-friendly floodplain management regulations helps communicate to the public the City's requirements in order to minimize damage and destruction in times of flooding.

Attachments:

1. Ordinance 22-O-06
2. Planning Commission staff comments and minutes from 03/02/2022 meeting
3. Planning Commission staff comments and minutes from 03/16/2022 meeting
4. Planning Department research and diagrams regarding height requirements for industrial accessory structures
5. Photographs of existing industrial accessory structures
6. Photographs of existing recreation field lighting

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
MARCH 16, 2022
PROJECT PLANNER: MATTHEW BLOMELEY
(RESEARCH OF OTHER CITIES COMPILED BY JOEL AGUILERA)**

4.a. Proposed amendment to the Zoning Ordinance [2022-801] pertaining to the following:

- **Section 2: Interpretation and Definitions;**
- **Section 18: Regulations of General Applicability;**
- **Section 25: Temporary and Accessory Structures and Uses;**
- **Section 34: Floodplain Zoning; and**
- **Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios (including Chart 2 endnotes),**

City of Murfreesboro Planning Department applicant.

The Planning Commission conducted a public hearing on this Zoning Ordinance amendment at its March 2nd regular meeting, after which it deferred action until the March 16th meeting. The Planning Commission expressed some concerns regarding the portions of the amendments pertaining to the height of industrial accessory structures and recreation field lighting fixtures. Staff is in the process of compiling additional information for the Planning Commission's review and will provide those materials to the Planning Commission prior to the meeting.

On a side note, at the March 2nd meeting, the Planning Commission did not express any concerns with the amendments to the City's floodplain regulations, the language for which was provided to Staff and recommended by the State's NFIP (National Flood Insurance Program) Coordinator.

Action Needed:

A draft of the proposed ordinance amendment is included in the agenda packet for the Planning Commission's review. The staff comments from the March 2nd meeting, which include additional background, are included for reference beginning on the following page. The Planning Commission should discuss this matter and then formulate a recommendation to City Council.

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
MARCH 2, 2022
PROJECT PLANNER: MATTHEW BLOMELEY
(RESEARCH OF OTHER CITIES COMPILED BY JOEL AGUILERA)**

4.a. Proposed amendment to the Zoning Ordinance [2022-801] pertaining to the following:

- **Section 2: Interpretation and Definitions;**
- **Section 18: Regulations of General Applicability;**
- **Section 25: Temporary and Accessory Structures and Uses;**
- **Section 34: Floodplain Zoning; and**
- **Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios (including Chart 2 endnotes),**

City of Murfreesboro Planning Department applicant.

This proposed Zoning Ordinance amendment is comprised of three parts pertaining to three different topics.

Maximum Building Height for Industrial Accessory Structures:

The maximum building height permitted for all structures in the L-I (Light Industrial), G-I (General Industrial), and H-I (Heavy Industrial) districts is 75'. This pertains to both principal and accessory structures. There are instances where certain industrial uses may have a need for accessory structures to exceed this height. An example of this might be a storage silo. This amendment proposes to include a provision in the Zoning Ordinance allowing accessory structures in these zoning districts to have a maximum building height of 100', if they are accessory to a use classified as industrial. Any such structures would be subject to additional building setback requirements above and beyond the standard minimum building setbacks. Knowing that such accessory structures would likely be unable to meet the criteria for a variance to be granted, Staff thought it best to proactively make provisions for such structures in the Zoning Ordinance.

At the February 16th meeting, the Planning Commission requested that Staff gather information from other jurisdictions on maximum heights for accessory structures in their respective industrial districts. Since that meeting, Staff has compiled this information for 10 other municipalities in Tennessee. Two tables are included in the agenda packet. The first contains the general maximum building height and minimum building setback requirements for those jurisdictions' industrial zoning districts. The second includes maximum building height and minimum building setback requirements *for accessory structures* in those same zoning districts.

Some jurisdictions apply the general maximum building height of the respective industrial zone to industrial accessory structures, while other jurisdictions state that the accessory structures may not exceed the height of the principal structure.

Maximum Height of Light Fixtures at Recreation Fields:

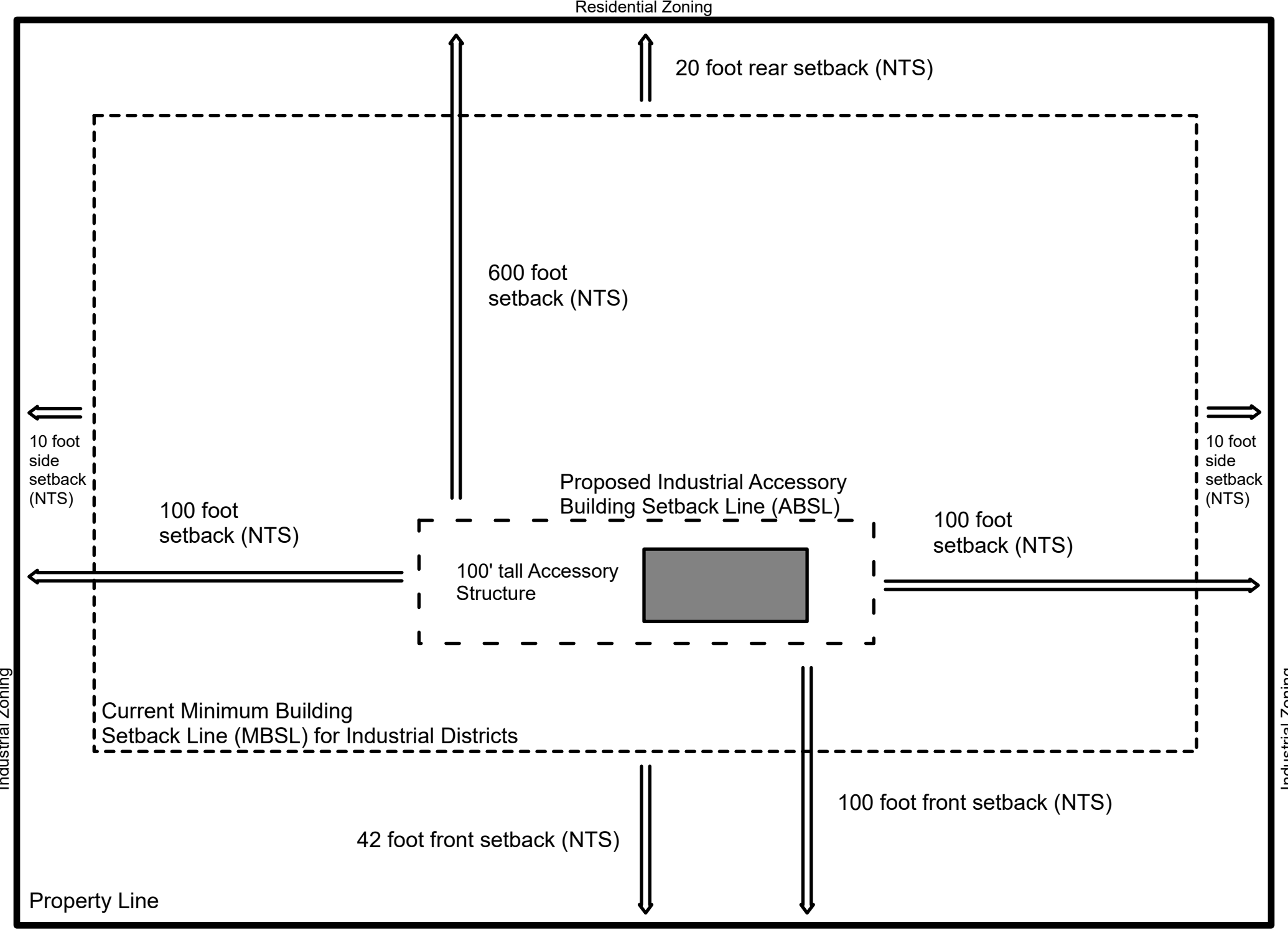
In 2020, the Zoning Ordinance was amended to allow lighting fixtures for recreation fields in the P (Park) district to have a maximum height of 80'. The 2020 ordinance amendment also included an 80' maximum height for lighting fixtures at recreation fields that are accessory to institutional group assembly uses. This current amendment seeks to comprehensively address all instances where there might be recreation fields. In doing so, it also includes provisions for recreation fields accessory to commercial outdoor amusement uses, which were not addressed in the 2020 ordinance amendment. The maximum height of lighting fixtures for all recreation field uses generally remains uniform for all of the above uses at 80'. However, a provision is included in the proposed amendment that would allow such light fixtures at recreation fields accessory to commercial outdoor amusements to be a maximum of 100' in height if such use is located on a lot of at least 50 acres and such light fixtures over 80' in height are located a minimum of 300' from any property zoned and or uses for residential purposes. In addition to the above, a definition for "Recreation Field" is proposed to be added to Section 2 of the Zoning Ordinance. It is a listed use in Chart 1 and is referenced several times in the Zoning Ordinance, but Section 2 is currently lacking a definition for this use.

Section 34: Floodplain Zoning:

The City's floodplain regulations are contained within Section 34 of the Zoning Ordinance. The City's Floodplain Administrator, in consultation with the State's NFIP (National Flood Insurance Program) Coordinator, is recommending the proposed amendments to Section 34 in order to be consistent with the FEMA model floodplain management ordinance. One of the primary modifications is to add that a Conditional Letter of Map Revision (CLOMR) approved by FEMA (the Federal Emergency Management Agency) is required prior to allowing a development to modify or encroach in the floodway and/or increase the base flood elevations.

Action Needed:

A draft of the proposed ordinance amendment is included in the agenda packet for the Planning Commission's review. The Planning Commission will need to conduct a public hearing, after which it should discuss this matter and then formulate a recommendation to City Council.



Light, General, and Heavy Industrial setback diagram for 100' tall accessory structure

Public ROW

NOT TO SCALE (NTS)

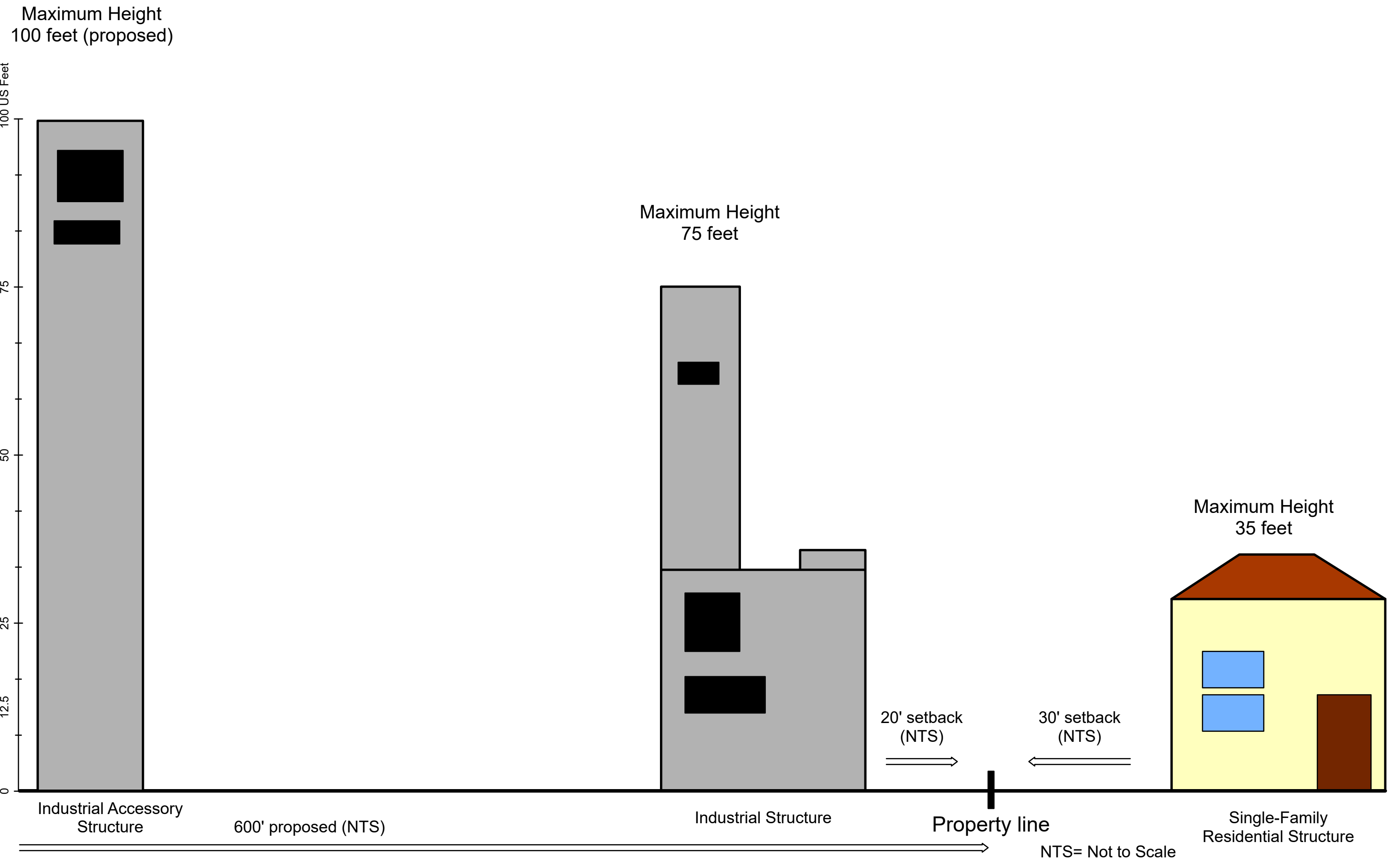


Table 1.0 Standards per zoning district

City	Zoning District	Height Standards	Setback Standards
Chattanooga	<ul style="list-style-type: none"> ▪ M-1 Manufacturing ▪ M-2 Light Industrial ▪ M-3 Warehouse and Wholesale ▪ M-4 Outdoor Industrial Use 	<ul style="list-style-type: none"> ▪ M-1, M-2, M-3: Max height is 35 feet ▪ M-4: No max height 	<ul style="list-style-type: none"> ▪ M-1, -2, -3 setbacks: 25' front, 25' side, and 25' rear setback (if abuts residential). ▪ If not abutting residential, then <u>no front, side, or rear yard is required</u>. A 10' side is required between buildings.
Clarksville	<ul style="list-style-type: none"> ▪ M-1 Light Industrial ▪ M-2 General Industrial 	<ul style="list-style-type: none"> ▪ M-1: Max height is 60 feet ▪ M-2: Max height is 70 feet 	<ul style="list-style-type: none"> ▪ M-1 setbacks: 40' front, 15' side, 20' rear ▪ M-2 setbacks: 40' front, 50' side, 30' rear
Columbia	<ul style="list-style-type: none"> ▪ IR-Restrictive Industrial ▪ IG-General Industrial ▪ IS-Special Industrial 	<ul style="list-style-type: none"> ▪ IR, IG, IS: Max height is 45 feet 	<ul style="list-style-type: none"> ▪ IR, IG, IS setbacks: 20' front, 10' side, 20' rear setback ▪ If abutting residential, additional standards shall be met.
Franklin	<ul style="list-style-type: none"> ▪ LI-Light Industrial ▪ HI-Heavy Industrial 	<ul style="list-style-type: none"> ▪ LI, HI: Max 3 stories 	<ul style="list-style-type: none"> ▪ LI setbacks: 30' front, 10' side, 25' rear setback ▪ HI setbacks: 30' front, 15' side, 25' rear setback
Jackson	<ul style="list-style-type: none"> ▪ I-O Wholesale and Warehouse ▪ I-1 Planned Industrial Park ▪ I-2 Light Industrial ▪ I-3 General Industrial 	<ul style="list-style-type: none"> ▪ I-O: Max 6 stories ▪ I-1: Max 3 stories ▪ I-2, I-3: Max 4 stories 	<ul style="list-style-type: none"> ▪ I-O setbacks: 50' front, 10' side, 15' rear setback ▪ I-1 setbacks: 100' front, 50' side, 25' rear setback ▪ I-2, I-3 setbacks: 50' front, 25' side, 25' rear setback

Table 1.0 Standards per zoning district

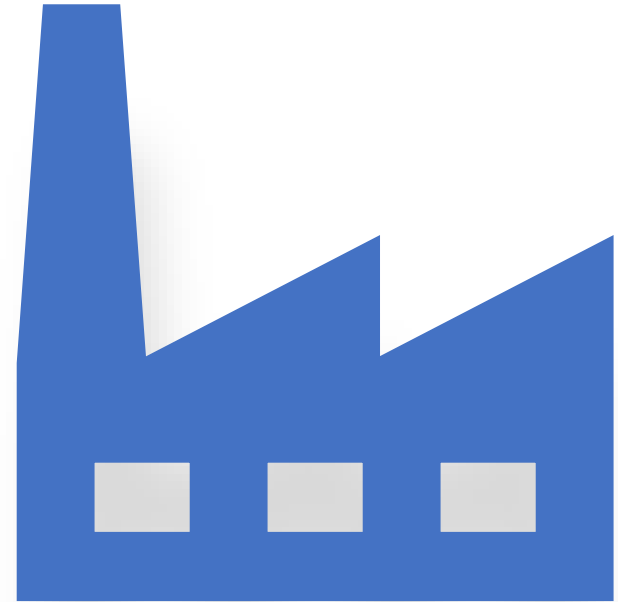
Knoxville	<ul style="list-style-type: none"> ▪ I-MU Industrial Mixed Use ▪ I-RD Research and Development ▪ I-G General Industrial ▪ I-H Heavy Industrial 	<ul style="list-style-type: none"> ▪ I-MU: Max height is 50 feet ▪ I-RD, I-G, I-H: Max height is 90 feet 	<ul style="list-style-type: none"> ▪ I-MU setbacks: 25' front, 0' side, 15' rear setback ▪ I-RD setbacks: 50' front, 40' side, 30' rear setback ▪ I-G setbacks: 25' front, 10' side, 15' rear setback ▪ I-H setbacks: 25' front, 15' side, 15' rear setback ▪ If abutting residential, additional standards shall be met.
La Vergne	<ul style="list-style-type: none"> ▪ I-1 Light Industrial ▪ I-2 Heavy Industrial ▪ I-3 Industrial (Special 	<ul style="list-style-type: none"> ▪ I-1, I-2: Max height is 50 feet 	<ul style="list-style-type: none"> ▪ I-1 setbacks: 40' front, 20' side, 20' rear setback ▪ I-2 setbacks: 40' front, 20' side, 15' rear setback ▪ I-3 setbacks are determined by special provisions and handled through the review process
Lebanon	<ul style="list-style-type: none"> ▪ IP-Planned Business/Industrial ▪ IL-Light Industrial ▪ IH-Heavy Industrial 	<ul style="list-style-type: none"> ▪ IP, IL, IH: Max height is 75 feet 	<ul style="list-style-type: none"> ▪ IP setbacks: 60' front, 25' side, 25' rear setback ▪ IL setbacks: 40' front, 40' side, 40' rear setback ▪ IH setbacks: 50' front, 30' side, 40' rear setback ▪ If abutting residential, additional standards shall be met.
Metro Nashville	<ul style="list-style-type: none"> ▪ IWD-Industrial Warehousing/Distribution ▪ IR-Industrial Restrictive ▪ IG-Industrial General 	<ul style="list-style-type: none"> ▪ IWD: Max height is 30 feet ▪ IR: Max height is 45 feet ▪ IG: Max height is 60 feet 	<ul style="list-style-type: none"> ▪ IWD, IR, IG setbacks: 0' side setback, 20 rear setbacks ▪ Additional standards and requirements must be met depending on the street classification for the front setback
Smyrna	<ul style="list-style-type: none"> ▪ I-1 Light Industrial ▪ I-2 Light Industrial ▪ I-3 Heavy Industrial 	<ul style="list-style-type: none"> ▪ I-1, I-2: Max height is 50 feet ▪ I-3: Max height is 80 feet 	<ul style="list-style-type: none"> ▪ I-1 setbacks: 30' front, 20' side, 25' rear setback ▪ I-2 setbacks: 60' front, 30' side, 30' rear setback ▪ I-3 setbacks: 100' front, 50' side, 50' rear setback

Table 2.0 Accessory structure standards

City	<i>Setback Standards</i>	<i>Height Standards</i>	<i>Special Notes</i>
Chattanooga	<ul style="list-style-type: none"> ▪ Separated at least 3 feet from principal structure ▪ Separated at least 5 feet from all side and rear lot lines 	<ul style="list-style-type: none"> ▪ Cannot exceed maximum height of that district and Chattanooga ordinance 	<ul style="list-style-type: none"> ▪ Standards on structures vary based on use
Clarksville	<ul style="list-style-type: none"> ▪ Must meet all required setbacks for that district 	<ul style="list-style-type: none"> ▪ Cannot exceed maximum height of that district 	<ul style="list-style-type: none"> ▪ Standards on structures vary based on use but generally apply to all districts
Columbia	<ul style="list-style-type: none"> ▪ Shall not be located between front wall of primary structure and street ▪ Separated at least 5 feet away from principal structure 	<ul style="list-style-type: none"> ▪ Cannot exceed maximum height of that district 	
Franklin	<ul style="list-style-type: none"> ▪ Separated at least 5 feet behind principal structure ▪ Separated at least 5 feet from any lot line 	<ul style="list-style-type: none"> ▪ Cannot exceed maximum height of the principal structure 	
Jackson	<ul style="list-style-type: none"> ▪ Separated at least 5 feet from any principal structure ▪ Cannot be closer to the front setback line than the principal building 	<ul style="list-style-type: none"> ▪ Cannot exceed maximum height of that district 	<ul style="list-style-type: none"> ▪ Standards on structures vary based on use and some structures are allowed height exceptions
Knoxville	<ul style="list-style-type: none"> ▪ Separated at least 5 feet from any lot line ▪ Separated at least 5 feet from principal structure 	<ul style="list-style-type: none"> ▪ Cannot exceed maximum height of the principal structure 	<ul style="list-style-type: none"> ▪ “Certain” uses are permitted within a setback but may be subject to additional limitations
Lavergne	<ul style="list-style-type: none"> ▪ Be subordinate to the principal use 	<ul style="list-style-type: none"> ▪ Cannot exceed maximum height of the principal structure 	<ul style="list-style-type: none"> ▪ Standards and exceptions on structures vary based on use
Lebanon	<ul style="list-style-type: none"> ▪ Separated at least 5 feet from the side or rear lot lines and cannot be located in any buffer yards 	<ul style="list-style-type: none"> ▪ Cannot exceed height of the principal structure 	
Metro Nashville	<ul style="list-style-type: none"> ▪ Must meet all required setbacks of that district 	<ul style="list-style-type: none"> ▪ Cannot exceed maximum height of the principal structure 	<ul style="list-style-type: none"> ▪ “Certain” uses are permitted within a setback but may be subject to additional limitations
Smyrna	<ul style="list-style-type: none"> ▪ Must meet all required setbacks for that district 	<ul style="list-style-type: none"> ▪ Cannot exceed maximum height of that district 	<ul style="list-style-type: none"> ▪ Structure cannot exceed 10% of total square footage of principal structure or cannot exceed 5,000 square feet

Industrial Accessory Structure Examples

By: Murfreesboro Planning Department



Street Level View



Example: General Mills

Aerial View

Example: General Mills



Street Level View



Example: Heritage Farms Dairy

Aerial View



Example: Heritage Farms Dairy

Street Level View



Example: SledgeCraft Inc

Aerial View



Example: SledgeCraft Inc

Street Level View



Example: Rich Products Corp

Aerial View

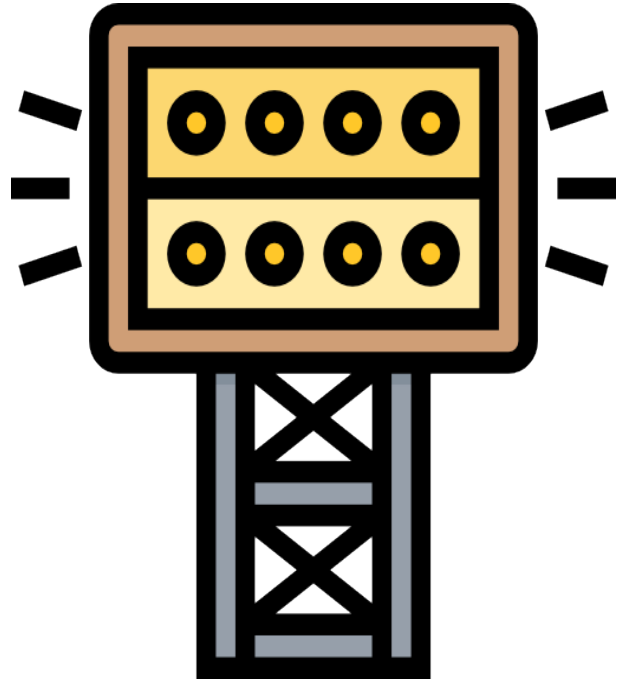
Butler Street

Butler Drive

(I 24)

Example: Rich Products Corp





Study of Recreation Field Light Fixtures

By: Murfreesboro Planning Department

Areas of interest for
this study included:

1. Siegel Park main soccer fields
2. Practice soccer fields at Siegel Park (Jordan Farm portion)
3. Starplex fields at Sportscom
4. MTSU soccer fields
5. Riverdale football stadium

Photos of these areas were taken during various parts of
the day and night.



Siegel Park Soccer Fields
Lights (Day)



Soccer field lights height:

- 70 feet



Siegel Park Soccer Fields Lights (Day) Continued



Siegel Park Soccer Fields
Lights (Night)



Soccer field lights height:

- 70 feet



Siegel Park Soccer Fields Lights (Night) Continued



Siegel Park Soccer Fields
Lights Jordan Farms (Day)



Soccer field lights height:

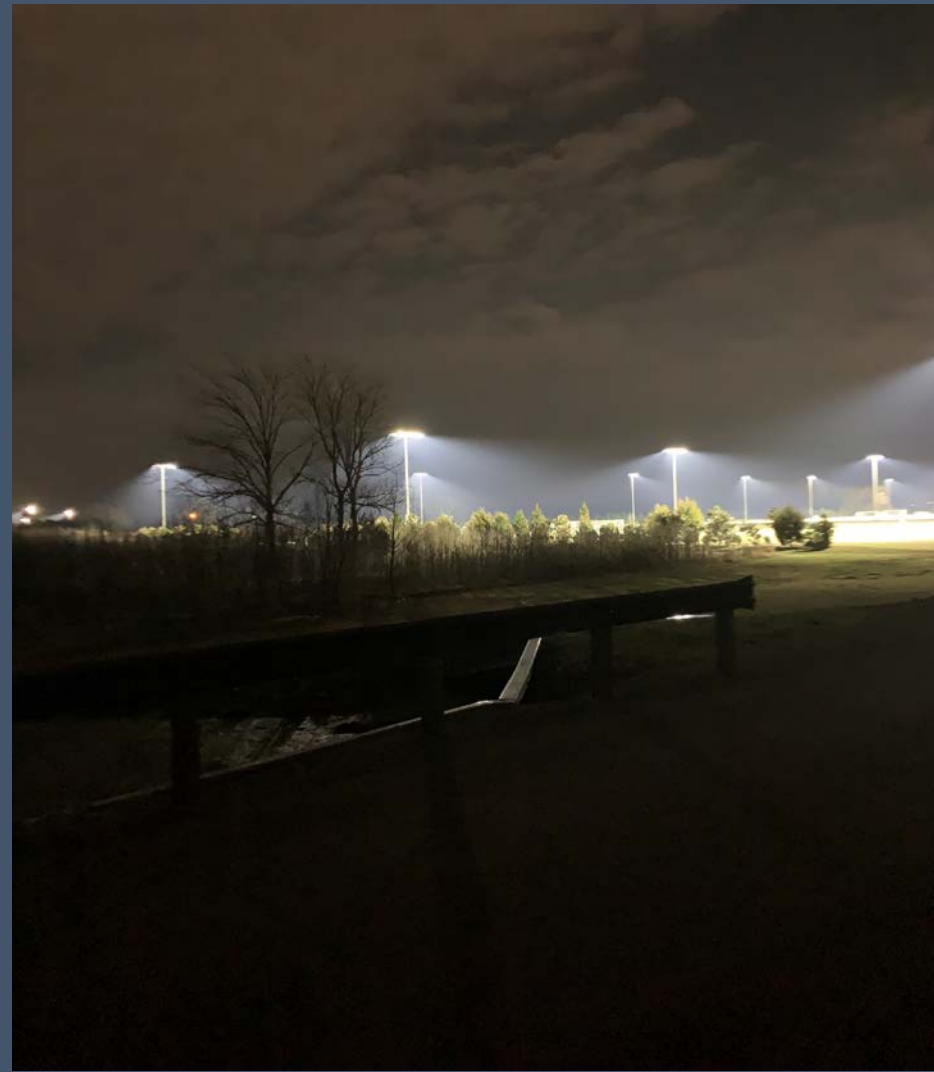
- 70 feet



Siegel Park Soccer Fields Lights Jordan Farms (Day) Continued

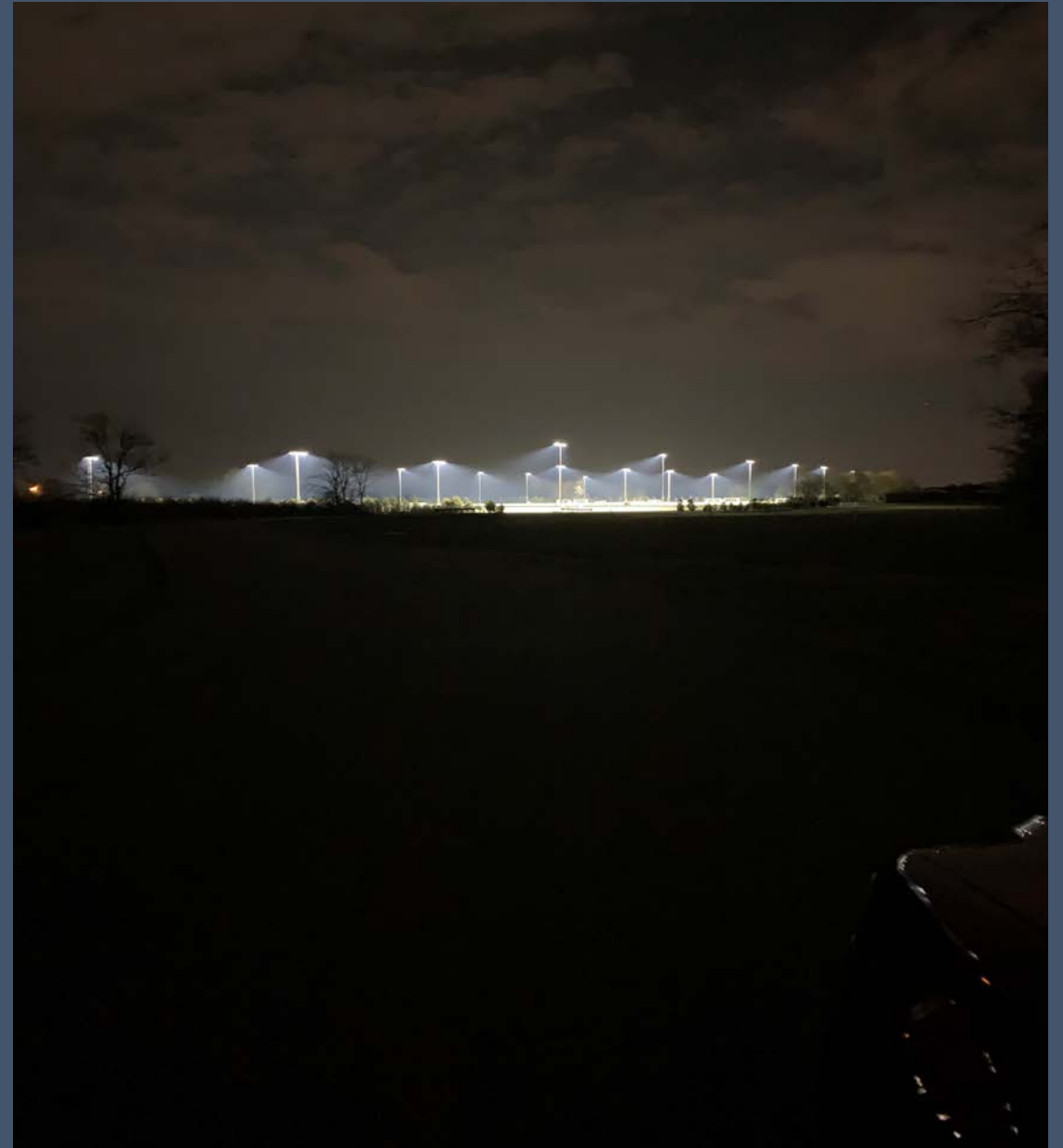


Siegel Park Soccer Fields
Lights Jordan Farms (Night)



Soccer field lights height:

- 70 feet



Siegel Park Soccer Fields Lights Jordan Farms (Night) Continued



Starplex fields at
Sportscom(Day)



Starplex field lights:

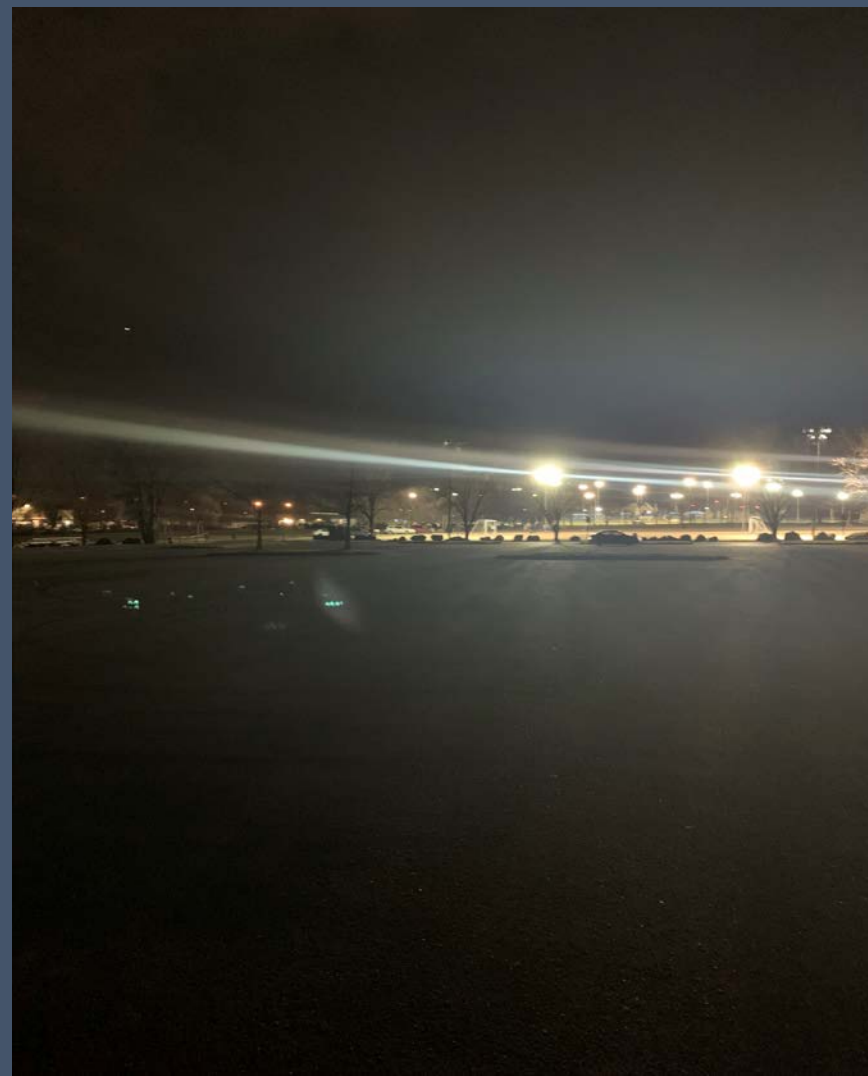
- 60 to 70 feet (close to field)
- 50 feet (close to runway)



Starplex Fields at Sportscom (Day) Continued



Starplex fields at
Sportscom(Night)



Starplex field lights:

- 60 to 70 feet (close to field)
- 50 feet (close to runway)



Starplex Fields at Sportscom (Night) Continued



MTSU Soccer Field
Lights (Day)



Soccer field lights height:
▪ 130 to 140 feet



MTSU Soccer Field Lights (Day) Continued

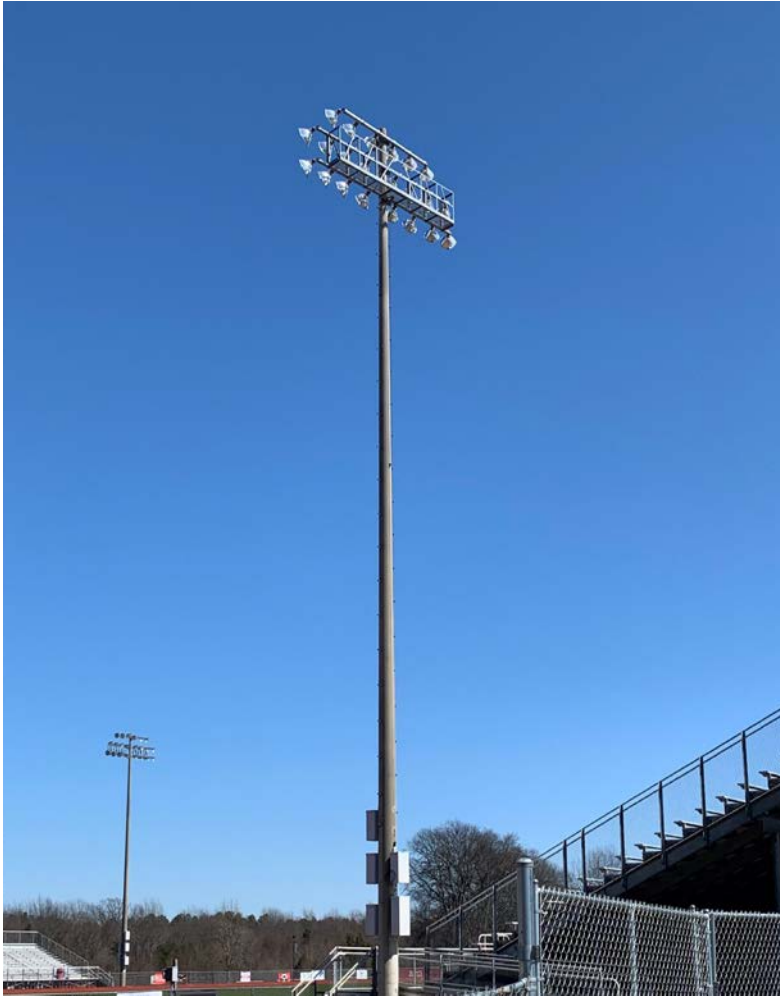


(Field lights were not on during the time of this study so no photographs were able to be taken)

MTSU Soccer Field
Lights (Night)

Soccer field lights height:

- 70 feet



Riverdale Football
Stadium Lights (Day)



Riverdale football stadium field lights:

- 110 feet (home side)
- 90 feet (visitors side)



Riverdale Football Stadium Lights (Day) Continued



(Field lights were not on during the time of this study so no photographs were able to be taken)

Riverdale Football Stadium Lights (Night)

Riverdale football stadium field lights:

- 110 feet (home side)
- 90 feet (visitors side)

MINUTES OF THE MURFREESBORO PLANNING COMMISSION MARCH 2, 2022

6:00 PM

CITY HALL

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

STAFF PRESENT

Sam Huddleston, Executive Dir. Comm. Dev.
Margaret Ann Green, Principal Planner
Joel Aguilera, Planner
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney

1. Call to order.

Chair Kathy Jones called the meeting to order at 6:00 p.m.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Approve minutes of the February 16, 2022, Planning Commission meeting.

Ms. Jami Averwater moved to approve the Minutes of the February 16, 2022, Planning Commission meeting; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Jami Averwater

Rick LaLance

Warren Russell

Chase Salas

Shawn Wright

Nay: None.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION MARCH 2, 2022

4. Public Hearings and Recommendations to City Council:

Proposed amendment to the Zoning Ordinance [2022-801] pertaining to the following:

☐ Section 2: Interpretation and Definitions;

☐ Section 18: Regulations of General Applicability;

☐ Section 25: Temporary and Accessory Structures and Uses;

☐ Section 34: Floodplain Zoning; and

☐ Chart 2: Minimum Lot Requirements, Minimum Yaw Requirements, and Land Use Intensity Ratios (including Chart 2 endnotes).

City of Murfreesboro Planning Department applicant.

Ms. Margaret Ann Green presented the Staff Comments regarding this item, a copy which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the request; therefore, Chair Kathy Jones closed the public hearing.

The Planning Commission discussed the proposed amendments and agreed they should be deferred. They requested for additional specifications regarding the maximum building heights for industrial accessory structures and recreation field lights.

Mr. Rick LaLance moved to defer the proposed amendment to the Zoning Ordinance until March 16, 2022; the motion was seconded by Mr. Warren Russell and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Jami Averwater

Rick LaLance

MINUTES OF THE MURFREESBORO PLANNING COMMISSION MARCH 2, 2022

Warren Russell

Chase Salas

Shawn Wright

Nay: None.

5. Staff Reports and Other Business:

Mandatory Referral [2022-701] to consider the abandonment of a water and sanitary sewer easement located on property at the southwest corner of South Church Street and Westgate Boulevard, Josh Hutcheson of Fulmer Lucas applicant. Ms. Margaret Ann Green presented the Staff Comments regarding this item, a copy which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Ms. Margaret Ann Green stated that staff recommends that the Planning Commission recommend approval of the Mandatory Referral to City Council subject to the following conditions:

1. The applicant must provide to the City Legal Department all the necessary documentation (including any needed legal descriptions and exhibits) required to prepare and record the legal instrument. The legal instrument will be subject to the final review and approval of the City Legal Department.
2. The applicant will be responsible for recording the legal instrument, including paying any recording fees.

There being no further discussion, Mr. Rick LaLance moved to approve the Mandatory Referral subject to all staff comments; the motion was seconded by Ms. Jami Averwater and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

MINUTES OF THE MURFREESBORO PLANNING COMMISSION MARCH 16, 2022

1:00 PM

CITY HALL

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

STAFF PRESENT

Greg McKnight, Planning Director
Matthew Blomeley, Asst. Planning Dir.
Margaret Ann Green, Principal Planner
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Amelia Kerr, Planner
Brad Barbee, Planner
Joel Aguilera, Planner
Katie Noel, Project Engineer
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney
Teresa Stevens, Sign Administrator
Sam Huddleston, Executive Dir. Comm. Dev.
Gary Whitaker, Assistant City Manager

1. Call to order.

Chair Kathy Jones called the meeting to order at 1:00 p.m.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Approve minutes of the March 2, 2022, Planning Commission meeting.

Mr. Warren Russell moved to approve the Minutes of the March 2, 2022 Planning Commission meeting; the motion was seconded by Ms. Jami Averwater and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance

MINUTES OF THE MURFREESBORO PLANNING COMMISSION MARCH 16, 2022

Mr. Gary Whitaker came forward to address any questions.

There being no further discussion, Mr. Rick LaLance moved to approve the Mandatory Referral; the motion was seconded by Mr. Warren Russell and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Jami Averwater

Rick LaLance

Warren Russell

Chase Salas

Shawn Wright

Nay: None.

Proposed amendment to the Zoning Ordinance [2022-801]

☐ Section 2: Interpretation and Definitions;

☐ Section 18: Regulations of General Applicability;

☐ Section 25: Temporary and Accessory Structures and Uses;

☐ Section 34: Floodplain Zoning; and

☐ Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and

Land Use Intensity Ratios (including Chart 2 endnotes).

City of Murfreesboro Planning Department applicant.

Mr. Matthew Blomeley presented the Staff Comments regarding this item, a copy which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference. Mr. Blomeley distributed exhibits to the Planning Commission for their review regarding setbacks in industrial zoning districts as well as photographs of existing light fixtures at various recreation fields.

The Planning Commission discussed the proposed amendments.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION MARCH 16, 2022

Mr. Rick LaLance moved to approve the proposed amendments to the Zoning Ordinance subject to the following: changing the minimum required distance of industrial accessory structures greater than 75' in height to 600 feet from residential property and adding the language proposed by Staff regarding light fixtures for recreation fields to be designed so the light is directed towards the field themselves and away from adjacent properties; the motion was seconded by Vice-Chairman Ken Halliburton and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Jami Averwater

Rick LaLance

Chase Salas

Warren Russell

Shawn Wright

Nay: None.

11. Adjourn.

There being no further business the meeting adjourned at 4:20 p.m.

Chair

Secretary

GM: cj

ORDINANCE 22-O-06 amending Murfreesboro City Code Appendix A—Zoning, Sections 2, 18, 25, 34, Chart 2, and Chart 2 Endnotes, dealing with maximum building height for accessory structures in industrial districts, maximum height of light fixtures at recreation fields and regulations pertaining to development in regulatory floodways, City of Murfreesboro Planning Department, applicant [2022-801].

WHEREAS, the City of Murfreesboro participates in the National Flood Insurance Program; and,

WHEREAS, there is an occasional need to modify the floodplain and the regulatory floodway with the preliminary approval of the Federal Emergency Management Agency.

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

SECTION 1. Appendix A, Section 2, Interpretation and Definitions, of the Murfreesboro City Code is hereby amended by inserting the following definition alphabetically into the list of definitions:

Recreation field: An area developed with open-air fields or courts intended for athletic or recreational purposes and/or competitive games or sports. This includes, but is not limited to, a baseball field, football field, soccer field, and tennis courts. Recreation fields may contain accessory structures, including, but not limited to, fences, restrooms, concession stands, storage buildings, lighting fixtures, bleachers, and grandstands. Recreation fields may be a principal use, or they may be accessory to other uses, such as an institutional group assembly use or a commercial outdoor amusement use.

SECTION 2. Appendix A, Section 18, Regulations of General Applicability, of the Murfreesboro City Code is hereby amended at subsection (G)(14) by deleting it in its entirety and substituting in lieu thereof the following:

- (14) Light fixtures for recreation fields shall comply with all applicable lighting requirements listed in this article, except for any conflicting regulation regarding fixture height. Additionally, light fixtures for recreation fields shall be designed so that the light emitted is directed downward towards the fields themselves and not outward. Such light fixtures shall be designed to minimize glare and light spillover onto adjacent properties and public rights-of-way. Evidence of compliance with these and all applicable lighting standards shall be submitted for review during the site plan review process. Additional standards may be required by the Planning Commission and/or the Planning Director during the site plan review process (and/or by the Board of Zoning Appeals, during the special use permit process, if applicable) to minimize glare and light spillover onto adjacent properties and public rights-of-way, including, but not limited to, additional shielding, bulb type, or other types of modern technology used for this purpose.

Light fixtures for recreation fields shall be subject to the following maximum height requirements:

- Light fixtures accessory to recreation fields, where such recreation field use is permitted as a principal use by right, shall not exceed 80 feet in height. Light fixtures accessory to recreation fields, where such recreation field use is permitted as a principal use by special use permit, may be approved up to a maximum height of 80 feet by the Board of Zoning Appeals in its granting of the special use permit.
- Light fixtures accessory to recreation fields that are accessory to an institutional group assembly use, where such institutional group assembly use is permitted by right, shall not exceed 80 feet in height. Light fixtures accessory to recreation fields that are accessory to an institutional group assembly use, where such institutional group assembly use requires a special use permit, may be approved up to a maximum height of 80 feet by the Board of Zoning Appeals in its granting of the special use permit.
- Light fixtures accessory to recreation fields that are accessory to a commercial outdoor amusement use, where such commercial outdoor amusement use is permitted by right, shall not exceed 80 feet in height. Light fixtures accessory to recreation fields that are accessory to a commercial outdoor amusement use, where such commercial outdoor amusement use requires a special use permit, may be approved up to a maximum height of 80 feet by the Board of Zoning Appeals in its granting of the special use permit. However, light fixtures for recreation fields accessory to commercial outdoor amusement uses (whether such use is permitted by right or by special use permit) may have a maximum height of 100 feet if they are located on a lot of at least 50 acres and all light fixtures exceeding 80 feet in height are located at least 300 feet from the nearest property zoned or used for residential purposes, as measured from the property line of any such residential property to the base of the light fixture.

The above standards pertaining to the height of light fixtures for recreation fields shall not be superseded by the maximum heights listed in Chart 2 of this article, any other provision in Section 18 of this article pertaining to light fixture height, or any overlay district regulations except for any applicable height restrictions in the Airport Overlay District.

SECTION 3. Appendix A, Section 25, Temporary and Accessory Structures and Uses, of the Murfreesboro City Code is hereby amended at subsection (E)(4) by deleting it in its entirety and substituting in lieu thereof the following:

- (4) no accessory structure shall exceed the height limitations of the district in which such structure is located except for the following:
 - (a) In the L-I, G-I, and H-I districts, the maximum building height for accessory structures for uses classified as industrial in Chart 1 of this article shall be 100 feet. The following minimum building setback requirements shall apply to any such accessory structure that exceeds 75 feet in height:
 - [1] A minimum distance equal to its building height from any property line.

[2] A minimum distance of 600 feet from any contiguous property zoned or used for residential purposes (as measured from the lot line of any contiguous residential property).

(b) lighting fixtures accessory to recreation fields shall be subject to the height requirements denoted for such in Section 18 of this article.

SECTION 4. Appendix A, Section 34, Floodplain Zoning, of the Murfreesboro City Code is hereby amended at Article V, Provisions for Flood Hazard Reduction, by deleting subsections (C) through (H) in their entirety and substituting in lieu thereof the following and adding new subsection (I) as follows:

(C) *Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated.* Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris, or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;
- (2) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the applicant first applies for a conditional letter of map revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of FEMA;
- (3) ONLY if Article V, Section C, provisions (1) through (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article V, Sections A and B.

(D) *Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated.* Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

- (1) Require until a regulatory floodway is designated, that no new construction, substantial, or other development, including fill shall be permitted within Zone AE on the community's FIRM, unless it is demonstrated through hydrologic and hydraulic analyses performed that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
- (2) A community may permit encroachments within Zones AE on the community's FIRM, that would result in an increase in the water surface elevation of the base flood, provided that the applicant first applies for a conditional letter of map revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of FEMA;

- (3) ONLY if Article V, Section D, provisions (1) through (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article V, Sections A and B.

(E) *Standards for streams without established base flood elevations or floodways (A Zones)*. Located within the areas of special flood hazard areas established in Article III, subsection (B), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

- (1) The Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any Federal, State or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V subsections (A) and (B).
- (2) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data.
- (3) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least one foot (1') above the highest adjacent grade (as defined in Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV subsection (B). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V subsection
- (4) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point with the City of Murfreesboro, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (5) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V subsections (A) and (B). Within approximate A Zones, require that those subsections of Article V subsection (B) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(F) *Standards For Areas of Shallow Flooding (Zone AO)*. Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article V, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The lowest floor (including basement) shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one (1) foot above the highest adjacent grade; or at least three (3) feet above the highest adjacent grade, if no depth number is specified.

- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article V, Section F(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article IV, Section B(1) (c) and Article V, Section B(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(G) *Standards For Areas of Shallow Flooding (Zone AH).* Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to meeting the requirements of Article V, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(H) *Standards for areas protected by flood protection system (A-99 Zones).* Located within the areas of special flood hazard established in Article III are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of Article IV and Article V subsection (A) shall apply.

(I) *Standards for Unmapped Streams.* Located within Murfreesboro, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

- (1) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
- (2) When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.
- (3) ONLY if Article V Section I, provisions (1) through (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article V, Sections A and B.

SECTION 5. Appendix A, Chart 2, Minimum Lot Requirements, Minimum Yard Requirements and Land Use Intensity Ratios, of the Murfreesboro City Code is hereby amended by deleting it in its entirety and substituting in lieu thereof the attached Chart 2.

Changes include separating L-I, G-I, and H-I each into “industrial uses” and “all other uses”, adding Superscript “8” in the “Maximum Height” column for industrial uses in the L-I, G-I, and H-I rows, and deleting Superscript “10” for the “Minimum Side Yard Requirement” column in the RS-8 row.

SECTION 6. Appendix A, Chart 2 Endnotes, Minimum Lot Requirements, Minimum Yard Requirements and Land Use Intensity Ratios, of the Murfreesboro City Code is hereby amended by deleting endnote 8 in its entirety and substituting in lieu thereof the following:

8. See Section 25 of this article for applicable height regulations for accessory structures.”

SECTION 7. 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 _____

ATTEST:

Jennifer Brown
City Recorder

Shane McFarland, Mayor

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

43A2033E51F9401...
Adam F. Tucker
City Attorney

SEAL

	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			
DISTRICT AND USE	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	Maximum Lot Coverage (percent)
RS-15 DISTRICT											
1. Dwellings and other uses permitted	15,000	75 ^[12]	40	12.5	30	35	2.9	none	none	none	25
RS-12 DISTRICT											
1. Dwellings and other uses permitted	12,000	70 ^[12]	35	10	25	35	3.63	none	none	none	25
RS-10 DISTRICT											
1. Dwellings and other uses permitted	10,000	65 ^[12]	35	10	25	35	4.4	none	none	none	25
RS-8 DISTRICT											
1. Dwellings and other uses permitted ^[28]	8,000	55 ^[12]	35 ^{[1][29]}	5	20	35	5.4	none	none	none	30
RS-6 DISTRICT											
1. Dwellings and other uses permitted ^[28]	6,000	50 ^[12]	35 ^{[1][29]}	5	20	35	7.2	none	none	none	50
RS-4 DISTRICT											
1. Dwellings and other uses permitted ^[28]	4,000	40 ^[12]	35 ^{[1][29]}	5	20	35	10.8	none	none	none	40
R-D DISTRICT											
1. Single-family detached dwellings and other uses permitted except ^[28]	8,000	55 ^[12]	35 ^{[1][29]}	5	25	35	5.4	none	none	none	30
2. Two-family dwellings	8,000	55 ^[12]	30 ^[1]	5	25	35	10.9	none	none	none	30
3. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	4,000	27 ^[12]	35 ^[1]	10 ^[7]	25	35	10.9	none	none	none	none

	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			
DISTRICT AND USE	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	Maximum Lot Coverage (percent)
RM-12 DISTRICT											
1. Single-family detached dwellings and other uses permitted except ^[28]	7,500	50 ^[12]	35 ^{[1][37]}	5	25	35	5.8	none	none	none	30
2. Two-family dwellings	7,500	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
3. Three-family dwellings	11,250	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
4. Four-family dwellings	15,000	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
5. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	3,750	18 ^[12]	35 ^{[1][37]}	10 ^[7]	25	35	11.6	none	none	none	none
6. Multiple-family dwellings and Single-family attached townhouse dwellings ^[30]	FN ^[14]	50 ^[12]	30 ^[1]	FN ^[3]	25	45 ^[11]	FN ^[14]	none	none	FN	none
RM-16 DISTRICT											
1. Single-family detached dwellings and other uses permitted except ^[28]	6,000	50 ^[12]	35 ^{[1][37]}	5	25	35	7.3	none	none	none	35
2. Two-family dwellings	6,000	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	35
3. Three-family dwellings	9,000	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	30
4. Four-family dwellings	12,000	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	30
5. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	3,000	18 ^[12]	35 ^{[1][37]}	10 ^[7]	25	35	14.5	none	none	none	none
6. Multiple-family dwellings and Single-family attached townhouse dwellings ^[30]	FN ^[9]	50 ^[12]	30 ^[1]	FN ^[3]	25	45 ^[11]	FN ^[9]	none	none	FN	none
RS-A DISTRICT^[35]											
1. Single-family detached and single-family attached or detached with zero-lot line (max. 2 units attached) ^{[7][28][31]}	3,000	30 ^[12]	35 ^{[1][37]}	5	20	35	14.5	none	none	none	none
2. Single-family attached townhouse on one lot or individual lots (Suburban Type) ^{[30][32][33]}	2,000 ^[36]	20 ^[36]	35 ^[1]	5	20	35	12	1	0.5	0.25	none
3. Single-family attached townhouse on one lot or individual lots (Urban Type) ^{[30][32][33][34]}	2,000 ^[36]	20 ^[36]	20 ^{[1][34]}	5	20	45 ^[34]	12	1	none	none	none

Ordinance 22-O-06 Attachment

Chart 2
Page 3 of 6

Revised _____

	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			
	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	Maximum Lot Coverage (percent)
DISTRICT AND USE											
4. Other uses permitted	6,000	30 ^[12]	30 ^[1]	10	20	35	none	none	none	none	35

	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			
DISTRICT AND USE	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	Maximum Lot Coverage (percent)
R-MO DISTRICT											
1. Mobile homes	4,000	40 ^[12]	25 ^[1]	10	15	12	10.9	none	none	none	none
CM-R DISTRICT											
1. Single-family detached	5,000	50 ^[12]	35 ^{[1][29]}	10	20	35	8.7	none	none	none	none
2. Two-family dwellings	5,000	50 ^[12]	30 ^[1]	10	20	35	16	none	none	none	none
3. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	2,500	30	35 ^[1]	10	20	35	16	none	none	none	none
4. Single-family attached townhouse dwellings ^[30]	2,500	50 ^[12]	30 ^[1]	10	20	35	16 ^[9]	0.3	0.48	0.7	none
5. Four-family dwellings	15,000	50 ^[12]	30 ^[1]	5	25 ^[4]	35	11.6	none	none	none	30
6. Medical offices, clinics, and other related uses	none	50 ^[12]	30 ^[1]	10	20	60	none	none	none	none	none
CM DISTRICT											
1. Medical offices, clinics, and other related uses	none	50 ^[12]	30 ^[1]	10	20	60	none	none	none	none	none
CM-RS-8 DISTRICT											
1. Single-family detached	8,000	50 ^[12]	35 ^{[1][29]}	10	20	35	5.4	none	none	none	none
2. Medical offices, clinics, and other related uses	none	50 ^[12]	30 ^[1]	10	20	60	none	none	none	none	none
OG-R DISTRICT											
1. Offices and other uses except	5,000	50 ^[12]	30 ^[1]	10	20	35	none	0.3	0.28	0.6	none
2. Single-family detached	5,000	50 ^[12]	35 ^{[1][29]}	10	20	35	8.7	none	none	none	none
3. Two-family dwellings	5,000	50 ^[12]	30 ^[1]	10	20	35	17.4	none	none	none	none
4. Three-family dwellings	7,500	50 ^[12]	30 ^[1]	10	20	35	17.4	none	none	none	30
5. Four-family dwellings	12,000	50 ^[12]	30 ^[1]	10	20	35	14.5	none	none	none	30
6. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	2,500	25 ^[12]	35 ^[1]	10	20	35	17.4	none	none	none	none
OG DISTRICT											
1. Offices and other uses	5,000	50 ^[12]	30 ^[1]	10	20	35	none	0.3	0.28	0.6	none

	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			
DISTRICT AND USE	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	Maximum Lot Coverage (percent)
CL DISTRICT											
1. All commercial uses except	none	none ^[13]	42	10 ^[6]	20	35	none	none	none	none	none
2. Single-family detached dwellings ^[28]	7,500	50 ^[12]	35 ^{[1][29]}	5	25	35	5.8	none	none	none	30
3. Two-family dwellings	7,500	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
4. Three-family dwellings	11,250	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
5. Four-family dwellings	15,000	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
6. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	3,750	18 ^[12]	35 ^[1]	10 ^[7]	25	35	11.6	none	none	none	none
CF DISTRICT											
1. All uses	none	none ^[13]	42	10 ^[15]	20 ^[15]	45	none	none	none	none	none
CH DISTRICT											
1. All uses	none	none ^[13]	42	10 ^[6]	20	75	none	none	none	none	none
MU DISTRICT											
1. Multiple family dwellings	5 acres	100 ^[20]	15 ^[21]	10 ^[22]	20 ^[23]	75	25 ^[24]	none	none	none	none
2. All commercial uses except mixed use	none	100 ^[20]	15 ^[21]	10 ^[22]	20 ^[23]	150	none	none	none	none	none
3. Mixed uses (vertical mix)	none	100 ^[20]	15 ^[21]	10 ^[22]	20 ^[23]	150	25 ^[24]	none	none	none	none
CBD DISTRICT											
1. All uses except	none	none ^[13]	none	none	none	75	none	none	none	none	none
2. Multiple-family dwellings	none	none ^[13]	none	none	none	75	FN ^[8]	none	none	none	none
H-I DISTRICT											
1. Industrial uses	none	50 ^[13]	42	10	20	75 ^[8]	none	none	none	none	none
2. All other permitted uses	none	50 ^[13]	42	10	20	75	none	none	none	none	none
G-I DISTRICT											
1. Industrial uses	none	50 ^[13]	42	10	20	75 ^[8]	none	none	none	none	none
2. All other permitted uses	none	50 ^[13]	42	10	20	75	none	none	none	none	none
L-I DISTRICT											
1. Industrial uses	none	50 ^[13]	42	10	20	75 ^[8]	none	none	none	none	none
2. All other permitted uses	none	50 ^[13]	42	10	20	75	none	none	none	none	none

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Hangar 1 Construction Change Order No. 5

Department: Airport

Presented by: Scott Elliott, Project Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Change Order #5 for additional underground utility items, and change in flooring Material

Staff Recommendation

Approval Change Order for the Hangar 1 Replacement project.

Background Information

In order to gain cost efficiencies in the impending fuel farm relocation, which will be adjacent to the Hangar 1, it is beneficial to incorporate certain work into the current the scope of work for Hangar 1. The Change Order adds the cost of a 1- 2" communication conduit, a 2- 4" electrical service conduits, and a 1' water service line. These additional costs are necessary to avoid the additional future expense of demolition, trenching, and repairs to new asphalt laid for Hangar 1 when the fuel farm construction is initiated.

The cost associated with this change order is an additional sum of \$78,016 to the total project cost. This amount is funded from the FY21 CIP.

Council Priorities Served

Improve economic development

The new hangar project will expand Airport infrastructure with the construction of a new modern and versatile hangar facility allowing for the use of one or more tenants and providing for the creation of highly skilled jobs within the City.

Fiscal Impact

The change order, \$78,016, is funded by the FY21 CIP and Airport Fund Balance. It increases the total project costs for Hangar 1 to \$4,381,553, with an associated savings for the project cost of the fuel farm project.

Attachments

Change Order for Design Build Contract (Change Order No. 5) with Morgan Construction Co.

AIA® Document G741™ – 2015

Change Order for a Design-Build Project

PROJECT (Name and address): Murfreesboro Airport Hangar 1 Replacement Murfreesboro, TN	CHANGE ORDER NUMBER: 5 DATE: 4/29/2022	OWNER: <input checked="" type="checkbox"/> DESIGN-BUILDER: <input checked="" type="checkbox"/> ARCHITECT: <input checked="" type="checkbox"/> FIELD: <input type="checkbox"/> OTHER: <input type="checkbox"/>
TO DESIGN-BUILDER (Name and address): Morgan Construction Co., Inc. P.O. Box 4404 690 Manufacturers Road Chattanooga, TN 37405	OWNER'S PROJECT NUMBER: 2012 DESIGN-BUILD CONTRACT DATE: March 31, 2021 DESIGN-BUILD CONTRACT FOR: General Construction	

THE DESIGN-BUILD CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Change Directives)

Change Request #17 - Add \$2,063 See Attached
Change Request #18 - Add \$75,953 See Attached

The original Contract Sum was	\$	4,038,015.96
The net change by previously authorized Change Orders	\$	36,596.00
The Contract Sum prior to this Change Order was	\$	4,074,611.96
The Contract Sum will be increased by this Change Order in the amount of	\$	78,016.00
The new Contract Sum including this Change Order will be	\$	4,152,627.96

The Contract Time will be unchanged by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is June 20, 2022.

NOTE: This Change Order does not include changes in the Design-Builder's compensation, Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Change Directive until the cost and time have been agreed upon by both the Owner and Design-Builder, in which case a Change Order is executed to supersede the Change Directive.

When executing this Change Order, the Design-Builder represents that all changes to Project design implemented by this Change Order have been reviewed and approved in writing by the Architect or other licensed design professional(s) of record for the Project.

NOT VALID UNTIL SIGNED BY THE DESIGN-BUILDER AND OWNER.

Morgan Construction Company, Inc.

DESIGN-BUILDER (Firm name)

P.O. Box 4404
690 Manufacturers Road
Chattanooga, TN 37405-4404

ADDRESS

BY (Signature)

Matthew Williams, President

(Typed name)

DATE

4/29/22

City of Murfreesboro

OWNER (Firm name)

111 West Vine Street
Murfreesboro, TN 37133-1139

ADDRESS

BY (Signature)

Shane McFarland, Mayor

(Typed name)

DATE

CU



March 15, 2022

Chad Gehrke
City of Murfreesboro
P.O. Box 1139
Murfreesboro, TN 37133-1139

RE: Murfreesboro Hangar (CR#17)
Murfreesboro, TN

Dear Chad:

The cost add to install LVT in lieu of VCT is \$2,063.

If this change is acceptable to you, please sign and return a copy of this letter for our files.

Approved: John D. Smith Date: 3/17/22

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Michener", written over a horizontal line.

Michael Michener
Project Manager

GENERAL CONTRACTORS

P.O. Box 4404 • Chattanooga, TN 37405 • Office: (423) 266-6218 • Fax: (423) 756-4581

Revision Estimate
Hanger Replacement
Murfreesboro, TN
2012
CR #17
RE: LVT In lieu of VCT

DATE:	March 15, 2022
T & I	19.25%
SUBS G.L.	0.238%
S.TAX	-9.75%
SF	19,840
OH&P	5.00%

[illegible]

Total Project Budget Change:	\$1,965
MCC OH & P:	\$98
Total Add/Deduct to Contract:	\$2,063

NOTES:

Only includes changes as listed above and on the subcontractors backup. All other changes are excluded.



PO Box 4404 - 690 Manufacturers Road
Chattanooga, TN 37405
Phone (423) 266-6218 Fax (423) 756-4581

March 15, 2022

Scott Adamczyk
Ozburn Hessey Co.
402 Murfreesboro Rd.
Nashville, TN 37210

Phone: (615) 254-1585

Fax: (615) 255-1293

Re: Murfreesboro Hangar
Murfreesboro, TN
Change Request #17

2012 - 09110

Dear Scott,

Please complete and return this form by: 03/22/2022. We hereby acknowledge receipt of:

add LVT in lieu of VCT

☐ We are incorporating the above change at no extra cost

☒ We propose to incorporate the above for the sum of:

\$ _____ Credit
\$ 1,960 Extra

Signed Per Email
Company Ozburn Hessey
Date 3/15/22

If this change results in a net credit or extra, please attach a cost breakdown and return with this form.

Sincerely,
Morgan Construction Company, Inc.

Jared Chastain
Estimator



A FLOORING AND CEILING COMPANY

402 MURFREESBORO ROAD • NASHVILLE, TN 37210 • (615) 254-1585

Quote

Quote #

41884

Customer PO

Contract #

Date

2/28/2022

Sales Person1

Scott Adamczyk

Sales Person2

Acct # 1582
For: 423 266-6218 Fax 423 756-4581

Job Name:

MORGAN CONSTRUCTION CO
P.O BOX 4404
CHATTANOOGA, TN 37405

2012 MURFREESBORO AIRPORT NEW
HANGAR / LVT
1930 MEMORIAL BLVD
MURFREESBORO, TN 37129
Contact: BETSY ELL BRIGHT

Quantity	General Information / Description	Unit Cost	Total
1	WE PROPOSE TO FURNISH AND INSTALL THE FOLLOWING:	\$2,925.00	\$2,925.00
EA	SHAW TERRAIN II 30MIL COLOR WILLOW.		
	MINOR FLOOR PREP.		
	\$2,925.00 - \$965.00(VCT INSTALL) = \$1,960.00 CHANGE ORDER.		

Total

Grand Total	\$2,925.00
Deposit	
Date	Ck #

Contract subject to immediate acceptance. It is understood that any alterations of the original plan upon which our price is based, and which will necessitate extra labor and/or material in completing the work, will be charged extra to our schedule prices.

All orders and contracts accepted are contingent upon strikes, differences with workmen, accidents to machinery or other causes beyond our control.

Bid is good for 30 days.

We reserve the right to withdraw this proposal at any time prior to its acceptance.

Conditions of sale are subject to credit approval.

The makers of this contract jointly and severally agree to pay all cost of collections including reasonable attorney fees.

Terms of Payment: Material to be paid for when put on job. Should the completion of work extend over a period of 30 days, it is understood that 95% of the finished work to be billed monthly, balance upon completion.

Your acceptance of this proposal will constitute a contract.

Buyer _____ Date _____ Seller _____ Date _____

April 28, 2022

Chad Gehrke
City of Murfreesboro
P.O. Box 1139
Murfreesboro, TN 37133-1139

RE: Murfreesboro Hangar (CR#18)
Murfreesboro, TN

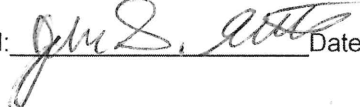
Dear Chad:

The cost to install the future fuel farm utilities is \$75,953.

Excludes rock removal or boring.

Traffic control to utilize owner's water barricades.

If this change is acceptable to you, please sign and return a copy of this letter for our files.

Approved:  Date: 4/28/22

Sincerely,



Michael Michener
Project Manager

Revision Estimate
Hanger Replacement
Murfreesboro, TN
2012
CR #18
RE: Future Fuel Farm Utilities

DATE:	April 28, 2022
T & I	19.25%
SUBS G.I.	0.238%
S.TAX	9.75%
SF	19,840
OH&P	5.00%

[illegible]

Total Project Budget Change:	\$72,336
MCC OH & P:	\$3,617
Total Add/Deduct to Contract:	\$75,953

Only includes changes as listed above and on the subcontractors backup. All other changes are excluded.

Proposal



Phone: 6158955529
Fax: 6159049669

Proposal: MBTFUELF
Date: 4/19/2022

To:	Project:
Murfreesboro Airport Attn: Chad Gehrke 1930 Memorial Blvd. PO Box 4145 Murfreesboro, TN 37129-4145	MBT Fuel Farm Memorial Blvd Murfreesboro, TN

Scope of Work

Install Underground Electric, Communication Conduit and 1" waterline across the open ramp and then open cut existing asphalt.

1. Bore pricing is available if needed.
2. Rock Hammer pricing is 325 per hour if needed.

Exclusions

1. Any bonds, permits, fees, testing fees, etc. unless on bid item report.
2. Undercutting and/or disposal of unsuitable soil.
3. Any future work designated on plans
4. Demolition, relocating existing underground utilities or underground abnormalities
5. Clean up and/or disposal of materials generated by other entities.
6. Underground de-watering.
7. Gutter or roof drain connections or plumbing.
8. Hazardous material re-mediation and/or clean up.
9. Castings or utility adjustment due to unexpected grade changes.
10. As-built surveys not included.
11. Backflow preventer or meters.
12. Over excavation for trees, footings, retaining walls, etc.
13. Job layout and property corners supplied by developer.
14. Pricing good for 45 days from date.
15. No import is figured in this proposal
16. No traffic control included.
17. No rock excavation included.
18. Concrete flat work.

TERMS AND CONDITIONS

1. Separation of bid items/scope is not allowed unless mutually agreed upon.
2. This proposal is part/all of the contract.
3. This proposal may be withdrawn after 30 days.
4. Retainage will be 5% maximum per TN state law.
5. If nonpayment occurs, BCI will be reimbursed for all legal fees and interest accrued.
6. Working schedule is based on Monday thru Friday, 9 hours per day, weather permitting.
7. Owner/Engineer to supply BCI with Electronic PDF, CAD File and set a minimum of 6 control points.
8. Disposal of trees and vegetation is open burn.
9. TDOT oil index may change from the estimate date to the install date and adjust the asphalt pricing.

Reference	Description	Quantity	UOM	Extended Price
0200 Mobilization				
05.03.015	LIGHT EQUIPMENT LOCAL	1.00	EA	
05.03.020	HEAVY EQUIPMENT LOCAL	2.00	EA	
Total 0200 Mobilization				1,686.70 ✓
0550 Basestone And Asphalt				

Baker Construction Inc
3895 Betty Ford Road
Murfreesboro, TN 37130
BAKERCONSTR.COM

Proposal



Phone: 6158955529
Fax: 6159049669

Proposal: MBTFUELF
Date: 4/19/2022

To:	Project:
Murfreesboro Airport Attn: Chad Gehrke 1930 Memorial Blvd. PO Box 4145 Murfreesboro, TN 37129-4145	MBT Fuel Farm Memorial Blvd Murfreesboro, TN

Reference	Description	Quantity	UOM	Extended Price
17.090	PATCHWORK, 6 BASESTONE, 2.5 ASPHALT BINDER, 1.5 ASPHALT TOPPING	73.00	SY	
Total 0550 Basestone And Asphalt				7,787.72 ✓
1000 Domestic Water				
15.07.080	1 INCH PEX DOMESTIC WATERLINE SERVICE (100 FEET MINIMUM)	473.00	LF	
33.41.210	1 INCH CURB STOP	2.00	EA	
33.41.340	1 INCH INSERT	2.00	EA	
Total 1000 Domestic Water				4,639.73 ✓
1100 Demolition				
29.060	ASPHALT SAWING (4 INCH DEEP)	325.00	LF	
29.090	EXPORT EXCESS MATERIALS (OFF SITE)	45.00	CY	
Total 1100 Demolition				1,504.75 ✓
1200 Underground Electricity				
23.03.050	THREE PHASE PRIMARY IN STONE 2-4"; CABLE & TELEDUCT	570.00	LF	
23.03.220	PRIMARY ROAD CROSSING W/STONE BACKFILL (24" DITCH)	570.00	LF	
23.05.170	1-2" WIFI /SECONDARY CONDUIT	370.00	LF	
Total 1200 Underground Electricity				54,347.25 ✓

Proposal Total:	69,966.15 ✓
------------------------	--------------------

Acceptance	
Accepted by:	_____
Title:	_____
Date:	_____

Jared Chastain

CR#18

From: Mike Michener
Sent: Tuesday, April 12, 2022 1:04 PM
To: Jared Chastain
Cc: Clint Underwood; Tyler Mills
Subject: FW: Airport Proposed Utility Conduits and Water line for Fuel Farm
Attachments: Distance.pdf; doc03511820220408093058.pdf; 432-28 Sht 2 Proposed Fuel Farm Layout and Grading Plan-Model.pdf; Three-phase tfmr pad.pdf; airport fuel station services.png

Hey Jared,
Please see attached and below.

Thank You,
Michael L. Michener
Project Manager

mmichener@morganconstruction.com
Morgan Construction Company, Inc.
690 Manufacturers Road . Chattanooga, TN . 37405
v: 423/266-6218 f: 423/756-4581 c: 423/774-2142
www.morganconstruction.com

From: Scott Elliott <sellott@murfreesborotn.gov>
Sent: Tuesday, April 12, 2022 12:23 PM
To: Mike Michener <MMichener@morganconstruction.com>
Cc: markbaker@bakerconstr.com; Gary Whitaker <gwhitaker@murfreesborotn.gov>
Subject: Airport Proposed Utility Conduits and Water line for Fuel Farm

Mike
Attached is the proposed site plan for future fuel farm, proposed distance and location of new utilities, and existing utilities located to date. We are needing 1-2" communication spare conduit, 2- 4" conduits for primary electric service and a 1" PVC waterline.
I spoke to Mark Baker about getting estimated cost on installation of proposed conduits and waterline only, to get out in front of Hangar 1 site paving for this future project..
Let me know estimated cost asap. I will get started on the project approval, allowance, and payment process ,when I get this change request and cost from you.
Thanks!



- SITE PREPARATION:

- | | |
|---------------------------|--|
| PROJECT NO. 432-28 | |
| FEBRUARY
DATE: 2/22/22 | DRAWN BY: DSM
CHECKED BY: RNM
APPROVED BY: RNM |
| SCALE: AS NOTED | |
| SHEET NO. 2 OF 4 | |

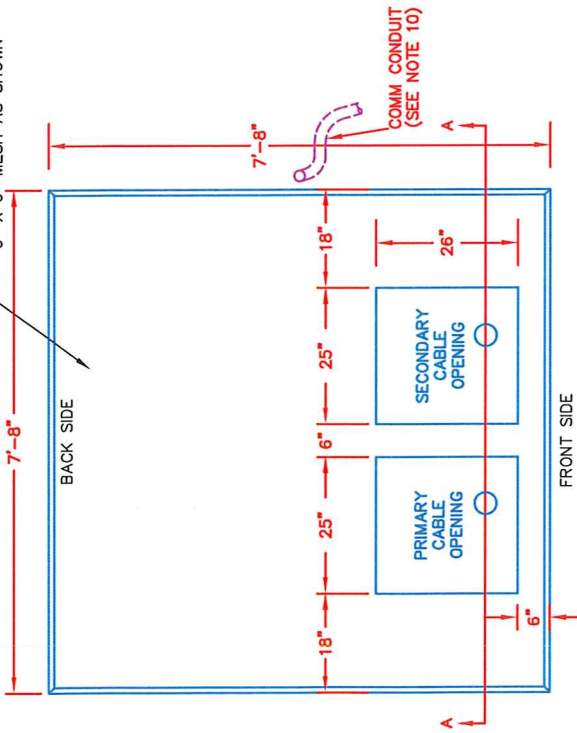
PROPOSED FUEL FARM
LAYOUT AND GRADING PLAN

NEW BULK FUEL FARM
CITY OF MURFREESBORO
MURFREESBORO MUNICIPAL AIRPORT

[illegible]

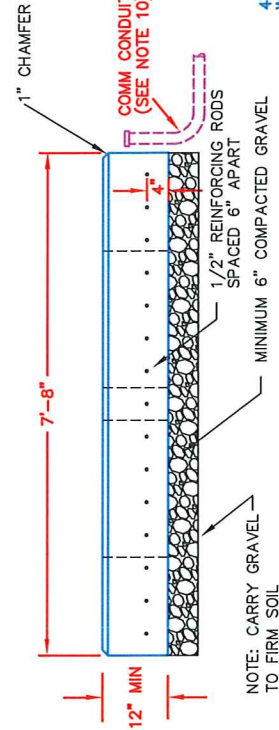
**GRIGGS & MALONEY
INCORPORATED**
Engineering & Environmental Consulting
P.O. BOX 2968, MURFREESBORO, TN 37133-2968
(615) 895-8221 • FAX (615) 895-0632

1/2" REINFORCING RODS IN 6" X 6" MESH AS SHOWN



DO NOT POUR CONCRETE AROUND CONDUIT. OPENINGS AS SHOWN ARE REQUIRED.

TOP VIEW



NOTE: CARRY GRAVEL TO FIRM SOIL

MINIMUM DESIGN STRENGTH OF 3000 PSI

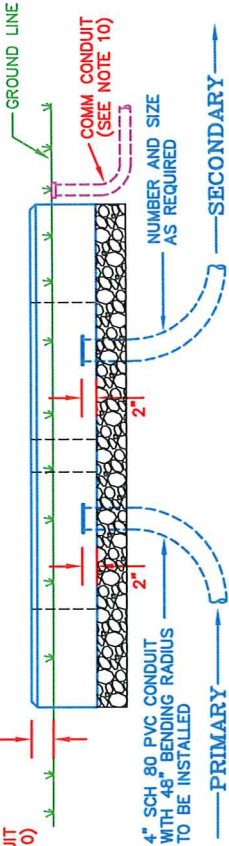
FRONT VIEW

NOTES:

1. MAXIMUM NUMBER OF CONDUCTORS PER PHASE SHALL BE 16.
2. OWNER'S CONTRACTOR TO BE RESPONSIBLE FOR ALL UNDERGROUND PRIMARY AND SECONDARY CONDUITS. REFER TO DUCT SPECIFICATIONS FOR MORE DETAILS.
3. PAD SHALL NOT BE LOCATED CLOSER THAN 7'-0" TO A BUILDING OR OTHER OBSTRUCTION, EXCEPT FRONT OF PAD SHALL BE NO CLOSER THAN 120", UNLESS OTHERWISE APPROVED BY MTEM C ENGINEERING. THE FRONT OF THE PAD SHALL FACE AWAY FROM THE BUILDING OR TOWARD THE ACCESS ROAD. FINAL ORIENTATION TO BE DETERMINED BY MTEM C ENGINEERING.
4. CUSTOMER TO BE RESPONSIBLE FOR FURNISHING AND INSTALLING CONDUIT FROM THE FIRST 10' VERTICAL SECTION ON THE POLE TO THE TRANSFORMER PAD. CUSTOMER SHALL FURNISH AND MTEM C WILL INSTALL CONDUIT ABOVE THE FIRST 10' SECTION ON THE POLE. SEE MTEM C DRAWING RP-2.
5. CUSTOMER TO BE RESPONSIBLE FOR PROVISION AND INSTALLATION OF:
 - A. SECONDARY RUNS THROUGH BUILDING WALL INTO THE TRANSFORMER CABINET.
 - B. CONDUCTOR RUNS UP TO LOW VOLTAGE BUSHINGS. LOW VOLTAGE BEING 277/480 OR 120/208 VOLTS.
 - C. CONNECTIONS INSIDE LOW VOLTAGE COMPARTMENTS. REFER TO DRAWING LUG NO.1 FOR FURTHER DETAILS.
6. ALL FIRE AND SAFETY CODES SHALL BE MET CONCERNING THE PLACEMENT OF TRANSFORMERS ADJACENT TO BUILDINGS.
7. AN MTEM C ENGINEER MUST APPROVE THE ORIENTATION OF THE PAD PRIOR TO CONSTRUCTION.
8. ALL ELBOWS TO BE SCHEDULE 80 PVC.
9. OLDCASTLE PAD#MTEM C 75-2000 KVA APPROVED FOR USE
10. INSTALL COMM CONDUIT TO HAND HOLE AS INDICATED ON PLANS. GLUE CAP ON CONDUIT AND LEAVE FLUSH WITH FINAL GRADE.

GENERAL INSPECTION NOTES

1. GET DITCH AND PVC READY. CALL MTEM C @ 1-877-886-8362 AND REQUEST INSPECTION
2. FORM 3# PAD AND CALL FOR INSPECTION
3. CALL AND REQUEST INSPECTION AFTER POURED.
4. YOU WILL NEED A FINAL PAD INSPECTION. THIS WILL INCLUDE: FORMS WRECKED, ACCESS TO SITE, PROPER GRADE, STRINGS IN DUCT SYSTEM, AND METER BASE.



A-A VIEW

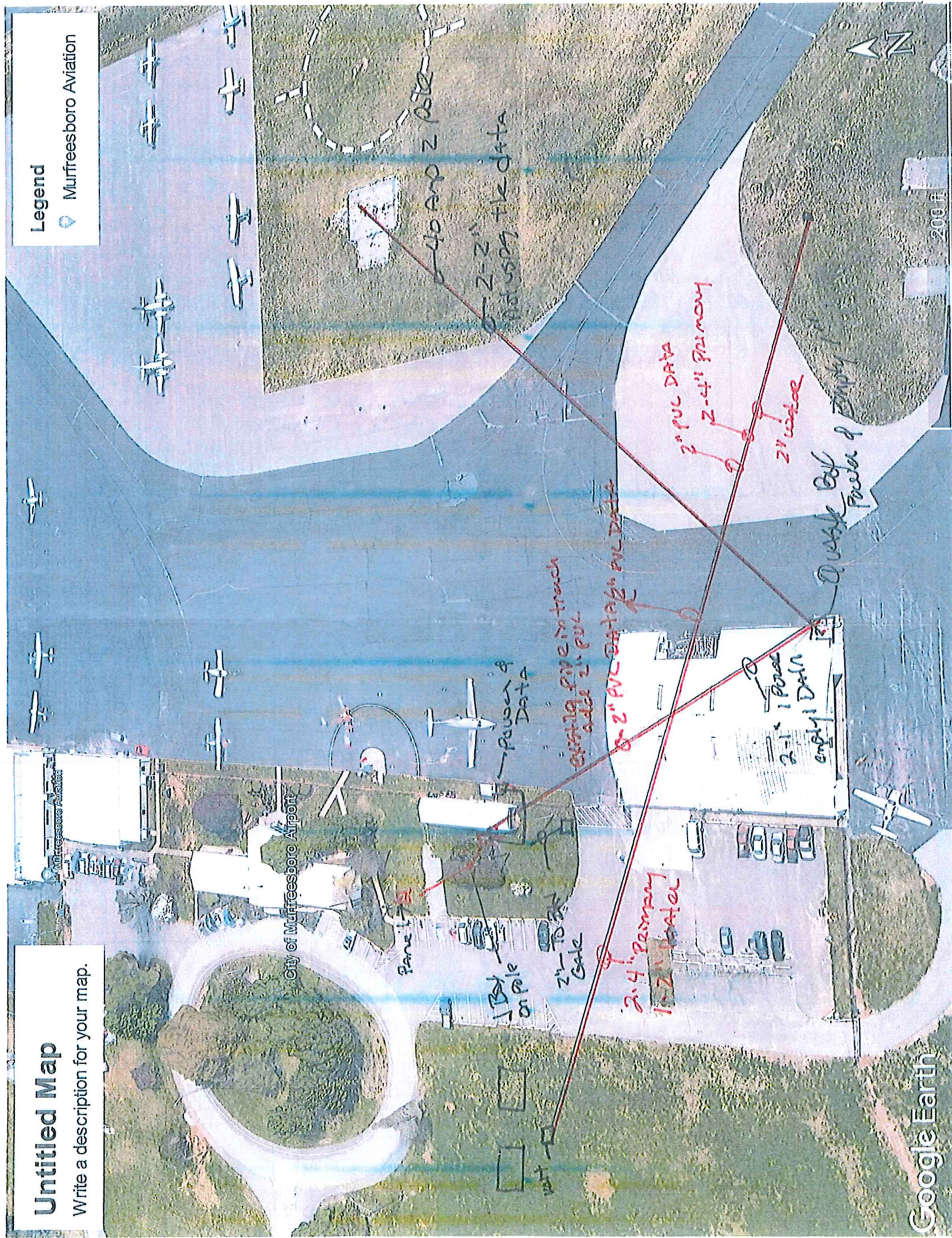
<h1>MTEM C</h1> <p>TRANSFORMER PAD SPECIFICATIONS PAD MOUNT TRANSFORMER</p>		DRAWING NUMBER	REVISED DATE:
		PAD NO. 1	JULY 1, 2021
		SCALE: NONE	SHEET: 1 OF 1

Untitled Map

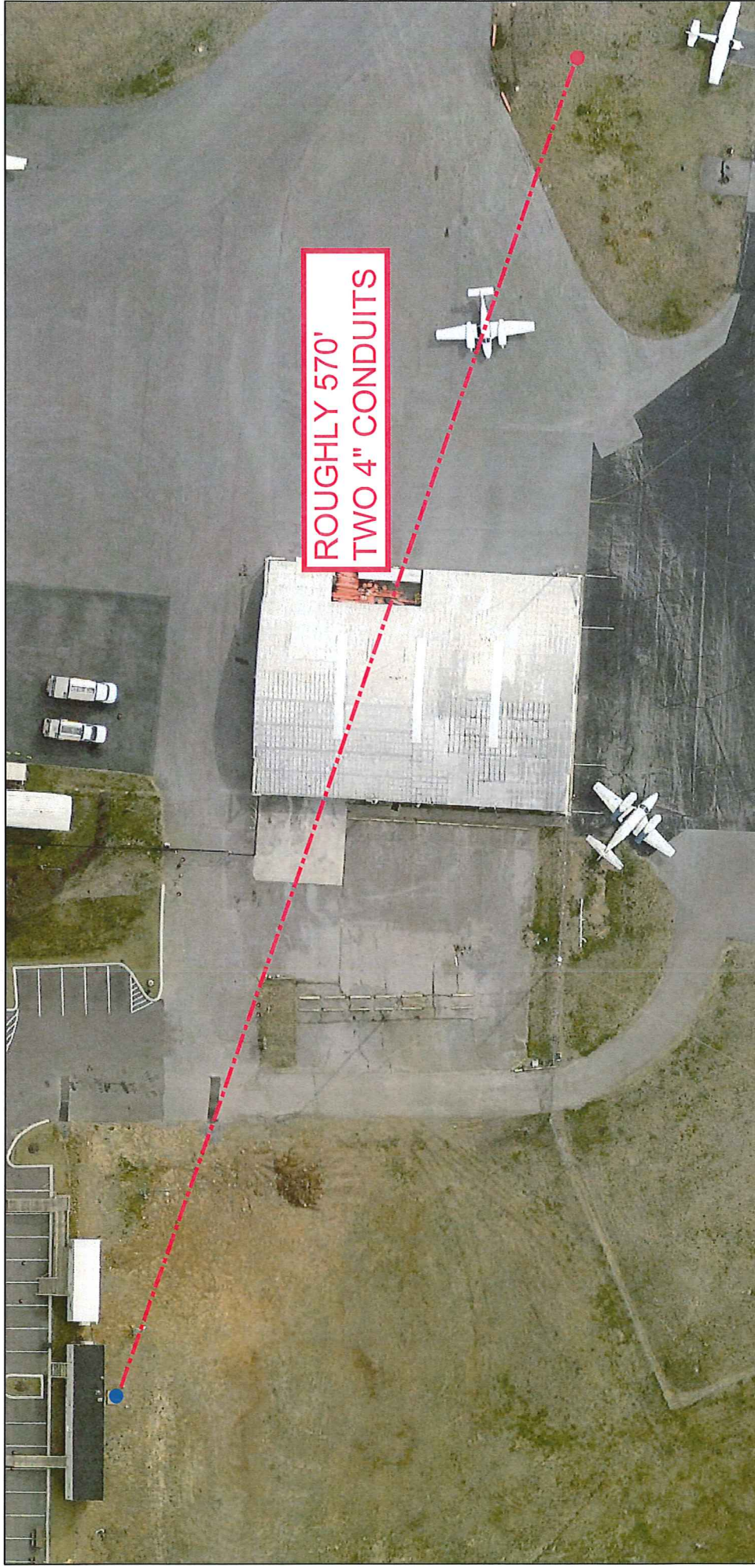
Write a description for your map.

Legend

Murfreesboro Aviation



Murfreesboro GIS Data



3/31/2022, 1:28:28 PM

ORTHO_2021



Red: Band_1



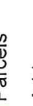
Blue: Band_3



Green: Band_2



Parcels

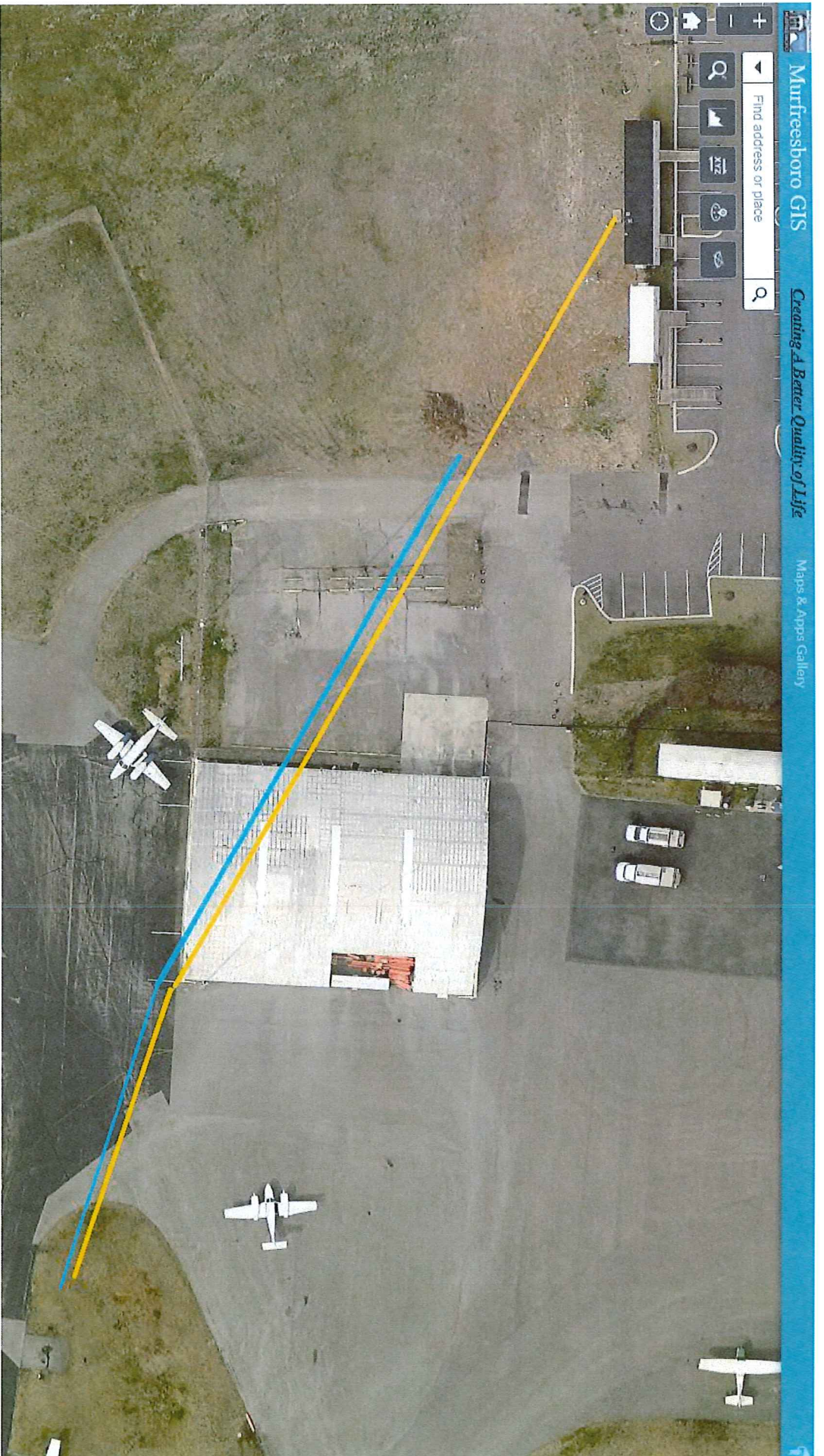


Addresses

1:564

0 0.01 0.01 0.01 0.02 mi

0 0.01 0.01 0.01 0.03 km



COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Purchase Two 90 Passenger Transit Style School Buses

Department: City Schools

Presented by: Trey Duke, director of Schools

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Contract for the purchase of two 90-passenger transit-style school buses for city schools.

Staff Recommendation

Approve the purchase contract with Mid-South Bus Center, Inc.

Background Information

Mid-South Bus was the sole bidder in the procurement of a 90-passenger transit-style school bus for a quoted price of \$112,983. This will be the second of two replacement buses budgeted for the 2021-2022 school year.

Due to supply concerns, MCS would like to purchase the second 90 passenger transit bus available from Mid-South Bus. This will be the first of three replacement buses approved for the 2022-2023 school year. The total price of the two buses, \$225,966, will be charged to the county shared bond fund as approved by the Council in October 2021.

Council Priorities Served

Responsible budgeting

Presenting contracts ensures compliance with state law, School Board policy and City Council policy and provides public transparency in the budgeting process.

Fiscal Impact

Expenditure, \$225,966, is funded by shared proceeds as required by statute from bond for school expenses issued by the County.

Attachments

Agreement for 90 Passenger Transit Style School Bus with Mid-South Bus Center, Inc.

Agreement for 90 Passenger Transit Style School Bus

This Agreement is entered into and effective as of the ____ day of _____ 2022 ("Effective Date"), by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Mid-South Bus Center, Inc.**, a Corporation of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-46-2022 – 90 Passenger Transit Style School Bus for City Schools issued March 22, 2022 (the "Solicitation");
- Contractor's Proposal, dated April 7, 2022 ("Contractor's Proposal");
- Contractor's Price Proposal, dated April 7, 2022 (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 two (2) 90 Passenger Transit Style School Buses based on Contractor's Proposal, Price Proposal and the specifications set forth in "ITB-46-2022 - 90 Passenger Transit Style School Bus."

2. Term.

The term of this Agreement commences on the Effective Date and expires in 90 days, 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.

The price for the goods and other items to be provided under this Agreement is set forth in the Price Proposal, reflecting a per unit price of \$112,983.00 (One Hundred Twelve Thousand, Nine Hundred Eighty-Three Dollars). In addition, the City shall purchase a second school bus at a per unit price of \$112,983.00 (One Hundred Twelve Thousand, Nine Hundred Eighty-Three Dollars), for a total contract price of **\$225,966.00 (Two Hundred Twenty-Five Thousand, Nine Hundred Sixty-Six Dollars)**. 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. All invoices must be submitted to: accountspayable@murfreesborotn.gov with a copy to the Contact person.

- 4. 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.

- 5. 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, and (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."

- 6. Warranty.** The bus warranty shall be 12 months/unlimited miles; engine warranty shall be five (5) years/100,000 miles; transmission warranty shall be seven (7) years/unlimited miles. All other warranties and coverage as per specifications listed on ITB-46-2022 and Contractor's Proposal.

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:
Mid-South Bus Center
Chuck LaLance
3512 Bill Smith Drive
Murfreesboro, TN 37129
clalance@thebuscenter.com

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 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, 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, Contractor certifies and warrants it will comply with this policy.
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 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 _____, 2022 (the "Effective Date").

City of Murfreesboro, Tennessee

By: _____
Shane McFarland, Mayor

Mid-South Bus Center, Inc.

DocuSigned by:
By Steve Benefield
Steve Benefield, General Manager/Co-Owner

Approved as to form:

DocuSigned by:

Adam F. Tucker
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Contract for Replacement of Bleachers at Northfield Elementary and Black Fox Elementary Schools

Department: City Schools

Presented by: Trey Duke, Director of Schools

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Replacement of bleachers at Northfield Elementary and Black Fox Elementary schools.

Staff Recommendation

Approve the purchase contract with Toadvine Enterprises.

Background Information

The existing bleachers at Northfield Elementary are 35 years old and Black Fox Elementary Schools bleachers are 32 years and are in need of replacement. In addition, neither set met current ADA standards. Toadvine was the sole bidder for replacement bleachers at these locations. The total project cost is \$112,744.

Council Priorities Served

Responsible budgeting

Presenting contracts ensures compliance with state law, School Board policy and City Council policy and provides public transparency in the budgeting process.

Fiscal Impact

Total project cost, \$112,744, is funded by shared proceeds as required by statute from bond for school expenses issued by the County.

Attachments

Agreement for Replacement of Bleachers at Northfield Elementary & Black Fox Elementary Schools with Toadvine Enterprises contract

Agreement for Replacement of Bleachers at Northfield Elementary & Black Fox Elementary Schools

This Agreement is entered into and effective as of the ____ day of _____ 2022, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Toadvine**, a Corporation of the State of Kentucky ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-49-2022 Bleacher Replacement for Northfield Elementary & Black Fox Elementary issued March 22, 2022 (the "Solicitation");
- Contractor's Proposal dated 04/01/2022 ("Contractor's Proposal");
- Contractor's Price Proposal dated 04/01/2022 (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.

Scope of Work. Contractor shall provide the City with Replacement of Bleachers at Northfield Elementary located at 550 W. Northfield Blvd. & Black Fox Elementary at 1753 S. Rutherford Blvd., Murfreesboro, TN in accordance with the Contractor's Proposal dated 04/01/2022 and the City ITB dated 03/22/2022, and Price Proposal.

a. 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 a competent superintendent on the work site at all times during work progress. 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.

b. Labor, Materials, and Equipment.

- i. Contractor will provide competent, suitably qualified personnel to perform the work as set forth in Contractor's Proposal dated 04/01/2022. 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. Prior to the start of the work, the Contractor shall submit to the Owner, the name of the manufacturer and types of material to be used to complete the various items of work in this contract. Included with these submittals shall be all applicable technical data.

- 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.
- c. 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.
- d. 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.
- e. Mobilization. Mobilization consists of preparatory work and operations, including but not limited to, those necessary for the movement of personnel, equipment, supplies, and incidentals to the project site; and for all other work and operations which must be performed, or costs incurred prior to beginning work on the various contract items on the project site. The subsequent demobilization and removal from the site of equipment, supplies, etc., upon completion of the work shall be included in this item. Mobilization costs shall be included in the costs submitted within the bid.
- f. Safety and Protection.
 - i. Contractor will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. Particular attention is to be directed to the requirements for fall protection, protective footwear, protective head gear (hard hats), and eye and face protection equipment (safety goggles or safety eyeglasses) as needed on each task. The Contractor shall ensure that their entire work force, including employees, agents, and subcontractors, comply fully with all applicable rules of OSHA and Safety requirements of the City of Murfreesboro. 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 during 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 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 competent and 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, decking, 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. Hours of Work. The Contractor shall have the option to work from 7:00 a.m. to 7:00 p.m. Monday-Sunday except as may otherwise be authorized by the Owner. The Contractor can choose their actual schedule within the time frames listed.

2. **Term.** The term of this Contract shall be 90 days from the issuance of Notice to Proceed. The Contractor shall notify the Owner of the starting date a minimum of seven days prior to starting work. Contractor's performance may be terminated in whole or in part:
- i. Upon 30-day prior notice, for the convenience of the City.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. 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.** The price for the goods and other services to be provided under this Agreement is set forth in the Proposal dated 04/01/2022 which reflects a **total price of \$112,744.00**. 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. Invoices should be submitted to accountspayable@murfreesborotn.gov.
4. **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
5. **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."
6. **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.

7. **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:

Chris Tolley
P.O. Box 190
Fisherville, KY 40023
ctolley@toadvine.com

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. **Confidentiality of Records.** All educational records created, disclosed or maintained pursuant to the terms of this contract are confidential and shall be created, disclosed and maintained pursuant to the provisions of Family Educational Right to Privacy Act, also known as FERPA (20 U.S.C.A. s1232g), its regulations and Board Policy.
15. **Background Checks.** Contractor shall comply with T.C.A. § 49-5-413, which requires all contractors to facilitate a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee prior to permitting the employee to have contact with students or enter school grounds when students are present.
16. **Tobacco Free Policy.** Pursuant to Murfreesboro City School Board Policy 1.803, the use of tobacco and tobacco products, including smokeless tobacco, are prohibited on all of the Murfreesboro City School property.
17. **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.

18. **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.
19. **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.
20. **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.
21. **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.
22. **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.
23. **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.
24. **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.

Signatures On Next Page

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2022 (the "Effective Date").

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

Toadvine Enterprises

DocuSigned by:
By: Chris Tolley
Chris Tolley, Chief Operating Officer

APPROVED AS TO FORM:

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

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Construction Contract for Floor Replacement at Erma Siegel Elementary

Department: City Schools

Presented by: Trey Duke, Director of Schools

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Carpet replacement at Erma Siegel Elementary School.

Staff Recommendation

Approve the construction contract with Carpets by Ozburn, LLC.

Background Information

The existing carpets at Erma Siegel Elementary are 25 years old and original to the building. Consistent cleaning has caused issues with adhering to the concrete. The carpet is being replaced with vinyl floor tile to address safety concerns. The total project cost is \$201,224.

Council Priorities Served

Responsible budgeting

Presenting contracts ensures compliance with state law, School Board policy and City Council policy and provides public transparency in the budgeting process.

Fiscal Impact

Total project cost, \$201,224, is funded by shared proceeds as required by statute from bond for school expenses issued by the County.

Attachments

Construction contract with Carpets by Ozburn, LLC

**CONSTRUCTION CONTRACT
BETWEEN
THE CITY OF MURFREESBORO
AND
CARPETS BY OZBURN, LLC
FOR
FLOOR REPLACEMENT AT ERMA SIEGEL ELEMENTARY**

This Construction Contract is entered into as of _____ (the "Effective Date"), by and between the City of **MURFREESBORO**, a municipal corporation of the State of Tennessee (the "City"), and **Carpets by Ozburn, LLC**, a Limited Liability Company of the State of Tennessee ("Contractor").

- A. The project for which Contractor is providing the materials, labor, and services (the "Work") is described as follows (the "Project"):

FLOOR REPLACEMENT FOR ERMA SIEGEL ELEMENTARY

- B. The following constitute the contract documents for the Project (the "Contract Documents"):

- (1) This Contract
- (2) Exhibit A - Supplemental Conditions
- (3) Exhibit B – Insurance Requirements
- (4) Non-Collusion Affidavit
- (5) Drug Free Workplace Affidavit
- (6) Performance bond
- (7) Payment bond
- (8) Specifications as listed in "**ITB-50-2022 – Floor Replacement for Erma Siegel Elementary**"

Agreement

1. **Duties and Responsibilities of Contractor.** In addition to the duties and responsibilities set forth in the above referenced documents, the Contractor will:
 - a. Clean Up: All trash and excess materials and other debris will be removed from site.
 - b. Provide post-construction warranty and repair as needed for a period of one year upon completion of the Work. Any required repairs during this warranty period will be further warranted for a period of one year with the exception of warranties provided by manufacturer of equipment, all of which must be transferred to the City upon completion of the Work.
 - c. Provide all supervision, supplies, labor, transportation and equipment reasonably required for the proper execution of the Work and Contractor is solely responsible for all construction means, methods, techniques, sequences, and procedures, including properly coordinating all portion of the Work. Contractor responsible for all required permits.
 - d. Maintain sole responsibility for the safety of Contractor personnel, all subcontractors and materialmen, and all other persons within the worksite and in the immediate vicinity of the worksite that is affected by any Work. Establishment and execution of a comprehensive personnel safety program appropriate for the type of work involved with the various Work assignments as may be required by the appropriate local, state, and federal agencies such as OSHA and TOSHA.
 - e. Keep the premises of the Work and the surrounding area free from any accumulation of trash and excess materials and Contractor will properly disposal of all surplus or waste materials upon completion of the Work. Comply with any additional Contractor duties and responsibilities as specified in the Supplementary Conditions, if attached hereto.

- 2. Representations of the Contractor.** In order to induce the City to enter into this Contract, Contractor makes the following representations:
- a. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - b. Contractor has had the opportunity to visit and inspect the work site and become familiar with and satisfy itself as to the general, local, and site conditions that may affect cost, progress, and performance of the Work.
 - c. Contractor is familiar with and has satisfied itself as to all laws and regulations that may affect cost, progress, and performance of the Work.
 - d. Contractor has a clear understanding the Work Assignments will involve work with replacing existing flooring in areas as specified in the ITB.
 - e. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing the construction activities and delivering the construction services; information and observations obtained or that should have been obtained from site inspections; the Contract Documents; with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures to be employed by Contractor; and (3) Contractor's safety precautions and programs.
 - f. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price (as defined below), within the Contract Times (as defined below), and in accordance with the other terms and conditions of the Contract.
 - g. Contractor is aware of the general nature of work that may be performed by the City and/or others at the various Work Assignment sites that relate to the Work as indicated in the Contract Documents.
 - h. Contractor has given the City written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by the City is acceptable to Contractor.
 - i. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- 3. Duties and Responsibilities of the City.** In addition to the duties and responsibilities set forth in the above referenced documents, the City will provide suitable surveys, sketches, or drawings of the requirements and/or limits of the various individual Work Assignments when applicable; appropriate schedules for the progress of the various Work Assignments; and other information as may be requested and/or appropriate for the Contractor to execute the various Work Assignments.
- 4. Term and Progress of the Work.** This Contract is not effective until approved by the City and signed by all required parties.
- a. The Contract time is for a period of 60 days from Notice to Proceed. No adjustment to this time 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 and no person may waive this provision.
 - b. No work on this Project may begin prior to a Notice to Proceed being issued by the City and Contractor hereby waives any claim for any compensation or reimbursement performed prior to the Notice to Proceed.
 - c. The City may perform construction related to the Project with its own forces or award separate contracts in connection with other portions of the Project. Contractor must cooperate and coordinate all Contractor work with all City work.

- d. Additional Progress of Work requirements are as specified in the Supplementary Conditions, if any.
5. **Price.** The maximum price for services rendered pursuant to this Contract is **\$201,224.00** (the "Contract Price"). No increase in the price of this Contract is authorized unless a written Change Order is 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 and no person may waive this provision. All invoices should be sent to accountspayable@murfreesborotn.gov.
6. **Payment.**
 - a. Payment will be made by the City based on Work progress after services have been received, accepted, and properly invoiced. Once Contractor has submitted a monthly invoice, the City will issue payment within 30 days from submittal. The final payment will be made only after Contractor has completely performed its duties under this Contract and the work has been approved and accepted by the City.
 - b. If Contractor fails to carry out the Work in accordance with the Contract Documents or within a reasonable time after receipt of written notice from the City or to correct any deficiency of the work with diligence and expedience, the City may correct the default or deficiency and, without prejudice to other remedies in law or at equity, the Contract Price will be reduced equal to the cost of the correction.
7. **Termination for Breach.** In the event that any of the provisions of the Contract are violated by the Contractor, the City may serve written notice upon the Contractor of its intention to terminate the Contract, and unless within 72 hours after the serving of such notice upon the Contractor such violation or delay ceases and satisfactory arrangement for correction be made, the City may immediately terminate the Contract at any time after said 72 hours. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
8. **Suspension of Work.** Any unauthorized work stoppage due to any type of strike by the Contractor's labor force is grounds for immediate termination of this Contract by the City; provided however, in the City's sole discretion, during any period of work stoppage by the Contractor's labor force, the City reserves the right to have any and all Work Assignments performed by City crews or crews from another Contractor or Contractors and to deduct from the Contract Price all costs associated with such performance.
9. **Termination for Convenience.** The City may terminate this Contract at any time after 30 days' written notice to Contractor. In that event, the Contractor is entitled to receive just and equitable compensation for any satisfactory authorized work completed as of the termination date.
10. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
11. **Maintenance of Records.** Contractor must maintain documentation for all charges associated with services provided pursuant to this Contract. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Contract, will 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.
12. **Modification of Contract.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City may be required. Minor modifications to the Contract may be executed by signature of the City Manager.
13. **Priority of Documents.** In the event of conflicting provisions, all documents are to be construed according to the following priority: (i) any properly executed amendment or change order to this contract (most recent with first priority); then (ii) this Contract and exhibits thereto; then (iii) the provisions of the

required Payment and Performance Bond provisions; then (iv) the specifications referenced herein; and lastly (v) any other documents referenced herein.

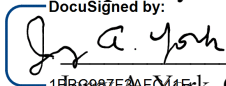
14. **No Partnership or Joint Venture.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party is liable for any representation, act, or omission of any other party contrary to the terms of this paragraph.
15. **Waiver.** No waiver of any provision of this Contract, including modification of the Contract Price, 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.
16. **Non-Discrimination.** It is the policy of the City 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.
17. **Indemnification.** Contractor indemnifies and hold harmless the City, its officers, agents, and employees from (i) any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the Contract, and (ii) Any claims, damages, penalties, costs and attorney fees arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws. Contractor must pay the City any expenses incurred as a result of Contractor's failure to fulfill any obligation in a professional and timely manner under this Contract.
18. **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 B, 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 the Contract, as security for faithful payment.
19. **Attorney Fees.** Contractor agrees that, should either party deem it necessary to take legal action to enforce any provision of the Contract and the City prevails to any extent, Contractor must pay all expenses of such action including the City's attorney fees and costs incurred at all stages of the litigation or dispute resolution.
20. **Assignment—Consent Required.** The provisions of this Contract inure to the benefit of and is binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Contract, neither this Contract 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 will not release Contractor from its obligations hereunder.
21. **Entire Contract.** This Contract and all documents listed above 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 and supersede any and all prior or contemporaneous, written or oral negotiations, correspondence, understandings and agreements between the parties respecting the subject matter of this Contract. No supplement, modification or amendment to this Contract is binding unless evidenced in writing and signed by the party against whom it is sought to be enforced. No waiver of any of the provisions of this Contract constitute, or may be deemed to constitute, a waiver of any other provision, whether or not similar, nor

does any waiver constitute a continuing waiver. No waiver is binding unless executed in writing by the party making the waiver.

- 22. Force Majeure.** In the event of any occurrence of an event of *force majeure*, meaning any act of war, order of legal authority, act of nature, or other unavoidable causes that could not have been prevented by and which are not attributed to fault or negligence of Contractor, (i) the City may choose to cancel this Contract, pay only for work performed by Contractor, and have no further liability whatsoever under the Contract, or (ii) at the City option, Contractor will be granted an equitable extension of the period of performance.
- 23. Governing Law.** The validity, construction and effect of this Contract and any and all extensions or modifications thereof is governed by the laws of the State of Tennessee. Tennessee law governs regardless of any language in any attachment or other document that the Contractor may provide.
- 24. Venue.** Any action between the parties arising from this Contract must be maintained in the courts for Rutherford County, Tennessee.
- 25. Severability.** Should any provision of this Contract 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 Contract.
- 26. Confidentiality of Records.** All educational records created, disclosed or maintained pursuant to the terms of this contract are confidential and shall be created, disclosed and maintained pursuant to the provisions of Family Educational Right to Privacy Act, also known as FERPA (20 U.S.C.A. s1232g), its regulations and Board Policy.
- 27. Background Checks.** Contractor shall comply with T.C.A. § 49-5-413, which requires all contractors to facilitate a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee prior to permitting the employee to have contact with students or enter school grounds when students are present.
- 28. Tobacco Free Policy.** Pursuant to Murfreesboro City School Board Policy 1.803, the use of tobacco and tobacco products, including smokeless tobacco, are prohibited on all of the Murfreesboro City School property.
- 29. Notices.** Notices to the City, including but not limited to notice of assignment of any rights to money due to Contractor under this Contract, must be mailed or hand delivered to the address below. Any notice to Contractor from the City relative to any part of the Contract will be considered delivered and the service thereof completed when said notice is posted by registered mail, to the said Contractor at its last given address or delivered in person to said Contractor or its authorized representative on the Work.

Carpets by Ozburn, LLC

DocuSigned by:



Jerry A. York, Chief Manager/Owner

Address for notice to Contractor:

Carpets by Ozburn, LLC
Attn: Jerry A. York
1402 N.W. Broad Street,
Murfreesboro, TN 37129
jyork@carpetsbyozburn.com

CITY OF MURFREESBORO

By: Shane McFarland, Mayor
Approved as to form:

Adam F. Tucker, City Attorney

Address for notice to the City:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Exhibit A
Supplementary Conditions

Each party acknowledges that no Supplementary Conditions are necessary for this project by initialing below:

City: _____

Contractor: JAC

Exhibit B

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 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.

**PURCHASING DEPARTMENT
BID FORM**

NAME OF BID:
Flooring Replacement at Erma Siegel Elementary

Name of Bidder: *Carpets by Ozburn, LLC*
Date: *04/07/2022*

INSTRUCTIONS:

All prices must include all costs. Costs included in the bid prices shall include services rendered and parts, labor, accessories, freight, and any other standard equipment necessary provide this service. The City is not subject to sales tax. **PROVIDE WITH YOUR BID RESPONSE THE NAMES OF ANY SUBCONTRACTORS THAT WILL BE USED TO PERFORM SERVICES FOR THIS BID.**

ITEM NO.	QUANTITY	DESCRIPTION	TOTAL PRICE
1	1	Flooring Replacement for Erma Siegel Elementary <i>Per specifications listed in ITB</i>	<u>\$201,224.00</u>

**BIDDER AFFIDAVIT ON COMPLIANCE
WITH DRUG-FREE WORKPLACE ACT AND
CERTIFICATE**

Bidder, after being first duly sworn, affirms that it has a Drug-Free Workplace Program that complies with Tennessee Code Annotated, Title 50, Chapter 9, in effect at the time of submission of its bid, at least to the extent required of governmental entities. Bidder affirms that:

1. It has received a Certificate of Compliance with the applicable sections of the Drug-Free Workplace Act from the Department of Labor and Workforce Development and has attached a copy of such certificate to this Affidavit; or,
2. It operates a drug and alcohol testing program at least as stringent as the City of Murfreesboro's drug and alcohol testing program as contained in Sections 3005, 3006, and 3023 of the City of Murfreesboro Employee Handbook and shall, upon request, provide documentation of such program to the City.

Carpets by Ozburn, LLC
Name of Bidder

JERRY A. YORK CHIEF MAN/OWNER
Printed Name and Title of Principal Officer

Jr. E. York
Signature by Principal Officer

******SIGN AND SUBMIT WITH BID PACKAGE******

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of Tennessee)

County of Rutherford)

Vicki Martin, being first duly sworn, deposes and says that;

- (1) The undersigned is the (owner, partner, officer, representative, or agent) of Carpets by Ozburn, LLC, the bidder submitting the attached bid.
- (2) Bidder is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid.
- (3) Such bid is genuine and is not a collusive or sham bid.
- (4) Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or, to fix any overhead, profit or cost element of the bid price or unlawful agreement any advantage against the City of Murfreesboro or any person interested in the proposed contract;
- (5) The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agent, representatives, owners, employees, or parties in interest, including this affidavit.

(Signed) J. A. York

(Title) CHIEF MGR / OWNER

**This form does not require a notary signature; it only requires the officer of the company to sign affirming the affidavit*



INVITATION TO BID

This Invitation to Bid (ITB) is subject to the instructions, conditions, specifications, addenda, and any other elements of this ITB, including those incorporated by reference.

DATE ISSUED: 03/22/2022

BID TITLE: ITB-50-2022 Floor Replacement for Erma Siegel Elementary

CITY CONTACT PERSON: Cathy Smith

TELEPHONE NUMBER: (615) 849-2629

EMAIL: purchasing@murfreesborotn.gov

All bid responses must be received and acknowledged by the Purchasing Department on or before the day and time listed below, at which time all bids will be publicly opened and read aloud via Zoom. A link will be provided to all those registered as following this bid.

BID OPENING DATE: April 8, 2022

BID OPENING TIME: 2:00 p.m., Central Standard Time

1. Instructions and Conditions

1.1 Bid Submission to the City of Murfreesboro.

The City is seeking bids for "ITB-50-2022 – Floor Replacement for Siegel Elementary" for Murfreesboro City Schools as set forth in the specifications listed within this bid. Electronic bids will be received by the City of Murfreesboro until 2:00 p.m. CST on April 8, 2022, at which time the bids will be opened via Zoom. A Zoom link will be provided to all those proposers on file as following this ITB. A mandatory pre-bid meeting will be held on March 28th at 3:00 at Erma Siegel Elementary.

1.2 Deadline and Late Responses.

No bids received after bid opening date and time will be accepted. The City will accept bids submitted electronically via our procurement portal, **ProcureNow**.

1.3 Organization of Bid and Completeness.

Please submit an electronic bid via our procurement portal, ProcureNow at the website listed in Section 1.36. It shall be the sole responsibility of the bidder to have completed the electronic bid form and uploaded the required documents to the City before the bid deadline. Partial or incomplete bids will be rejected. All bid responses should be typewritten. If not typewritten, they must be written in ink and clearly legible, and numbers must be expressed in both words and figures. Erasures, white-outs, and other modifications should be initialed. Bidders are cautioned to verify their bid response prior to submission.

1.4 Signature.

All bids must be signed by a duly authorized officer of the company empowered with the legal right to bind the company. A typed name will not be acceptable without the person's written signature as well. Signatures are required where indicated; failure to comply with this requirement shall be cause for rejection of bid. All submitted bids must be binding for a period of one (1) year from the bid submission deadline.

1.5 Responses to Terms and Conditions.

Unless an exception is taken, the awarded contract will contain the requirements of this Invitation to Bid. In its sole discretion, the City reserves the right to either consider or reject any bid which takes exception to the specifications or attached contract.

1.6 Completeness of Invitation to Bid ("ITB").

These documents, and those listed on ProcureNow, constitute the complete set of specification requirements and ITB. The bidder is responsible for ensuring that all pages and all addenda are received. The City advises all bidders to closely examine this ITB package and immediately direct any questions regarding the completeness of this ITB package and any addenda thereto to the City's Contact Person via ProcureNow. Any addenda will be posted on ProcureNow

1.7 Bid Interpretation. Communication with the Purchasing Department.

Cathy Smith is the City's contact for coordinating communications between the department and firms submitting bids. If additional information is required in order to make an interpretation of items in this ITB, written questions (including e-mails) will be accepted until five (5) business days prior (04/01/2022) to the bid opening. All questions regarding the ITB should be addressed via

ProcureNow **Question/Answer** Tab or to purchasing@murfreesborotn.gov.

The City specifically requests that no contact concerning this ITB be made with any other City personnel until the selection process has been completed. Failure to honor this requirement will be viewed negatively in the selection process and may result in the disqualification of a bid.

1.8 Discrepancies, Errors, and Omissions.

Any discrepancies, errors, omissions, or ambiguities in this ITB, the specifications or addenda (if any) should be reported to the contact person for the City. If necessary, a written addendum will be issued on ProcureNow, notification made to firms on record, and the addendum will be incorporated into the ITB and will become part of the contract. The City will NOT be responsible for any oral instructions, clarifications, or other communications and no such oral communication may be relied on by any bidder.

1.9 Errors.

Certain mistakes may be corrected so long as the intended correct bid response is clearly evident. In the event of a disagreement between unit price and extended price, the unit price will control.

1.10 Further Negotiation.

The City reserves the right to further negotiate, after the ITBs are opened, with any potential vendor if such is deemed necessary at the discretion of the City.

1.11 Economy of Preparation.

ITB should be prepared simply and economically, providing a straightforward, concise description of bidder's capabilities to satisfy the requirements of the ITB. Emphasis should be on completeness and clarity of content.

1.12 Subcontracting.

If any part of the work is, or is to be, subcontracted, the bidder shall provide within the ITB response submittal a description of the subcontracting organization and the contractual arrangements made therewith. All subcontractors will be subject to approval by the City. The successful bidder will also furnish, at the request of the City, the corporate or company name and the names of the officers or principals of said companies proposed as subcontractors by the bidder.

1.13 Tax Exempt.

The City is exempt from federal and state taxes. Upon request, the City will provide a sales tax exemption certificate to the awarded firm. Contractors doing business with the City shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations to the City, nor shall any vendor be authorized to use the City's Tax Exemption Number in securing such materials.

1.14 Pricing Effective for 30 days.

The successful bidder shall provide in the bid price the cost for the good or services rendered. Pricing shall be effective for thirty days from date of bid award. If, in the bidder's opinion, additional equipment or services are necessary, this shall be included with explanation in the bid. It is requested that bidders raise any such questions in advance of submitting a bid to the City. To submit a bid implies consent to the terms set forth in this ITB.

1.15 Approval Required.

No award or acquisition can be made until approved by the City Council. The City will not be obligated to bidders for equipment and/or services until the completion of a signed contract approved by authorized officials of the City. This solicitation in no manner obligates the City to the eventual rental, lease, or purchase of any equipment or services described, implied, or which may be proposed, until confirmed by a written contract. Progress towards this end is solely at the discretion of the City and may be terminated at any time prior to the signing of a contract.

1.16 Consideration of Bid.

Any items proposed deemed not of equal and/or better and of comparable quality as that specified shall be cause for rejection of a bid. In addition to the price, the following aspects will be considered in the award of a contract:

- a. The ability of the bidder to perform the contract or to provide the material for service required;
- b. Whether the bidder can perform the contract and provide the material or service promptly or within the time specified without delay or interference;
- c. The character, integrity, reputation, experience and efficiency of the bidder;
- d. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- e. The ability of the bidder to provide future maintenance and service for the use of the subject contract;
- f. Terms and conditions stated in bid;
- g. Compliance with specifications or the ITB; and
- h. Bidder's past performance with the City.

1.17 Terms and Conditions.

The City reserves the right to reject any and all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept the bid (or bids) which, in the judgment of the governing body, is in the best interest of the City. The City also reserves the right to make revisions to any quantity shown on the bid form dependent upon bid prices and available funding. Prices bid on each item shall be firm regardless of the actual quantity of item(s) purchased.

1.18 Withdrawal of Bid.

No bidder may withdraw its bid for a period of ninety (90) calendar days after the date and time set for the opening of the responses. In the event the City awards a contract to a bidder and during such ninety (90) day period determines that such bidder will be unable to properly perform the contract, the City reserves the right to terminate the contract and award the contract to the next best offer without being required to re-advertise the project.

1.19 Cost of Response.

The City will not be liable for any costs incurred by the bidders in preparing a response to this solicitation. Bidders will submit responses at their own risk and expense. The City makes no guarantee that any equipment or services will be purchased as a result of the solicitation and reserves the right to reject any and all responses. All responses and their accompanying documentation will become the record of the City.

1.20 Contract.

The successful bidder's responses to this ITB shall be included as an addendum to the contract. Should any conflict or discrepancy arise between the ITB and the contract, the contract shall control. All bidders who are awarded contracts pursuant to this ITB agree to be bound by the terms and conditions set forth in the attached sample City Contract. If the bidder objects to any contract terms or proposes any additional terms such objections and terms must be set forth in the bid. Rejection of any proposed City Contract terms may be a basis for rejection of the bid.

1.21 Contract Termination.

The City reserves the right to cancel the contract for the equipment without cost or penalty to the City if, in the City's opinion, there is a failure at any time by the contractor to adequately perform the contract, or if there is any attempt to willfully impose upon the City a material or product or workmanship which is, in the opinion of the City, of an unacceptable quality. Cancellation of the contract shall not impair any rights or claim of the City to damages for the breach of any covenants of the contract by the contractor. The contract awarded may be terminated upon any of, but not limited to, the following occurrences: a) bankruptcy or insolvency of the bidder or one or more of the bidder's principal owners; b) unauthorized substitution of products other than those identified in the specifications or specifically approved by the City as a substitute prior to award of the contract; c) unsatisfactory performance of products supplied by the bidder or services provided by the bidder; d) fraud and e) any other breach of the terms of the ITB specifications or contract.

1.22 Contract Modification.

The contract may be modified only by written amendment executed by all parties and their signatories hereto.

1.23 Replacement or Repair.

No waiver of any provision of the 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. The City, at its option and in lieu of immediate termination, may request the awarded bidder replace or repair any defective goods or correct performance by written notice to the contractor. In that event, the contractor shall take correct action within the amount of time specified by the City in the written notice. Exercise of this option shall not relieve the contractor of any liability to the City for damages for the breach of any covenants of the contract by the contractor.

1.24 Expense of Legal Action.

Awarded bidder agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the contract, and in the event the City prevails, awarded bidder shall pay all expenses of such action including the City's attorney fees and costs at all stages of the legal action.

1.25 Governing Laws.

The validity, construction, and effect of the contract, and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee.

1.26 Severability.

Should any provision of the 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 the contract. Any action between the parties arising from this agreement shall be

maintained in the courts of Rutherford County, Tennessee.

1.27 Indemnification and Hold Harmless.

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. 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.

1.28 Statutory Disqualification.

By submitting a response, it is represented that neither Contractor nor any of its officers, directors, shareholders, member, or partners has been convicted or plead guilty or nolo contendere to any violation of the Sherman Anti-Trust Act, mail fraud, or other state or federal criminal violation in connection with a contract let by the City of Murfreesboro or any political subdivision of the State of Tennessee.

1.29 Contractor's Employment Practices.

Bidder, after being first duly sworn, affirms that by its employment policy, standards and practices, it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to the individual's race, creed, color, national origin, age or sex and it is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

1.30 City's Employment Practices.

It is the policy of the City 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, Bidder certifies and warrants it will comply with this policy.

Bidder must affirm that under its employment policies, standards and practices, it does not subscribe to any personal policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to the individual's race, creed, color, national origin, age or sex and that it is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

1.31 Conflict of Interest.

By submitting a response, it is represented that no officer, committee member, or director of the City or other persons whose duty is to vote for, let out, overlook, or in any manner supervise any work on any contract for the City has a "direct interest", as defined by T.C.A. §12-4-101, in the bidder or in the work which is subject to this ITB.

1.32 Ethical Standards.

Bidder understands that it shall be 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 employee to solicit, demand, accept or agree to accept from another person, a gratuity of 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 bid therefore.

1.33 Breach of Ethical Standards.

A breach of ethical standards could result in civil/or criminal sanctions and/or debarment or suspension from being a contractor or subcontractor under City contracts.

1.34 Payments.

Payments under the contract shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The final payment shall not be made until after the performance is complete.

1.35 Codes & Regulation, Delivery.

All services and/or equipment must comply with city, county, state, and federal laws, rules, codes and regulations. The contractor will obtain and pay for all permits, if any, necessary to complete the work. Bid prices shall include delivery of all items F.O.B. destination. The term F.O.B. destination shall mean delivered and unloaded in-house or on-site service, with all charges for transportation and unloading prepaid by the bidder.

1.36 Bid Registration and Modification.

Bidders must register with **ProcureNow** to ensure that all relevant written communications are available to them in the preparation of their proposal. Registration can be accomplished through the website: <https://secure.procurenow.com/portal/murfreesborotn>. Bids may be modified, withdrawn, and/or resubmitted in writing to the City via ProcureNow prior to the deadline for bid submission. After this deadline, no withdrawals or resubmissions may be made for any reason.

1.37 Iran Divestment Act of Tennessee.

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to T.C.A. §12-12-106. Bids not conforming with this provision shall not be opened. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered.

1.38 Bid Restrictions.

Bids may not be awarded to any party which is debarred or suspended or is otherwise excluded for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension." Any and all bidders, bidder employees, and any sub-contractors and its employees that perform any services at Murfreesboro City Schools must submit to a criminal history records check, at the bidders' expense, conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation prior to permitting the employee to have contact with students or entering school grounds when students are present. T.C.A. § 49-5-413. Bidders are to complete the Criminal

Background Compliance Affidavit and return with the bid documents.

1.39 Bidder's Compliance.

Bidder covenants that it complies with the Davis-Bacon Act, Fair Wage and Hour Laws, National Labor relations Act, and other federal and state employment laws as applicable. The City of Murfreesboro follows T.C. A. § 12-3-1203- Purchases for local governmental units-Any municipality, county, utility district, or other local government unit of the state may, upon request, purchase supplies, equipment, and services for any other municipality, county, utility district, or other local governmental unit.

1.40 Confidentiality of Records.

All educational records created, disclosed or maintained pursuant to the terms of this contract are confidential and shall be created, disclosed and maintained pursuant to the provisions of Family Educational Right to Privacy Act, also known as FERPA (20 U.S.C.A. s1232g), its regulations and Board Policy.

1.41 Background Checks.

Contractor shall comply with T.C.A. § 49-5-413, which requires all contractors to facilitate a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee prior to permitting the employee to have contact with students or enter school grounds when students are present.

1.42 Tobacco Free Policy.

Pursuant to Murfreesboro City School Board Policy 1.803, the use of tobacco and tobacco products, including smokeless tobacco, are prohibited on all of the Murfreesboro City School property.

1.43 Contractor's License.

Pursuant to Tennessee Code Annotated Title 62, Chapter 6, Part 1, if a bid is \$25,000 or above, bidder must be a licensed contractor as required by the Contractor's Licensing Act of 1976, Public Chapter No. 822 of the General Assembly of the State of Tennessee as amended. In accordance with T.C.A. §62-6-119, Bidder shall place their bid in an envelope or provide within the electronic bid document: (1) the bidder's name, license number, expiration date thereof, and license classification of the contractor applying to bid for the prime contract; (2) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the masonry contract (if applicable) where the total cost of the materials and labor for the masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000); (3) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the electrical, plumbing, heating, ventilation, or air conditioning contracts except when such contractor's portion of the construction project is less than twenty-five thousand dollars (\$25,000); (4) For each vertical closed loop geothermal heating and cooling project, the company name, department of environment and conservation license number, classification (G, L or G,L) and the expiration date, except when the geothermal portion of the construction project is in an amount less than twenty-five thousand dollars (\$25,000); (5) Prime contractor bidders who are to perform the masonry portion of the construction project which exceeds one hundred thousand dollars (\$100,000), materials and labor, the electrical, plumbing, heating, ventilation or air conditioning or the geothermal heating and cooling must be so designated; and (6) Only one (1) contractor in each of the classifications listed above shall be written on the bid envelope or provided within the electronic bid document.

Bids not conforming with this provision shall not be opened. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered.

2. SPECIFICATIONS

2.1 Description of Project:

The purpose of this Invitation to Bid (ITB) is to remove and replace carpet and tile in 39 classrooms, special areas, closets, and storage rooms at Erma Siegel Elementary, 135 W. Thompson Lane, Murfreesboro, TN 37129.

2.2 Scope of Work/Specifications:

Replacement of carpeting and tiles in classrooms, special areas, closets, etc. with Vinyl Composition Tile (VCT) and 4.5" rubber cove base. ***See exhibit A for areas that need to be replaced. See exhibit B for TDK letter re: verification of no asbestos.***

- Removal of all carpeting and vinyl tile (in designated areas)
- Remove residual latex or acrylic adhesives by scaping and sanding all concrete to ensure a clean trowel surface once the VCT is installed.
- Per manufacturer's recommendations of the adhesive, follow flashing guidelines and notched trowel sizing of the adhesive to prevent bleeding of adhesive out of the tile seams after installation.
- Prep surfaces to ensure all cracks, crevices, voids are filled and sanded accordingly. A self-leveler might be needed to remove any dips that could be a trip hazard once the VCT is in place.
- Hallway tile and classroom tile should be butted edge to edge with no transition strips.
- Tile seams should align from classroom into hallway with no offsets.
- Manufacturer's recommendation for adhesive and an appropriate 1/8" notched trowel to be used during the application of the adhesive for the VCT flooring.
- Once VCT is installed, a 100-pound roller is to be used to ensure a tight bond to concrete floor.
- Approved vendor to supply all materials and equipment to complete the job.
- Approved vendor to supply roll-off dumpster for all generated waste. Dumpster should be placed on asphalt surface with plywood under contact points to prevent surface damage.
- Approved vendor is responsible for all measurements and footage.
- Approved vendor is responsible for the removal of all furniture on tear down and set-ups.

2.3 Material Specifications:

- Vinyl Composition Tile: 12"x 12" x 1/8" Armstrong Standard Excelon (color TBD)
- Self-Leveling Patch: Armstrong S-194
- Tile Adhesive: Armstrong BBT Bio-flooring adhesive S-525
- Rubber Cove Base: 4.5" Johnsonite (color TBD)

ALL MATERIALS TO BE WAREHOUSED UNTIL THE JOB BEGINS AT THE EXPENSE OF THE BIDDER.

2.4 Insurance:

During the term of this Agreement, the 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. The 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 of Murfreesboro as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."

2.5 Protection of Persons and Property:

The Contractor shall be responsible for initiating, supporting, and supervising all safety precautions and programs in connection with the work. Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable 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 the materials and equipment to be incorporated therein, and (3) other property at the site or adjacent thereto. Contractor shall follow all applicable laws, ordinances, rules, regulations, and order of any public authority having authority for the safety of persons or property or to protect them from change, injury, or loss. All damage or loss to any property caused in whole or in part by the contractor, or anyone directly or indirectly employed by them or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor.

2.6 Contractor's Liability Insurance:

The Contractor shall purchase and maintain such insurance as will protect them from claims under workers' compensation acts and other employee benefit acts, from claims for damages to property which may include death, and from claims for damages to property which may arise out of or result from the Contractor's Operations under this contract, whether such operations be by himself or by anyone directly or indirectly employed by any of them. This insurance shall be written for not less than any limits of liability specified as part of this contract, or required by law, whichever is the greater, and shall include contractual liability insurance as applicable to the Contractor's obligation under special conditions.

2.7 Liability:

Contractor is responsible for the instruction, supervision, and implementation of all safety rules and regulations. Contractor is also responsible for following all City ordinances. City of Murfreesboro is not responsible for any damages, injuries, or loss of life, connected with this project.

2.8 Licenses in Tennessee:

The successful bidder shall be licensed to do business in the State of Tennessee.

2.9 Equipment, Tools and Apparatus:

All equipment, tools, and apparatus, etc., must be supplied by the Contractor. City of Murfreesboro will not supply any equipment to contractor to complete work. The Contractor is responsible for the working conditions and safety of all equipment, too, and apparatus, etc.

2.10 Bid Requirements:

- Must attend a mandatory pre-bid meeting at Erma Siegel Elementary, 135 W Thompson Lane, Murfreesboro, TN at 3:00 pm on March 28, 2022
- All work must be completed by July 15, 2022

A preconstruction meeting consisting of Contractor and Owner (or Contractor's Authorized Representative) will be held at the job site one week before starting the work. The Contractor will be responsible for coordinating this meeting.

Exhibit B

TIM KEACH
201 E. MAIN ST., SUITE 303
MURFREESBORO, TN 37130
Phone: (615) 895-8743
Fax: (615) 895-2631



DORRIS KEACH
P.O. BOX 152
ROBARDS, KY 42452
Phone: (502) 521-7825
Fax: (502) 521-6612

TDK CONSTRUCTION COMPANY, INC.

General Contractors

March 24, 1998

Mr. Charlie Johnson
Johnson & Bailey Architects
100 East Vine Street
City Center, 7th Floor
Murfreesboro, TN 37130

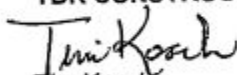
RE: Erma Siegel Elementary School
Murfreesboro, Tennessee
J&B No. 9207

Dear Charlie:

In accordance with specification section 01060-1, 1.6A, TDK Construction Company certifies that no materials containing asbestos were utilized during the construction of the above referenced project.

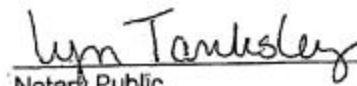
Sincerely,

TDK CONSTRUCTION COMPANY, INC.


Tim Keach

TK:ks

Sworn to and subscribed before me this 24th day of March, 1998.



Notary Public

My Commission Expires: November 13, 2000

PURCHASING DEPARTMENT BID FORM			
NAME OF BID: Flooring Replacement at Erma Siegel Elementary		Name of Bidder: Date:	
INSTRUCTIONS: All prices must include all costs. Costs included in the bid prices shall include services rendered and parts, labor, accessories, freight, and any other standard equipment necessary provide this service. The City is not subject to sales tax. PROVIDE WITH YOUR BID RESPONSE THE NAMES OF ANY SUBCONTRACTORS THAT WILL BE USED TO PERFORM SERVICES FOR THIS BID.			
ITEM NO.	QUANTITY	DESCRIPTION	TOTAL PRICE
1	1	Flooring Replacement for Erma Siegel Elementary <i>Per specifications listed in ITB</i>	\$ _____

Agreement for Replacement of Flooring at Erma Siegel Elementary

This Agreement is entered into and effective as of the ____ day of _____ 2022, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and _____, a _____ ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-50-2022 Floor Replacement for Erma Siegel Elementary issued _____ (the "Solicitation");
- Contractor's Proposal dated _____ ("Contractor's Proposal");
- Contractor's Price Proposal dated _____ (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.**

Scope of Work. Contractor shall provide the City with Replacement of flooring for Erma Siegel Elementary School, located at 135 W. Thompson Ln., Murfreesboro, TN in accordance with the Contractor's Proposal dated _____ and the City ITB dated 03/22/2022, and Price Proposal.

a. 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 a competent superintendent on the work site at all times during work progress. 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.

b. Labor, Materials, and Equipment.

- i. Contractor will provide competent, suitably qualified personnel to perform the work as set forth in Contractor's Proposal dated _____. 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. Prior to the start of the work, the Contractor shall submit to the Owner, the name of the manufacturer and types of material to be used to complete the various items of work in this contract. Included with these submittals shall be all applicable technical data.

- 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.
 - iv. All materials shall be warehoused at the Contractor's expense until the job begins.
- c. 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.
- d. 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.
- e. Mobilization. Mobilization consists of preparatory work and operations, including but not limited to, those necessary for the movement of personnel, equipment, supplies, and incidentals to the project site; and for all other work and operations which must be performed, or costs incurred prior to beginning work on the various contract items on the project site. The subsequent demobilization and removal from the site of equipment, supplies, etc., upon completion of the work shall be included in this item. Mobilization costs shall be included in the costs submitted within the bid.
- f. Safety and Protection.
 - i. Contractor will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. Particular attention is to be directed to the requirements for fall protection, protective footwear, protective head gear (hard hats), and eye and face protection equipment (safety goggles or safety eyeglasses) as needed on each task. The Contractor shall ensure that their entire work force, including employees, agents, and subcontractors, comply fully with all applicable rules of OSHA and Safety requirements of the City of Murfreesboro. 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 during 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 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 competent and 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, decking, 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. Hours of Work. The Contractor shall have the option to work from 7:00 a.m. to 7:00 p.m. Monday-Sunday except as may otherwise be authorized by the Owner. The contract can choose their actual schedule within the time frames listed.

2. Term. The term of this Contract shall be 60 days from issuance of Notice to Proceed. All work is to be completed by July 15, 2022. The Contractor shall notify the Owner of the starting date a minimum of seven days prior to starting work. Contractor's performance may be terminated in whole or in part:

- i. Upon 30-day prior notice, for the convenience of the City.
- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.** The price for the goods and other services to be provided under this Agreement is set forth in the Proposal dated _____ which reflects a total price of _____, but applicable freight of _____. 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. Invoices should be submitted to accountspayable@murfreesborotn.gov.
- 4. 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
- 5. 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."
- 6. 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.

7. **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: _____

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. **Confidentiality of Records.** All educational records created, disclosed or maintained pursuant to the terms of this contract are confidential and shall be created, disclosed and maintained pursuant to the provisions of Family Educational Right to Privacy Act, also known as FERPA (20 U.S.C.A. §1232g), its regulations and Board Policy.
15. **Background Checks.** Contractor shall comply with T.C.A. § 49-5-413, which requires all contractors to facilitate a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee prior to permitting the employee to have contact with students or enter school grounds when students are present.
16. **Tobacco Free Policy.** Pursuant to Murfreesboro City School Board Policy 1.803, the use of tobacco and tobacco products, including smokeless tobacco, are prohibited on all of the Murfreesboro City School property.
17. **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.

18. **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.
19. **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.
20. **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.
21. **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.
22. **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.
23. **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.
24. **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 _____, 2022 (the “Effective Date”).

CITY OF MURFREESBORO

CONTRACTOR

By: _____
Shane McFarland, Mayor

By: _____

Printed: _____

Title: _____

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: HVAC Preventative Maintenance Contract

Department: Public Works

Presented by: Raymond Hillis

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

Summary

Preventative maintenance contract for heating, ventilation, and air conditioning (HVAC) equipment covering 27 structures.

Staff Recommendation

Approve the contract with Lee Company for \$83,646.

Background Information

The City's goal is to become more proactive in its approach to building maintenance. Using an outside contractor for HVAC equipment servicing allows the City to identify problems before they arise and prolong the equipment's lifecycle. The proposed contract will cover all the City's major structures.

Council Priorities Served

Strong and Sustainable Financial and Economic Health

Outsourcing preventative maintenance assists in avoiding costly emergency repairs and assures the Department is allocating its resources efficiently to provide maintenance in the most cost-effective manner.

Fiscal Impacts

The expenditure, \$83,646, is funded by the operating budgets of the nine participating departments: Airport, Solid Waste, Fleet, City Hall, Parks & Recreation, Street, MPD, MFRD, Old Fort Golf.

Attachments

- Lee Company Agreement for HVAC Inspection and Maintenance Services

**Agreement
for
HVAC Inspection and Maintenance Services**

This Agreement is entered into and effective as of the ____ day of _____ 2022, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Lee Company**, a Corporation of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-40-2022 – HVAC Inspection and Maintenance Services issued March 15, 2022 (the "Solicitation");
- Addendum #1, issued March 23, 2022
- Contractor's Proposal dated April 4, 2022 ("Contractor's Proposal");
- Contractor's Price Proposal dated April 4, 2022 (the "Price Proposal");
- Contractor's Proposal #MA22-12 dated April 19, 2022, 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 Addendum #1; and
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

- a. Scope of Work. Contractor shall provide the City with Semi-Annual HVAC Inspection and Maintenance Services for the City of Murfreesboro's HVAC Systems in accordance with the Contractor's Proposal dated April 4, 2022, and the City ITB dated March 15, 2022, and Price Proposal.
- 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 services. 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.
 - i. Contractor will provide competent, suitably qualified personnel to perform the work as set forth in Contractor's Proposal dated April 4, 2022. 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.
- 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.
- 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 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. **Term.** The term of this Agreement commences on the July 1, 2022, and expires in one (1) year, with optional one-year renewals for up to three years by mutual agreement of Contractor and the City or earlier terminated as set forth herein. All bid prices shall be effective until the end of this contract term. The City may terminate the contract in whole or in part if it is dissatisfied with the bidder's product, service, or delivery, or if the bidder, without clear documentation of an increase in the cost or materials or labor costs, imposes an increase in the price of any item which the City is unwilling to accept. Contractor shall submit price increases prior to April 1st of each subsequent year for approval and acceptance by the City Manager. 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. **Price; Compensation; Method of Payment.** The total contract price for the goods and other services to be provided under this Agreement is **Eighty-Three Thousand, Six Hundred Forty-Six**

Dollars and No Cents (\$83,646.00). The total contract price is based on two proposals submitted by Contractor; the first Proposal dated April 4, 2022, reflects a price of Seventy-four Thousand One Hundred Six Dollars and No Cents (\$74, 146.00), the second Proposal dated April 19, 2022, adds HVAC Inspection and Maintenance Services for the Murfreesboro Airport, located at 1930 Memorial Boulevard, and reflects a price of Nine Thousand Five Hundred Dollars and No Cents (\$9,500.00). 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. Airport maintenance and inspections invoiced to be billed separately and emailed to kfann@murfreesborotn.gov and accountspayable@murfreesborotn.gov. Invoices for all other departments should be submitted to accountspayable@murfreesborotn.gov.

4. **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
5. **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."
6. **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.

7. **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:

<p>If to the City of Murfreesboro: City Manager City of Murfreesboro 111 West Vine Street Murfreesboro, TN 37130</p>	<p>If to Contractor: Lee Company Attn: Christine Bradley 4057 Rural Plains Circle Franklin, TN 37064 cbradley@leecompany.com</p>
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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 _____, 2022 (the "Effective Date").

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

LEE COMPANY

DocuSigned by:
By: 
035CCE907759108
Eric Hill, Director of Sales-Facility Services

APPROVED AS TO FORM:

DocuSigned by:



48A2035E56F9401
Adam F. Tucker, City Attorney

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
	HVAC Inspection and Mainteance Services				
1	as Listed in ITB		1 Each	\$74,146.00	\$74,146.00
	Total				\$74,146.00



Asset Protection Agreement

Company
 Lee Company
 675 Middle Tennessee Blvd.
 Murfreesboro , TN 37129

Proposal Date: 4/19/2022
 Proposal Number: MA22-12

Ph: 615-630-3279 Fax:

Bill To Identity	Agreement Location
Murfreesboro Municipal Airport 1930 Memorial Boulevard Murfreesboro, Tennessee 37129 Attn: Ryan Hulsey	Murfreesboro Municipal Airport 1930 Memorial Boulevard Murfreesboro, Tennessee 37129 Attn: Ryan Hulsey

Lee Company will provide the services described in the maintenance program indicated below.

MAINTENANCE PROGRAM: Asset Protection **SCHEDULES:** *Equipment Schedule *Air Filter Service

Agreement coverage will commence on .

The Agreement price is \$9,500.00 per year, payable in advanced installments of \$2,375.00 per Quarter beginning on the effective date of 5/1/2022 through 4/30/2023.

This Agreement is the property of Lee Company and is provided for Customer's use only. Lee Company guarantees the price stated in this Agreement for thirty (30) days from proposal date above. This Agreement is for an initial term of 1 year and shall remain in effect from year to year unless either party provides a 30-day written notice of cancellation. Upon execution as provided below, this Agreement, including the following pages attached hereto (collectively, the "Agreement"), shall become a binding and enforceable agreement against both parties hereto. Customer, by execution of this Agreement, acknowledges that it has reviewed and understands the attached terms and conditions and has the authority to enter into this Agreement.

Company

 Signature Sales Consultant

 Name & Title

 Date / Phone / Fax

Customer

 Signature (Authorized Representative)

 Name (Print)

 Date

Alabama Refrigeration License No. 51050, Alabama HVAC License No. 83952
 Tennessee MP License No.710, Tennessee Electrical License DC660
 Kentucky ME License No. 63891, Kentucky HM License No. 04556. Kentucky MP
 License No. 5207



Inventory of Equipment

Qty	Equipment	Manufacturer	Model	Serial#	Rating	Location	Area Served
2	Freezer 001	Atosa	MBF8503GR	FR001	3 Ton	kitchen	kitchen
2	HP 001	MITSUBISHI	MUY-GL24NA	9 002217 T	2 Ton	outside	term 1 - Data rooms
1	HP 002	Trane	4TWR4060G1000A A	17333APR2F	5 Ton	Outside ground	Hanger2 kitchen and bathrooms
1	HWHTR 001	HydroJet	HJ0001345	WH001	1	Term 1	Hanger 2
1	PKG 001	Rheem	RKQN-A048CM08E	F421901935	4 Ton	Ground	hanger 2
2	PKG 001	trane	tsc060a3e0a0000	730102434L	5 Ton	Ground	hanger 2
1	PKG 001	Trane	AWCC3048A1000B A	14233SD29H	4 Ton	ground	hanger 1
1	PKG 002	Rheem	RKQN-A048CM08E	F421901936	4 Ton	Ground	term 1
1	PKG 003	Rheem	RKQN-A048CM08E	F421901937	4 Ton	Ground	term2
1	PKG 004	Rheem	RKQN-A048CM08E	F421901934	4 Ton	Ground	term2
1	REF 001	koolair	KDT0300A	k400	250 LBS Per Day	kitchen	kitchen
1	SPLT 001	RHEEM	RA1460CC1NB	W381900300	5 Ton	Ground	term 1
1	SPLT 002	Rheem	RA1460CC1NB	W351925369	5 Ton	Ground	term 1
1	SPLT 003	Rheem	RA1448AC1NB	W051908212	4 Ton	Ground	term 1
1	SPLT 004	Rheem	RA1436AC1NB	W321918046	3 Ton	Ground	term 1
1	SPLT 005	Trane	2TTB3060A1000A A	70744EG4F	5 Ton	Ground	Hanger 3 (mech shop)
1	SPLT 006	rheem	RA1460CC1NB	W351925380	5 Ton	Ground	term2
1	SPLT 007	Rheem	RA1460CC1NB	W381900319	5 Ton	Ground	term2
1	SPLT 008	Rheem	RA1436AC1NB	W321918043	3 Ton	Ground	term2
1	SPLT 009	rheem	RA1442CC1NB	W321952951	3.5 Ton	Ground	term2



Air Filter Service

Unit	Qty	Changes/Yr	Size	Type
HP 002	2	4	1X20X25	Extended Surface Pleated
PKG 001	2	4	1X20X25	Extended Surface Pleated
PKG 001	12	4	2X20X25	Extended Surface Pleated
PKG 001	2	4	2X20X25	Extended Surface Pleated
PKG 002	2	4	1X20X25	Extended Surface Pleated
PKG 003	2	4	1X20X25	Extended Surface Pleated
PKG 004	2	4	1X20X25	Extended Surface Pleated
SPLT 001	2	4	1X20X25	Extended Surface Pleated
SPLT 002	2	4	1X20X25	Extended Surface Pleated
SPLT 003	2	4	1X20X25	Extended Surface Pleated
SPLT 004	2	4	1X20X25	Extended Surface Pleated
SPLT 005	2	4	1X20X25	Extended Surface Pleated
SPLT 006	2	4	1X20X25	Extended Surface Pleated
SPLT 007	2	4	1X20X25	Extended Surface Pleated
SPLT 008	2	4	1X20X25	Extended Surface Pleated
SPLT 009	2	4	1X20X25	Extended Surface Pleated

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Purchase of Rock Salt
Department: Purchasing/Streets
Presented by: Cathy Smith/Raymond Hillis
Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

Summary

Purchase of 1,000 tons of Rock Salt under the State Contract to replenish what was lost during the winter storms this year.

Background Information

Due to recent severe weather, the City must purchase 1,000 tons of rock salt on a TDOT contract with Morton Salt in the amount of \$81,660.

The purchase of rock salt enables the City to remove snow and ice from roadways during the winter season. This purchase replenishes the salt used for snow removal this winter. Rock Salt is available for purchase pursuant to T.C.A. § 12-3-1201(b) under the State of Tennessee's Statewide Contract with Morton Salt, Inc. (SWC No. 66848). State statute enables this purchase without competitive bidding, under the provisions of contracts or price agreements entered into by the Tennessee Department of General Services, Central Procurement Office. Furthermore, Murfreesboro City Code § 2-10(a)(3) authorizes purchases without competitive bidding as permitted under T.C.A. §12-3-1201.

Council Priorities Served

Responsible budgeting

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

Maintain public safety

Maintaining the functionality and safe drivability of roadways ensures public safety and provides good customer service.

Fiscal Impacts

This expenditure, \$81,660, is funded by the Department's operating budget.

Attachments

- State Contract 66848



STATE OF TENNESSEE, DEPARTMENT OF GENERAL SERVICES
CENTRAL PROCUREMENT OFFICE

Statewide Multi-Year Contract Issued to:

Morton Salt Inc
444 W Lake St Ste 3000
Chicago, IL 60606

Vendor ID: 0000115284

Contract Number: 0000000000000000000000000066848

Title: SWC 507 Rock Salt

Start Date: June 01, 2020

End Date: May 31, 2023

Two, 1-year renewal options remain

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

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

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

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

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

Contract Contact Information:

State of Tennessee
Department of General Services, Central Procurement Office
Contract Administrator: Parker Birt
3rd Floor, William R Snodgrass, Tennessee Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102
Phone: 615-291-5948
Fax: 615-741-0684
Email: Parker.Birt@tn.gov

Line Information

Line 1

Item ID: 1000177330
Rock Salt, TDOT Region 2, All Locations
Unit of Measure: NS
Vendor Item/Part #: MOR-2
Manufacturer Item #:
Unit Price: \$ 87.53

Line 2

Item ID: 1000177331
Rock Salt, TDOT Region3, All Locations
Unit of Measure: NS
Vendor Item/Part #: MOR-3
Manufacturer Item #:
Unit Price: \$ 75.6

Line 3

Item ID: 1000177332
Rock Salt, Non-TDOT, Region 2, Super District 4, Clay County
Unit of Measure: NS
Vendor Item/Part #: MOR-4
Manufacturer Item #:
Unit Price: \$ 83.44

Line 4

Item ID: 1000177333
Rock Salt, Non-TDOT, Region 2, Super District 4, Cumberland County
Unit of Measure: NS
Vendor Item/Part #: MOR-5
Manufacturer Item #:
Unit Price: \$ 89.73

Line 5

Item ID: 1000177334
Rock Salt, Non-TDOT, Region 2, Super District 4, DeKalb County
Unit of Measure: NS
Vendor Item/Part #: MOR-6
Manufacturer Item #:
Unit Price: \$ 87.25

Line 6

Item ID: 1000177335

Rock Salt, Non-TDOT, Region 2, Super District 4, Fentress County

Unit of Measure: NS

Vendor Item/Part #: MOR-7

Manufacturer Item #:

Unit Price: \$ 93.11

Line 7

Item ID: 1000177336

Rock Salt, Non-TDOT, Region 2, Super District 4, Jackson County

Unit of Measure: NS

Vendor Item/Part #: MOR-8

Manufacturer Item #:

Unit Price: \$ 84.38

Line 8

Item ID: 1000177338

Rock Salt, Non-TDOT, Region 2, Super District 4, Pickett County

Unit of Measure: NS

Vendor Item/Part #: MOR-10

Manufacturer Item #:

Unit Price: \$ 88.95

Line 9

Item ID: 1000177339

Rock Salt, Non-TDOT, Region 2, Super District 4, Putnam County

Unit of Measure: NS

Vendor Item/Part #: MOR-11

Manufacturer Item #:

Unit Price: \$ 86.04

Line 10

Item ID: 1000177340

Rock Salt, Non-TDOT, Region 2, Super District 4, White County

Unit of Measure: NS

Vendor Item/Part #: MOR-12

Manufacturer Item #:

Unit Price: \$ 87.39

Line 11

Item ID: 1000177341

Rock Salt, Non-TDOT, Region 2, Super District 5, Bledsoe County

Unit of Measure: NS

Vendor Item/Part #: MOR-13

Manufacturer Item #:

Unit Price: \$ 93.83

Line 12

Item ID: 1000177342

Rock Salt, Non-TDOT, Region 2, Super District 5, Cannon County

Unit of Measure: NS

Vendor Item/Part #: MOR-14

Manufacturer Item #:

Unit Price: \$ 83.63

Line 13

Item ID: 1000177343

Rock Salt, Non-TDOT, Region 2, Super District 5, Coffee County

Unit of Measure: NS

Vendor Item/Part #: MOR-15

Manufacturer Item #:

Unit Price: \$ 83.47

Line 14

Item ID: 1000177344

Rock Salt, Non-TDOT, Region 2, Super District 5, Franklin County

Unit of Measure: NS

Vendor Item/Part #: MOR-16

Manufacturer Item #:

Unit Price: \$ 84.34

Line 15

Item ID: 1000177345

Rock Salt, Non-TDOT, Region 2, Super District 5, Grundy County

Unit of Measure: NS

Vendor Item/Part #: MOR-17

Manufacturer Item #:

Unit Price: \$ 87.95

Line 16

Item ID: 1000177346

Rock Salt, Non-TDOT, Region 2, Super District 5, Marion County

Unit of Measure: NS

Vendor Item/Part #: MOR-18

Manufacturer Item #:

Unit Price: \$ 86.865

Line 17

Item ID: 1000177347

Rock Salt, Non-TDOT, Region 2, Super District 5, Sequatchie County

Unit of Measure: NS

Vendor Item/Part #: MOR-19

Manufacturer Item #:

Unit Price: \$ 91.53

Line 18

Item ID: 1000177348

Rock Salt, Non-TDOT, Region 2, Super District 5, Van Buren County

Unit of Measure: NS

Vendor Item/Part #: MOR-20

Manufacturer Item #:

Unit Price: \$ 88.77

Line 19

Item ID: 1000177349

Rock Salt, Non-TDOT, Region 2, Super District 5, Warren

Unit of Measure: NS

Vendor Item/Part #: MOR-21

Manufacturer Item #:

Unit Price: \$ 83.44

Line 20

Item ID: 1000177350

Rock Salt, Non-TDOT, Region 2, Super District 6, Bradley County

Unit of Measure: NS

Vendor Item/Part #: MOR-22

Manufacturer Item #:

Unit Price: \$ 97

Line 21

Item ID: 1000177352

Rock Salt, Non-TDOT, Region 2, Super District 6, McMinn County

Unit of Measure: NS

Vendor Item/Part #: MOR-24

Manufacturer Item #:

Unit Price: \$ 95.14

Line 22

Item ID: 1000177353

Rock Salt, Non-TDOT, Region 2, Super District 6, Meigs County

Unit of Measure: NS

Vendor Item/Part #: MOR-25

Manufacturer Item #:

Unit Price: \$ 100

Line 23

Item ID: 1000177354

Rock Salt, Non-TDOT, Region 2, Super District 6, Polk County

Unit of Measure: NS

Vendor Item/Part #: MOR-26

Manufacturer Item #:

Unit Price: \$ 100.27

Line 24

Item ID: 1000177355

Rock Salt, Non-TDOT, Region 2, Super District 6, Rhea County

Unit of Measure: NS

Vendor Item/Part #: MOR-27

Manufacturer Item #:

Unit Price: \$ 97

Line 25

Item ID: 1000177356

Rock Salt, Non-TDOT, Region 3, Super District 7, Davidson County

Unit of Measure: NS

Vendor Item/Part #: MOR-28

Manufacturer Item #:

Unit Price: \$ 74.31

Line 26

Item ID: 1000177357

Rock Salt, Non-TDOT, Region 3, Super District 7, Macon County

Unit of Measure: NS

Vendor Item/Part #: MOR-29

Manufacturer Item #:

Unit Price: \$ 79.09

Line 27

Item ID: 1000177358

Rock Salt, Non-TDOT, Region 3, Super District 7, Smith County

Unit of Measure: NS

Vendor Item/Part #: MOR-30

Manufacturer Item #:

Unit Price: \$ 77.91

Line 28

Item ID: 1000177359

Rock Salt, Non-TDOT, Region 3, Super District 7, Sumner County

Unit of Measure: NS

Vendor Item/Part #: MOR-31

Manufacturer Item #:

Unit Price: \$ 75.77

Line 29

Item ID: 1000177360

Rock Salt, Non-TDOT, Region 3, Super District 7, Trousdale County

Unit of Measure: NS

Vendor Item/Part #: MOR-32

Manufacturer Item #:

Unit Price: \$ 75.29

Line 30

Item ID: 1000177361

Rock Salt, Non-TDOT, Region 3, Super District 7, Williamson County

Unit of Measure: NS

Vendor Item/Part #: MOR-33

Manufacturer Item #:

Unit Price: \$ 74.46

Line 31

Item ID: 1000177362

Rock Salt, Non-TDOT, Region 3, Super District 7, Wilson County

Unit of Measure: NS

Vendor Item/Part #: MOR-34

Manufacturer Item #:

Unit Price: \$ 76.55

Line 32

Item ID: 1000177363

Rock Salt, Non-TDOT, Region 3, Super District 8, Cheatham County

Unit of Measure: NS

Vendor Item/Part #: MOR-35

Manufacturer Item #:

Unit Price: \$ 73.68

Line 33

Item ID: 1000177364

Rock Salt, Non-TDOT, Region 3, Super District 8, Dickson County

Unit of Measure: NS

Vendor Item/Part #: MOR-36

Manufacturer Item #:

Unit Price: \$ 77.73

Line 34

Item ID: 1000177365

Rock Salt, Non-TDOT, Region 3, Super District 8, Hickman County

Unit of Measure: NS

Vendor Item/Part #: MOR-37

Manufacturer Item #:

Unit Price: \$ 75.77

Line 35

Item ID: 1000177366

Rock Salt, Non-TDOT, Region 3, Super District 8, Houston County

Unit of Measure: NS

Vendor Item/Part #: MOR-38

Manufacturer Item #:

Unit Price: \$ 81

Line 36

Item ID: 1000177367

Rock Salt, Non-TDOT, Region 3, Super District 8, Humphrey County

Unit of Measure: NS

Vendor Item/Part #: MOR-39

Manufacturer Item #:

Unit Price: \$ 81

Line 37

Item ID: 1000177368

Rock Salt, Non-TDOT, Region 3, Super District 8, Maury County

Unit of Measure: NS

Vendor Item/Part #: MOR-40

Manufacturer Item #:

Unit Price: \$ 77.55

Line 38

Item ID: 1000177369

Rock Salt, Non-TDOT, Region 3, Super District 8, Montgomery County

Unit of Measure: NS

Vendor Item/Part #: MOR-41

Manufacturer Item #:

Unit Price: \$ 75.95

Line 39

Item ID: 1000177370

Rock Salt, Non-TDOT, Region 3, Super District 8, Robertson County

Unit of Measure: NS

Vendor Item/Part #: MOR-42

Manufacturer Item #:

Unit Price: \$ 77.81

Line 40

Item ID: 1000177371

Rock Salt, Non-TDOT, Region 3, Super District 8, Stewart County

Unit of Measure: NS

Vendor Item/Part #: MOR-43

Manufacturer Item #:

Unit Price: \$ 77.55

Line 41

Item ID: 1000177372

Rock Salt, Non-TDOT, Region 3, Super District 9, Bedford County

Unit of Measure: NS

Vendor Item/Part #: MOR-44

Manufacturer Item #:

Unit Price: \$ 82.77

Line 42

Item ID: 1000177373

Rock Salt, Non-TDOT, Region 3, Super District 9, Giles County

Unit of Measure: NS

Vendor Item/Part #: MOR-45

Manufacturer Item #:

Unit Price: \$ 85.44

Line 43

Item ID: 1000177374

Rock Salt, Non-TDOT, Region 3, Super District 9, Lawrence County

Unit of Measure: NS

Vendor Item/Part #: MOR-46

Manufacturer Item #:

Unit Price: \$ 82.44

Line 44

Item ID: 1000177375

Rock Salt, Non-TDOT, Region 3, Super District 9, Lewis County

Unit of Measure: NS

Vendor Item/Part #: MOR-47

Manufacturer Item #:

Unit Price: \$ 80.55

Line 45

Item ID: 1000177376

Rock Salt, Non-TDOT, Region 3, Super District 9, Lincoln County

Unit of Measure: NS

Vendor Item/Part #: MOR-48

Manufacturer Item #:

Unit Price: \$ 81.48

Line 46

Item ID: 1000177377

Rock Salt, Non-TDOT, Region 3, Super District 9, Marshall County

Unit of Measure: NS

Vendor Item/Part #: MOR-49

Manufacturer Item #:

Unit Price: \$ 78.63

Line 47

Item ID: 1000177378

Rock Salt, Non-TDOT, Region 3, Super District 9, Moore County

Unit of Measure: NS

Vendor Item/Part #: MOR-50

Manufacturer Item #:

Unit Price: \$ 78.63

Line 48

Item ID: 1000177379

Rock Salt, Non-TDOT, Region 3, Super District 9, Perry County

Unit of Measure: NS

Vendor Item/Part #: MOR-51

Manufacturer Item #:

Unit Price: \$ 83.38

Line 49

Item ID: 1000177380

Rock Salt, Non-TDOT, Region 3, Super District 9, Rutherford County

Unit of Measure: NS

Vendor Item/Part #: MOR-52

Manufacturer Item #:

Unit Price: \$ 81.66

Line 50

Item ID: 1000177381

Rock Salt, Non-TDOT, Region 3, Super District 9, Wayne County

Unit of Measure: NS

Vendor Item/Part #: MOR-53

Manufacturer Item #:

Unit Price: \$ 82.44

APPROVED: _____

CHIEF PROCUREMENT OFFICER

Digitally signed by Michael R. Perry,
DN: cn=Michael R. Perry, o=State of
Tennessee, ou=Central Procurement
Office, email=mike.perry@state.gov, c=US
Date: 2020.05.22 11:27:14 -0500

BY: _____

Parker Birt

PURCHASING AGENT

Digitally signed by Parker Birt,
DN: cn=Parker Birt, ou=General Services,
ou=CPO, email=parker.birt@tga.gov,
c=US
Date: 2020.05.22 11:42:24 -0500

DATE _____

SWC #507 Rock Salt

Contract Information and Usage Instructions

Contract Period:

Start Date – June 1, 2020

End Date – May 31, 2023, with 2 one-year renewal options remaining.

Summary/Background Information:

This contract includes product and delivery of Rock Salt for all State agencies, local governmental units, higher education institutions, and eligible 501(c)(3) tax-exempt corporations. It should be noted that purchases fewer than 150 tons may utilize this contract but are not required to. All orders of 150 tons or larger are required to use this contract.

State Contract Administrator:

Parker Birt

Category Specialist

Central Procurement Office

(615) 291-5948

Parker.Birt@tn.gov

Contractor Contact Information:

Cargill Inc.

Edison Contract Number: 66844

Vendor Number: 582

Deseree Carver

(800) 600-7258

customercareer@safety@cargill.com

24950 Country Club Blvd., Suite 450

North Olmstead, OH 44070

Compass Minerals America, Inc.

Edison Contract Number: 66866

Vendor Number: 685

Austin Welch

(800) 323-1641

highwaygroup@compassminerals.com

9900 W 109th St. Suite 100

Overland Park, KS 66210

Detroit Salt Company LLC

Edison Contract Number: 66847

Vendor Number: 186980

Richelle Labut

(313) 841-5144 ext. 7112

sales@detroitssalt.com

12841 Sanders St.

Detroit, MI 48217

Morton Salt Inc.

Edison Contract Number: 66848

Vendor Number: 115284

Andrew Lorenzini

(312) 807-2859

alorenzini@morrtonsalt.com

444 W Lake St. Ste. 3000

Chicago, IL 60606

Usage Instructions:

1. Specific Ordering Information:

- Locate the Contractor that is appropriate for your county/bin location through the "SWC 507 Rock Salt TDOT and County Pricing Sheet" listed on the following website; <https://www.tn.gov/general-services/procurement/central-procurement-office-cpo-/state-agencies-/statewide-contract-instruction-swc-.html>
- Contact the appropriate Contractor and submit a purchase order for your needs.
- Please see the contract line items for pricing information

2. General Delivery Information:

- Pick up is not allowed on this contract. All salt must be delivered directly to the purchasing agency by the Contractor.
- Deliveries must be completed during regular State business hours (Monday - Friday, 8:00 AM – 4:30 PM, excluding authorized State holidays), unless otherwise requested by the purchasing agency.

3. Minimum Order Requirements:

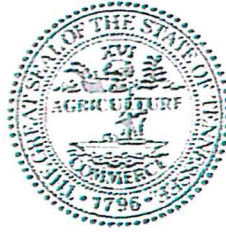
Individual orders for less than 150 tons are exempt from purchase from this contract. User agencies will purchase by applicable purchasing procedures.

4. Local Government/Non-TDOT Usage Instructions:

- Non-TDOT entities will purchase salt using the Non-TDOT pricing that is outlined in the "SWC 507 Rock Salt TDOT and County Pricing Sheet."
- Non-TDOT entities must have an *estimated* quantity in to the Contractor by October 1; however, this notice does not commit any user entity to any purchase.
- If a Non-TDOT entity informs their Contractor of their intent to purchase by October 1 of each contract year the Contractor will be obligated to provide service to that respective Non-TDOT entity. However, if a Non-TDOT entity fails to make this notification it will be left to the discretion of the Contractor as to whether they will

service the requesting Non-TDOT entity.

- Non-TDOT purchases will be capped at 120%. After a Non-TDOT entity purchases 120% of their total estimate, it becomes the discretion of the Contractor as to whether they can meet the additional requests. Contractors should make every effort to service Non-TDOT entities that have additional requests and should not deny requests if they have the capacity to service them.



*Region and Super District Breakdown for SWC #507:
Rock Salt*

REGION 1

Super District 1

Carter
Greene
Hamblen
Hancock
Hawkins
Johnson
Sullivan
Unicoi
Washington

REGION 2

Super District 4

Clay
Cumberland
DeKalb
Fentress
Jackson
Overton
Pickett
Putnam
White

REGION 3

Super District 7

Davidson
Macon
Smith
Sumner
Trousdale
Williamson
Wilson

REGION 4

Super District 10

Benton
Carroll
Dyer
Gibson
Henry
Lake
Obion
Weakley

Super District 2

Anderson
Cocke
Grainger
Jefferson
Knox
Sevier
Union

Super District 5

Bledsoe
Cannon
Coffee
Franklin
Grundy
Marion
Sequatchie
Van Buren
Warren

Super District 8

Cheatham
Dickson
Hickman
Houston
Humphrey
Maury
Montgomery
Robertson
Stewart

Super District 11

Chester
Crockett
Decatur
Hardeman
Hardin
Henderson
Madison
McNairy
Haywood

Super District 3

Blount
Campbell
Claiborne
Loudon
Monroe
Morgan
Roane
Scott

Super District 6

Bradley
Hamilton
McMinn
Meigs
Polk
Rhea

Super District 9

Bedford
Giles
Lawrence
Lewis
Lincoln
Marshall
Moore
Perry
Rutherford
Wayne

Super District 12

Fayette
Lauderdale
Shelby
Tipton



Invitation to Bid (ITB)
For SWC 507 Rock Salt
Event # 32110-11462

1. Section 1 -- Background Information

- 1.1. The purpose of this solicitation is for the State of Tennessee to secure a statewide contract ("SWC") for Rock Salt across the State. This contract will be available for use for all Tennessee State Agencies and other Authorized Users across the State. While the total purchases of any individual item on the contract are not known, the Central Procurement Office has attempted to give an accurate estimate of probable purchases and projected estimates for the new contract period. The Central Procurement Office does not guarantee that the State will buy any or all estimated amounts. The historical State spend from June 1, 2017 to January 13, 2020 was \$15,185,000.
- 1.2. **Statewide Contract.** The purpose of this Invitation to Bid is to establish a source or sources of supply for all Tennessee State Agencies, Tennessee local governmental entities, the board of trustees of the University of Tennessee system, the Tennessee board of regents system or the state university boards, and the nonprofit entities identified in Tenn. Code Ann. § 33-2-1001.
- 1.3. **Pre-response Conference Notification.** The Central Procurement Office will hold a pre-response conference for this solicitation at the date, time, and location specified below:

Date/Time: March 18, 2020 at 10:30 am CST

Location: No in-person location available

Join via WebEx at:

<https://tngov.webex.com/tngov/j.php?MTID=me0541e95887a632a706d2b8f22e599d2>

Call-in Option: 415-655-0003

Meeting Access Code: 643 639 940

Meeting Password: pgMQpBET523

Prospective respondents are encouraged to attend this pre-response conference; however, attendance is not mandatory in order to submit a response. The Central Procurement Office conducts pre-response conferences to discuss and answer questions prior to response due date. The pre-response conference is for informational purposes only. Nothing stated at the pre-response conference shall change the solicitation unless the change is reflected in writing and disseminated to all prospective respondents that attended the pre-response conference.

- 1.4. **Accommodation for People with Disabilities.** Any individuals with disabilities who wish to participate in public meetings such as a scheduled pre-response conference or other scheduled function should contact the Solicitation Coordinator to discuss any auxiliary aids or services needed. Such contact should be made no less than three (3) business days prior to the public meeting to allow time for the Solicitation Coordinator to provide needed aids or services.
- 1.5. **Questions.** Respondents may submit written questions about this ITB to the Solicitation Coordinator. All questions must be submitted no later than March 24, 2020.
- 1.6. **Responses Due.** The response must be received by the State on or before the date and hour designated for the response opening. Responses that are submitted untimely shall be rejected.

2. Award Criteria

- 2.1 **Option to Award by Line Items or Grouped Lines.** The State may award a single contract for all line items or group of line items to the respondent whose response meets the requirements and criteria in this ITB at the lowest cost. Alternatively, the State may award separate contracts for each line items or group of line items using the following methods:

Award by Line Items: The State may award a single contract or separate contracts to the respondent whose response meets the requirements and criteria in this ITB at the lowest cost. Each award will be made by the following method: Award by Line Item.

To determine the respondent with the lowest cost per line item, line item totals shall be calculated by adding the unit price and delivery charge price, in accordance with the Evaluation Model.

Award by Grouped Lines: In the event a Respondent is awarded all Line Items within a group, then contracts may be awarded by Grouped Lines according to the following method:

Group 1 – TDOT Locations, Each County
Group 1 – TDOT Locations, Each Super District
Group 1 – TDOT Locations, Each Region
Group 2 – Non-TDOT Locations, Each County
Group 2 – Non-TDOT Locations, Each Super District
Group 2 – Non-TDOT Locations, Each Region

3. Standard Terms of the Solicitation

- 3.1. **Respondent Registration.** Pursuant to Tenn. Code Ann. § 4-56-105 all respondents must be registered prior to the issuance of a contract or a purchase order. Respondents can register online at the State of Tennessee Supplier Portal:

https://ssc.edison.tn.gov/ncsp/ncsrd/SUPPLIER/SUPP/h/?tab=PAPP_GUEST

- 3.2. **Respondent's Ability to Perform.** The State shall have the right to require evidence of the respondent's ability to perform the services or deliver the goods required pursuant to the terms and conditions of this ITB.
- 3.3. **Quality of Workmanship and Materials.** Unit price responses are requested on goods or services that equal or exceed the specifications, unless the specifications limit the dimensions, brands, or model of goods or services. The absence of detailed specifications or the omission of detailed descriptions shall mean that only the best commercial practices and only first quality goods and workmanship shall be supplied.
- 3.4. **Performance.** The respondent who is awarded a contract will be responsible for delivering the goods or providing the services set out in this ITB. All goods or services are subject to inspection and evaluation by the State.
- 3.5. **Clarifications.** The State reserves the right to conduct clarifications or negotiations with one or more respondents. All communications, clarifications, and negotiations shall be conducted in a manner that is fair and transparent.
- 3.6. **Negotiations.** The State may elect to negotiate by requesting revised Cost Proposals from apparently responsive and responsible respondents. However, the State reserves the right to award a contract on the basis of initial responses received. Therefore, each response should contain the respondent's best terms from a price and technical standpoint. The State reserves the right to conduct multiple negotiation rounds. If the State exercises its right to enter into negotiations, it may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those identified issues during negotiations. All responsive respondents will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other price or service level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other method that does not reveal individual respondent pricing. During target price negotiations respondents are not obligated to meet or beat target prices, but will not be allowed to increase prices. All communications, clarifications and negotiations shall be conducted in a manner that supports fairness in response improvement. Note that each clarification sought by the State may be unique to an individual respondent.
- 3.7. **Response Cancellation and Rejection.** The State may cancel this ITB in its entirety and reissue it in whole or in part.

The State may reject any or all responses in its sole discretion. Additionally, the State may reject a response that: (a) qualifies the offer to provide goods or services as required by this ITB; (b) proposes alternative goods or services unless expressly requested by this ITB; (c) involves collusion, consultation, communication, or agreement among respondents; (d) includes information the respondent knew or should have known was materially incorrect; or (e) does not comply with the terms, conditions, specifications, or performance requirements of this ITB.

After the State opens the responses, no price changes shall be permitted except

pursuant to target pricing or best and final offer negotiations as specified in this ITB.

- 3.8. **Communications and Contacts.** Prospective respondents must direct communications concerning this ITB to the following person designated as the Solicitation Coordinator:

Parker Birt
Department of General Services, CPO
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower
Nashville TN 37243-1102
615-291-5948
Parker.Birt@tn.gov

Unauthorized contact about this ITB with employees or officials of the State of Tennessee except as detailed in this ITB may result in disqualification from consideration under this procurement process. Notwithstanding the foregoing, respondents may alternatively contact:

Staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, service-disabled veteran owned, businesses owned by persons with disabilities and small businesses as well as general, public information relating to this ITB (visit <https://www.tn.gov/general-services/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--godbe-general-contacts.html> for contact information); and

The following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and associated federal regulations:

Helen Crowley
Department of General Services, CPO
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower
Nashville, TN 37243-1102
615-741-1035
Helen.Crowley@tn.gov

- 3.9. **Responses Submitted by Mail.** If submitting a response by mail: (1) all prices must be typed or written in ink on the "Line Details" portion of this ITB; (2) any corrections, erasures, or other alterations to prices must be initialed by the respondent; and (3) the response shall be manually signed by the respondent in ink. Each individual response must be returned in a separate envelope package or container and must be properly labeled on the outside referencing the applicable event number and the response opening date. Responses should be mailed in a properly labeled sealed envelope to the following address:

Bidder Services
Department of General Services, CPO
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower
Nashville, TN 37243-1102.

Failure to comply with these requirements may result in rejection of the response.

- 3.10. **Models Included in Response.** All goods identified in the response must be new, of current manufacturer production, and must have been formally announced by the manufacturer or provider of services as being commercially available as of the date of response opening. Goods may include internal refurbished or reconditioned components normally used in the manufacturing process and deemed and warranted and sold as new equipment by the manufacturer.
- 3.11. **Respondent Certification.** By signing or electronically submitting the response, the respondent agrees to the terms and conditions of this ITB and certifies that all goods or services included in the response meet or exceed the Scope or Specifications of this ITB. The respondent agrees that, if it is awarded a contract, it will deliver goods or services that meet or exceed the specifications in this ITB.
- 3.12. **Exceptions or New Terms or Conditions.** Exceptions to terms and conditions or new terms and conditions proposed by the respondent that vary from this ITB may, in the discretion of the State, render the response nonresponsive. A response deemed nonresponsive will not be considered for an award of a contract.
- 3.13. **Conflict of Interest.** The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this ITB:
- a. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;
 - b. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and
 - c. A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been, a State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.
- 3.14. **Specifications Govern.** Brands or model numbers identified in the specifications of this ITB are deemed to meet all written specifications. In the event of a conflict between specified brands and models and the written specifications, the conflict shall be resolved in favor of the written specifications.
- 3.15. **Firm Offer.** The response constitutes a firm offer that is irrevocable for ninety (90) days. An award of a contract shall, subject to necessary State approvals, be binding on the respondent without any further action by the respondent.
- 3.16. **F.O.B. Destination.** Respondent's prices shall include delivery of all items F.O.B. destination or as otherwise specified by the State.
- 3.17. **Tax Exemption.** The State of Tennessee is exempt from local, state, and federal excise taxes. These taxes shall not be included in respondent's prices. The successful

respondent shall pay all taxes lawfully imposed on it with respect to any goods or services delivered in accordance with this ITB.

- 3.18. **Prompt Pay Discount.** Any prompt pay discounts offered by respondents shall be extended to all authorized users of the contract.
- 3.19. **Fixed Discount or Surcharge.** The percent discount or surcharge per line item must be fixed for the contract's term.
- 3.20. **On-site Inspection.** All respondents should visit the site to take exact measurements and examine the premises to become familiar with any problems or unusual circumstances. No allowances will be made by the State for errors in quotations due to any respondent not visiting the site prior to submitting their response. Respondents shall be responsible for their own measurements.
- 3.21. **Used Equipment.** When this ITB authorizes offers of used items, no used item is acceptable if serial numbers or any other manufacturer's identifying label or markings have been removed, obliterated, or changed in any way.
- 3.22. **Tennessee Contractor License.** Respondents shall be properly licensed as of the date it files a response to this ITB and shall provide evidence of compliance with all applicable provisions of the Contractors Licensing Act of 1994, Tenn. Code Ann. § 62-6-101, et seq. in providing the specified information within this ITB. Any response that does not comply with Tenn. Code Ann. § 62-6-119, when applicable, shall be rejected.
- 3.23. **Purchase of Materials for Highways or Roadways.** Respondents must comply with Tenn. Code Ann. § 54-5-135 when purchasing materials used for highway or road construction, resurfacing, or maintenance.
- 3.24. **Energy Star Products.** Any goods ordered by the State must be Energy Star certified and meet applicable Energy Star specifications for energy efficiency.
- 3.25. **Safety of Chemical Products.** All respondents awarded a contract must maintain, for all of its chemical products available under this Contract, a Safety Data Sheet ("SDS") on the chemical manufacturer's website. A site operated by or on behalf of the manufacturer or a relevant trade association is acceptable so long as the information is accessible to the public, free of charge.
- 3.26. **Professional Licensure.** All persons, agencies, firms, or other entities that provide legal or financial opinions, which a respondent provides for consideration and evaluation by the State as a part of a response to this ITB, shall be properly licensed to render such opinions. Upon submitting the response, the respondent (and respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any respondent to submit evidence of proper licensure.

- 3.27. **Department of Revenue Registration.** Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this ITB. To register, please visit the Department of Revenue's Tennessee Taxpayer Access Point (TNTAP) website for Online Registration and the Vendor Contract Questionnaire. These resources are available at the following: <https://tntap.tn.gov/eservices/> /#1
- 3.28. **Prohibition of Illegal Immigrants.** Any respondent awarded a contract shall comply with Tenn. Code Ann. § 12-3-309 and submit semi-annual attestations to the State.
- 3.29. **Inspection of Procurement File.** All respondents have the right to inspect the procurement file, prior to award, upon completion of the evaluation by the Central Procurement Office. Interested respondents should contact the Solicitation Coordinator following the response opening date or once the file is open for the seven (7) day inspection period. A "Notice of Intent to Award" letter will be sent to all respondents detailing which respondent(s) has been recommended for award and the evaluated award amount(s). Upon request, a reasonable opportunity to inspect the procurement file will be provided to the respondent.
- 3.30. **Protest by Respondent.** Pursuant to Tenn. Code Ann. § 12-3-514, any actual respondent may protest. Please refer to the Central Procurement Office's website to obtain a copy of the protest procedures and protest bond requirements or contact the sourcing analyst or category specialist at 615-741-1035. The website for the Central Procurement Office is as follows: <https://www.tn.gov/general-services/procurement.html>. If a written protest and a protest bond are not received by the end of the seven-day period to protest, then the Solicitation Coordinator will proceed with the contract award.

GOVERNOR'S OFFICE OF DIVERSITY BUSINESS ENTERPRISE

Efforts to Achieve Diversity Business Participation

The Governor's Office of Diversity Business Enterprise ("Go-DBE") is the State's central point of contact to attract and assist minority-owned, woman-owned, service-disabled veteran-owned, disabled-owned, and small business enterprises interested in competing in the State of Tennessee's procurement and contracting activities. These diversity business enterprises are defined as follows:

Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE)

Businesses that are a continuing, independent, for-profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more individuals in the minority or woman category who were impeded from normal entry into the economic mainstream because of past practices of discrimination based on race, ethnic background, or gender.

Service-Disabled Veteran Business Enterprise (SDVBE)

"Service-disabled veteran-owned business" means a service-disabled veteran-owned business located in the State of Tennessee that satisfies the criteria in Tenn. Code. Ann. § 12-3-1102(8). "Service-disabled veteran" means any person who served honorably in active duty in the armed forces of the United States with at least a twenty percent (20%) disability that is service-connected, i.e., the disability was incurred or aggravated in the line of duty in the active military, naval or air service.

Small Business Enterprise (SBE)

"Small business" means a business that is a continuing, independent, for profit business which performs a commercially useful function with residence in Tennessee and has total gross receipts of no more than ten million dollars (\$10,000,000) averaged over a three-year period or employs no more than ninety-nine (99) persons on a full-time basis.

"Disabled Business Enterprise (DSBE)

"Disabled Business Enterprise" means a business owned by a person with a disability that is a continuing, independent, for-profit business that performs a commercially useful function, and is at least fifty-one (51%) owned and controlled by one (1) or more persons with a disability, or, in the case of any publicly-owned business, at least fifty one percent (51%) of the stock of which is owned and controlled by one(1) or more persons with a disability and whose management and daily business operations are under the control of one (1) or more persons with a disability.

For additional program eligibility information, visit:

<https://www.tn.gov/general-services/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--/program-eligibility.html>

Instructions

As part of this Invitation to Bid, the respondent should complete the Diversity Utilization Plan below. To assist in your effort to seek and solicit the participation of diversity businesses on this solicitation, a directory of certified Diversity Business Enterprise firms may be found on the State's website at:

<https://tn.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?TN=tn&XID=1215>
directory or by calling Go-DBE toll free at 866-894-5026.

RESPONDENT'S DIVERSITY UTILIZATION PLAN

Respondent's Company Name:		
Solicitation Event Name:	Event Number:	
Respondent's Contact Name:	Phone: ()	Email:
Does the Respondent qualify as the diversity business enterprise? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, which designation does the Respondent qualify? <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> SDVBE <input type="checkbox"/> SBE		
Certifying Agency:		

Estimated level of participation by DBEs if awarded a contract pursuant to this ITB:

Diversity Business Information (List all subcontractors, joint-ventures, and suppliers)	% of Contract	Estimated Amount	MBE/ WBE/ SDVBE/ SBE / DSBE Designation	Currently Certified (Yes or No)
Business Name:				
Contact Name:				
Contact Phone:				
Business Name:				
Contact Name:				
Contact Phone:				

If awarded a contract pursuant to this ITB, we confirm our commitment to make reasonable business efforts to meet or exceed the commitment to diversity as represented in our Diversity Utilization Plan. We shall assist the State in monitoring our performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans and persons with disabilities. Such reports shall be provided to the state of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>

We further agree to request in writing and receive prior approval from the Central Procurement Office for any changes to the use of the above listed diversity businesses.

Authorized Signature: _____

Date: _____

Printed Name and Title of Signatory _____



Statewide Contract # SWC 507 Rock Salt

4. SCOPE:

- 4.1. **Scope.** The Contractor shall provide all goods or services and deliverables as required, described, and detailed in the Scope or Specifications set forth in the Invitation to Bid and meet all service and delivery timelines as specified by the Invitation to Bid.

4.2. Warranty Clauses:

- 4.2.1. **Warranty.** Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge. Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

- 4.2.2. **Warranty for Resale of Goods.** For all goods provided under this Contract, Contractor shall pass-through to the State any manufacturers' warranties. In addition, for a period of one (1) year after any receipt of any goods under this Contract, Contractor expressly warrants that all such goods are: (a) merchantable; (b) of good quality and workmanship; (c) free from defects; (d) in conformity with the intended purpose and for the particular purpose for which they were designed; and (e) in conformity with Contractor's samples, if any.

- 4.3. **Inspection and Acceptance.** The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

5. TERM OF CONTRACT:

- 5.1. **Term of Contract.** This Contract shall be effective on June 01, 2020 ("Effective Date") and extend for a period of 36 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. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.
- 5.2. **Renewal Options.** This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to 2 renewal options under the same terms and conditions, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.
- 5.3. **Term Extension.** The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State's sole option.

6. PAYMENT TERMS AND CONDITIONS:

- 6.1. **Estimated Liability.** The total purchases of any goods or services under the Contract are not known. The State estimates the purchases during the Term shall be \$30,000,000 ("Estimated Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- 6.2. **Price Changes.** Prices identified in the Contract, whether derived from an awarded published catalog, price list, price schedule, or other mutually agreed upon source, shall remain firm for 365 days ("Firm Price Period").
- a) **Price Decreases.** After the Firm Price Period, prices shall be equitably adjusted to reflect a decrease in Contractor's costs.
 - b) **Price Increases.** After the Firm Price Period, Contractor may request price increases. The request shall: include independently verifiable documentation that supports Contractor's request for a price increase; not constitute an increase in Contractor profit; and reflect a price increase that is applicable to all of Contractor's customers.

- c) **Approval of Price Changes.** The State may at its sole option: (1) grant the Contractor's request; (2) cancel the Contract and award it to the next apparent best evaluated Respondent; (3) cancel the Contract and reissue the solicitation; or (4) deny the Contractor's request. If approved, any price changes of less than seven percent (7%) will become effective upon the State's approval in writing. Price changes exceeding seven percent (7%) shall require a Contract amendment. The Contractor shall honor all purchase orders dated prior to the approved price change. Upon request from the State, the Contractor shall furnish the approved catalog, price schedule or price list as applicable to the State at no charge.

6.3. **Travel Compensation.** The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

6.4. **Invoice Requirements.** The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in this Contract. Contractor shall submit invoices and necessary supporting documentation to the State Agency that requested goods or services no later than thirty (30) days after goods or services have been provided.

- a) Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following 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. Purchase order number (assigned by the State);
5. Customer account name: The State of Tennessee;
6. Customer account number (assigned by the Contractor to the above-referenced Customer);
7. Contractor name;
8. Contractor Tennessee Edison supplier ID number;
9. Contractor contact for invoice questions (name, phone, or email);
10. Contractor remittance address;
11. Description of delivered goods or services provided and invoiced, including identifying information as applicable;
12. Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
13. Applicable payment methodology of each good or service invoiced;
14. Amount due for each compensable unit of good or service; and
15. Total amount due for the invoice period.

- b) Contractor's invoices shall:

1. Only include charges for goods delivered or services provided as described in this Contract and in accordance with payment terms and conditions set forth in this Contract;
2. Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
3. Not include a line item for Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal Property taxes, or income taxes; and
4. Include shipping or delivery charges only as authorized in this Contract.

The timeframe for payment (or any discounts) begins only when the State is in receipt of an undisputed invoice that meets the minimum requirements of this Section.

- 6.5. **Payment of Invoice.** A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.
- 6.6. **Invoice Reductions.** The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with this Contract, to not constitute proper compensation for goods delivered or services provided.
- 6.7. **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 that are or shall become due and payable to the State of Tennessee by the Contractor.
- 6.8. **Prerequisite Documentation.** The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.
 - 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.

7. MANDATORY TERMS AND CONDITIONS:

- 7.1. **Substitute Items Offered by the Contractor.** In the event that an awarded item is no longer being manufactured or is replaced by a functionally equivalent item with superior technological features to the item being replaced, Contractor may offer a substitute item ("Substitute"). The Substitute shall: (a) meet or exceed the functional, technical, and performance characteristics of the item being replaced; (b) not exceed the cost of the item being replaced by more than ten percent (10%); and (c) be available for order on the date Contractor requests to make the substitution. Contractor shall not make any substitutions for awarded items without the State's prior, written approval. Contractor shall submit any proposed substitutions to the Central Procurement Office and include sufficient information to show that criteria (a) -- (c) above are met. The Central Procurement Office may request sample Substitutes for inspection or testing.

- 7.2. **Minimum Order.** Individual orders for less than 150 tons are exempt from purchase from this contract. User agencies will purchase by applicable purchasing procedures.
- 7.3. **Purchase Order Release.** Agency submission of a purchase order to Contractor authorizes Contractor to deliver goods or provide services.
- 7.4. **Delivery.** Contractor shall provide all goods or services as required and described in this Contract and shall meet all service and delivery timelines specified in this Contract. All quotations shall be F.O.B. destination.
- 7.5. **Required Approvals.** The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- 7.6. **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. All communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address or email address as stated below or any other address provided in writing by a party.

The Contractor:

Contractor
Contractor's Contact Name & Title
Address
Email Address
Telephone Number

State of Tennessee:

Parker Birt
Department of General Services, CPO
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower
Nashville TN 37243-1102
615-291-5948
Parker.Birt@tn.gov

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

- 7.7. **Modification and Amendment.** This Contract may be modified only by a written amendment signed by all parties and approved by all applicable State officials.

- 7.8. **Subject to Funds Availability.** The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- 7.9. **Termination for Convenience.** The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- 7.10. **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 materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- 7.11. **Assignment and Subcontracting.** The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- 7.12. **Conflicts of Interest.** The Contractor warrants that no part of the Contractor's compensation 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 under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an

employee of the State of Tennessee.

7.13. **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, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

7.14. **Equal Opportunity.** During the performance of this Contract, the Contractor agrees as follows:

a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

1. Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising;
2. Layoff or termination;
3. Rates of pay or other forms of compensation; and
4. Selection for training, including apprenticeship.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c) If the State approves any subcontract, the subcontract shall include paragraphs (a) and (b) above.

7.15. **Prohibition of Illegal Immigrants.** The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a) The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at: <https://www.tn.gov/general-services/procurement/central-procurement-office--cpo-supplier-information-.html>, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation

that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

- b) Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
- c) The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- d) The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
- e) For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.

7.16. **Records.** The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) 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.

7.17. **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.

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

7.19. **Strict Performance.** Failure by any Party to this Contract to require, in any one or more cases, 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 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.

7.20. **Independent Contractor.** The parties shall not act as employees, partners, joint ventures, or associates of one another. The parties are independent contracting

entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either party 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 are not employees or agents of the other party.

- 7.21. **Patient Protection and Affordable Care Act.** The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- 7.22. **Limitation of State's Liability.** The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. Notwithstanding anything else herein, the State's total liability under this Contract (including without limitation any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Estimated Liability. This limitation of liability is cumulative and not per incident.
- 7.23. **Limitation of Contractor's Liability.** In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Estimated Liability amount and as may be amended. Except as set forth below, in no event will the Contractor be liable to the State or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.
- 7.24. **Hold Harmless.** The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and

provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

7.25. **Statewide Contract Reports.** All reports shall be submitted electronically in Microsoft Excel format. Reports shall include the ability to sort or summarize data in accordance with the Contract Administrator's specifications. All reports shall be provided at no additional cost to the State.

a) **Quarterly Reports:** Contractor(s) will submit quarterly reports to the Contract Administrator no later than ten (10) days after the end of the State's quarter (e.g. a fiscal year quarter 2 report for October - December is due no later than January 10th). At the Contract Administrator's sole discretion, the State may extend the time allowed to complete quarterly reports. Quarterly reports shall provide statistical data on all purchases under this Contract by State Agencies, including State Agencies of the judicial or legislative branch, local governmental entities in the State of Tennessee, including but not limited to educational institutions, local governmental authorities, quasi-governmental bodies ("Other Governmental Bodies"), and certain not-for-profit entities under Tenn. Code Ann. § 33-2-1001. At minimum, the quarterly report's statistical data shall be detailed and broken down by line item to include:

1. Edison contract number
2. Contract line item number
3. Invoice date
4. Invoice number
5. Supplier part number
6. Item or bundle description
7. Quantity purchased
8. Unit of measure
9. Unit of measure description
10. Name of State Agency, Other Governmental Body or not-for-profit entity
11. Identity of purchaser: State entity or non-State entity
12. State Agency location
13. Unit/Contract price per line item
14. List price as listed in supplier's catalog if catalog item
15. Subtotals for each category above
16. Grand totals for each category above

- b) **Diversity Business and Subcontractor Usage Reports:** The Contractor shall submit monthly reports of returns, credits, savings, net purchases, and percent of net purchases by subcontractors, small business enterprises, and businesses owned by minorities, women, persons with disabilities, and Tennessee service-disabled veterans. Such reports shall be submitted to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at: <https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.
- c) **Custom Reports:** When requested by the State, the Contractor shall submit custom reports to the Contract Administrator within thirty (30) days of the request.

7.26. **HIPAA Compliance.** The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health

Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.

- a) Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable requirements in the course of this Contract.
- b) Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
- c) The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

7.27. **Tennessee Consolidated Retirement System.** Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, et seq., the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, et seq., accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

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

7.29. **Debarment and Suspension.** The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

- b) have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c) are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d) have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

- 7.30. **Force Majeure.** "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees for the affected obligations until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

- 7.31. **State and Federal Compliance.** The Contractor shall comply with all State and federal laws and regulations applicable to Contractor in the Contractor's performance of this Contract.

- 7.32. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 -- 408.
- 7.33. **Entire Agreement.** This Contract is complete and contains the entire understanding between the parties relating to its subject matter, 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, whether written or oral.
- 7.34. **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 of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- 7.35. **Headings.** Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- 7.36. **Incorporation of Additional Documents.** Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a) any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b) this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below);
 - c) any clarifications of or addenda to the Contractor's response seeking this Contract;
 - d) the Invitation to Bid, as may be amended, requesting responses in competition for this Contract;
 - e) any technical specifications provided to respondents during the procurement process to award this Contract; and,
 - f) the Contractor's response seeking this Contract.
- 7.37. **Iran Divestment Act.** The requirements of Tenn. Code Ann. § 12-12-101 et.seq., addressing contracting with persons with investment activities in Iran, shall be a material provision of this Contract. The Contractor agrees, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

7.38. Insurance Requirements:

- 7.38.1. **Insurance.** Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified below. The COI shall be provided ten (10) business days prior to the Effective Date and again upon renewal or replacement of coverages required by this Contract. If insurance expires during the Term, the State must receive a new COI at least thirty (30) calendar days prior to the insurance's expiration date. If the Contractor loses insurance coverage, does not renew coverage, or for any reason becomes uninsured during the Term, the Contractor shall notify the State immediately.

The COI shall be on a form approved by the Tennessee Department of Commerce and Insurance ("TDCI") and signed by an authorized representative of the insurer. The COI shall list each insurer's national association of insurance commissioners (also known as NAIC) number or federal employer identification number and list the State of Tennessee, Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 in the certificate holder section. At any time, the State may require the Contractor to provide a valid COI detailing coverage description; insurance company; policy number; exceptions; exclusions; policy effective date; policy expiration date; limits of liability; and the name and address of insured. The Contractor's failure to maintain or submit evidence of insurance coverage is considered a material breach of this Contract.

If the Contractor desires to self-insure, then a COI will not be required to prove coverage. In place of the COI, the Contractor must provide a certificate of self-insurance or a letter on the Contractor's letterhead detailing its coverage, liability policy amounts, and proof of funds to reasonably cover such expenses. Compliance with Tenn. Code Ann. § 50-6-405 and the rules of the TDCI is required for the Contractor to self-insure workers' compensation.

All insurance companies must be: (a) acceptable to the State; (b) authorized by the TDCI to transact business in the State of Tennessee; and (c) rated A- VII or better by A. M. Best. The Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that the subcontractors are included under the Contractor's policy.

The Contractor agrees to name the State as an additional insured on any insurance policies with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) ("Professional Liability") insurance. Also, all policies shall contain an endorsement for a waiver of subrogation in favor of the State.

The deductible and any premiums are the Contractor's sole responsibility. Any deductible over fifty thousand dollars (\$50,000) must be approved by the State. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to

represent the State is governed by Tenn. Code Ann. § 8-6-106.

All coverage required shall be on a primary basis and noncontributory with any other insurance coverage or self-insurance carried by the State. The State reserves the right to amend or require additional endorsements, types of coverage, and higher or lower limits of coverage depending on the nature of the work. Purchases or contracts involving any hazardous activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, cyber-liability risks, environmental risks, special motorized equipment, or property may require customized insurance requirements (e.g. umbrella liability insurance) in addition to the general requirements listed below.

7.38.2. Workers' Compensation and Employer Liability Insurance.

- a) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
- b) Workers' compensation and employer liability insurance in the amounts required by appropriate state statutes; or
- c) In an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
- d) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 -- 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
 - 1. The Contractor employees fewer than five (5) employees;
 - 2. The Contractor is a sole proprietor;
 - 3. The Contractor is in the construction business or trades with no employees;
 - 4. The Contractor is in the coal mining industry with no employees;
 - 5. The Contractor is a state or local government; or
 - 6. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

7.38.3. Commercial General Liability Insurance.

- a) The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

- b) The Contractor shall maintain bodily injury/property damage with a combined single-limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least two million dollars (\$2,000,000).

7.38.4. Automobile Liability Insurance

- a) In the event that the Contractor (1) owns, leases, or otherwise operates an automotive vehicle and (2) intends to use such vehicle in furtherance of their Contractual duties or for regular or periodic transportation onto State property for the purposes of performing the Contractor's duties under the Terms of this Contract, then the Contractor shall provide to the State proof of the Contractor's automobile liability insurance policy. Such automobile liability insurance policy shall maintain limits not less than the minimum liability limits established by the relevant authority under which said vehicle is licensed. Such verification is required whether or not the State intends to reimburse the Contractor for mileage.
- b) If the Contractor DOES NOT (1) own, lease, or otherwise operate an automotive vehicle or (2) WILL NOT operate or otherwise employ a personal vehicle in furtherance of their contractual duties or for regular or periodic transportation onto State property for the purposes of performing the Contractor's duties under the Terms of this Contract, then the Contractor shall provide to the State a letter signed by the Contractor certifying as to the above. In the event that such situation changes over the course of the Term of this Contract as described in provision 1) above, the Contractor shall inform the State and provide proof of automobile liability insurance before such time as the Contractor shall use such vehicle in furtherance of their Contractual duties or for regular or periodic transportation onto State property for the purposes of performing the Contractor's duties under the Terms of this Contract.

7.38.5. Pollution/Environment Liability Coverage

- a) Coverage would respond to claims from 3rd parties for bodily injury, property loss or property damage resulting from any unexpected release of pollutants or hazardous waste exposure during the contractor's performance of duties under the contract. This type of coverage would also cover clean-up costs caused by contamination and associated with the release of toxic waste materials.
- b) The Contractor shall maintain Pollution/Environment Liability Coverage with a minimum of one million dollars (\$1,000,000) per occurrence with an aggregate limit of at least one million dollars (\$1,000,000).

7.39. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

7.40. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal

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

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

8. SPECIAL TERMS AND CONDITIONS:

- 8.1. **Conflicting Terms and Conditions.** Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- 8.2. **Prohibited Advertising or Marketing.** The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- 8.3. **Authorized Users -- Statewide Contract.** This Contract establishes a source or sources of supply for all Tennessee State Agencies. "Tennessee State Agency" refers to the various departments, institutions, boards, commissions, and agencies of the executive branch of government of the State of Tennessee with exceptions as addressed in Tenn. Comp. R. & Regs. 0690-03-01-.01. The Contractor shall provide all goods or services and deliverables as required by this Contract to all Tennessee State Agencies.

The Contractor shall make this Contract available to the following entities, who are authorized to and who may purchase off of this Statewide Contract ("Authorized Users"):

- a) all Tennessee State governmental entities (this includes the legislative branch; judicial branch; and, commissions and boards of the State outside of the executive branch of government);
- b) Tennessee local governmental agencies;
- c) the board of trustees of the University of Tennessee system, the Tennessee board of regents system, or the State university boards;
- d) any private nonprofit institution of higher education chartered in Tennessee; and,
- e) any corporation which is exempted from taxation under 26 U.S.C. Section 501(c)(3), as amended, and which contracts with the Department of Mental Health and

Substance Abuse Services or the Department of Intellectual and Developmental Disabilities to provide services to the public (Tenn. Code Ann. § 33-2-1001).

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

- 8.4. **State of Tennessee Administrative Fee.** A one percent (1%) administrative fee will be included in the cost of all goods and/or services purchased under this Contract for non-TDOT locations. This one percent (1%) administrative fee will be rebated back to the State of Tennessee based on quarterly contract usage of all Authorized Users. The administrative fee is due to the State no later than forty-five (45) days after the end of the specified reporting period, as detailed below:

Calendar Quarter 1 (Jan 1-Mar 31)
Calendar Quarter 2 (Apr 1-June 30)
Calendar Quarter 3 (July 1-Sep 30)
Calendar Quarter 4 (Oct 1-Dec 31)

Contractor shall submit payments to:
Ron Plumb, Director of Financial Management
Department of General Services
22nd Floor, William R Snodgrass, Tennessee Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243

Contract usage reports shall be submitted to:
Contract Administrator
Department of General Services
3rd Floor, William R. Snodgrass, Tennessee Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102
Email: CPC.SWC@tn.gov

- 8.5. **Additional Lines, Items or Options.** At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding ("MOU"), not an amendment.
- a) After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The Contractor's written proposal shall include:
1. The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
 2. Any pricing related to the new lines, items, or options;
 3. The expected effective date for the availability of the new lines, items, or options; and
 4. Any additional information requested by the State.
- b) The State may negotiate the terms of the Contractor's proposal by requesting revisions to the proposal.

- c) To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
- d) Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.

8.6. **Survival.** The terms, provisions, representations, and warranties contained in this Contract which by their sense and context are intended to survive the performance and termination of this Contract, shall so survive the completion of performance and termination of this Contract.

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: O&M – Jet/Vacuum Sewer Cleaner

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Purchase a 2023 Western Star 47x-SF for jet-vac cleaning of the City's sanitary sewer system.

Staff Recommendation

Approve Sourcewell purchase in the amount of \$503,640 from GAP-VAX through 502 Equipment in LaGrange, Kentucky.

Background Information

O&M is requesting approval to replace an aging jet/vacuum sewer cleaner. This equipment is used to perform daily tasks of cleaning sewer lines and wet wells. Purchase will be on a cooperative agreement through Sourcewell. State law and the City's purchase code permit cooperative purchases. Staff has verified the pricing is competitive.

Council Priorities Served

Responsible budgeting

By utilizing the Sourcewell contract, the department benefits from competitive pricing.

Fiscal Impact

Funding for the purchase, \$515,000, is included in O&M's Capital Budget FY23 which is \$11,360 under the proposed budget.

Attachments

Quote

Sourcewell Contract

SOURCEWELL CONTRACT NO. 101221-GPV

502 EQUIPMENT

PREPARED BY

502 Equipment

JC Spalding - jc@502equipment.com

PREPARED FOR

Matt Powers

Mufreesboro Water Resources
1725 South Church St
Mufreesboro TN

3 quotes in folder
QUOTE

GapVax

QUOTE ID
21xxx

UPDATED:
10/26/21



2023 MC1312-3S3X COMBINATION JET/VAC

QUOTE ID: 21xxx

April 15, 2022

NOTE: THE GAPVAX MC UNIT MAY EXCEED FEDERAL BRIDGE ALLOWABLE WEIGHTS WHEN LOADED WITH WATER, OR DEBRIS, AND/OR BOTH WATER AND DEBRIS COMBINED. PLEASE CONSULT FACTORY.

OPTION DESCRIPTION		NOTES	QTY
CHASSIS OPTIONS			
CHA001	WESTERN STAR 47X-SF (6 X 4) - 455 HP - 66,000 LB. GVWR - AUTO	MODEL YEAR 2023	1
	CUMMINS X12 RATED FOR 455 HP	CONSULT FACTORY	
	ALLISON 6 SPEED AUTOMATIC	PRICES MAY VARY	
	22,000 LB FRONT AXLE		
	46,000 LB REAR AXLE		
	STOCK CHASSIS ARE SUBJECT TO PRIOR SALE, LIMITED QUANTITY ARE AVAILABLE		1
DEBRIS BODY OPTIONS			
STD	12 USABLE YARD DEBRIS TANK MADE OF 3/16" ASTM A-572 GRADE 50 EXTEN STEEL		STANDARD
STD	FULL-OPENING REAR TAILGATE		STANDARD
STD	STAINLESS STEEL TAILGATE SEALING ROD		STANDARD
STD	FOUR HYDRAULIC REAR DOOR LOCKS		STANDARD
STD	DUAL TAILGATE LIFT CYLINDERS		STANDARD
STD	FRONT MOUNTED HOIST CYLINDER, POWER UP AND DOWN, 55,000 LB CAPACITY		STANDARD
STD	THREE TIE-OFF ANCHORS ON TOP OF BODY		STANDARD
STD	FIVE YEAR WARRANTY ON DEBRIS TANK AGAINST RUST THROUGH, DISTORTION AND CRACKS		STANDARD
STD	THREE TIE-OFF ANCHORS ON TOP OF THE BODY 6' APART		STANDARD
A1	DEBRIS BODY FLUSH OUT SYSTEM		1
A2A	DRAIN AT BOTTOM OF TAILGATE - 6" BRASS LEVER VALVE WITH 15' OF LAYFLAT HOSE	VALVE IS NOT 100% LEAK PROOF	1
A24A	DECANT HALF WAY UP TAILGATE - 6" BRASS LEVER VALVE WITH HANDLE		1
A3-CS	FLOAT TYPE LIQUID LEVEL INDICATOR ON SIDE OF DEBRIS TANK		1
A6A	TRASH PUMP - STANLEY 4" 800 GPM WITH LAY-FLAT HOSE AND CAM-LOC FITTINGS	NOT RECOMMENDED FOR CONTINUOUS USE	1
A11A	FILTER SCREEN FOR DRAIN VALVE (SHORT BOX)	REQUIRES A2	1
A11B	FILTER SCREEN FOR PUMP OFF SYSTEM (SHORT BOX)	REQUIRES A5 OR A6	1
A21	CURBSIDE LADDER TO PORT INSPECTION AREA		1
A18	PURGE VALVE AT GRAVITY DRAIN (1-1/4" BALL VALVE)		1
A22B	STAINLESS STEEL BOLT-ON TAILGATE SPLASH SHIELD		1
A37A	UPGRADE BODY INLET CANNON TO 12" HX STYLE WITH 3" CLEANOUT		1
A39	LONG POLE HOLDER TO ACCOMMODATE (3) 12' CLAM DIGGERS		1
WATER TANK OPTIONS			
STD	1300 GALLON WATER TANK MADE OF 3/16" 304 STAINLESS STEEL		STANDARD
STD	4" HIGH ANTI-SIPHON RING WITH (4) 2-1/2" HOLES		STANDARD
STD	WATER TANK LEVEL SIGHT TUBE ON CURBSIDE		STANDARD
STD	DRAIN VALVE AT BOTTOM OF WATER TANK		STANDARD
STD	3" FILL LINE WITH 2-1/2" FIRE HOSE CONNECTION CURBSIDE		STANDARD

STD	3" WATER STRAINER WITH STAINLESS STEEL SCREEN ON WATER TANK FILL LINE	STANDARD
STD	3" SUPPLY LINE TO WATER PUMP MOUNTED AT REAR HINGE PIN	STANDARD
STD	FIVE YEAR WARRANTY ON WATER TANK AGAINST RUST THROUGH, DISTORTION AND CRACKS	STANDARD
B23A	GALVANIZED BAFFLES IN THE WATER TANK	1
B30	UPGRADE TO BUTTERFLY VALVE IN 3" SUPPLY LINE	STANDARD
VACUUM SYSTEM OPTIONS		
STD	TRUE 8" DIAMETER VACUUM SYSTEM	STANDARD
STD	VACUUM PUMP DRIVEN VIA MID-SHIP MOUNTED SPLIT SHAFT TRANSFER CASE GEARBOX (PTO)	STANDARD
STD	NOISE & VIBRATION DAMPENING MOUNTS ON VACUUM PUMP AND TRANSFER CASE	STANDARD
STD	NOISE ATTENUATED VACUUM PUMP DISCHARGE SILENCER WITH RAIN CAP AND DRAIN	STANDARD
STD	24" CENTRIFUGAL CYCLONE SEPARATOR WITH 20" CHAMBER	STANDARD
STD	DUAL STAINLESS STEEL SHUTOFF FLOAT BALLS MOUNTED AT THE REAR OF DEBRIS TANK	STANDARD
STD	STAINLESS STEEL VEE-WIRE SAFETY SCREEN	STANDARD
STD	6" SAFETY VACUUM RELIEF	STANDARD
STD	PANIC SWITCH FUNCTION FOR VACUUM	STANDARD
C8	UPGRADE TO ROOTS TYPE VACUUM PUMP 4,500 CFM AND 18" HG (4) 18" Hg VACUUM RELIEF VALVES	1
C19	UPGRADE TO XL TRANSFER CASE 9-LITER ENGINE = UP TO 5300 CFM, REQUIRES OPTION C8	1
WATER SYSTEM OPTIONS		
STD	TRI-PLEX WATER PUMP SYSTEM	STANDARD
STD	800 PSI WASHDOWN CIRCUIT WITH 50' X 1/2" HOSE	STANDARD
STD	AIR PURGE SYSTEM FOR PRIMARY CIRCUIT	STANDARD
STD	LOW POINT DRAIN VALVES ON WATER LINES	STANDARD
STD	SET WASHDOWN CIRCUIT TO FULL WORKING PRESSURE OPTION D4 IS RECOMMENDED	1
D5A	GIANT GP8000 SERIES WATER PUMP RATED AT 63 GPM @ 3000 PSI	1
D27A	10 GPM / 2,500 PSI HYDRAULICALLY DRIVEN PUMP (COMMON WITH BODY HYDRAULIC SYSTEM) REQUIRES OPTION J303 HYDRAULIC OIL COOLER	1
D4	UPGRADE TO URACA MULTIFLOW VALVE - SET WASHDOWN CIRCUIT TO FULL PRESSURE FOR HANDGUN APPLICATIONS	1
D7A	50' X 1/2" HAND GUN REEL FOR WASHDOWN CIRCUIT	1
D7B	50' X 1/2" HAND GUN REEL FOR HX CIRCUIT	1
D18	AIR OUT SYSTEM FOR HX CIRCUIT	1
D20A	NON-REMOVABLE LATERAL HOSE REEL - 150' X 1/2" HOSE REQUIRES OPTION D4	1
D21	WATER RECIRCULATION VIA AUTOMATIC TRANSMISSION	1
D28	GLYCOL INJECTION SYSTEM - HX SYSTEM	1
D28A	GLYCOL INJECTION SYSTEM - JETTER PUMP ONLY REQUIRES G2	1
D35B	1/2" HX LANCE WITH 6' EXTENSION AND RIPS AW NOZZLE	1
BOOM OPTIONS		
STD	8" FRONT MOUNTED TELESCOPING BOOM WITH 26' REACH AND 180 DEG. ROTATION	STANDARD
STD	180 DEGREE POWER ROTATION VIA WORM DRIVE	STANDARD
STD	DUAL 4" LIFT CYLINDERS	STANDARD
STD	CAB PROTECTION RACK	STANDARD
E6	REMOTE LUBE FOR BOOM LIFT AND ROTATION	1
HOSE REEL OPTIONS		
STD	FRONT FRAME MOUNTED HOSE REEL WITH 180 DEGREE ARTICULATION	STANDARD
STD	HOSE REEL RATED FOR 800' OF HOSE AND 3,000 PSI	STANDARD
STD	EXTERIOR HOSE EXPANSION RIBS	STANDARD

F1C	DIGITAL FOOTAGE COUNTER - SHAFT-MOUNTED	1
F11	AUTOMATIC HOSE LEVEL WINDER (INCLUDES "J-HOOK" STLYE HOSE GUIDE)	1
CONTROLS, GUAGES, ACCESSORIES OPTIONS		
STD	CAB-MOUNTED AIR SHIFT CONTROLS FOR BLOWER, HYDRAULICS, AND WATER PUMP	STANDARD
STD	CONTROL PANEL MOUNTED AT FRONT HOSE REEL	STANDARD
STD	OPERATOR CONTROL PANEL INCLUDES GUAGES FOR ENGINE, HYDRAULICS, VACUUM, AND WATER PUMP	STANDARD
STD	PANIC SWITCH TO RELIEVE WATER PRESSURE AND VACUUM	STANDARD
STD	30' PENDANT REMOTE WITH BOOM FUNCTIONS	STANDARD
G2B	G2B CONTROL SYSTEM WITH DM430 DISPLAY INCLUDES:	1
	LOW WATER SHUTDOWN PROTECTION	1
	HIGH WATER TEMPERATURE SHUTDOWN PROTECTION	1
	ENGINE OVERSPEED PROTECTION	1
	ON-SCREEN DIAGNOSTICS FOR WATER, PTO AND ENGINE LEVELS	1
G6	BLOWER TEMPERATURE GUAGE WIRED TO VACUUM RELIEF	1
	OMNEX T110 WIRELESS REMOTE	STANDARD
G19	WIRELESS REMOTE WITH BOOM AND VACUUM FUNCTIONS	1
LIGHTING		
STD	TRUCK-LITE LED RUNNING (MARKER) LIGHTS	STANDARD
STD	LED STOP/TAIL/TURN LIGHT WITH POLISHED STAINLESS STEEL BOXES	STANDARD
H1B	TWO (2) LED STROBE BEACON LIGHT - FRONT (SAE CLASS-1 (SAE J595) COMPLIANT) (WHELEN L10 OR EQUAL)	1
H2B	TWO (2) LED STROBE BEACON LIGHT - REAR (SAE CLASS-1 (SAE J595) COMPLIANT) (WHELEN L10 OR EQUAL)	1
H5B	(2) BOOM WORK LIGHTS - HELLA LED WORK LIGHTS (PN: LHT022429)	1
H6B	(2) REAR WORK LIGHTS - HELLA LED WORK LIGHTS (PN: LHT022429)	1
H7BB	(3) SIDE WORK LIGHTS - HELLA LED WORK LIGHTS (PN: LHT022429) (2 CURBSIDE, 1 DRIVER'S SIDE)	1
H15B	WHELEN ION SUPER LED FLASHERS - 12 LIGHT HEADS	1
	2 ON EACH SIDE FRONT @ 90 DEGREES, 2 ON EACH SIDE MIDDLE @ 45 DEGREES, 2 ON EACH SIDE REAR (1 @ 45 DEGREES)	1
H22	REAR ARROW LIGHT - LOW PROFILE LED ARROW STICK (CLASS-1 (SAE J595)) (WHELEN TAM85 OR EQUAL)	1
H20	CAB LIGHT BAR - LED 69" CODE 3 MODEL 21TRPL WITH FRONT TRAFFIC ADVISOR (LOW-PROFILE)	1
STORAGE OPTIONS		
STD	25' FIRE HOSE BASKET	STANDARD
I6F-DS	STAINLESS STEEL, 36" WIDE X 24" TALL X 24" DEEP, MOUNTED ON THE DRIVER'S SIDE	1
I7C-CS	36" TOOL BOX - STAINLESS STEEL, 36" WIDE X 24" HIGH X 24" DEEP, MOUNTED ON THE CURBSIDE	1
I24B	MOUNTING TABS ONLY - TUBE RACK MOUNTED ON TANK - DRIVERS SIDE - FOUR TUBE RACK - NON FOLDING (CONSULT ENGINEERING)	1
I10	HAND GUN HOLDER - TOP OF CURBSIDE TOOL BOX	1
I14	TRAFFIC CONE HOLDER ON DRIVER'S SIDE	1
I16A	WHEEL CHOCK HOLDER (PER SIDE) - DRIVER'S SIDE	1
I16B	WHEEL CHOCK HOLDER (PER SIDE) - CURBSIDE	1
I17A	NOZZLE RACK - SIX (6) NOZZLES, 1"	1
I20A	REAR DRAIN HOSE RACK FOR 6" LAYFLAT HOSE X 15' LONG	1
I22	UPGRADE TUBE TRAYS TO POLISHED STAINLESS STEEL	1
I26C	TWO BUMPER TOOL BOXES - STAINLESS STEEL, 16" HIGH X 12" WIDE X 18" DEEP WITH FOLD DOWN DOOR	1
CHASSIS OPTIONS		
STD	DOT LIGHTING / FENDERS / MUD FLAPS / TAILGATE SAFETY PROP, ICC LIGHTS	STANDARD
STD	REMOTE ACTUATED BODY SAFETY PROP	STANDARD

STD	70 GALLONS AW-46 HYDRAULIC OIL, LEVEL/TEMPERATURE GAUGE, SHUTOFF ON SUCTION	STANDARD
STD	REAR BUMPER, TRIANGLE KIT, FIRE EXTINGUISHER, BACKUP ALARM	STANDARD
STD	ALLISON 10-BOLT PTO UPGRADE	STANDARD
J2	TRANSFER CASE OIL LEVEL SIGHT GLASS / FILL, MOUNTED ON DRIVER'S SIDE FRAME RAIL (PN: GAU006456)	1
J3	TOW HOOKS FRONT	1
J4B	TOW HOOKS REAR - FRAME MOUNTED	1
J303	ADD HYDRAULIC OIL COOLER TO CIRCUIT	1
PAINT OPTIONS		
STD	PAINTED WITH PPG URETHANE PAINT	STANDARD
STD	PAINT FRAME AND PARTS BLACK	STANDARD
STD	PAINT HOSE REEL AND BOOM BLACK	STANDARD
STD	FLEET FINISH	STANDARD
K10	PAINT BODY ANY COLOR OTHER THAN WHITE	1
	PAINT CODE # REQUIRED	
MISCELLANEOUS OPTIONS		
STD	25 FEET OF VACUUM TUBING (5) AND CLAMPS	STANDARD
STD	TIGER TAIL HOSE GUIDE	STANDARD
STD	TWO BLUE STAR SEWER CLEANING NOZZLES	STANDARD
M3	FILL HOSE 25' X 2 1/2"	1
M5A	LEADER HOSE 20' X 1"	1
M9F	3/4" COBRA SEWER HOSE - 3,000 PSI X 800 FT PLASTIC (BLUE) (PN: HOS022495)	1
M12	MANHOLE LIFTING HOOK	1
M13	HYDRANT WRENCH	1
M28	(5) TRAFFIC CONES - 28" LIME GREEN WITH REFLECTIVE STRIPE	1
M29B	TWO CAMERA - BACK-UP CAMERA SYSTEM WITH 7" COLOR MONITOR (RV-505A), INCLUDES DVR-916 REAR AND DVR-921 FRONT CAMERA	1



PRICING SUMMARY

PRICE OF BASE UNIT WITH OPTIONS:	\$	513,919.36
SOURCWELL DISCOUNT:	\$	10,278.39
DELIVERY: (\$1,000.00 MINIMUM) @ \$3.00 PER MILE	\$	-
ESTIMATED SUBTOTAL:	\$	503,640.97
SALES TAX:	\$	-
FEDERAL EXCISE TAX (BODY):	\$	-
FEDERAL EXCISE TAX (CHASSIS):	\$	-
TOTAL PRICE (PER UNIT):	\$	503,640.97

ALL PRICES ARE IN US DOLLARS

DUE TO EXTREME MARKET VOLATILITY AND PENDING U.S. GOVERNMENT SECTION 232 TRADE CASES ALL PRICES AND AVAILABILITY ARE SUBJECT TO CHANGE WITHOUT NOTICE, ALL QUOTES TO BE CONFIRMED AT TIME OF ORDER

*** FOB FACTORY, JOHNSTOWN, PA ***

SIGNATURE _____

DATE _____

Please return a signed copy to jc@502equipment.com

QUOTE ID
21xxx

LAST UPDATED:
10/26/21

GapVax Incorporated

Terms and Conditions of Sale

1. **ORDERS.** All orders are subject to acceptance by an officer of GapVax Inc. Orders for products not regularly carried in stock or requiring special engineering or manufacture are in every case subject to approval by an officer of GapVax.
2. **PERFORMANCE.** GapVax Inc. shall not be liable for failure to complete the contract in accordance with its terms if failure is due to wars, strikes, fires, floods, accidents, delays in transportation or other causes beyond its reasonable control.
3. **EXPERIMENTAL WORK.** Work performed at customer's request such as sketches, drawings, design, testing, fabrication and materials shall be charged at current rates.
4. **SKETCHES, ENGINEERING DRAWINGS, MODELS** and all preparatory work created or furnished by GapVax Inc. shall remain its exclusive property; and no use of same shall be made, nor may ideas obtained therefrom be used, except with the consent of and on terms acceptable to GapVax Inc.
5. **CANCELLATION.** Orders regularly entered cannot be canceled except upon terms that will compensate GapVax Inc. for any loss or damage sustained.
6. **SHIPMENT.** All proposals are based on continuous and uninterrupted delivery of the order upon completion, unless specifications distinctly state otherwise. In the event that agreement is reached for GapVax Inc. to store completed items, they will be immediately invoiced to the customer and become due and payable. Storage shall be at the risk of the customer and GapVax Inc. shall be liable only for ordinary care of the property.
7. **CUSTOMER'S PROPERTY.** GapVax Inc. shall charge the customer at current rates, for handling and storing customer's property (e.g. truck chassis) held for more than thirty (30) days after notification of availability for shipment. All customer's property, or third party's property, that is stored by GapVax Inc. is at the customer's or other party's risk. GapVax is not liable for any loss or damage thereto caused by fire, water, corrosion, theft, negligence, or any cause beyond its reasonable control.
8. **PRICES.** All orders are subject to current prices in effect at the time of order acknowledgment.
9. **F.O.B. POINT.** Unless otherwise stated, all prices listed are F.O.B. point of manufacture.
10. **TAXES.** Unless specifically stated, prices listed do not include Federal, State, City or other excise occupation, sales, use or similar taxes which are extra and are to be added at rates in effect at time of shipment. If federal Excise Taxes are included or listed on the reverse side of this paper, they are stated at the rates and regulations in effect at the time this order is written, and are subject to revision in accordance with rates and regulations in effect at time of shipment.
11. **PRODUCT IMPROVEMENT.** GapVax Inc. reserves the right to change manufacturing specifications and procedures without incurring any responsibility for modifying previously shipped products.
12. **MOUNTING PRICES.** Mounting prices assumes normal factory installation on a truck chassis suitable for the unit purchased. Relocation of batteries, gas tanks, mufflers, air tanks, etc. will be an additional charge, billed at the standard factory labor rate.
13. **WARRANTY.** GapVax Inc. warrants its products to be free from defects in material and workmanship, subject to the limitations and conditions set forth in its current published warranty but makes no warranty of merchantability or fitness for any particular purpose. GapVax Inc. does not assume liability for any loss of product, time or any direct, indirect, or consequential damage, losses or delay or any nature whatsoever. No warranty, express or implied, is made or authorized to be made and no obligation is assumed or authorized to be assumed with respect to products of GapVax Inc. other than that set forth in the current, published warranty. It is to be understood that the acceptance this order is expressly conditioned upon your acceptance of GapVax Inc. standard written warranty for the products sold hereunder GapVax Inc. hereby disclaims any responsibility or liability for any consequential losses delays or downtime resulting from orders hereunder the use of its products. GapVax does not and will not warranty any tank coating or tank lining. PTO damage is not covered when the PTO protection system or low water shut down system is not selected / installed / and operational.
14. This agreement shall be construed according to the laws of the State of Pennsylvania. Our failure at anytime to exercise any right we may have under the agreement shall not constitute a waiver thereof nor prejudice our right to enforce same thereafter.
15. This order, including the above terms and conditions contains the complete and final agreement between the parties hereto and no other agreement in any way modifying any of said terms and conditions will be binding on us unless in writing and agreed to by authorized representative of this company.



Solicitation Number: RFP #101221

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and GapVax Inc., 575 Central Avenue, Johnstown, PA 15902 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Sewer Vacuum, Hydro-Excavation, and Municipal Pumping Equipment with Related Accessories and Supplies from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires November 29, 2025, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.
- C. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above.

Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

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

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

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

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

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

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

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be

returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

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

Sourcewell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

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

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

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

4. PRODUCT AND PRICING CHANGE REQUESTS

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

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;

- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

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

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

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

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

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

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell

contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. **ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM.** Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum; the terms of which will be negotiated directly between the Participating Entity and the Supplier. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

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

D. **TERMINATION OF ORDERS.** Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

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

7. CUSTOMER SERVICE

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

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcewell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

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

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Supplier will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased

by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

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

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

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

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

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

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

D. **WAIVER.** Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. **CONTRACT COMPLETE.** This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

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

11. INDEMNITY AND HOLD HARMLESS

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any act or omission in the performance of this Contract by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

12. GOVERNMENT DATA PRACTICES

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

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:

- a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.
- b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.

2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers,

resellers, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. Use; Quality Control.

- a. Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.
- b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's trademarks only in good faith and in a dignified manner consistent with such party's use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

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

5. Termination. Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

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

C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

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

14. GOVERNING LAW, JURISDICTION, AND VENUE

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

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

16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

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

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

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

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

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

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

18. INSURANCE

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

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

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

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

Minimum limits:

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

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

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

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

Minimum Limits:

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

\$1,000,000 Personal and Advertising Injury

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

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms

no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

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

4. *Umbrella Insurance*. During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

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

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

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

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is

primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

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

B. **LICENSES.** Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

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

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

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

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier’s Equipment, Products, or Services with United States federal funds.

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

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

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

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

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

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names

of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

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

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

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

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

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation

and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. FEDERAL SEAL(S), LOGOS, AND FLAGS. The Supplier not use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. NO OBLIGATION BY FEDERAL GOVERNMENT. The U.S. federal government is not a party to this Contract or any purchase by an Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. FEDERAL DEBT. The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. CONFLICTS OF INTEREST. The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

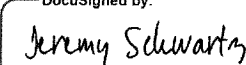
S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

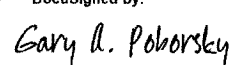
22. CANCELLATION

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

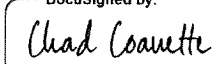
Sourcewell

DocuSigned by:

By: C0FD2A139D06489...
Jeremy Schwartz
Title: Chief Procurement Officer
11/23/2021 | 8:50 PM CST
Date: _____

GapVax Inc.

DocuSigned by:

By: 97DECE6A2796467...
Gary A. Poborsky
Title: President
12/20/2021 | 11:24 AM CST
Date: _____

Approved:

DocuSigned by:

By: 7E42B8F817A64CC...
Chad Coquette
Title: Executive Director/CEO
12/20/2021 | 11:25 AM CST
Date: _____

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Lagoon Water Treatment Residuals Removal 2nd Renewal

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

To obtain approval for the third amendment/second renewal of the contract with Slurry Systems.

Staff Recommendation

Approve the third amendment/second renewal of the contract with Slurry Systems Company for an additional term to begin on May 1, 2022, and end on June 30, 2023.

Background Information

The Stones River Water Treatment Plant has two lagoons that are used to store sediment (water treatment residuals (WTR)) removed during the water treatment process. Staff evaluates the lagoon that is in service each year around May to determine if there is sufficient space in the lagoon to remain in service for two years. Lagoon #1 is scheduled for cleaning. Extension for the contract with Slurry Systems Company will provide the time needed to complete cleaning the lagoon.

Council Priorities Served

Responsible budgeting

MWRD evaluates lagoons annually and budgets responsibly to ensure reliable operation of the facility.

Fiscal Impact

Cost of these service, \$249,000, is funded by the Department's FY22 Operating Budget.

Attachments

Slurry Systems Company Lagoon Contract 2nd Renewal

**THIRD AMENDMENT
(SECOND RENEWAL)
TO THE
CONTRACT
BETWEEN THE CITY OF MURFREESBORO
AND
SLURRY SYSTEMS COMPANY**

This Third Amendment (Second Renewal) ("Third Amendment") to the Contract for Water Treatment Plant Lagoon Water Treatment Residuals Removal, entered into June 1, 2018 ("Contract"), is effective as of this day _____, 2022, by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee and Slurry Systems Company ("Contractor"), a Corporation of the State of Tennessee.

RECITALS

WHEREAS, on June 1, 2018, the City entered into a contract with Slurry Systems Company, for Water Treatment Plant Lagoon Water Treatment Residuals Removal at \$249,000 for the Water Resources Department; and,

WHEREAS, Section 3 of the Contract provides that the City may renew the Contract for up to three (3) additional non-contiguous terms; and

WHEREAS, on April 4, 2019, the parties executed the First Amendment to the Contract, which provided for the first renewal; and

WHEREAS, on May 7, 2020, the parties executed the Second Amendment to the Contract, which provided Contractor with additional time in which to complete the scope of work contemplated by the first renewal contained in the First Amendment; and

WHEREAS, the term of the Contract's first renewal between the City and Contractor is currently from July 1, 2020 to June 30, 2021 and,

WHEREAS, pursuant to Section 10 of the Contract, the Contract may be modified by a written amendment executed by all parties; and

WHEREAS, the parties desire to extend the term of the Contract and modify the beginning and ending dates to coincide with the expected scope of work:

NOW THEREFORE, the City and Contractor mutually agree as follows:

1. The City hereby elects, and Contractor agrees, to renew the current Contract for an additional term to begin on May 1, 2022 and end on June 30, 2023. The City and Contractor each individually and collectively represent and acknowledge that this renewal constitutes the second of three possible renewals of the Contract.
2. All terms and conditions of the Contract shall survive expiration of the Contract through this executed Third Amendment and shall remain in full force and effect until such time as the City may, in its sole

discretion under Section 3 of the Contract, exercise the third renewal of the Contract, notwithstanding the passage of time or non-contiguous nature of the renewal.

3. Except as provided herein, no other changes to the Contract are contemplated by this Third Amendment, and all other terms and conditions of the Contract remain in full force and effect.

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

SLURRY SYSTEMS COMPANY:

DocuSigned by:
By: Edward Scott
3097547090FB4A9...
Edward R. Scott, Vice President

Approved as to form:

DocuSigned by:
Adam F. Tucker
43A2033E51F9401...
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Task Order Amendment for Smith Seckman Reid

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Amend the existing professional service task order with Smith Seckman Reid (SSR).

Staff Recommendation

Approve SSR Task Order 2141013.0 Amendment No. 1. Through the end of June 2023.

Background Information

Due to the retirement of the City's Stormwater Manager, the existing professional service task order with SSR will be amended to extend the original task order for regulatory assistance related to water quality. It will also add a part-time contract consultant position for assistance with stormwater quality management, regulation and ordinance revisions.

Through SSR, the City will contract with the the City's retiring Stormwater Manager on a part-time basis. This will allow this former employee extensive knowledge of the system to be transitioned to other personnel within the Department, as well as provide assistance for continued program development. Additionally, this consultant contract will be instrumental in revising the City's Stormwater Ordinance to align with TDEC's upcoming revisions to the NPDES permit, etc.

Council Priorities Served

Responsible budgeting

Contracting work on a part-time, as-needed basis when the City's requirements can be filled in that matter provides the highest value at the least cost.

Fiscal Impact

This amendment is an additional amount to exceed of \$127,800, for a total of \$175,300 through the end of June 2023, which will be funded from the Stormwater Management Fund.

Attachments

SSR Task Order 2141013.0 Memo & Amendment



MEMORANDUM

To: Valerie Smith
From: Brent Fowler
Date: April 19, 2022
Re: Contract Amendment 1
Project Name: Regulatory Assistance and Water Quality Management
Project Number: 2141013.0

Valerie,

Per your request, this memorandum provides information regarding revisions to the referenced project scope.

Background

Original Task Order

The Board previously approved SSR Task Order 2141013.0 for the engineering consulting services to provide regulatory assistance and water quality management on an as needed basis for approximately 20 hours per week. The task order term is from November 1, 2021 to June 30, 2022.

Proposed Amendment 1

MWRD has requested to extend the term of the original task order for regulatory assistance and water quality management consulting services from July 1, 2022 through June 30, 2023. The anticipated hours for this period will again be 20 hours per week.

MWRD has also requested that SSR provide a similar arrangement for engineering consulting services providing stormwater quality management and stormwater regulation and ordinance assistance. SSR will supply a qualified person acceptable to MWRD to provide consultation and advice related to stormwater quality, stormwater regulations, and ordinances. SSR anticipates effort of approximately 20 hours per week from July 1, 2022 to June 30, 2023.

Recommendations

SSR recommends that MWRD proceed with Amendment 1 to Task Order 21-41-013.0 in the amount of \$127,800.

Project Costs

The original Board-approved Task Order 1941016.0 cost is \$47,500. The revised Task Order cost, including the proposed Amendment 1, is \$175,300.

If you need additional information, please contact me.

Attachments

1. Amendment No. 1 to SSR Task Order 2141013.0.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Engineering Task Order 21-41-013.0
Amendment No. 1.

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: October 21, 2021
- b. Owner: Murfreesboro Water Resources Department
- c. Engineer: Smith Seckman Reid, Inc.
- d. Project: Regulatory Assistance and Water Quality Management

2. *Description of Modifications:*

- a. In addition to the scope described in Task Order 21-41-013.0, this modification includes:

Understanding of Modifications

The OWNER wishes the ENGINEER to provide stormwater quality and stormwater regulations consulting services as needed and up to approximately 20 hours per week. These services will begin May 1, 2022 and end on June 30, 2023 at which time OWNER may elect to extend the task order.

The OWNER wishes the ENGINEER to extend the previously authorized regulatory assistance and water quality consulting services as needed and up to approximately 20 hours per week to begin on July 1, 2022 and end on June 30, 2023 at which time OWNER may elect to extend the task order.

ENGINEER's Scope of Services

The ENGINEER will supply a qualified person acceptable to the OWNER to provide consultation and advice related to regulatory permitting, water quality and resource management, stormwater quality and regulations assistance.

Exclusions

- None

Compensation This Amendment

Description of Service	Amount	Basis of Compensation
Consulting Services	\$124,300	Hourly Not to Exceed
Project Administrative Services	\$3,500	Hourly Not to Exceed
TOTAL COMPENSATION	\$127,800	
REIMBURSABLE EXPENSES **		
a. Out-of-Town Mileage	\$0	\$0.56 /mile

Description of Service	Amount	Basis of Compensation
b. Air Transportation	\$0	At Cost
c. Meals and Lodging	\$0	At Cost
d. External Plotting	\$0	At Cost

3. Agreement Summary (Reference only)

a. Original Agreement amount:	\$47,500.00
b. Net change for prior amendments:	\$0.00
c. This amendment amount:	\$127,800.00
d. Adjusted Agreement amount:	\$175,300.00

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is _____.

CITY OF MURFREESBORO

SMITH SECKMAN REID, INC.

Brent Fowler

By: _____

By:  _____

Title: _____

Title: Principal

Date Signed: _____

Date Signed: 04/14/2022

APPROVED AS TO FORM:

City of Murfreesboro Legal Department

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Water Model Update

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Approve an engineering services task order with Smith Seckman and Reid (SSR) to update the MWRD's existing water distribution system hydraulic model.

Staff Recommendation

Approve the SSR Task Order 22-41-009.0 to update existing water model.

Background Information

MWRD's water model has not been updated in over 10-years. MWRD needs the water model updated and calibrated to reflect the current system demands and operations. MWRD plans to use the water model and a different vendor of modeling software to model flows and pressures, manage water shutdowns, conduct unidirectional flushing, and monitor water quality. This change will allow more division within MWRD to utilize simulated data to assist with operations.

Council Priorities Served

Maintain public safety

MWRD ensures that water system is properly maintained to provide quality water to its customers.

Fiscal Impact

This expense, \$48,835, is funded by the Departments operational budget from existing reserves.

Attachments

SSR Task Order for Water Model Update

ENGINEERING TASK ORDER 22-41-009.0

Task Order

In accordance with the Standard Form of Agreement Between Owner and Engineer for Professional Services, dated August 6, 2002 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: April 14, 2022
- b. Owner: Murfreesboro Water Resources Department (MWRD)
- c. Engineer: Smith Seckman Reid (SSR)
- d. Specific Project (title): MWRD Water Model Update
- e. Specific Project (description): The project includes the update and calibration of the existing MWRD water model.

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:
the services (and related terms and conditions) set forth in the following sections of Basic Services of Engineer in the Agreement modified herein for this specific Task Order, as attached to the Agreement referred to above, such sections being hereby incorporated by reference:
 - ☐ Study and Report Services (Agreement, Paragraph 1.2) and the following:
 - Updating Hydraulic model to reflect current system demands and operations.
 - Provide a written technical memorandum briefly outlining the work completed during the model update.
 - Provide a quick reference guide outlining all attributes in the distribution system that are included in the calibrated model.
 - Provide integration support with Qatium.
- B. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

3. Exclusions

- A. Services associated with government funding programs, i.e., State Revolving Fund (SRF) loan program.
- B. Software purchases and/or add-ons above InfoWater Pro.

4. Additional Services

- A. Additional Services that may be authorized or necessary under this Task Order are:

set forth as Additional Services in Part 2—Additional Services of Engineer, of the Agreement modified for this specific Task Order, and attached to and incorporated as part of this Task Order.

5. Owner's Responsibilities

A. Owner shall have those responsibilities set forth in Section 3 of the Agreement, subject to the following:

- ☐ Delete Paragraph 3.5.

6. Task Order Schedule

A. In addition to any schedule provisions provided in the Professional Services Agreement or elsewhere, the parties shall meet the **following** schedule:

- ☐ This Scope of Services is intended to require approximately 180 days.

7. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation
1. Basic Services (Section 1 of Agreement)		
a. Study and Report Phase	\$46,275	Hourly Not to Exceed
b. Qatium Integration Support	\$2,560	Hourly Not to Exceed
TOTAL COMPENSATION	\$48,835	

B. The terms of payment are set forth in Section 5 of the Agreement.

8. Consultants retained as of the Effective Date of the Task Order:

A. None.

9. Attachments:

A. Exhibit A - Detailed project understanding.

10. Terms and Conditions

A. Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is April 14, 2022.

CITY OF MURFREESBORO:

WITNESS:

By: _____

By: _____

Print Name: _____

Print Name: _____


Title: _____

Title: _____

SMITH SECKMAN REID:

WITNESS:

By:  _____

By:  _____

Print Name: Andrew T. Johnson

Print Name: Luke Williams

Title: Principal

Title: Project Manager

APPROVED AS TO FORM:

City of Murfreesboro Legal Department



**MWRD WATER MODEL UPDATE
DETAILED PROJECT UNDERSTANDING
EXHIBIT A TO TASK ORDER 22-41-009.0**

Connectivity

A one-to-one relationship between GIS data and Innovyze's recently updated InfoWater Pro hydraulic modeling software shall be established to streamline future model updates. Utilizing the established one-to-one relationship and hydraulic modeling software, SSR shall batch import all new system features (pipes, valves, pumps, etc.) into the model. Once the model has been updated with new lines added and any identified abandoned lines removed, and the connectivity confirmed, SSR shall allocate demands based upon a spatially located meter feature class and associated billing data. Following revisions to the demand dataset, the model will be positioned for calibration.

Calibration

Calibration of the updated water model would include three phases as outlined below.

- **Static Condition:** Static calibration shall be completed to establish system hydraulic grade lines (HGLs) boundary conditions (i.e. storage tank water levels and pump station conditions). Because flow through the system is low, the head losses associated with pipe friction are minimal and do not impact pressure readings.
- **Steady State – High Flow Conditions:** Steady state calibration shall be performed to include the impact of friction and other minor losses to be seen under a dynamic event throughout the system.
- **Extended Period Conditions:** Extended period calibration includes simulating the hydraulic model over a 48-hour extended period to ensure the model accurately reflects how the system operates over time. This calibration shall ensure pump controls, demand allocation, and demand curves are reflective of actual field conditions.

Communication

There will be a scheduled kickoff meeting to discuss project needs and the responsibilities of MWRD and SSR. Other than the planned kickoff meeting, we believe project communication will occur naturally as we move through the model development and calibration. There are three (3) visits incorporated in our proposed schedule. These meetings will happen alongside MWRD in your offices to the furthest extent desired.

Engineer's Scope of Services

Engineering services to be completed in this project are included in the table below. Items of vital support required by MWRD staff are also listed in the table.

Task	Description	Engineer	Owner
1	Facility Documentation: Provide record drawings for all booster stations, storage reservoirs, and control valves. Provide pump curves for high service pumps and all booster stations. Provide control parameters for all pumps, pressure reducing valves, and altitude valves. Preferred format is PDF.		✓
2	Current GIS Water Feature Classes: Provide access to the most current version of GIS water features, including all fittings, valves, pumps, hydrants, meters, and laterals to ensure model reflects most up to date system.		✓
3	Historical Distribution System Records (SCADA): Provide a representative sample of historical tank and pump station records for the following system conditions: static (i.e. low flow), average week, and max day. Preferred format Excel, CSV, or other text file.		✓
4	Current Billing Records: Provide billing records joined to GIS meter features for 2022. Preferred format is file geodatabase.		✓
5	Establish 1-to-1 Relationship: Create the link between GIS and water model features.	✓	
6	Import Added Water Features: Update water features into the model using the established 1-to-1 relationship.	✓	
7	Import New Facilities: Add new pumps, create associated pump curves from record documentation, and apply normal control parameters to model.	✓	
8	Review Connectivity: Review and confirm all added features are correctly connected inside the model. Identify those locations where pipe splits are necessary. Make appropriate changes to GIS.	✓	✓
9	Import New Demand Set: Create new demand sets for 2022 Average and Maximum Day conditions. Apply new demand set to model junctions.	✓	
10	Extract Ground Elevations for Added Model Features: Where necessary, use Raster elevation information to apply ground elevation data to new created junctions, pumps, valves, or fittings.	✓	
11	Create Scenarios for 2022 Conditions: Create two scenarios for 2022 Average Day and 2022 Maximum Day.	✓	

MWRD Water Model Update – Detailed Project Understanding

Task	Description	Engineer	Owner
12	Field Data Collection: Monitor system pressure at low flow conditions within each pressure zone for a 48-hour period. Provide pressure information and monitoring location.		✓
13	Static Calibration: Compare system data to model data for low flow period (i.e. static condition). Adjust boundary conditions to provide model fitness.	✓	
14	Steady-State Calibration: Review 2022 Maximum Day Scenario with SCADA information associated with MWRD's Maximum Day in 2022. Identify locations for C-Factor review (i.e. two-hydrant testing). Adjust pipe C-factors as necessary to fit actual pipe conditions.	✓	
15	Two Hydrant Testing: Perform two hydrant testing at recommended locations to identify anticipated waterline condition.		✓
16	Extended Period Calibration: Review 2022 Average Day Scenario with SCADA information associated with a typical 48-hour operating period. Adjust demand location, demand pattern, or pump/valve controls to provide fitness over extended period of time.	✓	
17	Develop Closing Documentation: Provide a written technical memorandum briefly outline the work completed as part of this Scope, including sample results from each calibration effort. Closing documentation will include discussion on any locations where calibration could not be achieved and recommend an investigative course of action.	✓	
18	Develop Quick Reference Guide: Create a quick-reference guide identifying site-specific workflows for running and maintaining MWRD's hydraulic model. Documentation will be easy to ready with visual aids where appropriate to establish standard operating procedures associated with updating and maintaining the model. Guide will be delivered in MS Word and PDF formats.	✓	
19	Develop System Diagram: Provide a DWG file and PDF of an overview of MWRD's system, including pressure zones, tanks, pump stations, and major valves. Overview will be set to show the system on each pressure zone's hydraulic grade line.	✓	
20	Software Integration with Qatium: SSR will work alongside MWRD to ensure the integration of the updated water model and Qatium's software will.	✓	✓

MWRD Water Model Update – Detailed Project Understanding

Schedule:

We believe that the model update and static calibration, including the Quick-Reference Guide and GIS web map, can be completed within 180 days following receipt of executed task order. Steady-state calibration (i.e. two-hydrant test) may require a few weeks of effort in order to record all areas of the system, but due to the time of year, is not seen as an issue.

Deliverables

All deliverables will be transmitted electronically, unless requested otherwise by MWRD.



Murfreesboro Water Resources Department

MWRD Water Model Update

Preliminary Fee Estimation

April 14, 2022



Project Tasks			Total	Principal	PM I	Modeling Manager	EIT II	GIS Specialist
				ATJ	LGW	KDM	APM / SNH	BRN
				\$225	\$160	\$160	\$105	\$140
Task 01 - Connection and Communication								
SubTask 1.0	Project Setup & Internal Kickoff & Project Manager Tasks		29		25	2	2	
SubTask 1.1	Kickoff Meeting + Review Meetings (Anticipate 4 Total)		40	4	12	12	12	
SubTask 1.2	QA/QC Connectivity Check		27			9	18	
SubTask 1.6	Export GIS Corrections to MWRD		7			1	1	5
SubTask 1.7	Delete Temporary Facilities and Import Corrected GIS		31			4	27	
SubTask 1.8	Remove Abandoned Lines		4				4	
SubTask 1.9	Extract Elevations for New Node Information		7				2	5
SubTask 1.10	Allocated Revised Demand Information (Average / Max Day)		12			4	8	
Task 1 Subtotal Hours			157	4	37	32	74	10
Task 1 Subtotal Cost			\$ 21,110	\$900	\$5,920	\$5,120	\$7,770	\$1,400
Task 02 - Model Calibration								
SubTask 2.0	Collect Data for Static Condition Calibration		2		2			
SubTask 2.1	Compile Static Condition Data		5			1	4	
SubTask 2.2	Complete Static Condition Calibration / Adjust Boundary Conditions		24			6	18	
SubTask 2.3	Compile 2022 Data for Steady State Condition		20			2	18	
SubTask 2.4	Create 2022 Scenarios for Steady State Condition Calibration		20			2	18	
SubTask 2.5	Two-Hydrant Testing		0					
SubTask 2.6	Complete Steady State Calibration / Adjust C-Factor and Demands		27			9	18	
SubTask 2.7	Compile EP Historical Data for Extended Period Calibration		6			2	4	
SubTask 2.8	Complete Extended Period Calibration / Adjust Patterns and Controls		54			18	36	
Task 2 Subtotal Hours			158	0	2	40	116	0
Task 2 Subtotal Cost			\$ 18,900	\$0	\$320	\$6,400	\$12,180	\$0
Task 03 - Documentation and Integration								
SubTask 3.0	Prepare Closing Documentation		16	1	1	4	8	2
SubTask 3.1	Prepare Quick-reference Guide		34		2	8	24	
SubTask 3.2	Qatium Software Integration		16		6	10		
Task 3 Subtotal Hours			66	1	9	22	32	2
Task 3 Subtotal Cost			\$ 8,825	\$225	\$1,440	\$3,520	\$3,360	\$280
SUBTOTAL HOURS			381	5	48	94	222	12
SUBTOTAL COST			\$ 48,835	\$1,125	\$7,680	\$15,040	\$23,310	\$1,680

COUNCIL COMMUNICATION

Meeting Date: 05/05/2022

Item Title: Public Building Authority Appointment

Department: Administration

Presented by: Mayor McFarland

Requested Council Action:

Ordinance ☐

Resolution ☐

Motion ☒

Direction ☐

Information ☐

Summary

Appointment to the Public Building Authority.

Staff Recommendation

Approval by the City Council.

Background Information

The Public Building Authority was created by adoption of Resolution 05-R-35. The Board consists of seven members appointed by the Mayor and approved by the City Council for six-year terms.

Council Priorities Served

As part of engaging the community, residents are encouraged to volunteer for service on a board or commission.

Attachments:

Memo from Mayor Shane McFarland

Memo from Adam Tucker, City Attorney



. . . creating a better quality of life.

May 5, 2022

Members of City Council

RE: Recommended Reappointment – Public Building Authority

Reappointment

As an item for the City Council agenda, I am recommending the following reappointments for the Public Building Authority.

Reappointments

Candy Joyce (term expires May 4, 2028)

Paul M. Myers (term expires May 4, 2028)

Harold Yokley (term expires May 4, 2028)

Sincerely,

Shane McFarland
Mayor



... creating a better quality of life

LEGAL DEPARTMENT - MEMORANDUM

TO: Mayor Shane McFarland

FROM: Adam F. Tucker, City Attorney

DATE: April 25, 2022

SUBJECT: Public Building Authority Re-Appointments

Please submit to City Council for approval of re-appointment the following members of the Public Building Authority, all of whom have agreed to be re-appointed:

Candy Joyce
Paul M. Myers
Harold Yokley

Your consideration in this matter is appreciated.