

MURFREESBORO CITY COUNCIL
Regular Session Agenda
Council Chambers – City Hall – 6:00 PM
May 26, 2022

PRAYER

Mr. Ronnie Martin

PLEDGE OF ALLEGIANCE

Consent Agenda

1. FY22 City Manager Approved Budget Amendments (Finance)
2. Report of New Debt Obligation (Finance)
3. Change Order No. 1 for Construction Contract with ClearSpan Fabric Structures International (Parks)
4. Change Order No. 4 to Construction Contract with Warner's Athletic (Parks)
5. Conveyance of Retired Police K9 (Police)
6. Purchase of 3D Scene Mapping Equipment (Police)
7. Generator Preventative Maintenance Contract (Street)

Minutes

8. Minutes of City Council Meetings April 27th through May 5, 2022 (Finance)

New Business

Budget Matters

9. FY23 Public Hearing and Related Ordinances (Administration)
 - a. Public Hearing: Adoption of Proposed FY23 Budget
 - b. First Reading: Ordinance 22-O-11

Land Use Matters

10. Planning Commission Recommendations to Schedule Public Hearings (Planning)

On Motion

11. American Rescue Plan Act Financial Consultant Agreement (Finance)
12. Professional Services Contract – St. Andrews Dr. (Engineering)
13. Purchase of Public Safety Network Equipment (Police)
14. Amendment to Radio System Maintenance Agreement (Police)
15. Purchase of Administration Building for Murfreesboro Water Resources Department (Water Resources)

Licensing

Board & Commission Appointments

Payment of Statements

Other Business

Adjournment

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: FY22 City Manager Approved Budget Amendments

Department: Finance

Presented by: Jennifer Brown, Finance Director

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

Notification to Council of City Manager approved budget amendments.

Background Information

Ordinance 15-O-48 requires notification to Council of City Manager approved budget amendments. The following budget amendments have been approved:

Fire

The 2022 Direct Allocation from the State must be spent by June 30, 2022. Unspent funds are being moved to projects that will allow spending deadlines to be met. Move a total of \$6,616 from several Fire and Police operating accounts to Fire Repair & Maintenance Buildings.

Civic Plaza

For cleaning and caulking around the Plaza Fountain. Move \$5,100 from Civic Plaza Other Improvements to Civic Plaza Repair & Maintenance – Fountain.

Council Priorities Served

Responsible budgeting

Inter-Fund budget amendments reallocate resources in an efficient manner.

Fiscal Impact

The transfers within the General Funds will have no effect on fund balance.

Attachments

Detailed Inter-Fund Budget Requests



... creating a better quality of life

Inter-Fund Budget Amendment Request

Mr. Tindall,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2022

Move funds from:

Org	<u>10211009</u>
Object	<u>594702-DA22</u>
Acct Name	<u>Computer Equipment</u>
Amount	<u>\$ 133.00</u>

Move funds to:

Org	<u>10211008</u>
Object	<u>526600-DA22</u>
Acct Name	<u>Repair & Maint. Buildings</u>

Explanation: Unspent 2022 Direct Appropriation funds are being moved to another project.

Move funds from:

Org	<u>10211009</u>
Object	<u>592000-DA22</u>
Acct Name	<u>Buildings Expense</u>
Amount	<u>\$ 34.00</u>

Move funds to:

Org	<u>10211008</u>
Object	<u>526600-DA22</u>
Acct Name	<u>Repair & Maint. Buildings</u>

Explanation: Unspent 2022 Direct Appropriation funds are being moved to another project.

Inter-Fund Budget Amendment Request

Move funds from:

Org 10211009

Object 594000-DA22

Acct Name Machinery and Equipment

Amount \$ 55.00

Move funds to:

Org 10211008

Object 526600-DA22

Acct Name Repair & Maint. Buildings

Explanation: Unspent 2022 Direct Appropriation funds are being moved to another project.

Move funds from:

Org 10210009

Object 594000-DA22

Acct Name Machinery and Equipment

Amount \$ 6,394.00

Move funds to:

Org 10211008

Object 526600-DA22

Acct Name Repair & Maint. Buildings

Explanation: Unspent 2022 Direct Appropriation funds are being moved to another project.

Jennifer Brun

Department Head Signature

4/25/22

Date

Amanda DeRosia

Reviewed by Finance

04/25/2022

Date

Approved



Declined



[Signature]

City Manager

4.28.22

Date

Please return to Amanda DeRosia, Finance & Tax Dept., once all signatures have been obtained.



Inter-Fund Budget Amendment Request

Mr. Tindall,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2022

Move funds from:

Org 10315119

Object 593900

Acct Name Other Improvements

Amount \$ 5,100.00

Move funds to:

Org 10315118

Object 526201

Acct Name Repair & Maint. - Fountain

Explanation: For cleaning and caulking around the Plaza Fountain.

[Signature]
Department Head Signature

5/6/22
Date

Amanda DeRosie
Reviewed by Finance

05/06/2022
Date

Approved



Declined



[Signature]
City Manager

5/9/22
Date

Please return to Amanda DeRosia, Finance & Tax Dept., once all signatures have been obtained.

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Report of New Debt Obligation

Department: Finance

Presented by: Jennifer Brown, Finance Director

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

Staff Recommendation

Acknowledge receipt of CT-0253 form pertaining to the City's 2022 Bond Issue.

Background Information

The 2022 bond issuance closed on April 22nd. State statute (T.C.A. § 9-21-151) requires the reporting of the new debt obligation in a specified format (State Form No. CT-0253), which summarizes new debt issuance and presentation of this form at a public meeting.

Council Priorities Served

Responsible budgeting

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

Fiscal Impact

None

Attachments

State Form CT-0253 2022 Bond Issue

REPORT ON DEBT OBLIGATION

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

1.	Public Entity:	Name: <u>Murfreesboro, Tennessee</u> Address: <u>111 West Vine Street (37130)</u> <u>Murfreesboro, Tennessee 37133</u> Debt Issue Name: <u>General Obligation Bonds, Series 2022</u> <small>If disclosing initially for a program, attach the form specified for updates, indicating the frequency required</small>																									
2.	Face Amount:	\$	<u>48,700,000.00</u>																								
	Premium/Discount:	\$	<u>3,734,024.20</u>																								
3.	Interest Cost:	<u>2.6109085</u> %	<input checked="" type="checkbox"/> Tax-exempt <input type="checkbox"/> Taxable <input checked="" type="checkbox"/> TIC <input type="checkbox"/> NIC <input type="checkbox"/> Variable: Index _____ plus _____ basis points; or <input type="checkbox"/> Variable: Remarketing Agent _____ <input type="checkbox"/> Other: _____																								
4.	Debt Obligation:	<input type="checkbox"/> TRAN <input type="checkbox"/> RAN <input type="checkbox"/> CON <input type="checkbox"/> BAN <input type="checkbox"/> CRAN <input type="checkbox"/> GAN <input checked="" type="checkbox"/> BOND <input type="checkbox"/> Loan Agreement <input type="checkbox"/> Capital Lease <small>If any of the notes listed above are issued pursuant to Title 9, Chapter 21, enclose a copy of the executed note with the filing with the Official State and Local Finance ("OSFL")</small>																									
5.	Ratings:	<input type="checkbox"/> Unrated Moody's <u>Aa1</u> Standard & Poor's <u>AA+</u> Fitch _____																									
6.	Purpose:	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: black; color: white;"> <th colspan="3">BRIEF DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td style="width: 5%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 35%;">General Government</td> <td style="width: 15%; text-align: center;">100.0%</td> <td style="width: 45%;">const & improv of various public buildings, roads, police&fire equipment</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Education</td> <td style="text-align: center;">%</td> <td></td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Utilities</td> <td style="text-align: center;">%</td> <td></td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Other</td> <td style="text-align: center;">%</td> <td></td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Refunding/Renewal</td> <td style="text-align: center;">%</td> <td></td> </tr> </tbody> </table>			BRIEF DESCRIPTION			<input checked="" type="checkbox"/>	General Government	100.0%	const & improv of various public buildings, roads, police&fire equipment	<input type="checkbox"/>	Education	%		<input type="checkbox"/>	Utilities	%		<input type="checkbox"/>	Other	%		<input type="checkbox"/>	Refunding/Renewal	%	
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<input type="checkbox"/>	Utilities	%																									
<input type="checkbox"/>	Other	%																									
<input type="checkbox"/>	Refunding/Renewal	%																									
7.	Security:	<input checked="" type="checkbox"/> General Obligation <input type="checkbox"/> General Obligation + Revenue/Tax <input type="checkbox"/> Revenue <input type="checkbox"/> Tax Increment Financing (TIF) <input type="checkbox"/> Annual Appropriation (Capital Lease Only) Other (Describe): _____																									
8.	Type of Sale:	<input checked="" type="checkbox"/> Competitive Public Sale <input type="checkbox"/> Interfund Loan _____ <input type="checkbox"/> Negotiated Sale <input type="checkbox"/> Loan Program _____ <input type="checkbox"/> Informal Bid																									
9.	Date:	Dated Date: <u>4/22/2022</u> Issue/Closing Date: <u>4/22/2022</u>																									

REPORT ON DEBT OBLIGATION

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

10. Maturity Dates, Amounts and Interest Rates*:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2023	\$ 2,500,000	5.00%	2031	\$ 3,330,000	4.00%
2024	\$ 3,000,000	5.00%	2032	\$ 3,330,000	3.00%
2025	\$ 3,250,000	5.00%	2033	\$ 3,330,000	3.00%
2026	\$ 3,300,000	5.00%	2034	\$ 3,330,000	3.00%
2027	\$ 3,335,000	5.00%	2035	\$ 3,330,000	3.00%
2028	\$ 3,335,000	5.00%	2036	\$ 3,330,000	3.00%
2029	\$ 3,335,000	5.00%	2037	\$ 3,330,000	3.00%
2030	\$ 3,335,000	4.00%			

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

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

11. Cost of Issuance and Professionals:

☐ No costs or professionals

	AMOUNT (round to nearest \$)	FIRM NAME
Financial Advisor Fees	\$ 75,000	Cumberland Securities Company, Inc.
Legal Fees		
Bond Counsel	\$ 50,000	Bass, Berry & Sims
Issuer's Counsel		
Trustee's Counsel		
Bank Counsel		
Disclosure Counsel		
Paying Agent Fees	\$ 700	US Bank
Registrar Fees		
Trustee Fees		
Remarketing Agent Fees		
Liquidity Fees		
Rating Agency Fees	\$ 62,170	S&P Global Ratings & Moody's Investor Services
Credit Enhancement Fees		
Bank Closing Costs		
Underwriter's Discount (0.228876%)	\$ 111,462	Morgan Stanley & Co
Take Down		
Management Fee		
Risk Premium		
Underwriter's Counsel		
Other Expenses		
Printing & Advertising Fees	\$ 8,645	Press, Print Shop, i-Deal, CUSIP, MuniHub
Issuer/Administrator Program Fees		
Real Estate Fees		
Sponsorship/Referral Fee		
Other Costs: Misc	\$ 3,480	structuring, postage, doc product, travel, etc.
TOTAL COSTS	\$ 311,457	

REPORT ON DEBT OBLIGATION
(Pursuant to Tennessee Code Annotated Section 9-21-151)

12. Recurring Costs:
☐ No Recurring Costs

Remarketing Agent

Paying Agent/Registrar

Trustee

Liquidity/Credit Enhancement

Escrow Agent

Sponsorship/Program/Admin

Other

AMOUNT
(Basic points/\$)

\$ 500.00

FIRM NAME (if different from #11)

US Bank

13. Disclosure Document/Official Statement:
☐ None Prepared

☒ EMMA Link

<https://emma.msrb.org/IssueView/Details/P1416985>
☐ Copy Attached
14. Continuing Disclosure Obligations:

Is there an existing continuing disclosure obligation related to the security for this debt?

☒ Yes

☐ No

Is there a continuing disclosure obligation agreement related to this debt?

☒ Yes

☐ No

If yes to either question, date that disclosure is due

6/30/2022

Name and title of person responsible for compliance

Jennifer Brown, City Recorder - Finance Director

15. Written Debt Management Policy:

Governing Body's approval date of the current version of the written debt management policy

11/3/2011

Is the Debt obligation in compliance with and clearly authorized under the policy?

☒ Yes

☐ No
16. Written Derivative Management Policy:
☒ No Derivative

Governing Body's approval date of the current version of the written derivative management policy

Date of Letter of Compliance for derivative

Is the derivative in compliance with and clearly authorized under the policy?

☐ Yes

☐ No
17. Submission of Report:

To the Governing Body: on

4/22/2022

and presented at the public meeting held on

4/28/2022 5-26-22

Copy to Director of OSLF: on

4/22/2022

either by:

☐ Mail to:

☒ Email to:

Cordell Hull Building
425 Rep. John Lewis Way N., 4th Floor
Nashville, TN 37243-3400

LGF@cot.tn.gov
18. Signatures:

AUTHORIZED REPRESENTATIVE

Name Shane McFarland

Title Mayor

Firm Murfreesboro, Tennessee

Email smcfarland@murfreesboro.gov

Date 4/22/2022

PREPARER

Scott Gibson

Senior Vice President

Cumberland Securities Company, Inc.

scott.gibson@cumberlandsecurities.com

4/22/2022

COUNCIL COMMUNICATION

Meeting Date: 5/26/2022

Item Title: Change Order No. 1 to Construction Contract with ClearSpan Fabric Structures International, Inc.

Department: Parks and Recreation

Presented by: Nate Williams, Director

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 No. 1 to the construction contract with ClearSpan Fabric Structures International, Inc. (ClearSpan).

Staff Recommendation

Approve ClearSpan Change Order No. 1 to contract with ClearSpan, pending Legal approval.

Background Information

The designed fire system for the 100,000 square foot indoor practice facility will produce a low voltage signal to turn off the exhaust fans and circulation fans upon activation of the fire alarm. The fans installed do not have relays to turn off upon signal. Proposal Request No. 1 shows revisions to the power plans to provide for shut-off upon signal from the fire alarm system. This revision is needed to comply with applicable Building Code.

Council Priorities Served

Improve economic development

Improvements to the Richard Siegel Soccer Complex will allow for increased regional and national tournaments that will have a significant impact in direct revenue, sales tax revenue, and the local economy.

Fiscal Impact

The expense, \$7,346, is within the project total budget and is funded by the FY21 CIP.

Attachments

1. Change Order No. 1 with ClearSpan Fabric Structures International
2. Letter of Explanation from Architect

Johnson + Bailey Architects P.C.

City Center
100 East Vine St., Suite 700
Murfreesboro, TN 37130
(615) 890-4560 • Fax (615) 890-4564



CHANGE ORDER NO. 1

PROJECT: Richard Siegel Soccer Park
Indoor Training Facility
Cherry Lane

CONTRACTOR: ClearSpan Fabric Structures
International, Inc.
1395 John Fitch Blvd.
South Windsor, CT 06074

CHANGE ORDER NO: 1

DATE: May 18, 2022

ARCHITECT'S PROJECT NO: 1818

CONTRACT FOR: Construction

CONTRACT DATED: April 22, 2021

You are hereby directed to make the following changes in this Contract

ITEM 1: Revise electrical power service to 12 exhaust fans and 6 circulating fans to provide for shut-down by fire alarm control panel, as shown on Proposal Request No. 1 dated May 3, 2022.

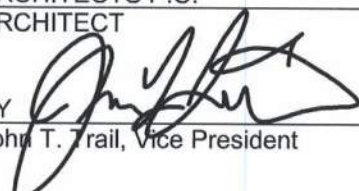
SEE ATTACHMENTS

Not valid until signed by both the Owner and Architect.

Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

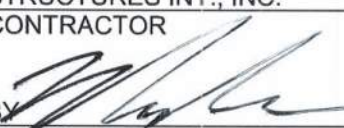
The current Contract Sum as revised by previous Changer Orders is \$2,637,292.00
Net change by previously authorized Change Orders \$0.00
The Contract Sum prior to this Change Order was \$2,637,292.00
The Contract Sum will be increase by this Change Order \$7,345.86
The new Contract Sum including this Change Order will be \$2,644,637.86
The Contract Time will be UNCHANGED
The Contract Time extensions by previous Change Orders is ZERO (0) DAYS

JOHNSON + BAILEY
ARCHITECTS P.C.
ARCHITECT

BY 
John T. Trail, Vice President

DATE 5-18-22 JT

CLEARSPAN FABRIC
STRUCTURES INT., INC.
CONTRACTOR

BY 
Matt Niaura, Vice President

DATE 5-19-22

CITY OF MUFREESBORO
OWNER

BY
Shane McFarland, Mayor

DATE

CHANGE ORDER NO. ONE (1)

Richard Siegel Soccer Park

Indoor Training Facility

Cherry Lane

J+B No. 1818

May 18, 2022

Page 2

ATTACHMENTS:

- A. Proposal Request No. 1 dated May 3, 2022 (5 pages)
- B. ClearSpan E-Mail dated May 17, 2022 (2 pages)

Johnson + Bailey Architects P.C.

City Center
100 East Vine St., Suite 700
Murfreesboro, TN 37130
(615) 890-4560 • Fax (615) 890-4564



PROPOSAL REQUEST

PROJECT: Richard Siegel Soccer Park
Indoor Training Facility
Hwy. 231N at Cherry Lane
Murfreesboro, TN

CONTRACTOR: ClearSpan Fabric Structures
International, Inc.
1395 John Fitch Blvd.
South Windsor, CT. 06074

PROPOSAL REQUEST NO: 01

DATE: May 3, 2022

ARCHITECT'S PROJECT NO: 1818

CONTRACT DATED: April 22, 2021

Please submit an itemized quotation for changes in the Contract Sum and/or Time incidental to proposed modifications to the Contract Documents described herein.

THIS IS NOT A CHANGE ORDER NOR A DIRECTION TO PROCEED WITH THE WORK DESCRIBED HEREIN.

Drawing E0.1

Reference: ELECTRICAL RISER DIAGRAM

Add: A second section to Panel HP2, as shown on the attached Drawing E0.1 with Revision 1 date of 5-2-22.

Reference: PANELBOARD SCHEDULE HP1

Change: Panelboard schedule as shown on the attached Drawing E0.1 with Revision 1 date of 5-2-22. Breaker 1-3-5 is changed to shunt trip.

Reference: PANELBOARD SCHEDULE HP2

Change: Panelboard schedule as shown on the attached Drawing E0.1 with Revision 1 date of 5-2-22. Panel is changed to two sections with feed thru lugs on section one.

Drawing E1.1

Reference: ELECTRICAL LIGHTING FLOOR PLAN

Change: Lighting circuit numbers as shown on the attached Drawing E1.1 with Revision 1 date of 5-2-22.

Drawing E1.2

Reference: ELECTRICAL POWER FLOOR PLAN

Change: Circulating fan circuit numbers as shown on the attached Drawing E1.2 with Revision 1 date of 5-2-22.

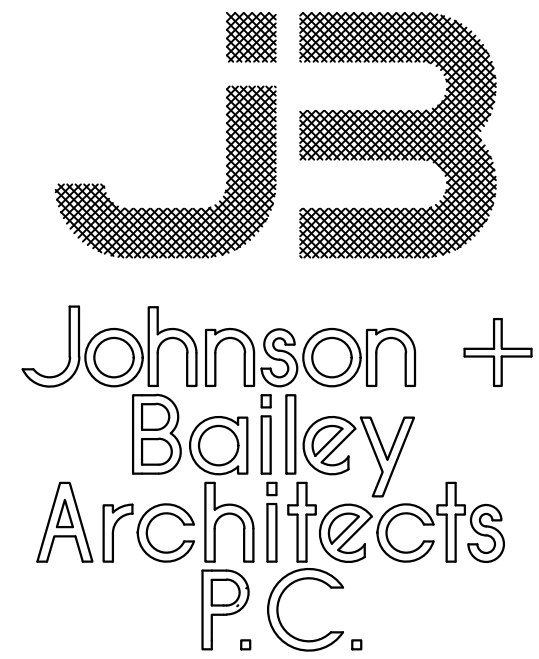
PROPOSAL REQUEST NO. 1
Richard Siegel Soccer Park
Indoor Training Facility
J+B No. 1818
May 3, 2022
Page 2



BY: _____
R. Lyle Lynch, AIA

ATTACHMENTS: Drawing E0.1 with Revision 1 date of 5-2-22
Drawing E1.1 with Revision 1 date of 5-2-22
Drawing E1.2 with Revision 1 date of 5-2-22

DISTRIBUTION: *Robert Blush - ClearSpan Fabric Structures
(*via e-mail) *Nate Williams - Murfreesboro Parks & Recreation
*Scott Elliott - City of Murfreesboro
*Derwin Caffey - Win Engineering



City Center
100 East Vine St.
Murfreesboro Tennessee
37130
615-890-4560
Fax: 615-890-4564

ELECTRICAL
DESIGN FOR
Soccer
Practice
Facility
at
Siegel
Soccer Park

Murfreesboro Tennessee

REVISION DATE

05-02-2022
SHUNT TRIP CB FOR FACP

NOTES:

THIS DRAWING SHALL NOT BE
REPRODUCED, PUBLISHED, OR USED
IN ANY WAY WITHOUT THE WRITTEN
PERMISSION OF THE ARCHITECT.



PROJECT NO. 1818
DATE 12-20-19
DRAWN BY D.C.C.
CHECKED BY L.A.W.

E0.1

Panel Device Mounting	HP1 MOLDED CASE SURFACE	OC Type Enclosure Comments	CKT BRKR NEMA 1 200/3 M.C.B.	Voltage L-L Voltage L-N Amperage	480 277 200										
Ckt No.	Description	Type	Load	Remarks	CB Pole	PH	PH Pole	CB	Remarks	Load	Type	Description	Ckt No.		
1	PANEL HP2	9	16824	SHUNT	100	3	A	3	45	-	1608	7	XFMR PANEL LP1	2	
3	-	9	16824	-	-	-	B	B	-	-	1512	7	-	4	
5	-	9	16824	-	-	-	C	C	-	-	1512	7	-	6	
7	SHUNT TRIP SPACE	-	-	-	-	-	A	A	1	20	-	3988	2	LIGHTS	8
9	EXTERIOR LIGHTS	2	1336	-	20	1	B	B	1	20	-	3988	2	LIGHTS	10
11	LIGHTS	2	3988	-	20	1	C	C	1	20	-	3988	2	LIGHTS	12
13	LIGHTS	2	3988	-	20	1	A	A	1	20	-	3988	2	LIGHTS	14
15	LIGHTS	2	3988	-	20	1	B	B	1	20	-	3988	2	LIGHTS	16
17	LIGHTS	2	3988	-	20	1	C	C	1	20	-	3988	2	LIGHTS	18
19	LIGHTS	2	3988	-	20	1	A	A	1	20	-	-	-	SPARE	20
21	LIGHTS	2	3988	-	20	1	B	B	1	20	-	-	-	SPARE	22
23	LIGHTS	2	3988	-	20	1	C	C	1	20	-	-	-	SPARE	24
25	SPACE ONLY	-	-	-	20	1	A	A	1	20	-	-	-	SPACE ONLY	26
27	SPACE ONLY	-	-	-	20	1	B	B	1	20	-	-	-	SPACE ONLY	28
29	SPACE ONLY	-	-	-	20	1	C	C	1	20	-	-	-	SPACE ONLY	30
31	SPACE ONLY	-	-	-	20	1	A	A	1	20	-	-	-	SPACE ONLY	32
33	SPACE ONLY	-	-	-	20	1	B	B	1	20	-	-	-	SPACE ONLY	34
35	SPACE ONLY	-	-	-	20	1	C	C	1	20	-	-	-	SPACE ONLY	36
37	SPACE ONLY	-	-	-	20	1	A	A	1	20	-	-	-	SPACE ONLY	38
39	SPACE ONLY	-	-	-	20	1	B	B	1	20	-	-	-	SPACE ONLY	40
41	SPACE ONLY	-	-	-	20	1	C	C	1	20	-	-	-	SPACE ONLY	42
Phase A 34384 VA Phase B 35614 VA Phase C 38276 VA Total kVA 108.3 Demand kVA 100.0 Total Amps 130.2 Demand Amps 120.3														NOTE: _____ A.I.C. RATING: _____ VERIFY WITH LOCAL UTILITY	

Panel Device Mounting	HP2 (SECTION 1) MOLDED CASE SURFACE	OC Type Enclosure Comments	CKT BRKR NEMA 1 M.L.O.	Voltage L-L Voltage L-N Amperage	480 277 100										
Ckt No.	Description	Type	Load	Remarks	CB Pole	PH	PH Pole	CB	Remarks	Load	Type	Description	Ckt No.		
1	EXHAUST FAN	9	1167	-	-	20	3	A	A	3	20	-	1167 9	EXHAUST FAN	2
3	-	9	1167	-	-	-	-	B	B	-	-	1167 9	-	4	
5	-	9	1167	-	-	-	-	C	C	-	-	1167 9	-	6	
7	EXHAUST FAN	9	1167	-	-	20	3	A	A	3	20	-	1167 9	EXHAUST FAN	8
9	-	9	1167	-	-	-	-	B	B	-	-	1167 9	-	10	
11	-	9	1167	-	-	-	-	C	C	-	-	1167 9	-	12	
13	EXHAUST FAN	9	1167	-	-	20	3	A	A	3	20	-	1167 9	EXHAUST FAN	14
15	-	9	1167	-	-	-	-	B	B	-	-	1167 9	-	16	
17	-	9	1167	-	-	-	-	C	C	-	-	1167 9	-	18	
19	EXHAUST FAN	9	1167	-	-	20	3	A	A	3	20	-	1167 9	EXHAUST FAN	20
21	-	9	1167	-	-	-	-	B	B	-	-	1167 9	-	22	
23	-	9	1167	-	-	-	-	C	C	-	-	1167 9	-	24	
25	EXHAUST FAN	9	1167	-	-	20	3	A	A	3	20	-	1167 9	EXHAUST FAN	26
27	-	9	1167	-	-	-	-	B	B	-	-	1167 9	-	28	
29	-	9	1167	-	-	-	-	C	C	-	-	1167 9	-	30	
31	EXHAUST FAN	9	1167	-	-	20	3	A	A	3	20	-	1167 9	EXHAUST FAN	32
33	-	9	1167	-	-	-	-	B	B	-	-	1167 9	-	34	
35	-	9	1167	-	-	-	-	C	C	-	-	1167 9	-	36	
37	SPACE ONLY	9	2820	-	-	-	-	A	A	1	20	-	-	SPACE ONLY	38
39	SPACE ONLY	9	2820	-	-	-	-	B	B	1	20	-	-	SPACE ONLY	40
41	SPACE ONLY	9	2820	-	-	-	-	C	C	1	20	-	-	SPACE ONLY	42
Phase A		16824 VA													
Phase B		16824 VA													
Phase C		16824 VA													
Total kVA		50.6 Demand kVA		42.9											
Total Amps		60.7 Demand Amps		51.6											
NOTE: PROVIDE FEED THRU LUGS															
A.I.C. RATING: VERIFY WITH LOCAL UTILITY															

Panel Device Mounting	HP2 (SECTION 2) MOLDED CASE SURFACE	OC Type Enclosure Comments	CKT BRKR NEMA 1 M.L.O.	Voltage L-L Voltage L-N Amperage	480 277 100									
Ckt No.	Description	Type	Load	Remarks	CB Pole	PH Pole	CB	Remarks	Load	Type	Description	Ckt No.		
43	CIRCULATING FAN	9	470	-	20	3	A	3	20	-	470	9	CIRCULATING FAN	44
45	-	9	470	-	-	-	B	-	-	-	470	9	-	46
47	-	9	470	-	-	-	C	-	-	-	470	9	-	48
49	CIRCULATING FAN	9	470	-	20	3	A	3	20	-	470	9	CIRCULATING FAN	50
51	-	9	470	-	-	-	B	-	-	-	470	9	-	52
53	-	9	470	-	-	-	C	-	-	-	470	9	-	54
55	CIRCULATING FAN	9	470	-	20	3	A	3	20	-	470	9	CIRCULATING FAN	56
57	-	9	470	-	-	-	B	-	-	-	470	9	-	58
59	-	9	470	-	-	-	C	-	-	-	470	9	-	60
61	SPACE ONLY	-	-	-	20	1	A	1	20	-	-	-	SPACE ONLY	62
63	SPACE ONLY	-	-	-	20	1	B	1	20	-	-	-	SPACE ONLY	64
65	SPACE ONLY	-	-	-	20	1	C	1	20	-	-	-	SPACE ONLY	66
Phase A 2820 VA 2820 VA 2820 VA 8.5 Demand kVA 10.2 Demand Amps 7.2 8.6 A.I.C. RATING: VERIFY WITH LOCAL UTILITY														

Panel Device Mounting	LP1 MOLDED CASE SURFACE	OC Type Enclosure Comments				CKT BRKR NEMA 1 M.L.O.	Voltage L-L Voltage L-N Amperage			208 120 100					
Ckt No.	Description	Type	Load	Remarks	CB Pole	PH/PH Pole	CB	Remarks	Load	Type	Description	Ckt No.			
1	OVERHEAD DOOR	9	660	-	20	3	A	1	20	-	38.4	9	(2) LOUVERS	2	
3	-	9	660	-	-	-	B	B	1	20	-	57.6	9	(3) LOUVERS	4
5	-	9	660	-	-	-	C	C	1	20	-	57.6	9	(3) LOUVERS	6
7	(2) LOUVERS	9	38.4	-	-	20	A	A	1	20	-	57.6	9	(3) LOUVERS	8
9	(2) LOUVERS	9	38.4	-	-	20	B	B	1	20	-	57.6	9	(3) LOUVERS	10
11	(2) LOUVERS	9	38.4	-	-	20	C	C	1	20	-	38.4	9	(2) LOUVERS	12
13	(2) LOUVERS	9	38.4	-	-	20	A	A	1	20	-	57.6	9	(3) LOUVERS	14
15	(2) LOUVERS	9	38.4	-	-	20	B	B	1	20	-	38.4	9	(2) LOUVERS	16
17	(3) LOUVERS	9	57.6	-	-	20	C	C	1	20	-	360	3	RECEPTABLES	18
19	SPACE ONLY	-	-	-	-	20	A	A	1	20	-	360	3	RECEPTABLES	20
21	SPACE ONLY	-	-	-	-	20	B	B	1	20	-	360	5	L.C.P./P.C.	22
23	SPACE ONLY	-	-	-	-	20	C	C	1	20	-	360	5	FUTURE F.A.C.P.	24
Phase A		1250.4 VA													
Phase B		1250.4 VA		NOTE: _____											
Phase C		1572 VA													
Total kVA*		41 Demand kVA		3.1											
Total Amps		11.3 Demand Amps		8.6		A.I.C. RATING: _____ VERIFY WITH LOCAL UTILITY									

ELECTRICAL LEGEND		
SYMBOL	DESCRIPTION	MTG. HT.
	CONCEALED CONDUIT & CIRCUITRY (20 UON)	NA
	CONCEALED CONDUIT & CIRCUITRY HOMERUN TO PANELBOARD AND BREAKER NUMBER AS INDICATED	NA
	CONDUIT BELOW GRADE ON SITE	NA
	EXPOSED CONDUIT ON WALL OR CEILING	NA
	SURFACE OR RECESSED FIXTURE (LETTER DENOTES TYPE, REFER TO LIGHT FIXTURE SCHEDULE)	AS INDICATED
	SURFACE OR RECESSED FIXTURE W/ BATTERY PACK (LETTER DENOTES TYPE, REFER TO LIGHT FIXTURE SCHEDULE)	AS INDICATED
	SURFACE OR RECESSED FIXTURE W/ BATTERY PACK (LETTER DENOTES TYPE, REFER TO LIGHT FIXTURE SCHEDULE)	AS INDICATED
	WALL MOUNTED FIXTURE (LETTER DENOTES TYPE, REFER TO LIGHT FIXTURE SCHEDULE)	AS INDICATED
	WALL MOUNTED FIXTURE W/ BATTERY PACK (LETTER DENOTES TYPE, REFER TO LIGHT FIXTURE SCHEDULE)	AS INDICATED
	SURFACE OR PENDANT MOUNTED LIGHT FIXTURE (LETTER DENOTES TYPE, REFER TO LIGHT FIXTURE SCHEDULE)	AS INDICATED
	EXIT LIGHT, UNIVERSAL MOUNTING, W/ INTEGRAL BATTERY PACK SHADING INDICATES FACE	AS INDICATED
	BATTERY PACK FIXTURE	AS INDICATED
	ALL FIXTURES IN THIS SPACE SHALL BE SAME TYPE INDICATED	NA
	NOTE REFERENCE -- REFER TO NOTE INDICATED	NA
	SINGLE POLE SWITCH -- TOGGLE	3'-10" AFF
	THREE-WAY SWITCH -- TOGGLE	3'-10" AFF
	FOUR-WAY SWITCH -- TOGGLE	3'-10" AFF
	LOW VOLTAGE SWITCH -- MULTI LOCATION	3'-10" AFF
	ASTRONOMICAL TIME CLOCK	5'-6" AFF UON
	PHOTOCELL	
	RECEPTACLES	
	120V. DUPLEX RECEPTACLE (G=GFCI, WP=WEATHERPROOF, WR=WEATHER RESISTANT, T=TEMPER RESISTANT, U=WITH USB OUTLET)	1'-6" AFF
	120V. DUPLEX RECEPTACLE -- SPECIAL MOUNTING HEIGHT	3'-10" AFF
	120V. QUADPLEX RECEPTACLE UNDER SINGLE COVERPLATE	1'-6" AFF
	SINGLE SPECIAL PURPOSE RECEPTACLE -- VOLTAGE, AMP, & NEMA CONFIGURATION AS NOTED.	1'-6" AFF UON
	120V. QUADPLEX RECEPTACLE -- SPECIAL MOUNTING HEIGHT	3'-10" AFF
	JUNCTION BOX	SEE SPEC'S
	MANUAL MOTOR RATED SWITCH, 120V FRACTIONAL HP NEMA 1 UON	
	NON-FUSED DISCONNECT -- VOLT/POLE/AMP/NEMA RATING AS INDICATED (NEMA 1 UON)	
	FUSED DISCONNECT -- VOLT/POLE/AMP/NEMA RATING AS INDICATED FUSED PER MANUFACTURER REQUIREMENTS (NEMA 1 UON)	
	COMBINATION ACROSS THE LINE MOTOR STARTER (NEMA 1 UON)	
	TELEPHONE TERMINAL BACKBOARD -- PROVIDE 3/4" EXTERIOR GRADE PLYWOOD WITH TWO COATS OF INSULATING VARNISH. SIZE AS INDICATED ON DRAWING. INSTALL A SEPARATE GROUNDING ELECTRODE AND BOND TO ELECTRICAL SERVICE GROUND PER NFPA 800-11C. STUB OU 2" CONDUIT FROM UTILITY SERVICE AT BACKBOARD.	
	SURFACE MOUNTED PANELBOARD WITH DESIGNATION -- SEE SCHEDULE	
	FLUSH MOUNTED PANELBOARD WITH DESIGNATION -- SEE SCHEDULE	
	ELECTRIC MOTOR	
	EXHAUST FAN	

ABBREVIATIONS	
ABBREVIATION	MEANING
A	AMPS
AFF	ABOVE FINISHED FLOOR
AFG	ABOVE FINISHED GRADE
C	CEILING
CB	CIRCUIT BREAKER
EL	EXISTING TO BE RELOCATED
ER	EXISTING TO BE REMOVED
EX	EXISTING TO REMAIN
FACP	FIRE ALARM CONTROL PANEL
FBO	FURNISHED BY OTHERS
FPMR	FUSE PER MANUFACTURER'S RECOMMENDATIONS
G, GFCI	GROUND FAULT CIRCUIT INTERRUPTER
HP	HORSEPOWER
MTD	MOUNTED
NA	NOT APPLICABLE
NF	NON-FUSED
NIC	NOT IN CONTRACT
NL	NIGHTLIGHT -- PROVIDE UNSWITCHED HOT TO LIGHTING FIXTURE
RL	RELOCATE/RELOCATED
S	SAFETY TYPE RECEPTACLE
TV	TELEVISION CONNECTION -- MOUNTING HT @ 84" AFF U.N.O.
UON	UNLESS OTHERWISE NOTED
V	VOLTS
VA	VOLT-AMPS
W	WATTS
WP	WEATHER PROOF
WR	WEATHER RESISTANT
XFMR	TRANSFORMER

MAXIMUM BRANCH CIRCUIT LENGTH FOR SINGLE-PHASE LOADS (IN FEET)

MAXIMUM ALLOWABLE VOLTAGE DROP	3%			
	120V BRANCH CIRCUIT BREAKER	208V BRANCH CIRCUIT BREAKER	277V BRANCH CIRCUIT BREAKER	
BRANCH CIRCUIT VOLTAGE				
CONDUCTOR WIRE SIZE (AWG)	20A/1P	30A/1P	20A/1P	30A/1P
#12	60	N/A	105	N/A
#10	95	65	170	110
#8	150	95	260	170
#6	235	150	410	270
#4	365	245	635	425
#3	465	310	810	540
#2	560	375	975	650
#1	700	465	1,215	810
			1,620	1,080

NOTES:
1. CALCULATIONS BASED ON LOAD 80% OF BRANCH BREAKER SIZE.
2. VOLTAGE DROP BASED ON 0.95 POWER FACTOR.
3. BRANCH CIRCUIT LENGTH VALUES INDICATED ARE WIRE DISTANCE FROM PANELBOARD TO LOAD.

ALL BRANCH CIRCUITS TO MAINTAIN A MAXIMUM VOLTAGE DROP OF 3%. ADJUST BRANCH CIRCUIT WIRE SIZE PER MAXIMUM BRANCH CIRCUIT LENGTH.

ALL FEEDER CIRCUITS TO MAINTAIN A MAXIMUM VOLTAGE DROP OF 2%. ADJUST FEEDER CIRCUIT WIRE SIZE PER MAXIMUM FEEDER CIRCUIT LENGTH.



City Center
100 East Vine St.
Murfreesboro Tennessee
37130
615-890-4560
Fax: 615-890-4564

ELECTRICAL
DESIGN FOR
Soccer
Practice
Facility
at
Siegel
Soccer Park

Murfreesboro Tennessee

KEYNOTES

- 1 PROVIDE SIXTEEN RELAY LIGHTING CONTROL PANEL 'LCP' WITH ASTRONOMICAL TIME CLOCK AND ELECTRONIC PHOTO CELL FACING NORTH. CONTRACTOR IS RESPONSIBLE FOR ORDERING ALL ACCESSORIES NECESSARY TO PROVIDE A COMPLETE INSTALLATION.
- 2 PROVIDE MULTI-LOCATION LOW VOLTAGE SWITCH, NOT SHOWN COMPATIBLE WITH LIGHTING CONTROL PANEL. COORDINATE SWITCH LOCATIONS WITH OWNER PRIOR TO CONSTRUCTION.
- 3 EXTERIOR LIGHTS SHALL BE CONTROLLED BY ASTRONOMICAL TIME CLOCK AND PHOTO CELL, (TYPICAL).

REVISION	DATE
△ SHUNT TRIP CB FOR FACP	05-02-2022

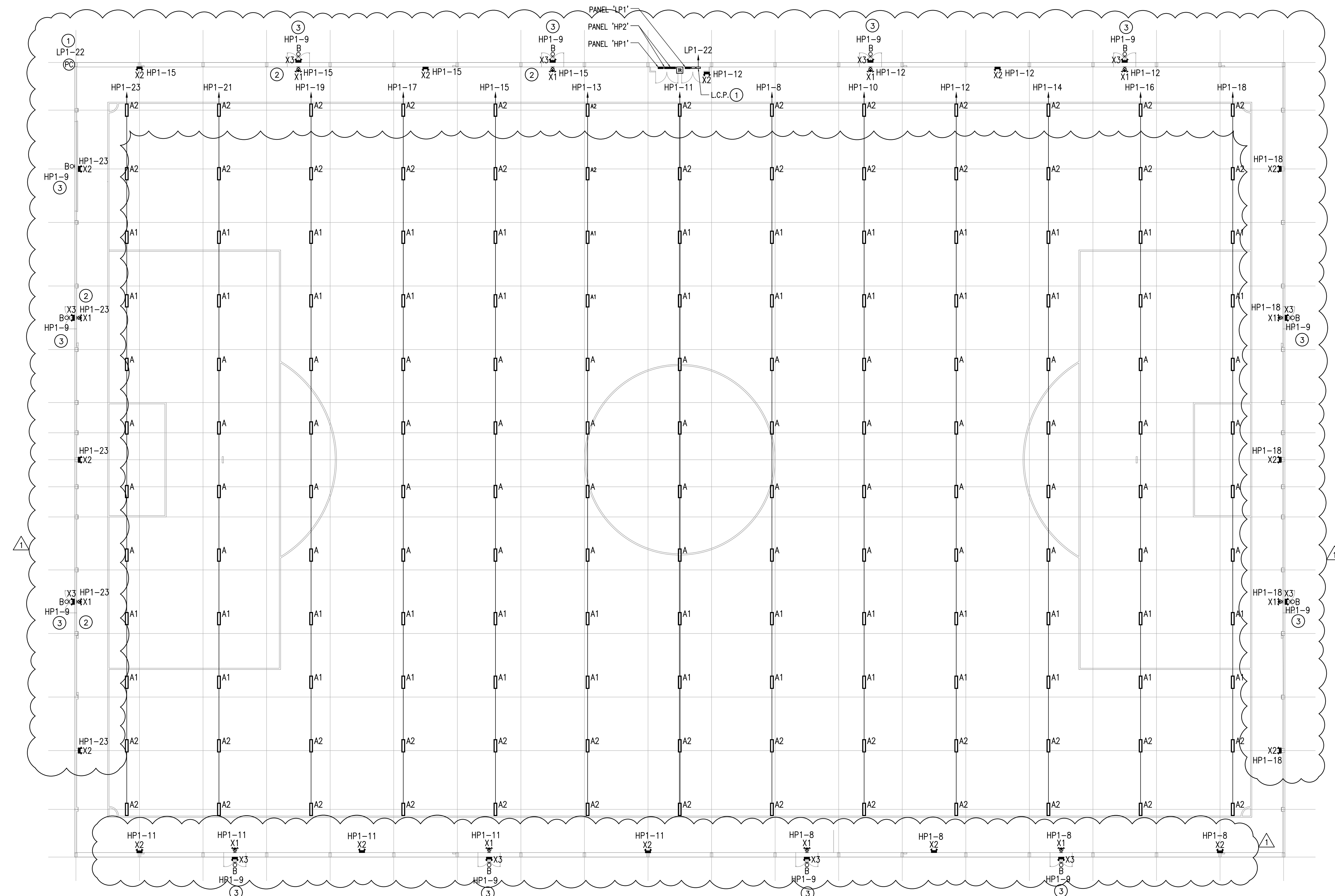
NOTES:

THIS DRAWING SHALL NOT BE REPRODUCED, PUBLISHED, OR USED IN ANY WAY WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.



PROJECT NO. 1818
DATE 12-20-19
DRAWN BY D.C.C.
CHECKED BY L.A.W.

E1.1



ELECTRICAL LIGHTING FLOOR PLAN
SCALE: 1/16" = 1'-0"

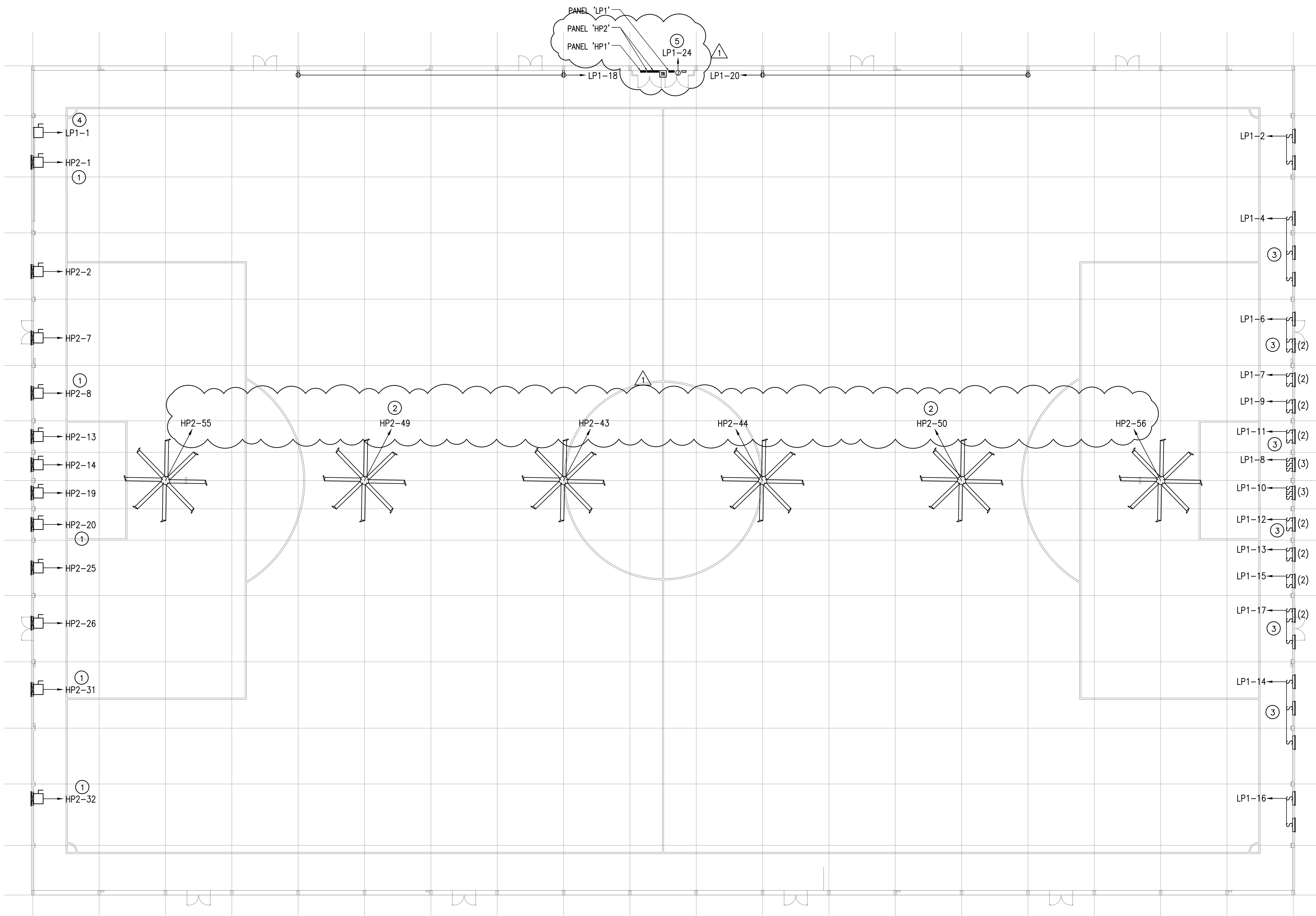
[illegible]

NOTES:

THIS DRAWING SHALL NOT BE
REPRODUCED, PUBLISHED, OR USED
IN ANY WAY WITHOUT THE WRITTEN
PERMISSION OF THE ARCHITECT.

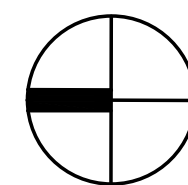


PROJECT NO. 1818
DATE 12-20-19
DRAWN BY D.C.C.
CHECKED BY L.A.W.



ELECTRICAL POWER FLOOR PLAN

SCALE: $1/16" = 1'-0"$



KEYNOTES

- ① PROVIDE 600V/3P/30A DISCONNECT SWITCH FOR WALL EXHAUST FANS, TYPICAL OF 12. DUE TO VOLTAGE DROP, WIRE AND CONDUIT SIZE(S) SHALL VARY DEPENDING ON DISTANCES AT THE SITE. ADJUST AS REQUIRED PER N.E.C., SEE VOLTAGE DROP TABLE SHEET E0.1. COORDINATE WITH OWNER AND FAN MANUFACTURER DIFFERENT CONTROL OPTIONS, LOCATIONS AND PROVIDE ACCORDINGLY.
- ② PROVIDE TRI-LITE (E1/1/3-30A) DISCONNECT SWITCH WITH TRI-LITE (HVL5-ESV751N04TXB) VFD FAN CONTROL FOR CIRCULATION CEILING FANS, TYPICAL OF 6. DUE TO VOLTAGE DROP, WIRE AND CONDUIT SIZE(S) SHALL VARY DEPENDING ON DISTANCES AT THE SITE. ADJUST AS REQUIRED PER N.E.C., SEE VOLTAGE DROP TABLE SHEET E0.1. COORDINATE CONTROLLER LOCATIONS WITH OWNER PRIOR TO CONSTRUCTION.
- ③ PROVIDE 120V, 20A TOGGLE SWITCH FOR LOUVER MOTORS, TYPICAL OF 34. DUE TO VOLTAGE DROP, WIRE AND CONDUIT SIZE(S) SHALL VARY DEPENDING ON DISTANCES AT THE SITE. ADJUST AS REQUIRED PER N.E.C., SEE VOLTAGE DROP TABLE SHEET E0.1. THERE ARE TWO CONTROLLERS PER LOUVER, COORDINATE LOCATIONS WITH OWNER PRIOR TO CONSTRUCTION.
- ④ PROVIDE 240V/3P/30A DISCONNECT SWITCH FOR OVERHEAD DOOR MOTOR. DUE TO VOLTAGE DROP, WIRE AND CONDUIT SIZE SHALL INCREASE DEPENDING ON DISTANCE AT THE SITE. ADJUST AS REQUIRED PER N.E.C., SEE VOLTAGE DROP TABLE SHEET E0.1. COORDINATE WITH OWNER AND OVERHEAD DOOR MANUFACTURER DIFFERENT CONTROL OPTIONS, LOCATIONS AND PROVIDE ACCORDINGLY.
- ⑤ PROVIDE J-BOX WITH CIRCUIT SHOWN FOR FUTURE FIRE ALARM CONTROL PANEL (BY OTHERS).

Lyle Lynch

From: Robert Blush <rblush@clearspan.com>
Sent: Tuesday, May 17, 2022 3:06 PM
To: Lyle Lynch; Nate Williams (nwilliams@murfreesborotn.gov)
Subject: RE: Change order for fan Shut off per drawing revision 1

Here is the change order breakdown

Labor	\$2,185.05
Materials	\$4,175.00
Subcontractor 10%	\$636.01
 Total	 \$6,996.06
GC 5% Overhead & Profit	\$349.80
 Total	 \$7,345.86

I am still working on gathering the other information that you requested below and I will confirm with rains that they can continue working on the other items.

From: Lyle Lynch <rlynch@jbarchitects.com>
Sent: Monday, May 16, 2022 11:00 AM
To: Robert Blush <rblush@clearspan.com>; Nate Williams (nwilliams@murfreesborotn.gov)
<nwilliams@murfreesborotn.gov>
Subject: RE: Change order for fan Shut off per drawing revision 1

CAUTION: This email originated outside our organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Robert,

Thank you for your prompt pricing. Please provide a price breakdown for this amount itemizing additional costs for materials and labor, as noted in Article 10.4.6 of the Contract for Construction. Also, please include 5% markup for General Contractors overhead and profit as per Article 10.4.2, if this has not already been included. This documentation will allow the Architect to prepare a Change Order form and forward to you for your review execution.

Additionally, please provide the documentation from my e-mail dated 5-11-22 (copy attached), which will allow us to complete the design of the wall louver interconnection to the exhaust fans.

I assume that the electrical workers on site can work on installation of lighting fixtures, lighting fixture conduit, and lighting fixture conductors as we prepare a proposed design for the wall louver interconnection to the exhaust fans. If this assumption is not correct, please let me know. I would like to include both of these items on the Change Order, if time allows.

Your assistance with these matters is greatly appreciated.

R. Lyle Lynch
Johnson+Bailey Architects P.C.

100 East Vine Street, Suite 700
Murfreesboro, TN 37130
615-890-4560 office
615-631-5372 mobile
Rlynch@jbarchitects.com

From: Robert Blush <rblush@clearspan.com>
Sent: Monday, May 16, 2022 8:16 AM
To: Lyle Lynch <rlynch@jbarchitects.com>; Nate Williams (nwilliams@murfreesborotn.gov)
<nwilliams@murfreesborotn.gov>
Subject: Change order for fan Shut off per drawing revision 1

Good morning gentlemen the price for this change order labor and material is \$10,763.96. Is there a preferred change order form submittal you require or can I send our standard one?

Rob Blush
Design & Construction Manager

ClearSpan Fabric Structures
1440 Field of Dreams Way, Dyersville, IA 52040
866.643.1010 x7776 fax: 860.760.1210
ClearSpan.com | ["See the ClearSpan Advantage" Video](#)



Johnson + Bailey Architects P.C.

City Center • Suite 700
100 East Vine Street
Murfreesboro, Tennessee 37130
615 890 4560 • FAX 615 890 4564

May 18, 2022



Mr. Nate Williams
Murfreesboro Parks and Recreation
697 Veterans Parkway
Murfreesboro, TN 37128

Re: Richard Siegel Soccer Park
Indoor Training Facility
Cherry Lane
J+B No. 1818

Dear Mr. Williams:

Please find attached electronic pdf file of Change Order No. 1 for the referenced project dated May 18, 2022. This Change Order is for revisions to electrical power service to 12 exhaust fans and 6 circulating fans to provide for shut-down by fire alarm control panel, as shown on Proposal Request No. 1 dated May 3, 2022.

The Owner has a contract with ClearSpan for the installation of the building and electrical work, and a contract with ADS Security for the fire alarm system. The fire alarm system will produce a low voltage signal to turn off the exhaust fans and circulation fans upon activation of the fire alarm. The fans installed do not have relays to turn off upon signal. Proposal Request No. 1 shows revisions to the power plans to provide for shut-off upon signal from the fire alarm system.

We have reviewed the pricing from ClearSpan and find the costs reasonable. This revision is needed to comply with applicable Building Code.

Based on the above, it is the Architect's recommendation that Change Order No. 1 be accepted by the Owner.

If you have any questions concerning the above, please advise.

Sincerely,

JOHNSON + BAILEY ARCHITECTS, P.C.

A handwritten signature in blue ink, appearing to read 'R. Lyle Lynch', written over a horizontal line.

R. Lyle Lynch, AIA

Encl: Change Order No. 1 dated May 18, 2022 (electronic pdf file)

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Change Order No. 4 to Construction Contract for Richard Siegel Soccer Complex Enhancements

Department: Parks and Recreation

Presented by: Nate Williams, Director

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 No. 4 to Warner's Athletic Construction agreement to address relocation of irrigation main line at Richard Siegel Soccer Complex.

Staff Recommendation

Approve Change Order No. 4 with Warner's Athletic Construction Company, LLC.

Background Information

During the transitioning of Field #10 to a synthetic turf, it was discovered that the new main storm drain for the field results in the same elevation at the irrigation main line that services the east side of the Complex. The proposed work in this change order realigns the main irrigation line and includes associated grading and concrete work.

Council Priorities Served

Improve economic development

Improvements to the Richard Siegel Soccer Complex allow for increased regional and national tournaments and offer significant economic opportunities benefiting the community.

Fiscal Impact

The \$11,327 increase is allocated in the project total and funded by the FY 2021 CIP.

Attachment

Change Order No. 4 to the Construction Contract with Warner's Construction



AIA® Document G701™ – 2017

Change Order

PROJECT: *(Name and address)*
Soccer Seigel Turf Conversion - Warner
Construction
Richard Siegel Soccer Complex
515 Cherry Lane Murfreesboro, TN
37129

OWNER: *(Name and address)*
City of Murfreesboro, Tennessee, a
municipality organized under the laws of
the state of Tennessee

111 West Vine Street
Murfreesboro, Tennessee 37130

CONTRACT INFORMATION:
Contract For: General Construction

Date: 7/7/20

ARCHITECT: *(Name and address)*
William H. Huddelston, IV, P.E., R.L.S
Huddelston-Steele Engineering, Inc.
2115 N.W. Broad Street
Murfreesboro, Tennessee 37129

CHANGE ORDER INFORMATION:
Change Order Number: 004

Date:

CONTRACTOR: *(Name and address)*
Warner's Athletic Construction Co., LLC,
a limited liability company
570 Huntly Industrial Drive
Smyrna, Tennessee 37167

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

The work performed pursuant to this Change Order will be in accordance with the specifications set forth in Contractor's Change Order 4 Document dated May 17, 2022. Such work includes the relocation of Irrigation Main Line to accommodate storm drainage.

The original Contract Sum was	\$ 3,079,460.00
The net change by previously authorized Change Orders	\$ 3,261,821.00
The Contract Sum prior to this Change Order was	\$ 6,341,281.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 11,327.00
The new Contract Sum including this Change Order will be	\$ 6,352,608.00

The Contract Time will be unchanged by () days.
The new date of Substantial Completion will be

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Huddelston-Steele Engineering, Inc.
ARCHITECT *(Firm name)*

Warner's Athletic Construction Co., LLC
CONTRACTOR *(Firm name)*

City of Murfreesboro
OWNER *(Firm name)*

SIGNATURE

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

PRINTED NAME AND TITLE

DATE

SIGNATURE

Ronald (Lou) Warner, President

PRINTED NAME AND TITLE

DATE

SIGNATURE

Shane McFarland, Mayor

PRINTED NAME AND TITLE

DATE

Approved to form:

Adam Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Conveyance of Retired Police K9

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

Donation of police canine "Boomer" to his handler Sergeant Mark Wood.

Staff Recommendation

Approve the transfer of retired police canine to his current handler.

Background Information

Police canine Boomer is nine years of age and at the end his service. Boomer's partner, Sergeant Wood, desires to continue to care for and keep him in his retirement.

Council Priorities Served

Maintain public safety

Canines are highly valued members of the Police Department and are instrument in maintaining the safety of the community. Transitioning these members of the Department to a well-earned retirement in the care of their long-time handlers best honors their service.

Fiscal Impacts

MPD will provide services as described in the Canine Release Waiver. If approved, covered services will be funded from the Department's Operating Budget.

Attachments:

1. Recommendation letter from AMC
2. Canine Release Waiver
3. Surplus Property Disposal Form

CITY OF MURFREESBORO, TENNESSEE

POLICE/NARCOTICS CANINE RELEASE WAIVER

This agreement entered into by and between the **City of Murfreesboro, Tennessee** ("the City") and **Mark Wood** ("Recipient") and made effective as of _____.

Whereas, the City of Murfreesboro Police Department (hereinafter, "MPD") previously used a police/patrol canine by the name of Boomer ("the Canine"); and

WHEREAS, the MPD has determined, by consultation with a licensed veterinarian and/or agreement of the chain of command, that the Canine is no longer suitable for use as a police canine and should be used only as a pet by someone competent in the handling and care of a police/patrol canine, the MPD is therefore retiring the canine from police service, and

WHEREAS, Recipient desires to have the Canine for use solely as a pet; and

WHEREAS, the City will make the Canine available to the Recipient as a pet with the understanding that Recipient does release and forever discharge the City and the MPD and their employees, agents, servants, and successors or assigns, from any and all actions, claims and demands including claims or actions for contribution and/or indemnity of whatever nature now existing or which may hereafter arise out of the control, possession, maintenance, and/or the conduct of the Canine delivered into Recipient's possession, including any consequence thereof now existing or which may develop, whether or not such consequences are known or anticipated.

The Recipient further agrees that the sole consideration of conveying ownership of the Canine to Recipient, the receipt of which is acknowledged, does release and forever discharge the City, the MPD, and their employees, agents, servants, and successors or assigns, from any and all actions, claims and demands including claims or actions for contribution and/or indemnity of whatever nature now existing or which may hereafter arise out of the control, possession, maintenance, and/or the conduct of the Canine delivered into Recipient's possession, including any consequence thereof now existing or which may develop, whether or not such consequences are known or anticipated.

The Recipient also agrees that, in consideration of conveying ownership of the Canine, Recipient will indemnify and hold harmless the City, the MPD, and their employees, agents, servants, and successors or assigns, from any and all actions, claims and demands arising out of the control, possession, maintenance and/or conduct of the Canine delivered into Recipient's possession.

NOW THEREFORE, for and in consideration of the mutual benefits hereunto appertaining, the parties agree as follows:

1. That Recipient recognizes and acknowledges that the Canine has been trained and worked as a police/patrol canine and in that connection has been trained in suspect control techniques and to perform other regular services as a police/patrol canine.

2. That the MPD makes no representations or warranties, expressed or implied, about the Canine's temperament or in any way guarantees or represents how the Canine will react to persons or property at the present time or in the future.
3. Recipient agrees to assume full financial responsibility, except as provided herein, regarding the care and maintenance of the Canine including, but not limited to: nutrition, kenneling/shelter, transportation requirements, veterinary expenses for conditions present and future.
4. The City shall be responsible for the veterinary care of the Canine, up to an amount not to exceed two thousand five hundred dollars (\$2,500) per calendar year, provided: (a) the animal remains in the possession and care of an active or retired MPD officer; (b) any such veterinary care is provided by a licensed veterinarian; and (3) Recipient presents any and all necessary documentation to the MPD's Deputy Chief to support the City's requirements for the reimbursement of funds.
5. The City shall be responsible for providing food for the Canine in the custody and control of an active or retired MPD officer at such officer's request. Such food shall be provided by the police department for the life of the animal. Recipient acknowledges that to receive reimbursement for the cost of feeding the Canine, Recipient must present any and all necessary documentation to the MPD's Deputy Chief to support the City's requirements for the reimbursement of funds.
6. Recipient agrees that the Canine is not being acquired with the intent to sell, transfer, lease, or otherwise dispose of the Canine to any person(s), dealer, retailer, auction, institute or any other entity.
7. Recipient agrees to care for the Canine in a humane and responsible manner and to provide it with secure, clean and adequate shelter, food, water and veterinary care in a manner consistent with law and/or veterinary recommended practices.
8. Recipient agrees that the Canine shall wear a collar or harness with identification tags or have an embedded identification microchip at all times.
9. That in exchange for the above agreement the City does hereby transfer ownership of the Canine to Recipient.
10. Recipient further acknowledges that no additional promise or agreement has been made as consideration for this Release and the signing thereof has not been induced by any representation of the party released, or by anyone in its behalf.

This Release shall bind the Recipient and the Recipient's heirs, next of kin, executors, administrators, successors or assigns and shall inure to the benefit of the party released, its employees, agents, servants, and successors or assigns.

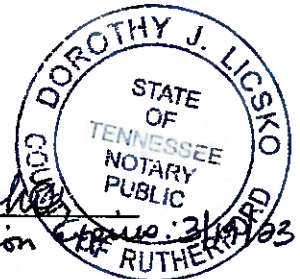
The Recipient hereby accepts the Canine in consideration of the promises set forth above.

[Signature]
Recipient of Canine

5-11-22
Date

Sworn to and subscribed before me, this 11 day of May, 2022.

[Signature]
Notary Public Commission Expires: 3/19/23



On behalf of the City of Murfreesboro:

Recommended by:

[Signature]
Captain, MPD Traffic and Special Services Section

5-12-22
Date

Approved by:

[Signature]
Deputy Chief of Police

5-11-22
Date

[Signature]
Chief of Police

5-11-22
Date

[Signature]
City Manager

5-18-22
Date

APPROVED AS TO FORM AND LEGALITY:

[Signature]
City Attorney

5/18/2022
Date

FILED IN THE OFFICE OF THE CITY RECORDER:

[Signature]
Reporting and Compliance Manager

5-16-22
Date

City of Murfreesboro**Surplus Property Disposal Form**

City Department

Police Department

Short description of surplus property K9 - Boomer

Check the proposed method of disposal.

Sell	_____	Estimated value	_____
		Reserve value (Do not sell below this amt)	\$ _____
Trade-In	_____	Trade-in value	\$ _____
Transfer	_____	To whom? _____	
Donate	<u>X</u>	To whom? <u>Mark Wood</u>	Estimated value \$ _____
Throw away	_____		
Recycle	_____		

Describe the Surplus Property:

Approximate age	<u>8</u>	Estimated original cost	<u>9,000.00</u>	<u>vm</u>
Seized Property?	_____	Depr value (to be completed by FA Mgr if applicable)		\$ -

Condition of surplus property:

If **Sell**, complete and attach the appropriate Vehicle, Equipment, or Office Equipment, Furniture & Other Inspection Form.If **Trade-In, Transfer, Donate, or Junk** describe the condition of the surplus property below, including Make, Model, and Serial Number as appropriate:

Requesting to donate "Boomer" to his handler. Boomer is at the end of his service life and has been retired.

Check the method used to determine the estimated / reserve values of the surplus property. Attach documentation if estimated value is over \$1,000.

Trade-in value	_____	Equipment dealer	_____
Appraisal	_____	Completed online auctions	_____
Kelley Blue Book	_____	Depreciated value	_____
		Other (Describe)	_____

I request that the item described above be declared surplus property and that the disposal method be approved.

Signed	<u>[Signature]</u>	Date	<u>5-11-22</u>
	(Department Head)		

I have reviewed the above information and determined that it is appropriate.

Signed	<u>Vicki J. Massey</u>	Date	<u>5-16-22</u>
	(Fixed Assets Manager)		

I approve _____ or disapprove _____ that the above described property be determined surplus and disposed of as indicated.

Signed	<u>[Signature]</u>	Date	<u>5-18-22</u>
	(City Manager or Assist. City Manager)		

FIXED ASSETS MANAGER TO RETAIN ORIGINAL. COPY WILL BE SENT BACK TO DEPT.

Police Department
Mark Wood #399
Sergeant
615-971-6195
0399@murfreesborotn.gov



To whom it may concern:


Upon approval I would like to request the retirement of Boomer with the recommendation from the Veterinarian. Boomer began his career with the Murfreesboro Police Department on May 5th, 2014. I would like to request his last day to be May 7, 2022.

If approved, I request to sign the contract for Boomer to be turned over to my ownership.

Sgt. Mark Wood #399

May 6, 2022

APPROVED
DISAPPROVED
OTHER

☒  02/4
5-11-22
☐
☐

**ANIMAL MEDICAL CENTER
PetVet Care Centers of TN
1 Gorham Island, Ste. 300
Westport, CT 06880
Phone (615) 867-7575 Fax (615) 867-7028**

**Sergeant Mark Wood
Murfreesboro Police Department**

After a thorough physical exam, it is my recommendation that Boomer be considered for retirement from the Murfreesboro Police K9 unit.

The mobility in his hips and rear legs is hindered due to arthritis, which is a progressive condition. The consequences of the arthritis and age are making it difficult for him to do simple things like jump into a car.

If you have any further questions or need anything else, please don't hesitate to call.

Sincerely,

A handwritten signature in black ink that reads "Dr. Steve Myers". The signature is written in a cursive, flowing style.

**Dr. Steve Myers
Animal Medical Center
234 River Rock Blvd.
Murfreesboro, TN
d_farrar@yahoo.com**

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Purchase of 3D Scene Mapping Equipment

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

Purchase of 3D scene mapping equipment.

Staff Recommendation

Approve the purchase agreement with FARO Technologies, Inc.

Background Information

MPD has been using a FARO 3D scene mapping machine since 2017. The machine recently was damaged while in use at a crime scene. The cost of repairs to this five-year-old technology is more than half the price of a new machine. The new FARO machine will provide the latest technology while remaining compatible with all the accessories and software MPD previously purchased.

Council Priorities Served

Maintain public safety

Scene mapping equipment is critical in solving crimes to maintain public safety.

Fiscal Impact

The expense, \$41,581, is funded in part with Risk Management and Federal Equitable funds.

Attachments

Agreement with FARO Technologies, Inc. for 3D Scene Mapping Equipment.

**AGREEMENT
BETWEEN
CITY OF MURFREESBORO
AND
FARO TECHNOLOGIES, INC.
FOR 3D SCENE MAPPING EQUIPMENT**

This Agreement is entered into and effective as of the ____ day of _____ 20____, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **FARO Technologies, Inc.**, a corporation of the State of Florida ("Contractor").

This Agreement consists of the following documents:

- This document
- Contractor's Quotation No. 20444576, dated February 8, 2022 ("Contractor's 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; and
 - Lastly, Contractor's Proposal.
1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase 3D scene mapping equipment to replace similar equipment damaged in an accident in accordance with the Contractor's Proposal.
 2. **Term.** Contractor's performance may be terminated in whole or in part:
 - a. Upon 30-day prior notice, for the convenience of the City.
 - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
 - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
 - e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.
 3. **Price; Compensation; Method of Payment.**
 - a. The price for the goods and other items to be provided under this Agreement is set forth in the Contractor's Proposal which reflects a total purchase price of \$41,581.00. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery of the goods and/or services which each payment represents. The

City agrees to pay Contractor after goods and/or services have been received, 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. Payment is due within thirty (30) days from the date of Contractor's invoice.

- b. Deliveries of all items shall be made within 42 calendar days of order at the 1004 North Highland Avenue, Murfreesboro, TN 37130. Contact Person Lt. Mike Taylor (tel. 615-893-2717; email. 0365@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
 - c. Deliveries of all items shall be made as stated in the Contractor's Proposal. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract.
 - d. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.
4. **Warranty.** Unless otherwise specified, every item bid shall meet the warranty requirements set forth in Contractor's Proposal.
 5. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
 6. **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 non-exclusive right to 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, (2) 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 direct damages in any third-party claims, penalties, damages, costs and attorney fees ("Expenses") caused by injuries or damages resulting from, in part or in whole, the gross negligence or reckless 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, except to the extent contributed to by the City.

- 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:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

If to the Contractor:

General Counsel
FARO Technologies, Inc.
250 Technology Park
Lake Mary, FL 32746

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, which is limited to compliance with ISO requirements, subject to the City providing at least fourteen (14) business days prior notice and use of independent accountancy or testing firm. 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. **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.
15. **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.
16. **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.
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.
25. **Limitation of Liability.** Except where prohibited by law, and except claims arising pursuant to Contractor's indemnification obligations under Section 8 of this Agreement, Contractor's maximum liability to the City under any legal theory, including breach of contract, breach of warranty, tort, or otherwise, arising from this Agreement or related to the goods and services to be provided pursuant to this Agreement shall in no event exceed the greater of (a) one hundred thousand dollars (\$100,000.00) or (b) two-times (2x) the amount paid by the City to Contractor

under this Agreement. Notwithstanding the above, in the event a claim is covered by insurance required by Section 7 of this Agreement, the maximum limitation of liability for such shall be one million dollars (\$1,000,000.00). In no case or under any theory shall either party be liable for any indirect, special, punitive, or consequential damages.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2022 (the “Effective Date”).

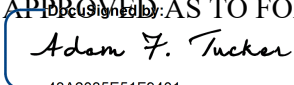
CITY OF MURFREESBORO, TENNESSEE

By: _____
Shane McFarland, Mayor

FARO TECHNOLOGIES, INC.

By:  _____
Craig Cupach, Director of Sales

APPROVED AS TO FORM:

 _____
Adam F. Tucker, City Attorney



FARO Technologies, Inc.
250 Technology Park
Lake Mary FL 32746-7115
Phone No: (407)333-9911X1205
Fax No:
Email: Cynthia.Clarke@faro.com

Remit to:
FARO Technologies, Inc.
P.O. Box 116908
Atlanta, GA 30368-6908

Quotation No: 20444576
Quote Date: 02/08/2022
Expiration Date: 05/14/2022
Regional Manager:
Account Manager: Richard Britt
Sales Support: Cynthia Clarke
Ship: Standard/Ground
Payment Terms: Net due in 30 days
with approved credit
Delivery Terms: EXW Origin
Delivery Date: 4-6 Weeks
Tracker Lead Time: 10-12 Weeks
PO Number:

Bill To :
City of Murfreesboro
PO Box 1139
Attn: Finance Dept.
Murfreesboro TN 37133-1139
US

Ship To :
City of Murfreesboro
Tyler Smith
1734 S Rutherford Blvd
Murfreesboro TN 37130-5956
US

Trade in: X330 LLS071609391

Qty	Item No.	Description	Unit Price	Discount	Ext. Price
1	LS-8-S-350	3D_HW_LS_FocusS 350	43,880.00	4,388.000	39,492.00
		Laser Scanner Focus S 350 ships with: 1x Focus S 350, 1x Quick Release, HDR photography, GPS, compass, altimeter (barometer), dual-axis compensator, Accessory Bay, 1x Power Block Battery, 1x Battery Power Dock, 1x Power Supply, 1x 32GB SD card and reader, 1x rugged transport case, calibration certificate, manufacturer warranty and a quick start guide.			
1	ACCS-PWR-0014	3D_AC_LS_FocusS Battery Power Block	580.00	86.320	493.68
		Power Block battery for Focus laser scanner and Freestyle.			
1	SV2-SCN-Y2	FOCUS Complete Care-Year 2	3,830.00	2,249.000	1,581.00
		Complete care upgrade for Focus Premium scanners. Upgrades included 2 year manufacturer warranty to include an annual cleaning and calibration.			

PURCHASE AGREEMENT AND CONDITIONS OF SALE Customer will pay any federal, state and local taxes. All conditions of sale, service and warranty as described in FARO standard purchase conditions currently on file with FARO are made as part of this Quotation and are incorporated herein by reference (02FRM522). DR12 PLEASE REFERENCE FARO QUOTE NUMBER ON ALL DOCUMENTS. BY REFERENCING FARO QUOTE, CUSTOMER AGREES TO SAID TERMS AND CONDITIONS AS LISTED ON FARO QUOTATION.



<hr/>	
Order Total:	48,290.00
Discount Amount:	-6,723.32
Freight, packaging and handling Total:	14.32
<hr/>	
Total in USD:	41,581.00

**Note: Taxes on this quote are budgetary estimates and are not binding. Taxes charged will be based on applicable tax rates assessed at the time of final invoice.

Signature:_____ Print:_____ Title:_____ Date:_____

Accounts Payable Name:_____ Email:_____

Can we send your future invoice(s) to the email address provided () No () Yes

Do you require a PO to process this order () No () Yes - PO #:_____

Signature:_____ Print:_____ Title:_____ Date:_____

*Any order over \$150,000 will need a secondary signature to process your order.



Additional Information

COVID-19

FARO does not assume any risk for (i) late deliveries of goods, (ii) customers' inability or impracticability to receive or use our devices or software, and for (iii) delivery disruptions, that are due to the COVID-19 pandemic and ensuing government measures (shut downs, lock-downs, quarantines).

PURCHASE AGREEMENT AND CONDITIONS OF SALE: As a condition of this agreement, the applicable contract terms are FARO's Standard Terms and Conditions of Sale, or, if the Parties have entered into current master sales terms, such negotiated master terms.

The FARO Standard Terms and Conditions can be found at the following Web link (if such is not an active link, please copy and paste the Web address into a Web browser):

<https://www.faro.com/en/Terms>

The following article contains all our calibration information under their respective product headings

https://knowledge.faro.com/Essentials/Hardware/Compensation_Calibration_and_Certification_Standards_for_FARO_Devices

TRADE-IN CREDIT

Trade-in credit line item is contingent upon receipt of used equipment being returned to FARO Technologies within 45 days of receipt of new equipment.

If equipment is not received within this period of time, customer agrees to pay the credited amount within 15 days of receipt of invoice.

FARO RMA number will be provided to you by your inside sales support specialist and must be affixed to the outside of the case.

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Generator Preventative Maintenance Contract
Department: Public Works
Presented by: Raymond Hillis, Executive Director of Public Works
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

Preventative maintenance contract for the emergency generators that protect 20 structures and the 911 communications network.

Staff Recommendation

Approve the contract with Cummins, Inc.

Background Information

The Department proposes to contract for generator maintenance to proactively identify problems and provide regular maintenance that will prolong the equipment's lifecycle. Cummins has agreed to provide the needed services for \$22,664 per year for three years.

Council Priorities Served

Responsible Budgeting

Regular maintenance of critical equipment serving the City's buildings protects the community's investment in major capital assets.

Fiscal Impacts

The expense, \$22,664 annually, will be funded by the Department's Operating Budget.

Attachments

Agreement for Generator Maintenance Contract with Cummins, Inc.

**Agreement
for
Generator Maintenance for City Facilities**

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 **Cummins, Inc.**, a Corporation of the State of Indiana ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-38-2022 – Generator Maintenance issued March 8, 2022 (the "Solicitation");
- Contractor's Proposal dated March 21, 2022 ("Contractor's Proposal");
- Contractor's Price Proposal dated March 21, 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.

- a. Scope of Work. Contractor shall provide the City with Semi-Annual Generator Maintenance for the City of Murfreesboro's generators in accordance with the Contractor's Proposal dated March 21, 2022 and the City ITB dated March 8, 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 March 21, 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. Contractor will also pay all public utility charges.
- e. Use of Premises.
 - i. Contractor will confine Contractor's equipment, the storage of materials and equipment and the operations of Contractor's workers to areas permitted by law, ordinances, permits, or the requirements of the Contract documents, and shall not unreasonably encumber the premises with materials or equipment.
 - ii. Contractor will not load nor permit any part of the structure to be loaded with weights that will endanger the structure, nor will Contractor subject any part of the work to stresses or pressures that will endanger it.
- 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. All parts and components furnished hereunder shall be warranted in accordance with the applicable manufacturer's express warranty for any goods for a period of one (1) year and Contractor's standard warranty for workmanship for a period of ninety (90) days, and any rights thereto shall pass on to City. THE WRITTEN WARRANTIES SHALL BE EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED; AND ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE IS EXPRESSLY EXCLUDED. THE REMEDY PROVIDED THEREIN SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY.
2. **Term.** This Contract shall be for a three-year term, beginning July 1, 2022, and expiring on June 30, 2025, unless extended by mutual agreement of the Contractor and City or earlier terminated as set forth herein. 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:
- 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 price for the goods and other services to be provided under this Agreement is set forth in the Proposal dated March 21, 2022 which reflects a total price of **\$22,663.69** (Twenty- Two Thousand, Six Hundred Sixty-Three Dollars and Sixty-Nine Cents) for generator maintenance for City Facilities. Any price increase shall be submitted for review to the City 30 days prior to the end of the current contract year. Yearly price increase to be implemented after June 30th of contract year. 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 third party claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages to the extent caused by the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, , in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, , 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:	If to Contractor:
City Manager	Art King
City of Murfreesboro	Cummins, Inc.
111 West Vine Street	706 Spence Lane
Murfreesboro, TN 37130	Nashville, TN 37217
	art.king@cummins.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.
 - 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 sub-contractors 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 sub-contractors 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 sub-contractors 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.
22. **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT: EXCEPT FOR DAMAGES TO THE EXTENT CAUSED BY CONTRACTOR'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL THE TOTAL AND CUMULATIVE LIABILITY OF CONTRACTOR EXCEED FIVE HUNDRED THOUSAND DOLLARS (\$500,000) AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE HEREUNDER FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOST OPPORTUNITY DAMAGES OR LOST PROFITS, OR SAVINGS, LOSS OF USE, LOSS OF DATA, OR DOWNTIME, EVEN IF IT HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE, EXCEPT THAT THE FOREGOING SHALL NOT RESTRICT A PARTY'S ABILITY TO RECOVER DIRECT DAMAGES FOR BREACH OF THIS AGREEMENT.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2022 (the "Effective Date").

CITY OF MURFREESBORO

CUMMINS, INC.

By: _____
Shane McFarland, Mayor

DocuSigned by:
By: Marty Delmas
Marty Delmas, PG PM Sales Manager,
Southern United States

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker

Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 5/26/2022

Item Title: Minutes of City Council Meetings

Department: Finance

Presented by: Jennifer Brown, Finance Director

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 27, 2022 (Council Retreat)
May 5, 2022 (Public Comment)
May 5, 2022 (Regular Meeting)

April 27, 2022

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in a special session at Legacy Farms, 8061 Murfreesboro Road at 9:00 a.m. on Wednesday, April 27, 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
Shane Wright

The following representatives of the City were also present:

Craig Tindall, City Manager
Adam Tucker, City Attorney
Jennifer Brown, City Recorder/
Finance Director
Adam Tucker, City Attorney
Darren Gore, Assistant City Manager
Gary Whitaker, Assistant City Manager
Angela Jackson, Executive Director/
Community Services
Erin Tucker, Budget Director
Mike Browning, Public Information Director

This retreat was held for the purpose to allow Council to discuss various topics facing the City, including decisions to be made to plan for the City's future needs, understand current issues, and provide updates on ongoing projects.

The Budget was the first topic covered and discussion encompassed property taxes and the pending certified rate amount; the growth of sales tax revenue; creating a "rainy day" sales tax fund in anticipation of a recession and the decline of sales tax revenue; an increase to both residential and commercial solid waste fees, the difficulty projecting the need for fee increases due to the uncertainty of the future of Middle Point Landfill; the options for payroll and health insurance premium increases; and working with actuary to get updated analysis for retiree COLA increases.

Repurchase of Gateway property was the next topic covered and discussion by Council included the background of the property; the buyback agreement; the economic development impact of the property; and the transportation opportunities possible with the land.

The VA Golf course was discussed next with highlights including the land belonging to the federal government and not the City; capital needs of the golf course; the fact that every lease signed starting in 1987 always includes a 30 day end clause; and confirmation that there will never be a long-term lease or an opportunity for the City to purchase the property.

Council broke at 12:12 p.m. for a lunch break and returned at 12:45 p.m.

Discussion regarding the Community Investment Trust included qualifications of the Trustees; term limits and appointment processes; the procedure for Council requesting a loan from the Trust; Trust distribution; and procedures for amendments and terminations.

The next topic of discussion was Development Impact Fees and affordable housing in the City. Take-aways were the hesitation to enact impact fees at this point of the City's growth and the potential for a recession in the near future and the limitations of the THDA Affordable Housing Program.

The work done on developing a Homeless Feeding Permit Program was discussed next and included how to implement and integrate the program for use with City Park properties; restrictions on certain areas; food safety concerns; and enforcement regarding violations of the program.

There being no further business, Mayor McFarland adjourned this meeting at 3:13 p.m.

SHANE MCFARLAND - MAYOR

ATTEST:

JENNIFER BROWN - CITY RECORDER

May 5, 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, May 5, 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
Shawn Wright

Council Member Kirt Wade was absent and excused from this session.

The following representatives of the City were also present:

Craig Tindall, City Manager
Adam Tucker, City Attorney
Jennifer Brown, City Recorder/
Finance Director
Sam Huddleston, Executive Director/
Development Services
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.

Mr. William James (Jim) Boyd, 1302 Dr. Martin Luther King Jr. Boulevard, Unit 38, addressed Council regarding his issues with the name change of Mercury Boulevard to Dr. Martin Luther King Jr. Boulevard.

There was no one else present who wished to speak.

Mayor McFarland adjourned this session of the public comment meeting at 5:41 p.m.

SHANE MCFARLAND – MAYOR

ATTEST:

JENNIFER BROWN - CITY RECORDER

May 5, 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, May 5, 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
Raymond Hillis, Executive Director/
Public Works
Sam Huddleston, Executive Director/
Development Services
Michael Bowen, Chief of Police
Trey Duke, City Schools Director
Cathy Smith, Purchasing Director
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Thomas Laird, Assistant Parks and Recreation Director
Scott Elliot, Project Manager
Joshua Miller, Administrative Assistant

Vice-Mayor Scales Harris commenced the meeting with a prayer followed by the Pledge of Allegiance.

Mayor McFarland proclaimed that, in the City of Murfreesboro, May 5, 2022 would be known as a day to recognize Ms. Raeven Brooks a teacher at Black Fox Elementary School and one of this year winners of the national Milken Family Foundation Educator of the Year Awards.

Mayor McFarland proclaimed that, in the City of Murfreesboro, February 19, 2022 would be known as a day to recognize Mrs. LaShan Dixon the 2022 National Title Holder for the United States of America's Mrs. Pageant System.

Mayor McFarland recognized the first non-City Employee STARS Award recipients Paramedic Tara Melton and EMT Maclin Eckhardt. Both were nominated after responding to a residence due to a request for help after the resident had fallen to the floor and could not get up. The two evaluated the patient and determined that she was not injured. The patient was very grateful for their response and the caring attitude and empathy they portrayed. Mayor McFarland presented plaques recognizing Ms. Melton's and Mr. Eckhardt's ability to exhibit core values and creating a better quality of life for the citizens of Murfreesboro.

The Consent Agenda was presented to the Council for approval:

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)

(Insert letters from Police, Solid Waste, Street,
& Water Resources (8) Departments here.)

Mr. Martin made a motion to approve the Consent Agenda. Mr. LaLance 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 May 5, 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 public comment meeting held on April 7, 2022; the regular meeting held on April 7, 2022; the regular meeting held on April 13, 2022; and the regular Meeting held on April 21, 2022. Mr. Wright seconded the motion and all members of the Council voted "Aye".

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

(Insert letter dated May 5, 2022 here with regards to Ordinance 22-O-03
Amending City Code Regarding Retail Liquor Store Regulations.)

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," which passed first reading on April 21, 2022, was read to the Council and offered for passage on second and final reading, upon motion made by Mr. Martin, seconded by Vice-Mayor Scales Harris. 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-03 here.)

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

(Insert letter dated May 5, 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," which passed first reading on April 21, 2022, was read to the Council and offered for passage on second and final reading, upon motion made by Mr. Wade, seconded by Mr. Wright. 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-04 here.)

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

(Insert letter dated May 5, 2022 here with regards to
Fiscal Year 2022 City Schools Budget Amendment No. 8.)

The following RESOLUTION 22-R-11 was read to the Council and offered for adoption upon motion made by Vice-Mayor Scales Harris, 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-11 here amending the 2021-2022
Murfreesboro City Schools Budget (8th Amendment).)

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

(Insert letter dated May 5, 2022 here with regards to Fiscal
Year 2023 Recommended Water Rate Increases.)

An ordinance, entitled "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," 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 Assistant Planning Director was presented to the Council:

(Insert letter dated May 5, 2022 here with regards to holding a public hearing to consider zoning of approximately 238 acres located along Northwest Broad Street [2022-409].)

Mayor McFarland announced that the next item on the agenda is to conduct a public hearing, pursuant to RESOLUTION 22-R-PH-08 adopted by the City Council on April 21, 2022, to consider rezoning approximately 238 acres along Northwest Broad Street by removing it from the GDO-1 Zoning Overlay District; City of Murfreesboro, applicant, [2022-409]. Notice of said public hearing was published in the April 19, 2022 edition of a local newspaper as follows:

(Insert notice here.)

Mr. Matthew Blomeley, Assistant Planning Director, presented the recommendation of the Planning Commission to approve removing approximately 238 acres located along Northwest Broad Street from the Gateway Design Overlay One (GDO-1) District.

Mayor McFarland then declared the public hearing, open and invited those present who wished to speak for or against the zoning request, step forward to the lectern.

There was no one 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.

An ordinance, entitled "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]," 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: Ronnie Martin

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

(Insert letter dated May 5, 2022 here with regards to holding a public hearing to consider amending the Zoning Ordinance regarding industrial accessory structures, recreation field lighting, and floodplain regulations [2022-801].)

Mayor McFarland announced that the next item on the agenda is to conduct a public hearing, pursuant to RESOLUTION 22-R-PH-06 adopted by the City Council on April 7, 2022, to consider 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]. Notice of said public hearing was published in the April 19, 2022 edition of a local newspaper as follows:

(Insert notice here.)

Mr. Matthew Blomeley, Assistant Planning Director, presented the recommendation of the Planning Commission to approve amending the Zoning Ordinance regarding industrial accessory structures, recreation field lighting, and floodplain regulations and presented examples to Council of the proposed changes.

Mayor McFarland then declared the public hearing, open and invited those present who wished to speak for or against amending the Zoning Ordinance, step forward to the lectern.

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

An ordinance, entitled "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]," was read to the Council and offered for passage on first reading upon motion made by Mr. Wade, seconded by Mr. LaLance. 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 Project Manager was presented to the Council:

(Insert letter dated May 5, 2022 here with regards
to Hangar 1 Construction Change Order No. 5.)

Mr. Scott Elliot, Project Manager, presented the request to approve Change Order No. 5 with Morgan Construction Co., in the amount of \$78,016, funded from the CIP and Airport Fund Balance, for cost efficiencies in the upcoming fuel farm relocation.

Mr. Shacklett made a motion to approve Change Order No. 5 with Morgan Construction Co., in the amount of \$78,016, funded from the CIP and Airport Fund Balance, for cost efficiencies in the upcoming fuel farm relocation. Mr. Martin seconded the motion and all members of the Council voted "Aye".

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

(Insert letter dated May 5, 2022 here with regards to
purchase of two 90 Passenger Transit Style School Buses.)

Dr. Trey Duke, Director of Schools, presented the request to approve the Agreement with Mid-South Bus Center, Inc., in the amount of \$225,966, funded from County Shared Bonds, for purchase of two 90 Passenger Transit Style School Busses.

Vice-Mayor Scales Harris made a motion to approve the Agreement with Mid-South Bus Center, Inc., in the amount of \$225,966, funded from County Shared Bonds, for purchase of two 90 Passenger Transit Style School Busses. Mr. Shacklett seconded the motion, Mr. LaLance voted "Abstain" and all remaining members of the Council voted "Aye".

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

(Insert letter dated May 5, 2022 here with regards to Contract for
replacement of bleachers at Northfield & Black Fox Elementary Schools.)

Dr. Trey Duke, Director of Schools, presented the request to approve the Agreement with Toadvine Enterprises, in the amount of \$112,744, funded from County Shared Bonds, for replacement of bleachers at Northfield and Black Fox Elementary Schools.

Vice-Mayor Scales Harris made a motion to approve the Agreement with Toadvine Enterprises, in the amount of \$112,744, funded from County Shared Bonds, for replacement of bleachers at Northfield and Black Fox Elementary Schools. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

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

(Insert letter dated May 5, 2022 here with regards to Construction
Contract for floor replacement at Erma Siegel Elementary School.)

Dr. Trey Duke, Director of Schools, presented the request to approve the Construction Contract with Carpets by Ozburn, LLC, in the amount of \$201,224, funded from County Shared Bonds, for replacement of carpets at Erma Siegel Elementary School.

Mr. LaLance made a motion to approve the Construction Contract with Carpets by Ozburn, LLC, in the amount of \$201,224, funded from County Shared Bonds, for replacement of carpets at Erma Siegel Elementary School. Mr. Wright seconded the motion and all members of the Council voted "Aye".

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

(Insert letter dated May 5, 2022 here with regards
to HVAC Preventative Maintenance Contract.)

Mr. Raymond Hillis, Executive Director of Public Works, presented the request to approve the Agreement with Lee Company, in the amount of \$83,646, funded from the Operating Budgets of the Airport, Solid Waste, Fleet, City Hall, Parks and Recreation, Street, MPD, MFRD, and Old Fort Golf Department's, for HVAC inspection and maintenance services.

Mr. Martin made a motion to approve the Agreement with Lee Company, in the amount of \$83,646, funded from the Operating Budgets of the Airport, Solid Waste, Fleet, City Hall, Parks and Recreation, Street, MPD, MFRD, and Old Fort Golf Department's, for HVAC inspection and maintenance services. Vice-Mayor Scales Harris seconded the motion and all members of the Council voted "Aye".

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

(Insert letter dated May 5, 2022 here
with regards to purchase of Rock Salt.)

Mr. Raymond Hillis, Executive Director of Public Works, presented the request to approve the purchase of 1,000 tons of Rock Salt, through a State Contract with Morton Salt, Inc., in the amount of \$81,660, funded from the Department's Operating Budget.

Vice-Mayor Scales Harris made a motion to approve the purchase of 1,000 tons of Rock Salt, through a State Contract with Morton Salt, Inc., in the amount of \$81,660, funded from the Department's Operating Budget. Mr. Martin 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 May 5, 2022 here with regards
to O&M – Jet/Vacuum Sewer Cleaner.)

Mr. Darren Gore, Assistant City Manager, presented the request to approve the Purchase Agreement, through the Sourcewell Cooperative Purchase Program, with GapVax

Inc., in the amount of \$503,640, funded from O&M's Capital Budget, for purchase of a 2023 Western Star 47x-SF vehicle for jet-vac cleaning of the City's sanitary sewer system.

Mr. LaLance made a motion to approve the Purchase Agreement, through the Sourcewell Cooperative Purchase Program, with GapVax Inc., in the amount of \$503,640, funded from O&M's Capital Budget, for purchase of a 2023 Western Star 47x-SF vehicle for jet-vac cleaning of the City's sanitary sewer system. 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 May 5, 2022 here with regards to Lagoon
Water Treatment Residuals Removal 2nd Renewal.)

Mr. Darren Gore, Assistant City Manager, presented the request to approve Amendment No. 3 to the Contract with Slurry Systems Company, in the amount of \$249,000, funded from the Department's Operating Budget, for second renewal of the Contract related to the cleaning of Lagoon No. 1 at the Stones River Water Treatment Plant.

Mr. Wright made a motion to approve Amendment No. 3 to the Contract with Slurry Systems Company, in the amount of \$249,000, funded from the Department's Operating Budget, for second renewal of the Contract related to the cleaning of Lagoon No. 1 at the Stones River Water Treatment Plant. 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 May 5, 2022 here with regards to
Task Order Amendment for Smith Seckman Reid.)

Mr. Darren Gore, Assistant City Manager, presented the request to approve Task Order 2141013.0 Amendment No. 1 with Smith Seckman Reid, in the amount of \$175,300, funded from the Stormwater Management Fund, for regulatory assistance related to water quality, a part-time contract consultant position for assistance with stormwater quality management, regulation and ordinance revisions.

Mr. LaLance made a motion to approve Task Order 2141013.0 Amendment No. 1 with Smith Seckman Reid, in the amount of \$175,300, funded from the Stormwater Management Fund, for regulatory assistance related to water quality, a part-time contract consultant position for assistance with stormwater quality management, regulation and ordinance revisions. 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 May 5, 2022 here
with regards to Water Model Update.)

Mr. Darren Gore, Assistant City Manager, presented the request to approve Task Order 22-41-009.0 with Smith Seckman Reid, in the amount of \$48,835, funded from the Department's Operating Budget from existing Reserves, for services related to updating the Department's Water Model.

Mr. Martin made a motion to approve Task Order 22-41-009.0 with Smith Seckman Reid, in the amount of \$48,835, funded from the Department's Operating Budget from existing Reserves, for services related to updating the Department's Water Model. Vice-Mayor Scales Harris 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 Special Event Beer Permit Application for United Way on 05/06/22 at 2273 Oakleigh Dr.)

Mr. Wade made a motion to approve the Special Event Beer Permit for United Way of Rutherford & Cannon Counties on 05/06/22 at 2273 Oakleigh Drive. Mr. LaLance seconded the motion and all members of the Council voted "Aye".

Upon recommendation of Mayor McFarland, Mr. LaLance made a motion to reappoint Ms. Candy Joyce (term expires May 4, 2028), Mr. Paul M. Myers (term expires May 4, 2028), and Mr. Harold Yokley (term expires May 4, 2028) to the Public Building Authority. Mr. Wright seconded the motion and all members of the Council voted "Aye".

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

Under other business Mr. Thomas Laird, Assistant Parks and Recreation Director, presented the request to approve Change Order No. 1 with Stubblefield Construction LLC, in the amount of \$4,427, funded from the CIP, for a change of concrete materials in the McFadden Basketball Court Project Phase 1.

Mr. LaLance made a motion to approve Change Order No. 1 with Stubblefield Construction LLC, in the amount of \$4,427, funded from the CIP, for a change of concrete materials in the McFadden Basketball Court Project Phase 1. Mr. Shacklett seconded the motion and all members of the Council voted "Aye".

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

(Insert letter dated May 5, 2022 here with regards to Hangar One Grant Amendment.)

Mr. Craig Tindall, City Manager, presented the request to approve the Amendment to the Tennessee Airports Economic Development Grant to extend the term of the Grant one year.

Mr. Martin made a motion to approve the Amendment to the Tennessee Airports Economic Development Grant to extend the term of the Grant one year. Mr. Wright seconded the motion and all members of the Council voted "Aye", except Mr. LaLance who voted "Abstain".

Mr. Craig Tindall, City Manager, stated that there would not be a Council Meeting next week.

Council Member Bill Shacklett stated that JazzFest would begin on May 6, 2022 through May 7, 2022.

Council Member Rick LaLance updated Council on a zoning request that was held at the May 4, 2022 Planning Commission Meeting and expressed his views on allowing more apartment complexes to be built in the City.

Mayor Shane McFarland updated everyone on a report he had received regarding the housing market in Rutherford County.

There being no further business, Mayor McFarland adjourned this meeting at 7:08 p.m.

ATTEST:

SHANE MCFARLAND – MAYOR

JENNIFER BROWN - CITY RECORDER

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: FY23 Public Hearing and Related Ordinances

Department: Budget

Presented by: Erin Tucker, Budget 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

Public comment regarding the proposed FY23 Budget information and consideration of ordinance adopting the FY23 Budget.

Staff Recommendation

Conduct public hearing regarding the FY23 Budget.

Approve and adopt the Appropriations Ordinance 22-O-11.

Background Information

The FY23 Budget was submitted to Council on May 13, 2022. Council held a special budget review session on May 19, 2022, regarding the significant assumptions and economic factors surrounding the FY23 Budget and expectations.

Council Priorities Served

Responsible budgeting

The FY23 Budget addresses the economic conditions and necessary expenditures of the City. Staff will continue to keep City Council informed of the economic conditions of the City and any expected deviations from the budget expectations.

Operational Issues

FY23 Budget approval is required before June 30, 2022, in order to continue operations beginning July 1, 2022.

Fiscal Impact

The FY23 Budget projects no use Unassigned Fund Balance and use of \$7.2 million of Assigned Fund Balance.

Attachments

1. FY23 Appropriations Ordinance 22-O-11

ORDINANCE 22-O-11 adopting a budget and appropriations ordinance providing for appropriations out of the general and special funds of the City of Murfreesboro, Tennessee, of certain sums to defray the current, necessary and special expenses of said City for the Fiscal Year 2023, and for other purposes.

WHEREAS, the Municipal Budget Law of 1982, T.C.A. §6-56-201 et. seq., requires adoption of an annual budget ordinance and balanced financial plans for intragovernmental service funds; and,

WHEREAS, information on the anticipated revenues of the City and the estimated expenditures for the last preceding fiscal year, the current fiscal year, and the coming fiscal year must be included in the annual budget ordinance; and,

WHEREAS, state law requires that the proposed annual operating budget be published and a public hearing be held before final adoption of the budget ordinance; and,

WHEREAS, the City Charter also requires publication of a tentative budget and public hearing prior to passage of an appropriation ordinance; and,

WHEREAS, the City Manager has, pursuant to the City Charter, submitted to the City Council a budget covering in line-item detail, by department and fund, estimates of the expenditures and revenues of the City, which budget shall be revised as necessary to support and be consistent with this budget and appropriations ordinance and other actions of the City Council; and,

WHEREAS, the Council has carefully considered the budget as recommended by the City Manager and previously discussed by the City Council, and comments made at the public hearing held on May 26, 2022, and is prepared to adopt its financial plan for Fiscal Year 2023.

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

SECTION 1. The amounts hereinafter listed are the estimated revenues and the budgeted expenditures of the City of Murfreesboro, Tennessee, and the amounts specified are hereby appropriated for the purpose of meeting the expenses of the various departments, agencies, and programs of the City of Murfreesboro, Tennessee for the fiscal year beginning July 1, 2022 and ending June 30, 2023, including the payment of principal of and interest on bonds and other obligations of the City maturing in Fiscal Year 2023, for the City’s General Fund and its special and intergovernmental service funds, to wit:

PLEASE SEE ATTACHED EXHIBIT A

(The FY 2020-2021 and 2021-2022 columns are shown for informational purposes only.)

SECTION 2. The Personnel Costs authorized for expenditure in Section 1 are based on the current, previously adopted, compensation and classification plan of the City and the staffing levels hereinafter listed:

PLEASE SEE ATTACHED EXHIBIT B

SECTION 3. All capital expenditures for which appropriations have been previously made but not yet fully expended are hereby reauthorized to allow completion of previously approved projects.

SECTION 4. All unassigned and unencumbered fund balances are hereby reappropriated to their respective funds.

SECTION 5. That all payments made before the effective date of this Ordinance, on account of and in pursuance of the appropriations hereinbefore made and provided by this Ordinance in meeting the expenses and obligations of the City for the Fiscal Year 2023, shall be charged against and be deducted from the respective sums appropriated hereinbefore for the respective departments and accounts of the City's government and for the payment of the principal of and interest on obligations of the City to be paid during the Fiscal Year 2023, the intention of this Ordinance in part being to authorize and provide for the payment of the expenses and obligations of the City for that part of the Fiscal Year 2023 that may have already transpired at the taking effect date of this Ordinance as well as for the entire Fiscal Year 2023.

SECTION 6. That any appropriation made by this Ordinance, except appropriations to meet the principal of and interest on bonds and other obligations to be paid in the Fiscal Year 2023 as hereinbefore provided for, shall be subject to reduction, or to the transfer from one appropriation or fund to another, at any time by a resolution of the City Council as to the unexpended portion of such appropriation or funds.

SECTION 7. That this Ordinance take effect immediately upon and after its passage upon second and final reading, as an emergency Ordinance, an emergency existing, and it being imperative to provide for the necessary expenses, general and special, of said City of Murfreesboro for the Fiscal Year 2023 at the earliest practicable time, the welfare of the City requiring it.

Passed:

Shane McFarland, Mayor

1st reading

2nd reading

ATTEST:

Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

Adam F. Tucker
City Attorney

SEAL

Ordinance 22-O-11
Exhibit A

City of Murfreesboro 2022-2023			
	Actual 2020 - 2021	Estimated 2021 - 2022	Proposed 2022 - 2023
<u>GENERAL FUND:</u>			
REVENUES			
Local Taxes	\$135,477,012	\$147,193,609	\$153,691,495
State of Tennessee	25,064,275	29,197,776	30,460,000
Federal Government	7,838,364	17,134,052	26,522,620
Other Sources	66,486,108	22,452,256	21,858,393
Reimbursements from Other Funds	2,455,032	2,165,660	2,742,050
Transfers In	0	0	0
Total Revenue & Transfers In	<u>\$237,320,792</u>	<u>\$218,143,353</u>	<u>\$235,274,558</u>
EXPENDITURES			
Personnel Costs	80,833,084	93,795,674	104,235,540
Other Costs:			
Legislative	134,836	207,100	177,800
City Manager	3,181,922	2,002,225	3,496,010
Finance	343,627	338,875	350,500
Purchasing	4,982	25,117	22,200
Legal	248,381	621,226	1,002,180
Employee Services	137,858	202,900	294,630
Planning	224,247	190,858	296,525
Engineering	139,787	240,717	302,785
Facilities Maintenance	376,529	411,099	601,604
State Street Aid	3,348,526	4,915,500	5,025,500
Infrastructure	693,016	3,108,254	6,744,000
Transportation	2,276,482	2,282,348	7,469,537
Information Technology	1,289,841	1,616,228	3,031,340
Communications	163,267	172,315	265,865
Building and Codes	127,879	143,024	254,338
City Court	109,951	109,270	340,150
Police	5,919,654	7,909,282	12,500,254
Fire	2,680,103	3,164,365	3,677,772
Street	3,194,096	3,469,410	4,253,577
Civic Plaza	19,266	22,921	127,325
Parking Garage	39,882	208,000	425,600
Fleet Services	(645,662)	(521,046)	(1,077,111)
Park & Recreation	3,189,879	4,322,795	10,378,193
Golf	928,603	993,547	1,098,407
Solid Waste	2,947,952	4,358,364	4,416,497
Community Development	877,726	923,441	3,490,904
Strategic Partnerships	1,551,452	1,601,614	1,612,605
Transfers Out	8,687,651	9,527,472	10,370,603
Debt Service - Transfer Out	37,596,182	38,585,705	42,533,150
Miscellaneous	5,190,524	18,014,353	14,712,926
Total Expenditures & Transfers Out	<u>\$165,811,521</u>	<u>\$202,962,952</u>	<u>\$242,431,206</u>
Beginning Fund Balance	\$78,235,807	\$149,745,077	\$164,925,478
Ending Fund Balance	\$149,745,077	\$164,925,478	\$157,768,830
<u>DEBT SERVICE FUND:</u>			
REVENUES			
Other Sources	\$197	-	-
Proceeds from Refunded debt	20,808,875		
Transfers In	38,222,630	\$38,465,969	\$43,151,855
Total Revenue & Transfers In	<u>\$59,031,702</u>	<u>\$38,465,969</u>	<u>\$43,151,855</u>
EXPENDITURES			
Other Costs	\$49,246,857	\$33,247,463	\$38,014,985
Transfers Out	9,556,236	5,018,506	4,936,843
Total Expenditures & Transfers Out	<u>\$58,803,093</u>	<u>\$38,265,969</u>	<u>\$42,951,828</u>
Beginning Fund Balance	\$555,750	\$784,359	\$984,359
Ending Fund Balance	\$784,359	\$984,359	\$1,184,386
<u>AIRPORT IMPROVEMENT FUND:</u>			
REVENUES			
State of Tennessee	\$690,716	\$1,824,447	\$21,500
Federal Government	169,976	248,500	117,000
Transfers In	750,631	1,567,369	1,430,500
Other Sources	2,653,383	3,378,446	3,712,408
Total Revenue	<u>\$4,264,706</u>	<u>\$7,018,762</u>	<u>\$5,281,408</u>
EXPENDITURES			
Personnel Costs	\$347,898	\$505,162	\$612,285
Other Costs	3,579,439	6,318,012	4,740,918
Transfers Out	150,000	150,000	150,000
Total Expenditures & Transfers Out	<u>\$4,077,337</u>	<u>\$6,973,174</u>	<u>\$5,503,203</u>
Beginning Fund Balance	\$959,615	\$1,146,984	\$1,192,572
Ending Fund Balance	\$1,146,984	\$1,192,572	\$970,777

City of Murfreesboro
2022-2023

	Actual 2020 - 2021	Estimated 2021 - 2022	Proposed 2022 - 2023
<u>DRUG FUND:</u>			
REVENUES			
Other Sources	\$179,057	\$166,000	\$146,000
Transfers In	51,917	75,000	55,000
Total Revenue & Transfers In	<u>\$230,973</u>	<u>\$241,000</u>	<u>\$201,000</u>
EXPENDITURES			
Other Costs	\$70,912	\$155,500	\$325,700
Total Expenditures	<u>\$70,912</u>	<u>\$155,500</u>	<u>\$325,700</u>
Beginning Fund Balance	\$316,897	\$476,958	\$562,458
Ending Fund Balance	\$476,958	\$562,458	\$437,758
<u>INSURANCE FUND:</u>			
REVENUES			
Other Sources	\$18,580,001	\$19,694,826	\$20,738,700
Transfers In	0	0	1,000,000
Total Revenue	<u>\$18,580,001</u>	<u>\$19,694,826</u>	<u>\$21,738,700</u>
EXPENDITURES			
Other Costs	\$20,000,064	\$22,136,283	\$23,662,000
Total Expenditures	<u>\$20,000,064</u>	<u>\$22,136,283</u>	<u>\$23,662,000</u>
Beginning Fund Balance	\$7,341,358	\$5,921,295	\$3,479,838
Ending Fund Balance	\$5,921,295	\$3,479,838	\$1,556,538
<u>RISK MANAGEMENT FUND:</u>			
REVENUES			
Other Sources	\$4,260,891	\$4,019,246	\$4,769,399
Total Revenues	<u>\$4,260,891</u>	<u>\$4,019,246</u>	<u>\$4,769,399</u>
EXPENDITURES			
Personnel Costs	\$0	\$0	\$0
Other Costs	3,443,514	4,514,884	4,544,400
Total Expenditures	<u>\$3,443,514</u>	<u>\$4,514,884</u>	<u>\$4,544,400</u>
Beginning Fund Balance	\$3,255,674	\$4,073,051	\$3,577,413
Ending Fund Balance	\$4,073,051	\$3,577,413	\$3,802,412
<u>OTHER CAPITAL SOURCES FUND:</u>			
REVENUES			
Other Sources	\$28,642	\$12,000	\$15,000
County Shared Bond Proceeds	9,668,173	2,132,998	-
Total Revenue	<u>\$9,696,815</u>	<u>\$2,144,998</u>	<u>\$15,000</u>
EXPENDITURES			
Other Costs	\$1,233,452	\$2,038,677	\$7,107,578
Total Expenditures	<u>\$1,233,452</u>	<u>\$2,038,677</u>	<u>\$7,107,578</u>
Beginning Fund Balance	\$1,681,937	\$10,145,300	\$10,251,621
Ending Fund Balance	\$10,145,300	\$10,251,621	\$3,159,043
<u>LOAN/BOND FUND:</u>			
REVENUES			
Other Sources	(\$19,993)	\$650,000	\$650,000
Issuance of Debt	76,067,184	52,434,024	0
Total Revenue & Debt Issuance	<u>\$76,047,190</u>	<u>\$53,084,024</u>	<u>\$650,000</u>
EXPENDITURES			
Other Costs	\$15,576,900	\$25,000,000	\$65,000,000
Transfers Out	476,448	225,000	200,000
Total Expenditures & Transfers Out	<u>\$16,053,348</u>	<u>\$25,225,000</u>	<u>\$65,200,000</u>
Beginning Fund Balance	\$46,346,737	\$106,340,580	\$134,199,604
Ending Fund Balance	\$106,340,580	\$134,199,604	\$69,649,604

Ordinance 22-O-11

EXHIBIT B

2022-2023 FUNDED POSITION COUNT

	2020/2021			2021/2022			2022/2023	
	NUMBER OF EMPLOYEES			NUMBER OF EMPLOYEES			NUMBER OF EMPLOYEES	
DESCRIPTIONS	FULL TIME	PART TIME		FULL TIME	PART TIME		FULL TIME	PART TIME
DEPARTMENTS								
Mayor & Council	7			7			7	
City Manager	11			13			14	
Finance	19	1		21	0		21	0
Purchasing	2			3			3	
Facilities Maintenance	12	2		13	1		13	1
Information Technology	22			25			24	
Communications	6	1		6	1		7	1
Legal	9			10			10	
Employee Services	10	1		11	1		11	1
Planning	15	12		15	12		17	12
Transportation	27	7		27	7		28	7
Building & Codes	25			26			26	
City Court	6			7			7	
Police	369	48		376	50		393	51
Fire	238	1		241	1		243	1
Fleet Services	17			20			21	
Engineering	14			13			14	
Street	51	9		52	9		53	9
Civic Plaza	1			1			1	
Recreation	89	325		98	298		99	298
Golf	15	44		17	39		17	39
Solid Waste	46			47			47	
Community Development	3			3			3	
Total General Fund	1014	451		1052	419		1079	420
Airport Fund	4	10		4	10		4	10
	4	10		4	10		4	10
	1018	461		1056	429		1083	430

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Planning Commission Recommendations
Department: Planning
Presented by: Matthew Blomeley, AICP, Assistant Planning 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

Scheduling matters previously heard by the Planning Commission for public hearings before Council.

Staff Recommendation

Schedule public hearing for item "a" below on June 23, 2022. Schedule public hearings for items "b" and "c" on July 21, 2022.

Background Information

During its regular meetings on April 6, 2022 and May 4, 2022, the Planning Commission conducted public hearings on the items listed below. After the public hearings, the Planning Commission discussed the matters and then voted to defer action. All three items were considered under Old Business by the Planning Commission on May 18, 2022 and were recommended for approval.

- a. Zoning application [2022-403] for approximately 13.7 acres located along Medical Center Parkway, Robert Rose Drive, and Maplegrove Drive to be rezoned from MU and GDO-1 to PUD, CH, and GDO-1 (Vintage Apartments and TDK Office PUD), TDK Construction applicant.
- b. Annexation petition and plan of services [2022-501] for approximately 68 acres located along Highway 99 south of Clearidge Drive, Ferrari Partners, LP applicant.
- c. Zoning application [2022-401] for approximately 68 acres located along Highway 99 south of Clearidge Drive to be zoned PRD simultaneous with annexation, Patterson Company applicant.

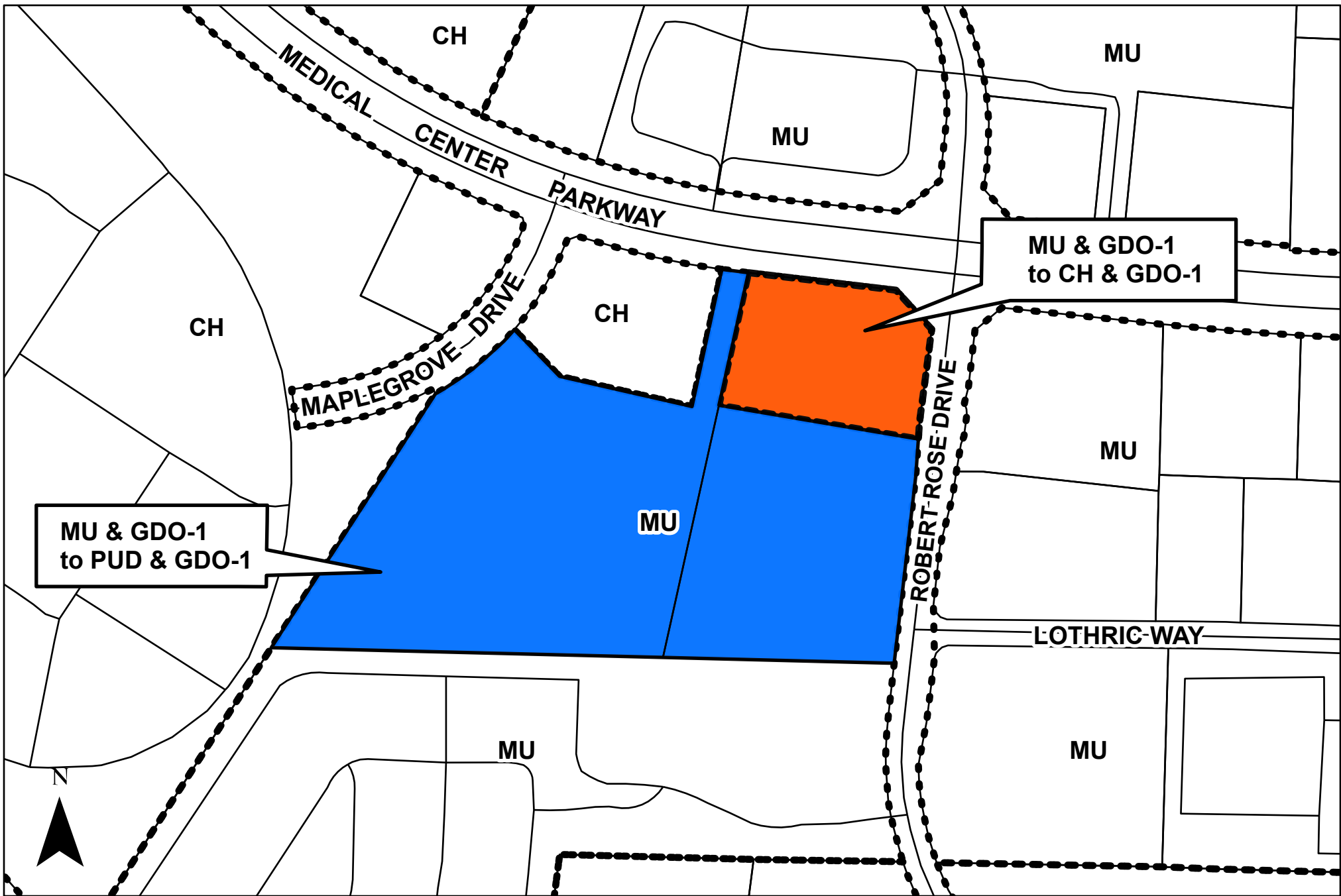
Fiscal Impact

Advertising expense for notice publication in the newspaper, which is unknown at this time, is provided for in the Department Operating Budget.

Attachments:

1. Map for zoning application for approx. 13.7 acres located along Medical Center Parkway
2. Map for annexation petition for approx. 68 acres located along Highway 99

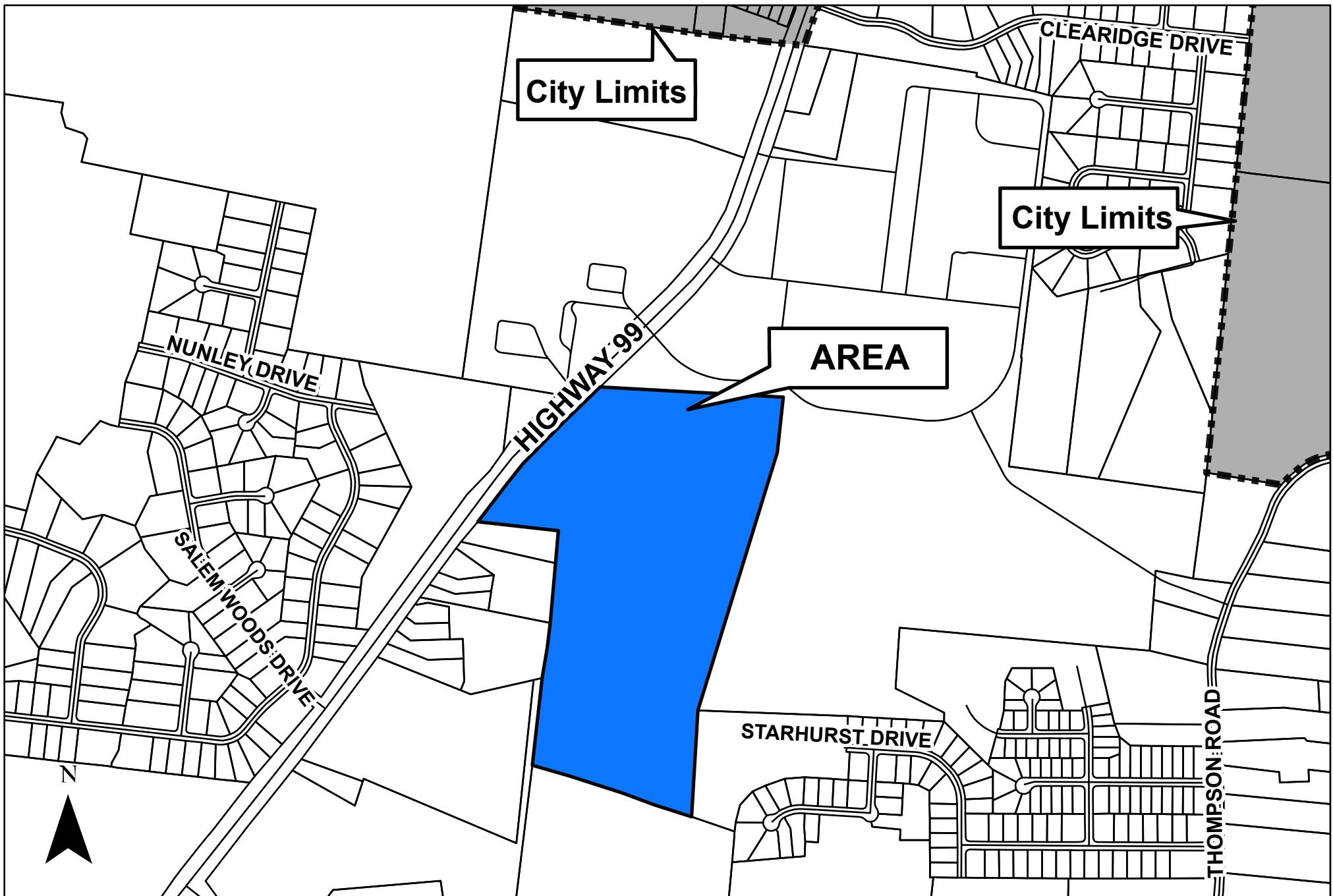
3. Map for zoning application for approx. 68 acres located along Highway 99



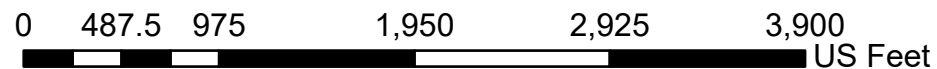
Rezoning request for property along Medical Center Parkway and Robert Rose Drive
 MU & GDO-1 to CH & GDO-1 and
 PUD (TDK Corporate Headquarters/Vintage Mixed-Use PUD) & GDO-1



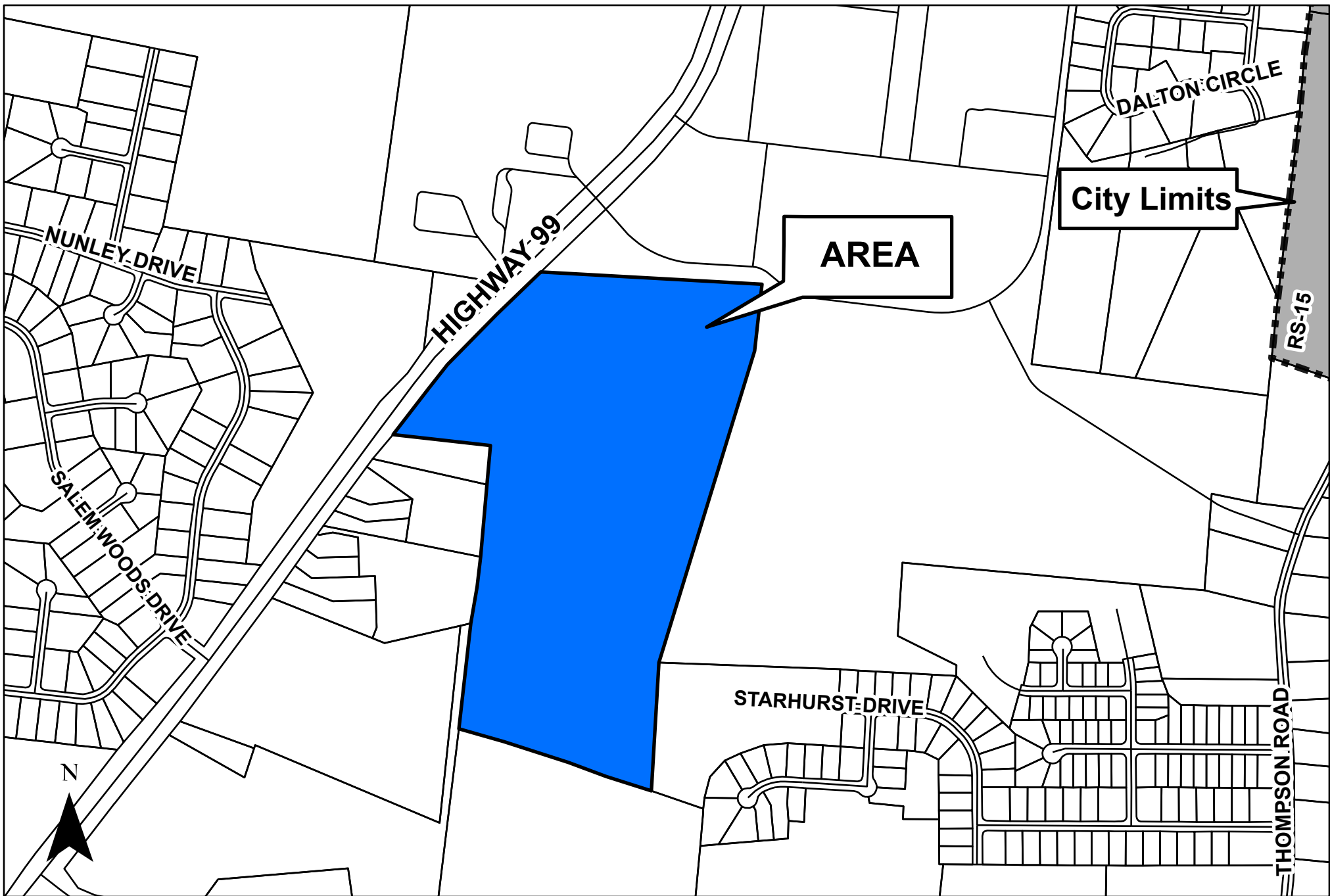
Planning Department
 City of Murfreesboro
 111 West Vine St
 Murfreesboro, TN 37130
www.murfreesborotn.gov



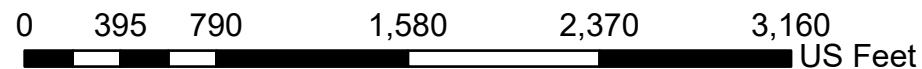
Annexation request for property along Highway 99



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



Zoning request for property along Highway 99
PRD simultaneous with Annexation



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

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: American Rescue Plan Act Financial Consultant Agreement

Department: Finance

Presented by: Jennifer Brown, Finance Director

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 contracting with financial consultant UHY Advisors to provide grant administrative services for American Rescue Plan Act (ARPA) funds.

Staff Recommendation

Approve entering into agreement with UHY Advisors.

Background Information

The City has been allocated \$24.1 million in American Rescue Plan Act (ARPA) funds. The City's ARPA committee selected UHY Advisors based on their qualifications, including experience with governmental entities and knowledge and understanding of ARPA eligible costs, reporting, and compliance requirements.

UHY's services provides an added level of review for compliance with regulatory matters regarding the use ARPA grant funds. In addition, UHY will provide the reporting, subrecipient tracking, and assessment of expenditures services during the period of expenditure without the need to add permanent staff. UHY's services will be billed on an hourly basis, estimated annual cost of \$80,000 for the first three years of the contract, increasing after the third year.

Council Priorities Served

Responsible budgeting

Use of grant funds is a a highly cost effective means of funding one-time expenses, which is a critical means of responsibility managing the City's operating and CIP budgets.

Fiscal Impact

The expenditure, estimated at \$80,000 annually, is funded by ARPA grant proceeds.

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Professional Services Contract – St. Andrews Dr. Widening

Department: Engineering

Presented by: Chris Griffith, Executive Director

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

Professional Services Contract for the widening of St. Andrews Drive.

Staff Recommendation

Approve contract with Wiser Consultants, LLC.

Background Information

Staff requested a proposal from Wiser Consultants for the preliminary and final design to widen approximately .9 miles of St. Andrews Dr from New Salem Highway to Veterans Parkway. This design would be a three-lane curb and gutter section with a sidewalk and multiuse path on each side, as outlined as a committed project in the 2040 Major Transportation Plan. This project also includes the design of two signals along Veterans Parkway at St. Andrews and Armstrong Valley Road. A map detailing the improvements is included within the proposal for your review. Wiser Consultant's proposal is for \$391,324 to complete the scope of work assigned.

Council Priorities Served

Expand Infrastructure

Implementation of the 2040 Major Transportation Plan through the expansion of existing roadways.

Fiscal Impact

This expense, \$391,324, is a portion of the project costs funded by the FY22 CIP Budget.

Attachments

1. Professional Services Contract from Wiser Consultants, LLC.
2. Exhibit of project limits.

AGREEMENT BETWEEN WISER CONSULTANTS, LLC
AND
CITY OF MURFREESBORO, TENNESSEE

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement"), made and entered into by and between WISER CONSULTANTS, LLC, a Tennessee limited liability company located at 1620 Gateway Blvd., Suite 201, Murfreesboro, Tennessee 37129, hereinafter referred to as "ENGINEER" or "WISER", and CITY OF MURFREESBORO, TENNESSEE, 111 East Vine Street, Murfreesboro, Tennessee 37130, hereinafter referred to as "CITY", who mutually agree as follows:

DECLARATIONS. City desires to retain ENGINEER to provide engineering, related technical, and other professional services in connection with the City's St. Andrews Dr. Widening Project hereinafter referenced as the "Project." The Project is described as follows:

City of Murfreesboro's St. Andrews Dr. Widening project. The project includes widening from a 2-lane with shoulder to a 3-lane facility with curb and gutter and sidewalk from Veterans Parkway to New Salem Highway (SR-99).

SCOPE OF SERVICES. Engineer shall provide professional services for Survey, NEPA, Engineering Design, Bidding Assistance, and Overall Project Management for City of Murfreesboro St. Andrews Dr. Widening Project. The WISER Fee Proposal & Scope of Work as found in Attachment A shall be considered as an integral part hereof.

1. Engineer shall be paid on a Time and Materials Basis as detailed herein, in the amount not to exceed \$391,324.00 for Survey, NEPA, Design, and Preconstruction Services.
2. In event of a conflict between this Agreement and the attached document(s), this Agreement shall supersede conflicting terms and conditions.

The Mayor and City Council approved this Agreement on the ____ Day of _____ 2022.

IN WITNESS WHEREOF the parties have executed this Agreement through their duly authorized officers.

WISER CONSULTANTS, LLC

By: 

Justin Rains, President/CEO

Date: May 20, 2022

CITY OF MURFREESBORO, TN

By _____

Title: _____

Date: _____

APPROVED AS TO FORM

Adam Tucker, City Attorney

TERMS AND CONDITIONS

SECTION I: GENERAL RECITALS

WHEREAS, the CITY requires Survey, NEPA, Design, and Bidding services for the St. Andrews Dr. Widening Project; and,

WHEREAS, the CITY proposes under the authority of this Agreement to employ the ENGINEER, a firm adjudged by the CITY to be qualified, for the performance of Professional Services described herein on the proposed project as identified herein; and,

WHEREAS, the CITY is authorized under its charter and state laws to enter into this Agreement.

NOW, THEREFORE, in consideration of these premises and mutual covenants herein set forth, it is agreed by and between the parties hereto as follows:

SECTION II: SERVICES OF THE ENGINEER

- A. PROJECT'S LOCATION AND GENERAL STATEMENT OF ENGINEER'S ASSIGNMENT. The ENGINEER shall provide the professional services for Survey, NEPA, Engineering Design, Bidding Assistance, and Overall Project Management for the City of Murfreesboro St. Andrews Dr. Widening Project.
- B. GENERAL PROJECT CRITERIA. The ENGINEER'S efforts shall include, but not be limited to the WISER Fee Proposal & Scope of Work letter as found in Attachment A which is incorporated herein as if copied verbatim.

Note: In accordance with the Tennessee Department of Transportation Standard Specifications for Road and Bridge Construction, Sections 107.14 and 107.18, the Contractor is responsible for project site safety. The ENGINEER'S employees are responsible for their personal safety. The ENGINEER is not charged with the role of safety inspector per Section 105.10 and Section 105.11 of Tennessee Department of Transportation Standard Specifications for Road and Bridge Construction.

Any questions regarding the administration of the contract should be forwarded to the CITY project supervisor.

Criteria needed to supplement the foregoing shall be as directed by the CITY. Throughout the entire work the ENGINEER will endeavor to obtain the most feasible plan with appropriate weight and consideration given to minimizing the cost of the project.

- C. SCHEDULES. The ENGINEER agrees to begin work immediately after receiving authorization to proceed with the work. Any time limitations herein stated are to be conditional upon timely receipt of various information to be supplied by the CITY, upon

the CITY'S close working relationship with the ENGINEER during the several functions of this project, and upon prompt review and approval of the ENGINEER'S work by the CITY and others as requested by the ENGINEER during the life of this agreement.

- D. EXPERT WITNESS SERVICES: It is understood and agreed that ENGINEER'S services under this Agreement do not include any participation whatsoever in any litigation. Should such services be required, a Professional Service Agreement Addendum may be negotiated between the CITY and ENGINEER describing the services desired and providing a basis for compensation to ENGINEER.

SECTION III: CITY'S SERVICES

The CITY agrees to provide to the ENGINEER, without delay, or as they become available, the following:

- A. Copies of all requested material available regarding and indicating policies of the CITY with reference to geometrics, standards, specifications and methods, and other memoranda and directives pertaining to any part or phase of the work.
- B. Access to and use of all reports, data, or information in the possession of the CITY which might prove pertinent to the work set forth herein. No warranty is made as to the sufficiency of such data furnished by the CITY.
- C. Right-of-Entry onto the Project site for ENGINEER'S necessary field studies and surveys. ENGINEER shall endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
- D. All information furnished the ENGINEER by the CITY, electronically or otherwise, is provided solely for the specific purpose set forth in this Agreement. Should the ENGINEER use such information for any other purpose, it shall do so at its own risk, and shall assume full responsibility for such action.
- E. The CITY shall provide a project supervisor to oversee and coordinate with the ENGINEER'S project supervisor.

Contact Person	Joe Ehleben, Project Coordinator
Phone	(615) 893-6441
Email	jehleben@murfreesborotn.gov

The "Contact Person" designated above shall have the authority to act on behalf of the CITY to define scope, transmit instructions, and receive information. The Contact Person may also authorize changes in Professional Services and negotiate fees and other changes under this Agreement, which **must** then be approved by the Mayor and City Council.

- F. The CITY, with the assistance of the ENGINEER, shall provide public information/relations for project development.

SECTION IV: TDOT STANDARD TERMS AND CONDITIONS

- A. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of Tennessee. ENGINEER agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The ENGINEER acknowledges and agrees that any rights or claims against the CITY or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all applicable laws.
- B. **GENERAL COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS:**
- 1) The ENGINEER is assumed to be familiar with and observe and comply with those Federal, state, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the state and Federal Government regarding fortifications, military and naval establishments and other areas. The ENGINEER shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.
 - 2) The parties agree that failure of the ENGINEER to comply with this provision shall constitute a material breach of this Agreement and subject the ENGINEER to repayment of all damages by the CITY as a result of said breach.
- C. **STATE LAW:** Nothing in this Agreement shall require the CITY to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided that if any of the provisions of this Agreement violate any applicable state law, the ENGINEER will at once notify the CITY in writing in order that appropriate changes and modifications may be made by the CITY and ENGINEER to the end that the CITY and ENGINEER may proceed as soon as possible with the Project.
- D. **SUBMISSION OF THE PROCEEDINGS, AGREEMENTS, AND OTHER DOCUMENTS:** The ENGINEER shall submit to the CITY such data, reports, records, agreements, and other documents relating to the Project as the CITY, TDOT and the Federal Highway Administration may require.
- E. **APPROPRIATION OF FUNDS:** This Agreement is subject to the appropriation and availability of CITY, State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the CITY reserves the right to terminate the Agreement upon thirty (30) days written notice to the ENGINEER. Said termination shall not be deemed a breach of contract by the CITY. Upon receipt of the written notice, the

ENGINEER shall cease all work associated with the Agreement. Should such an event occur, the ENGINEER shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the ENGINEER shall have no right to recover from the CITY any actual, general, special, incidental, consequential or any other damages whatsoever of any description or amount.

- F. **RIGHTS AND REMEDIES NOT WAIVED:** In no event shall the making by the CITY of any payment to the ENGINEER constitute or be construed as a waiver by the CITY of any breach of covenant or any default which may then exist on the part of the ENGINEER and the making of such payment by the CITY, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the CITY with respect to such breach or default. Any invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.
- G. **CITY NOT OBLIGATED TO THIRD PARTIES:** The CITY shall not be obligated or liable hereunder to any party other than the ENGINEER.
- H. **INDEPENDENT CONTRACTOR:** The parties hereto, in the performance of this agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- I. **Tennessee Department of Transportation Debarment and Suspension:** In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the ENGINEER certifies that it is not suspended or debarred and agrees that it shall not permit any debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subcontractor.
- J. **Equal Employment Opportunity:**
 - 1) In connection with the performance of any Project, the ENGINEER shall not discriminate against any employee or applicant because race, age, color, religion, gender, pregnancy, marital status, military status, disability or national origin. The ENGINEER will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, color, religion, gender, pregnancy, marital status, military status, disability or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and

selection for training, including apprenticeship.

- 2) The ENGINEER shall insert the foregoing provision in all agreements modified only to show the particular relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such subcontractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the ENGINEER shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the CITY or TDOT setting forth the provisions of the nondiscrimination clause.

K. TITLE VI, CIVIL RIGHTS ACT OF 1964. During the performance of this contract, the ENGINEER, for itself, its assignees, and successors in interest (hereinafter referred to as the "ENGINEER ") agrees as follows:

- 1) Compliance with Regulations: The ENGINEER shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation, Title 49, Code of Federal Regulations, Part 21 through Appendix H and 23 CFR 710.405(b), as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
- 2) Nondiscrimination: The ENGINEER, with regard to the work performed by itself during the contract, shall not discriminate on the grounds of race, age, color, religion, gender, pregnancy, military status, disability or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The ENGINEER shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations. (<http://www.tdot.state.tn.us/civil-rights/titlevi/>)
- 3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by the ENGINEER for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by the ENGINEER of the ENGINEER'S obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, age, color, religion, gender, pregnancy, military status, disability or national origin.
- 4) Information and Reports: The ENGINEER shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the CITY or other parties participating in the funding of this agreement to be pertinent to ascertain compliance with such regulations or directives. Where any

information required of the ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information, the ENGINEER shall so certify to the CITY and shall set forth what efforts it has made to obtain the information.

- 5) EXECUTIVE ORDER 11246 AND EXECUTIVE ORDER 11375: During the performance of work under this Agreement the ENGINEER agrees to comply with the policies set forth in Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- 6) TITLE VI ADDITIONAL ASSURANCES: ENGINEER incorporates by reference Tennessee Department of Transportation Title VI Assurances- Appendix A by reference as if copied verbatim herein. (<http://www.tdot.state.tn.us/civil-rights/titlevi/>)
- 7) SANCTIONS FOR NONCOMPLIANCE: In the event of the ENGINEER'S noncompliance with the nondiscrimination provisions of this contract, the CITY shall impose such contract sanctions as it may determine to be appropriate, including, but not necessarily limited to:
 - a) withholding of payments to the ENGINEER under the contract until the ENGINEER complies, and/or
 - b) cancellation, termination, or suspension of the contract in whole or in part.
- L. AMERICANS WITH DISABILITIES ACT: ENGINEER will comply with all the requirements as imposed by the Americans with Disabilities Act and the regulations of the federal government issued thereunder. The ENGINEER shall comply with the Vocational Rehabilitation Act of 1973 as approved by Congress on September 26, 1973, herein incorporated by reference, which prohibits employment discriminations against physically handicapped persons.
- M. DBE SUBCONSULTANTS. In the event that DBE subconsultants are a part of this contract, the ENGINEER will report at least quarterly all amounts paid to any DBE subconsultants and to any Minority Business Enterprise (MBE) and/or Woman Owned Business Enterprise (WBE) subconsultants.
- N. CONFLICTS OF INTEREST:
 - 1) ENGINEER warrants that no amount shall be paid directly or indirectly to an employee or official of the CITY, the State or the Federal government as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to ENGINEER in connection with any work contemplated or performed relative to this Agreement.
 - 2) The ENGINEER shall insert in all agreements entered into in connection with the Project and shall require its subcontractors to insert in each of its subcontracts, the following provision:

"No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the ENGINEER in connection with any work contemplated or performed relative to this Agreement."

- O. INTEREST OF MEMBERS OF OR DELEGATES TO, CONGRESS (APPLIES TO FEDERAL AID PROJECTS}: No member of or delegate of the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.
- P. RESTRICTIONS ON LOBBYING (APPLIES TO FEDERAL AID PROJECTS): The ENGINEER certifies, by signing this Agreement to the best of its knowledge and belief, that:
- 1) No federally appropriated funds have been paid or will be paid, by or on behalf of the ENGINEER, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of this Agreement, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of this Agreement, or any Federal contract, grant, loan, or cooperative agreement.
 - 2) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan or cooperative agreement, the ENGINEER shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - 3) The ENGINEER will require that the language of this certification be included in all subcontracts at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly. The ENGINEER understands that this certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code.
 - 4) The ENGINEER agrees that during the period of performance of this agreement it and its sub-recipients must file a disclosure form at the end of each calendar year quarter in which there occurs any event that requires disclosure or materially affects the accuracy of the information contained in any previously filed disclosure form. Events that are considered to materially affect the accuracy of information reported are described in Subpart A, Section 1230.110(c) of the Office of Management and Budget interim final guidance pertaining to Federal government- wide restrictions on lobbying established by Section 319 of Public Law 101-121.

Q. Records:

- 1) The ENGINEER shall maintain documentation for all charges against the CITY under this Agreement. All costs charged to the Project, including any approved services contributed by the ENGINEER or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the CITY and TDOT the nature and propriety of the charges. The books, records, and documents of the ENGINEER, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the CITY at all times during the period of this Agreement and for at least three (3) years after final payment is made.
- 2) Copies of these documents and records shall be furnished to the CITY, TDOT or their duly appointed representatives, upon request. Records of costs incurred includes the ENGINEER'S general accounting records and the Project records, together with supporting documents and records, of the ENGINEER and all subcontractors considered necessary by the CITY for a proper audit of costs. If any litigation, claim or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit finding involving the records have been resolved.
- 3) The aforesaid requirements to make records available to the CITY and TDOT shall be a continuing obligation of the ENGINEER and shall survive a termination of the Agreement.
- 4) ENGINEER shall consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the CITY.

R. INSPECTION

- 1) The ENGINEER shall permit, and shall require its subcontractor or materials vendor to permit, the CITY's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.
- 2) The CITY reserves the right to terminate this Agreement for refusal by the ENGINEER or any subcontractor or materials vendor to allow public access to all documents, papers, letters, or other material made or received in conjunction with this Agreement.

S. Termination for Convenience: The CITY may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement

by the CITY. The CITY shall give the ENGINEER at least thirty (30) days written notice before the effective termination date. The ENGINEER shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the CITY be liable to the ENGINEER for compensation for any service which has not been rendered. The final decision as to the amount for which the CITY is liable shall be determined by the CITY. Should the CITY exercise this provision, the ENGINEER shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- T. Termination for Cause: If the ENGINEER fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the ENGINEER violates any terms of this Agreement, the CITY shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the ENGINEER shall not be relieved of liability to the CITY for damages sustained by virtue of any breach of this Agreement by the ENGINEER.
- U. How Agreement is Affected by Provisions Being Held Invalid: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.
- V. Agreement Format: All words used herein in the singular form shall extend to and include all plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
- W. Certification Regarding Third Party Contracts: The ENGINEER certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.
 - 1) The ENGINEER further certifies by its signature hereunder that it has disclosed and provided to the CITY a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.
 - 2) The ENGINEER further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the CITY.
 - 3) The ENGINEER hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the ENGINEER to the repayment of funds received from or through the CITY under this Agreement and to the payment of all damages suffered by the CITY as a result of said breach.

- X. AMENDMENT: This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.
- Y. CITY LIABILITY: The CITY shall have no liability except as specifically provided in this Agreement.
- Z. FORCE MAJEURE: The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- AA. REQUIRED APPROVALS: The CITY is not bound by this Agreement until it is approved by the appropriate CITY officials in accordance with its charter, applicable Tennessee State laws and regulations.
- BB. VIETNAM ERA VETERANS READJUSTMENT ACT OF 1974: The ENGINEER shall comply with Section 2012 of the Vietnam Era Veterans Readjustment Act of 1974 which requires the ENGINEER to take affirmative action to employ and advance in employment qualified veterans of the Vietnam Era.

SECTION V: PAYMENTS

For the satisfactory performance of all services and assumption of the intrinsic responsibilities described and set forth in Section II, the CITY agrees to compensate the ENGINEER as hereinafter provided, subject to final approval of the CITY:

The Professional Services will be conducted in accordance with the Scope of Work and Tasks set forth in the Proposal by WISER and attached as Attachment A for the Time and Materials amount not to exceed \$391,324.00, excluding reimbursable expenses, and will only be exceeded with written approval of the CITY. Phase services, if any, will be part of a supplement to this Agreement.

- A. ENGINEER may invoice CITY herein to be consistent with services actually rendered but shall not exceed the \$391,324.00 amount unless approved in writing by the CITY.
- B. The fee amount does not include costs for environmental or regulatory permits or costs of advertisement and notices.
- C. The City will contract directly with any geotechnical or right-of-way Consultants if required.
- D. TRAVEL EXPENSES: Travel expenses are included in the Lump Sum amount. The ENGINEER shall not request extra payment for any reason other than for a change in scope of work unless otherwise requested and authorized by the CITY.

- E. ENGINEER shall submit invoices to CITY for services rendered during each invoicing period, which shall be on a monthly basis. CITY shall review invoices submitted by ENGINEER within 15 days of receipt and shall promptly either approve said invoices or notify ENGINEER of any disputed items. Approval of invoices by CITY shall not be unreasonably withheld.
- F. PAYMENT OF INVOICES: Invoices are due Net 30 from invoice date.
- G. ADDITIONAL WORK. In the event that the CITY, in writing, requests the ENGINEER to perform additional services on the project not covered by Section II of this Agreement, the ENGINEER agrees to perform the same after a written agreement between the CITY and the ENGINEER has been entered into and approved. At the discretion of the CITY, said agreement may provide for an appropriate increase(s) in the ENGINEER'S net fee for the performance of said Additional Work. Extension of the construction contract time resulting in additional man hours being used under this Agreement shall not be considered additional work and an increase to the net fee will not be allowed. It is understood and agreed that no work relative to Additional Work or Change of Work (see Paragraph E immediately below) shall be performed by the ENGINEER prior to the CITY'S issuance of a work order for such Additional Work or Change of Work except in those cases when the CITY deems it to be in the public interest to issue a written order prior to the origination of a supplemental agreement. In such instances, the CITY will consider an early issuance of a work order upon its prior ascertainment of the necessity for the work and upon its assurance that additional compensation is warranted.
- H. ERRORS. In the event that additional work may be necessary to correct errors in the work required by the contract, it will be performed without undue delays or additional cost to the CITY.
- I. CHANGE OF WORK. In the event the CITY should decide during the course of this work that there exists the need to change any work performed by the ENGINEER under this Agreement after some element of work has been approved by the CITY, the CITY shall notify the ENGINEER, in writing, to make the change, and the ENGINEER shall make the change as directed. Payment therefor is to be made by the CITY after a written agreement is entered into between the CITY and the ENGINEER providing for appropriate adjustment in the compensation ceiling inclusive of appropriate adjustment in the ENGINEER'S net fee, which amounts shall be as negotiated.
- J. ABANDONMENT OF PROJECT. In the event the CITY decides to abandon all or any part of any project subsequent to the effectuation of this Agreement, the ENGINEER shall be paid by the CITY for all work completed prior to its having received written notice from the CITY to stop work.

SECTION VII: MISCELLANEOUS PROVISIONS

The ENGINEER and the CITY mutually agree as follows:

- A. **OWNERSHIP OF ENGINEERING DOCUMENTS:** Tracings, plans, specifications, any maps prepared or obtained under the terms of this Agreement shall be delivered to and become the property of the CITY. Basic design notes and sketches, charts, computations, all original drawings, and other data prepared or obtained under this Agreement shall be made available, upon request, to the CITY without restriction or limitation of their use.
- B. **DELAYS AND EXTENSIONS:** Time is of the essence with this Agreement. Reasonable extensions of promised times shall be mutually arrived at by the parties in the event of unavoidable delays.
- C. **PROGRESS:** The ENGINEER shall prepare detailed progress schedules for the project or items of the work and shall submit monthly progress reports based on such schedules to the CITY. Each report shall provide an identification of work accomplished since the previous report.
- D. **MEDIATION:** Any dispute concerning a question of fact in connection with the work not disposed of by Agreement between the ENGINEER and the CITY shall be referred to a mediator before either party pursues other means of redress. The mediator shall be a person agreed upon by both parties.
- E. **SUBLETTING, ASSIGNMENT, OR TRANSFER:** Subletting, assignment, or transfer of all or part of the interest of the ENGINEER is prohibited unless by written consent of the CITY and all agencies participating in the funding of this Agreement.
- F. **EMPLOYMENT OF CITY WORKERS:** The ENGINEER shall not engage, on a full, part-time, or other basis during the period of the Agreement, any professional or technical personnel who are or have been at any time during the period of the Agreement in the employ of the CITY or the State of Tennessee, except regularly retired employees, without the written consent of the CITY.
- G. **COVENANT AGAINST CONTINGENT FEES:** The ENGINEER warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the ENGINEER to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the ENGINEER, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the CITY shall have the right to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.
- H. **ENGINEER'S ENDORSEMENT:** The ENGINEER'S endorsement shall be placed on the final maps of the survey, on preliminary and final construction plans, specifications, estimates, also other engineering data and documents furnished by the ENGINEER to the CITY, as applicable.
- I. **CONTROL:** To the extent applicable, all work by the ENGINEER is to be performed in

a manner satisfactory to the CITY and in accordance with the established customs, practices, and procedures of the Tennessee Department of Transportation ("TDOT") and in conformity with the standards adopted by the American Association of State Highway and Transportation Officials and approved by the Secretary of Transportation as provided in Title 23 U.S.C., Sec. 109(b) as amended. The decision of the CITY is to control in all questions regarding locations, type of design, dimension of design, and similar questions. The ENGINEER is to periodically request sufficient conferences to ensure that the work is being done by the ENGINEER in a satisfactory manner and that all locations and designs are made in accordance with the wishes of the CITY.

- J. COST ESTIMATES: The CITY hereby acknowledges that ENGINEER cannot warrant that opinions or estimates of costs provided by ENGINEER will not vary from actual cost incurred by the CITY.
- K. EFFECT OF EXISTING DATA ON AMOUNTS PAYABLE: The ENGINEER hereby certifies that prior to Agreement of the parties to this Agreement on the amounts payable, as expressed in Section V, ENGINEER reviewed, considered, and evaluated existing engineering data, traffic counts, services and projections to be provided by the CITY, other materials and data to be furnished by the CITY, and determined the amounts payable in contemplation of the effect of said data and materials upon its undertaking under this Agreement. Existing engineering data so reviewed, considered, and evaluated includes, but is not necessarily limited to, those set out in Section 111.
- L. EQUIPMENT AND INSTRUMENTATIONS: It is understood and agreed that if any additional equipment is needed for the project, the CITY must be notified prior to any action. If necessary, said equipment shall be purchased by the CITY in compliance with the CITY'S low bid procedures. Said equipment shall be considered as the CITY'S property unless other means pertaining to the disposition of same are provided elsewhere within this Agreement.
- M. ENVIRONMENTAL PROTECTION REGULATIONS: Under this Agreement the ENGINEER shall give due consideration to and, as applicable, comply with the standards, orders, or requirements set forth under Section 306 of the Clean Air Act (42 U.S.C. 1857 h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- N. ENERGY POLICY AND CONSERVATION ACT: Under this Agreement the ENGINEER shall give due consideration to and, as applicable, comply with the standards, orders, and requirements relating to energy efficiency contained in the TDOT energy conservation plans issued in compliance with the Energy Policy and Conservation Act (P.L. 94-165).
- O. STANDARD OF CARE: The ENGINEER shall assume full responsibility for the quality of the ENGINEER'S work and its conformance with all applicable laws, rules, regulations and orders governing said work. The ENGINEER shall perform its duties in conformance with the reasonable standard of care as applicable to members of its profession within the State of Tennessee practicing under similar conditions. There is no warranty, express or implied, by way of illustration and not limitation, warranty for fitness of particular purpose, or warranties of merchantability.
- P. COPYRIGHTING: The ENGINEER shall be prohibited from copyrighting any papers, reports, forms or other material which is a part of any work under this Agreement

without written approval from the CITY. Publication rights to any documents produced are reserved by the CITY.

- Q. NOTICES: Any notice required hereunder shall be sufficiently given when sent to the signatories hereunder or to the above-named contact person via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to the party to be in receipt thereof.
- R. PROHIBITION OF ILLEGAL IMMIGRANTS: The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Agreement to supply goods or services to the state of Tennessee, shall be a material provision of this Agreement, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Agreement.
- 1) The ENGINEER hereby attests, certifies, warrants, and assures that the ENGINEER shall not knowingly utilize the services of an illegal immigrant in the performance of this Agreement and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Agreement. The ENGINEER shall reaffirm this attestation, in writing, by submitting to the CITY a completed and signed copy of the document as Attachment 8, hereto, semi-annually during the period of this Agreement. Such attestations shall be maintained by the ENGINEER and made available to CITY officials upon request.
 - 2) Prior to the use of any subcontractor in the performance of this Agreement, and semi-annually thereafter, during the period of this Agreement, the ENGINEER shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Agreement and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Agreement. Attestations obtained from such subcontractors shall be maintained by the ENGINEER and made available to CITY officials upon request.
 - 3) The ENGINEER shall maintain records for all personnel used in the performance of this Agreement. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the CITY.
 - 4) The ENGINEER understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit the ENGINEER from contracting with, or submitting an offer, proposal, or bid to contract with the state of Tennessee to supply goods or services for a period of one year after the ENGINEER is discovered to have knowingly used the services of illegal immigrants during the performance of this Agreement.
 - 5) For purposes of this Agreement, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or

allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Agreement.

- S. ELECTRONIC FORMAT: ENGINEER deliverables may include database design, electronic computer-aided design and drafting (CADD) files, or other electronic documents or deliverables. Unless specifically directed otherwise by the CITY prior to execution of this Agreement, databases and electronic files shall be developed based on ENGINEER'S standard practice and procedure. ENGINEER shall not be liable for any erroneous information supplied by the CITY or third party that ENGINEER relies upon and incorporates into an electronic file or other documents.
- T. WARRANTY: Due to the easily alterable nature of electronic media, files, documents, and other deliverables, ENGINEER makes no warranties, either expressed or implied, with respect to the accuracy, completeness, merchantability, or fitness for any particular purpose, including, but not limited to, performance in any software used by the CITY or any other consultant or contractor.
- U. SEVERABILITY: Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect.
- V. INSURANCE:
 - 1) During the performance of the Services under this Agreement, ENGINEER shall maintain the following minimum insurance:
 - a) General Liability Insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - b) Automobile Liability Insurance with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
 - c) Worker's Compensation Insurance Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
 - d) Professional Liability Insurance with a limit of \$2,000,000 annual aggregate.
 - 2) ENGINEER shall add the CITY as an additional insured on its General Liability Insurance and Automobile Liability Insurance policies and as a certificate holder on its Workers' Compensation and Professional Liability Insurance policies.
 - 3) ENGINEER shall, upon execution of this Agreement, furnish CITY certificates of insurance and copies of endorsements (blanket or specific) documenting that the CITY is named as an additional insured on the General Liability Insurance and Automobile Liability Insurance policies in a form(s) **as is** agreeable to the CITY, which shall include a provision that such insurance shall not be canceled without at least thirty days' written notice to CITY.
 - 4) No insurance, of whatever kind or type is to be considered as in any way limiting other parties' responsibility for damages resulting from their activities in the execution of the Project. CITY agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and

performance bonds by the Project's construction contractor as CITY deems adequate to indemnify CITY, ENGINEER, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

Section VIII: ENTIRETY OF THE AGREEMENT

This Agreement embodies the entire agreement and understanding between the parties, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. No alternation, change, or modification of the terms of this Agreement shall be valid unless made in writing and signed by both parties hereto, except that all terms and conditions contained in a CITY purchase order or other standard or preprinted work authorization issued by the CITY shall be null and void, even if such document is of later date.

This Agreement includes this document and, by this reference, incorporates the following as if fully set forth herein:

- Attachment A: WISER Fee Proposal & Scope of Work
- Attachment B: "Attestation Regarding Personnel Used in Contract or Agreement Performance"
- Attachment C: Wiser Consultants Schedule of Hourly Fees
- Attachment D: Neel-Schaffer Fee Proposal & Scope of Work
- Attachment E: Neel-Schaffer Schedule of Hourly Fees

ATTACHMENT A



May 20, 2022

Chris Griffith, PE
Executive Director of Public Infrastructure
City of Murfreesboro
111 W. Vine St.
Murfreesboro, TN 37133

**Subject: Proposal for Survey through Construction Plans
 St. Andrews / Kimbro Rd. from New Salem to Veterans**

Wiser Consultants, LLC is pleased to submit the attached Design Services proposal as requested for the subject project. This project was originally designed in 2005. Since the time of the original survey, many new houses have developed along St. Andrews. Some of the original design files will be able to be salvaged, but many of the designs will change and need to be recreated. Since the survey has changed the most, we recommend resurveying the entire project instead of trying to patch the original. Our scope, assumptions and fee are as follows:

SCOPE AND ASSUMPTIONS:

Survey Services

Initial Survey:

St. Andrews Drive

1. Wiser will perform a full engineering design survey along the St. Andrews Drive from Veterans Parkway to State Route 99 (New Salem Road) with a total length of approximately 5,000 feet.
 - a. This will include additional survey along all side roads. The DTM width will vary with an average width of approximately 115'. See the attached survey limits for a more detailed location.
2. Wiser will use a combination of traditional ground survey methods along with mobile lidar to collect topographic and roadway features.
 - a. Wiser will provide field survey services to collect underground utilities, storm, and sanitary inverts.
 - b. Right-of-way lines will be resolved throughout the survey limits along with the resolution of 47 property tracts (see attached map for tract count).
 - c. Only the right-of-way will be resolved within the limits south of Veterans Parkway and north of S.R. 99.
 - d. Wiser will provided septic locations for 4 parcels (see attached map).
3. Deliverables will include:
 - a. Planimetrics, contours, digital terrain model and classified lidar data.



4. CAD deliverables will be provided in:
 - a. Microstation and Geopak formats per TDOT CADD standards.

Armstrong Valley Road

1. Wiser will perform a full engineering design survey at the intersection of Armstrong Valley Road and Veterans Parkway.
 - a. The survey limits will be bounded between the edges of pavement for approximately 1400' along Veterans Parkway and approximately 800' along Armstrong Valley Road and will extend outside the pavement for a 150' radius centered at the intersection as shown by the attached limits.
2. Wiser will use a combination of traditional ground survey methods along with mobile lidar to collect topographic and roadway features.
 - a. Wiser will provide field survey services to collect underground utilities, storm, and sanitary inverts.
 - b. Right-of-way lines will be resolved at each corner of the intersection within the 150' radius. Additional right-of-way and property lines will not be shown.
3. Deliverables will include:
 - a. Planimetrics, contours, digital terrain model and classified lidar data. Drainage areas will not be included.
4. CAD deliverables will be provided in:
 - a. Microstation and Geopak formats per TDOT CADD standards.

ROW Staking:

1. Wiser will perform ROW staking throughout the corridor.
 - a. This will be a onetime staking of ROW and proposed easements.
 - b. Our assumption is that Wiser will be released to perform staking for the entire corridor upon initial request.

Tract Exhibits and Legals:

1. At The City of Murfreesboro's request, Wiser will provide tract surveys, ROW/easement exhibits and legal descriptions for specified tracts for a maximum of 40 tracts.
 - a. The fee for each tract will be an estimated \$1,000 per tract.

Design Services

1. Attend monthly team meetings with the City of Murfreesboro throughout the life of the project.
2. Provide engineering design services to prepare preliminary, right-of-way, and construction documents for the project per City of Murfreesboro guidelines, specifications, and standard drawings.

- a. Includes preparation of Line and Grade plans to be submitted to City of Murfreesboro for review and approval.
 - b. Assumes addressing related comments and alignment revisions from the City's review.
 - c. Storm water design along the proposed corridor.
 - d. Includes the design of 2 signalized intersections:
 - i. St. Andrews Dr @ Veterans Pkwy
 - ii. Armstrong Valley Rd @ Veterans Pkwy
 - e. Provide utility coordination as necessary with those agencies that will be affected by this project.
 - f. Wiser will acquire a general storm water permit (NPDES) and develop a storm water pollution prevention plan (SWPPP) per TDEC requirements, and related coordination.
 - g. Assumes three (3) plan submittals to the City at various stages of project development for review and approval: 1) preliminary, 2) right-of-way, 3) final construction plans.
3. Prepare itemized estimate of probable cost using TDOT pay item numbers.
 - a. A construction cost estimate will be provided at the beginning of the right-of-way acquisition phase.
 - b. A detailed construction cost estimate will be provided at the end of the design phase once quantity take-offs have been prepared.
 - c. An updated construction cost estimate will be provided prior to Bid advertisement.
4. Prepare bid documents per City of Murfreesboro guidelines.
5. Prepare bid notice on behalf of the City of Murfreesboro (The City will be responsible for any related costs for this activity).
6. Assist City in evaluation of bids and recommendation for contract award.

The project will be developed using the following assumptions and criteria:

1. The typical section for St. Andrews Dr. as provided by the City of Murfreesboro based upon the following: an urban curb-and-gutter roadway section, consisting of three (3) - eleven-foot (11') travel lanes, having two-foot (2') curb and gutter, two-foot (2') grass strip, and five-foot (5') sidewalks where practical. Right-of-way width will vary.
2. Project length is approximately 4,755 LF.
3. Design speed along St. Andrews shall be 45 mph with a posted speed of 40 mph.
4. The maximum side slope shall be 3:1.
5. The minimum longitudinal slope will be 0.50%.
6. Maximum superelevation rate of 4% for urban design shall be utilized.
7. Any related utility design and/or relocation will be by others.
8. Entire project to be constructed as a single phase.
9. Project to have a single bid cycle.

Items that are not included within the scope of work and can be negotiated at a later date as additional services:

1. Property acquisition services.
2. Design or development of additional roads other than those that are currently tying into St. Andrews Dr.
3. Roadway or pedestrian lighting.
4. Landscaping improvements.
5. Services or costs associated with mitigation of environmental features discovered during the project.
6. Environmental studies to identify wetlands, endangered species of flora or fauna, hazardous material, or archeological sites.
7. Survey updates due to residential, commercial, or industrial development.
8. Any public involvement meetings or presentations.
9. Any changes to the horizontal and/or vertical alignment or typical section after comments have been received from the City.
10. Traffic counts or studies.
11. Construction Engineering Inspection (CEI) and related services.
12. Costs necessary to advertise and/or bid the project more than once.
13. Studies or design of a detention/retention pond.
14. Retaining wall design.

The following will be provided or paid by the City of Murfreesboro:

1. City Mapping.
2. City Contours.
3. Any existing traffic data on St. Andrews Dr. and connected side roads.
4. All fees for permit applications.
5. All fees for advertisements.
6. Property access notification for Surveying services.
7. City of Murfreesboro traffic signal specifications.



FEE:

Survey Services

Initial Survey – St. Andrews:	Hourly not to exceed \$78,020
Initial Survey – Armstrong Valley:	Hourly not to exceed \$12,430
Right of Way Staking:	Hourly not to exceed \$15,000
Tract Exhibits & Legals:	Hourly not to exceed \$4,000

Design Services

Roadway Design:	Hourly not to exceed \$242,894
Signal Design:	Hourly not to exceed \$20,580
Utility Coordination:	Hourly not to exceed \$5,500
Permitting:	Hourly not to exceed \$4,500
Bidding Assistance:	Hourly not to exceed \$8,400

SCHEDULE:

Field work can begin within 2 weeks after notice to proceed with full delivery occurring no later than 16 weeks later. Design services will proceed after the completion of the design survey.

We appreciate the opportunity to work with you. If you have any questions or need any additional information, please contact me at 615-278-1500 or DNMcClatchey@wiserconsultants.com.

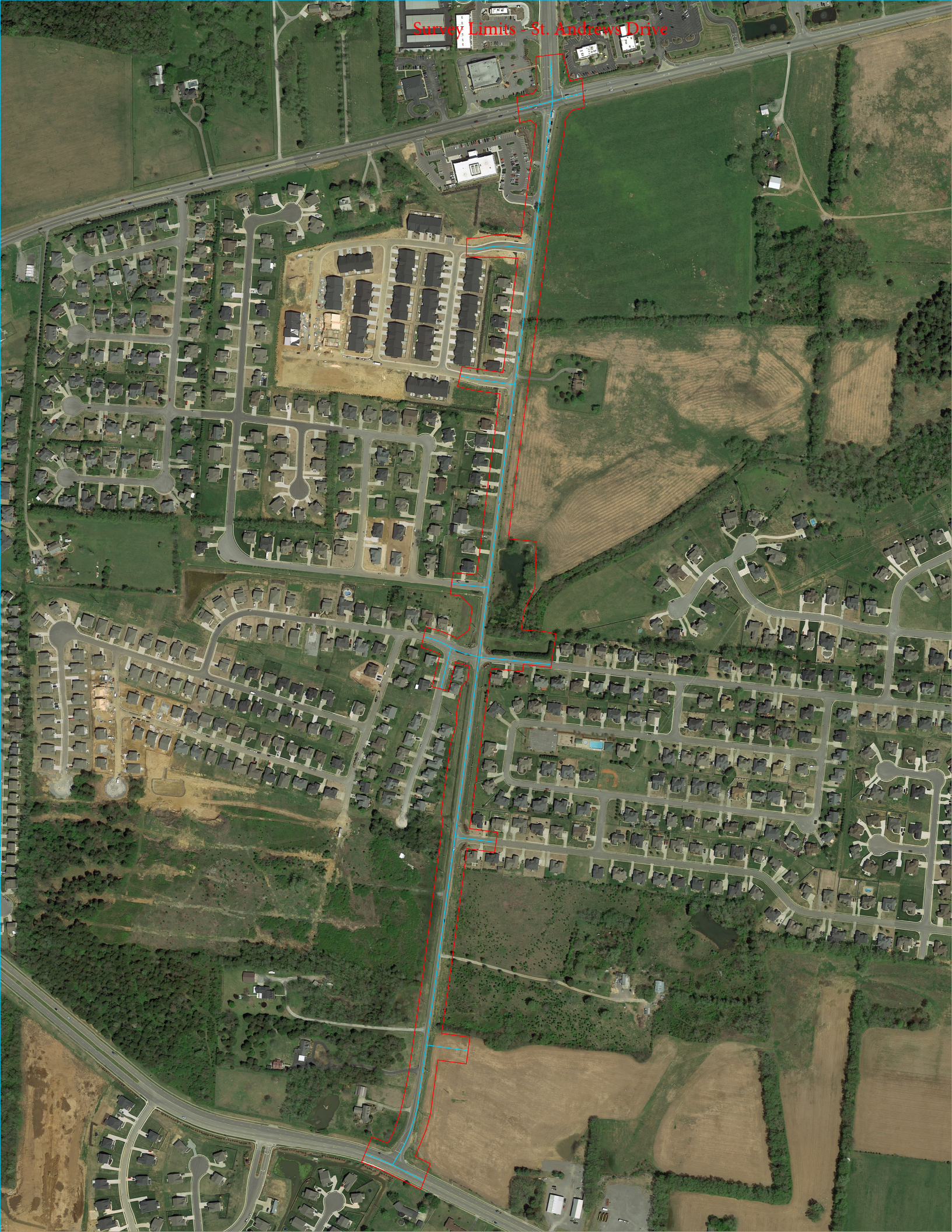
Sincerely,

Wiser Consultants, LLC

A handwritten signature in blue ink that reads "Neal McClatchey". The signature is stylized with a large, looping 'N' and 'M'.

Neal McClatchey, PE
Project Manager

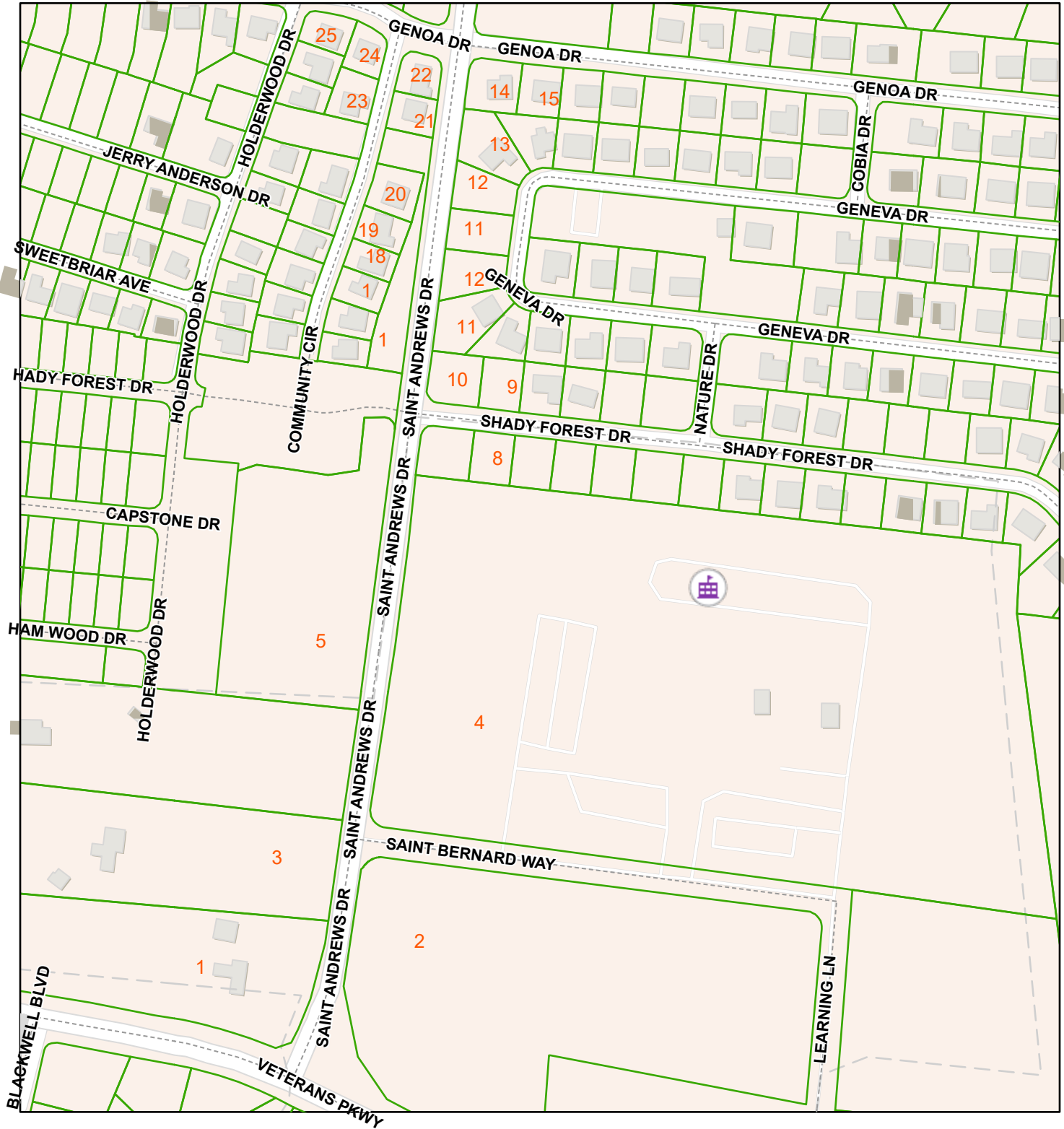
Survey Limits - St. Andrews Drive



Survey Limits - Armstrong Valley Road

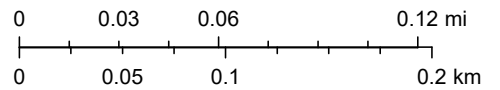


St Andrews (South) - Property Tract Count

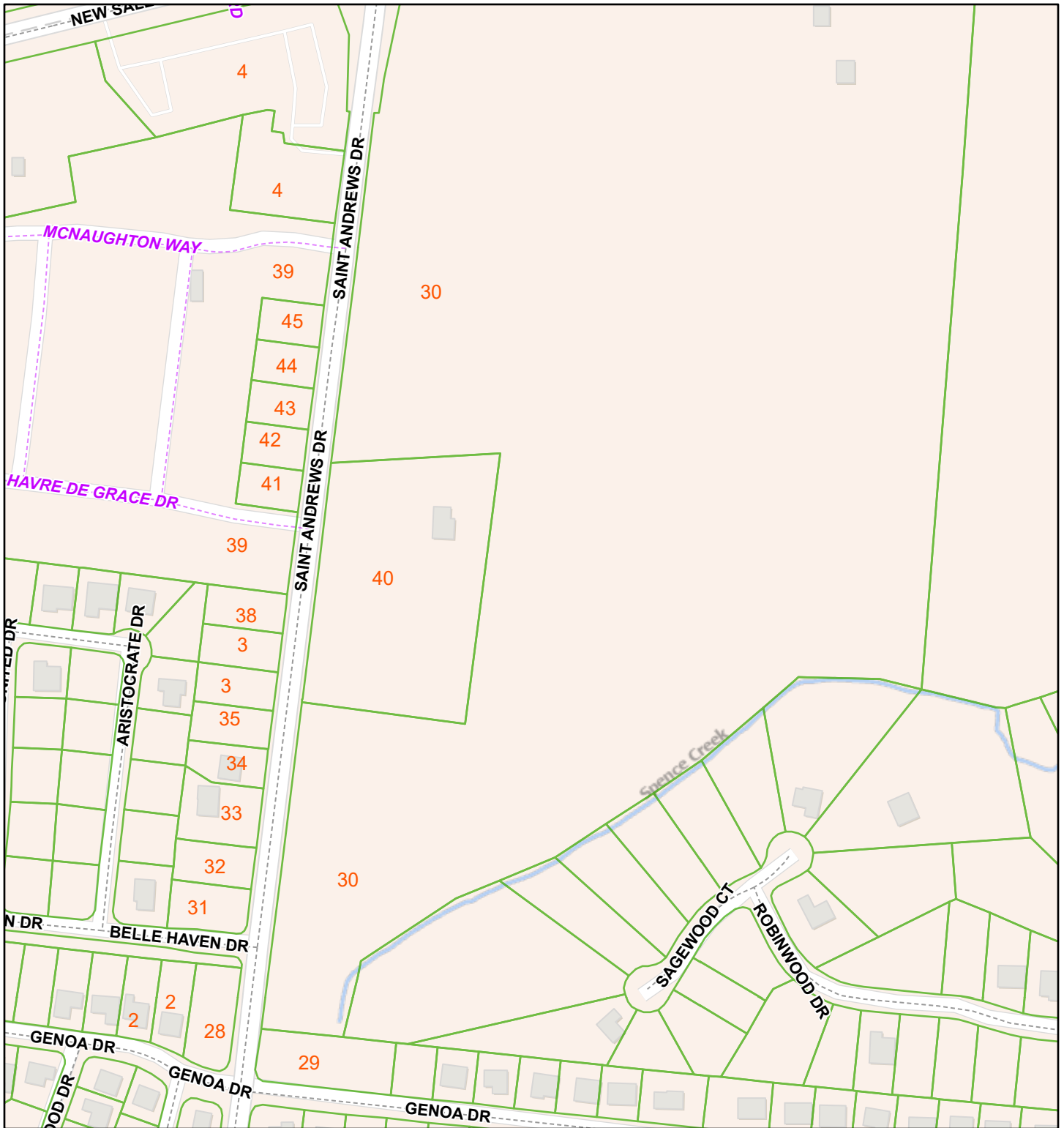


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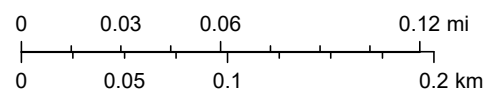


St Andrews (North) - Property Parcel Count

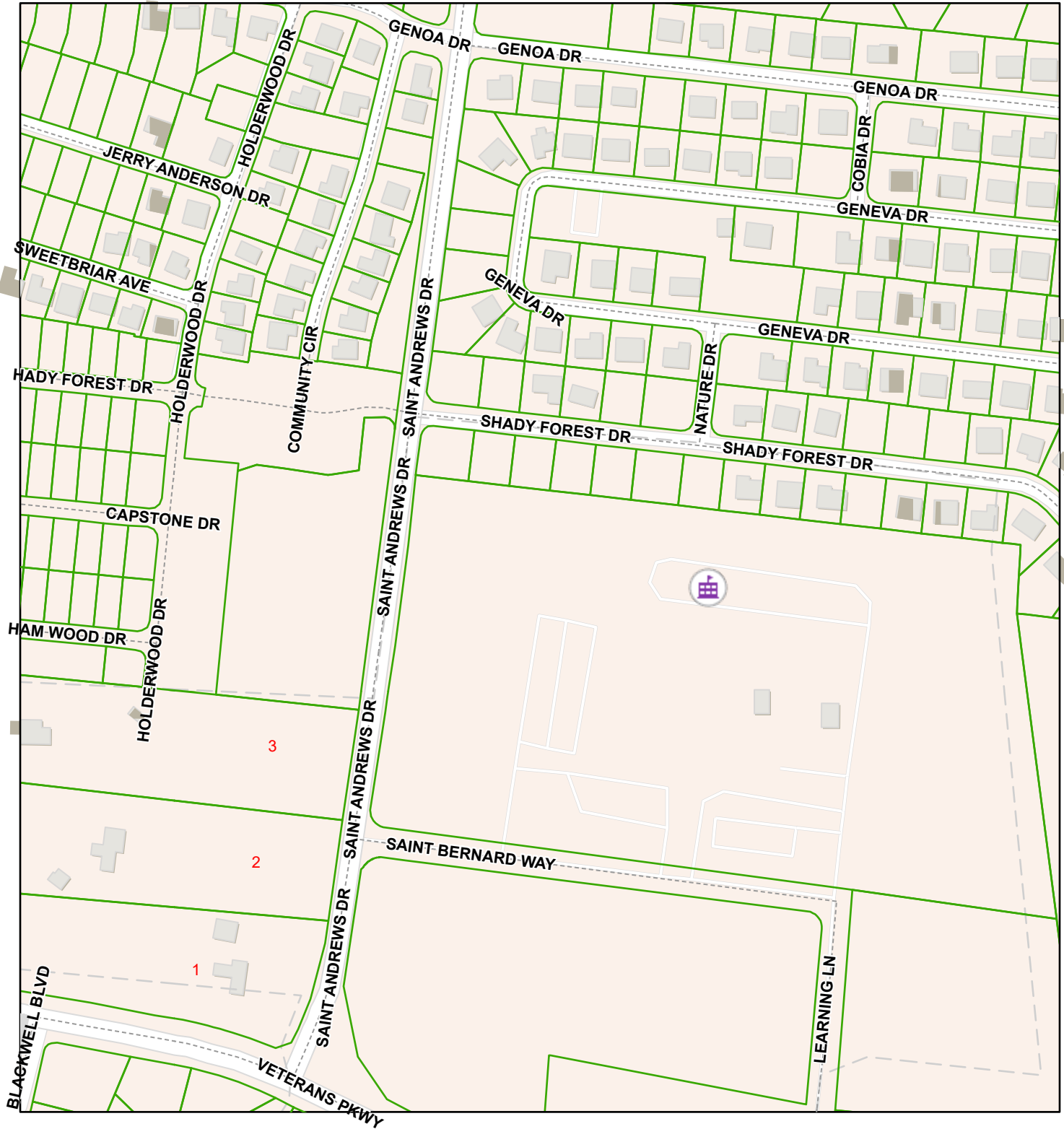


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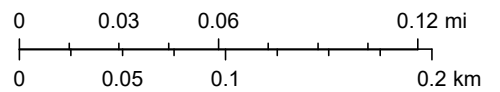


St Andrews (South) - Septic Count

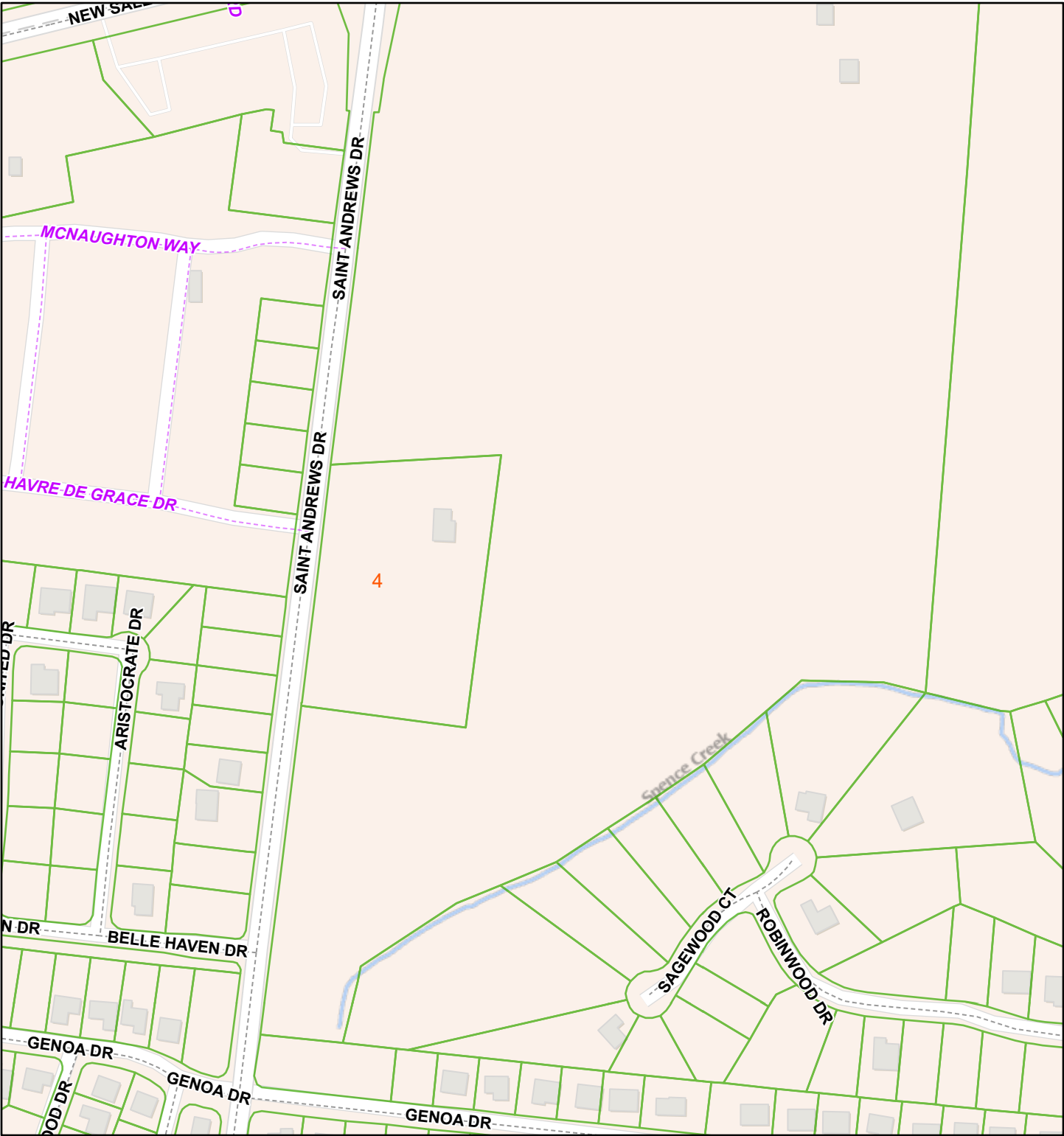


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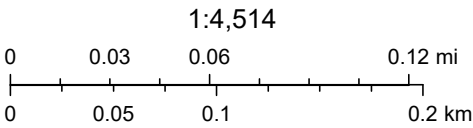
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St Andrews (North) - Septic Count



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ATTACHMENT B

ATTESTATION REGARDING PERSONNEL USED IN CONTRACT/AGREEMENT PERFORMANCE

SUBJECT CONTRACT/ AGREEMENT NUMBER:	City of Murfreesboro - Professional services for Survey, NEPA, Engineering Design, Bidding Assistance, and Overall Project Management for the City of Murfreesboro St. Andrews Widening Project
ENGINEER/ CONTRACTOR LEGAL ENTITY NAME:	WISER CONSULTANTS, LLC
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	46-2394712

The Engineer/ Contractor, identified above, does hereby attest, certify, warrant, and assure that the Engineer/Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract/ Agreement and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of the Contract/ Agreement.

SIGNATURE: 

DATE: April 29, 2022

NOTICE: This attestation **MUST** be signed by an Individual empowered to contractually bind the Engineer/ Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the Individual's authority to contractually bind the Engineer/ Contractor.

Compliance and non-compliance procedures will be as specified in the Tennessee Department of Finance and Administration's Policy on "Ensuring Compliance with Federal Immigration Laws by State Contractors and Subcontractors



Project Manager

ATTACHMENT C

Schedule of Hourly Fees

January 1, 2021 – December 31, 2022

Professional Services	Current Rates
Principal Engineer	\$ 205.00
Senior Project Manager	\$ 180.00
Senior Engineer	\$ 175.00
Project Manager	\$ 150.00
Project Engineer II	\$ 140.00
Project Engineer I	\$ 125.00
Engineering Intern II	\$ 120.00
Engineering Intern I	\$ 105.00
Engineering Technician	\$ 105.00
CAD Technician	\$ 95.00
Resident Project Representative	\$ 95.00
Senior Surveyor	\$ 165.00
Survey Project Manager	\$ 135.00
Registered Land Surveyor	\$ 125.00
1 Person Survey Crew	\$ 110.00
2 Person Survey Crew	\$ 160.00
3 Person Survey Crew	\$ 190.00
Survey CAD Technician	\$ 115.00
Utility Coordinator	\$ 105.00
Cartographic Manager	\$ 125.00
Certified Photogrammetrist	\$ 120.00
Cartographic Tech II	\$ 105.00
Cartographic Tech I	\$ 95.00
Lidar Technician II	\$ 105.00
Lidar Technician I	\$ 95.00
Clerical Staff	\$ 80.00
Equipment	
Static Laser Scanner	\$ 900/Day
Mobile Laser Scanner	\$8,500/Day

ATTACHMENT D



NEEL-SCHAFER

May 20, 2022

Mr. Justin Rains
Wiser Consultants
1620 Gateway Blvd
Murfreesboro, TN 37129

**Subject: Scope Proposal - Traffic Signal Design Services
Veterans Pkwy at St Andrews Dr & Veterans Pkwy at Armstrong Valley Rd**

Dear Justin:

Neel-Schaffer (NSI) is pleased to submit this scope of work and fee proposal for the design of new traffic signals at two intersections on Veterans Pkwy: St Andrews Dr and Armstrong Valley Rd. We respectfully submit the following and attached documentation to engage in professional services for the design of traffic signals at the subject locations. The proposed traffic signals will be incorporated into the ongoing roadway widening design services for St Andrews Dr (between SR-99 and Veterans Pkwy), as led by Wiser Consultants (Wiser). Wiser will lead overall project delivery, including necessary roadway design services, under contract with the city of Murfreesboro.

Please accept this letter agreement as our proposal for professional traffic engineering services. NSI proposes to provide Wiser with traffic signal design services and delivery of (electronic) sealed construction plan sheets for incorporation into the overall construction plan set managed and prepared by Wiser. We will prepare the traffic signal design per city of Murfreesboro and Tennessee Department of Transportation (TDOT) traffic signal design guidelines, as applicable. Electronic CAD information will be prepared using MicroStation v8i. Work performed will generally consist of a proposed traffic signal layout and a traffic signal detail sheet. In general, traffic signal design will include the following components: steel strain support poles, base-mounted traffic signal cabinets, Econolite COBALT controllers, radar vehicle detection and pedestrian signals and pushbuttons (limited to locations that include curb ramps, sidewalk and crosswalk as shown in proposed roadway design). Our scope tasks do not include services related to field survey, design of roadway geometrics or sidewalks, signal interconnect facilities, etc.

Specifically, Neel-Schaffer's scope of work will be as follows:

- Review and preparation of base mapping and CAD sheet layout. Digital field survey including topographic information, roadway centerline & stationing, and identification of known utilities will be provided to NSI. If a common sheet template is desired, Wiser should provide the typical border sheet information in electronic CAD format.
- Design of traffic signals will incorporate proposed roadway geometrics as shown in roadway design. Proposed roadway design files will be provided by Wiser for reference into traffic signal layout sheets.
- Prepare preliminary traffic signal construction plan layout based on provided field survey, proposed roadway files and guidance from city transportation department. Traffic signal plan will consist of a proposed signal layout and signal detail sheet.
- Submit electronic preliminary plans for incorporation by Wiser into overall plan review set.
- Based on comments received from city transportation department, NSI will make requested revisions. Task provides for up to one review by city officials.

P: 615.217.0500 | F: 615.383.9984

201 East Main Street, Suite 325

Murfreesboro, TN 37130

www.neel-schaffer.com

landscape architects

environmental scientists

surveyors

planners

engineers



- Prepare draft final construction plan documentation. This includes identification of TDOT standard drawings, general notes and special notes. Second sheet information (i.e., list of traffic signal standard drawings, general notes and special notes) will be provided in MS Word format for incorporation into overall construction plans by Wiser.
- Develop estimated quantity item list. Estimated quantities will be tabulated using MS Excel. The quantity spreadsheet will be provided electronically to Wiser for incorporation into the project's master pay item list.
- Submit final, sealed traffic signal construction plan sheets to Wiser for incorporation into final plan set.
- Preparation of basic traffic signal timings. Basic signal timings will be shown on traffic signal detail sheet and generally follow city of Murfreesboro signal timing practice and guidance. Preparation of coordinated traffic signal timings is not included in the scope tasks.

Items to be provided by Wiser or others

- Topographic field survey, including existing utility locations
- Roadway and Storm Drainage design services
- Vehicle Traffic Counts
- Permits
- Pavement design
- Right-of-Way Acquisition services, including preparation of legal descriptions and exhibits
- Utility coordination

Items excluded from NSI Scope of Work

- Environmental documents and recommendations
- Roadway Design
- Drainage Design
- Lighting Design
- Geotechnical investigations
- Utility Relocation Design / Subsurface Utility Engineering
- Structure Design / Retaining Wall Design and Sheets
- Permit Preparation and Acquisition
- Public Hearing / Engagement services
- Bid Phase Services
- Construction Phase Services

Neel-Schaffer will provide these services under hourly, not-to-exceed fee terms. The project fee for the services outlined in the scope of services is estimated as \$20,580. Project services will follow the general terms and conditions presented in the letter agreement as Exhibit A.

Additional services will be negotiated and provided only with written notice from your office and follow the hourly rate schedule shown as Exhibit B. If the terms of professional services are acceptable, please have the originals executed and return a copy to us.

We very much appreciate the opportunity to participate and assist Wiser with this project. Kindly contact us if you need any additional information or have questions.

Sincerely,
NEEL-SCHAFFER, INC.

A handwritten signature in blue ink, appearing to read "Gregory Judy", with a stylized flourish at the end.

Gregory Judy, P.E., PTOE
Engineer Manager-Vice President

ATTACHMENT E
NEEL-SCHAFER RATE SCHEDULE

2019 Rate Schedule		
Employee Classification	Position Title	Hourly Rate
P-8	Senior Manager / Vice President	\$225.00
P-7	Engineer Manager/Professional IV/Survey Manager	\$205.00
P-6	Senior Project Manager/Assistant Engineer Manager/Professional III	\$170.00
P-5	Project Manager/Professional II	\$150.00
P-4	Professional I	\$125.00
P-1,P-2,P-3	Professional Intern III	\$100.00
T-6	Senior Certified Engineering Technician/Client Manager	\$140.00
T-5	Certified Engineering Technician/Supervisory Technician	\$125.00
T-4	Technician IV/Inspector IV/Surveyor IV	\$120.00
T-3	Technician III/Inspector III/Survey Crew Chief	\$110.00
T-2	Technician II/Inspector II/Survey Instrument Person	\$95.00
T-1	Technician I/Inspector I/Survey Assistant	\$85.00
T-1	Student Intern	\$60.00
A-4	Senior Administrative	\$75.00
A-2,A-3	Clerical	\$60.00
A-1	Assistant Clerical	\$50.00

Saint Andrews Drive Project Limits



COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Purchase of Public Safety Network Equipment

Department: Police

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

Purchase of Public Safety Network Equipment for remote buildings to complete the data requirements for ENS connections.

Staff Recommendation

Approve the purchase agreement with Waypoint Business Solutions.

Background Information

The Public Safety Network Equipment will enhance connectivity and security for the remote public safety buildings. The current equipment has been in service for over ten years and is scheduled for replacement.

Council Priorities Served

Maintain Public Safety

Communications is a critical requirement for effective public safety and assuring strong connectivity with remote public safety installations is instrumental to maintaining strong communication capabilities.

Fiscal Impact

The expenditure, \$161,734, is funded by the FY22 Public Safety IT budget.

Attachments

1. Purchase Agreement with Waypoint Business Solutions
2. Quote AAAQ13081 from Waypoint Business Solutions

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
WAYPOINT BUSINESS SOLUTIONS, LLC
FOR
INFORMATION TECHNOLOGY PRODUCTS AND SERVICES**

This Agreement (the "Agreement") is entered into this 18th day of November 2021 (the "Effective Date"), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee, ("City") and **WAYPOINT BUSINESS SOLUTIONS, LLC**, a Texas limited liability company, (hereafter referred to as "Waypoint"). City and Waypoint are collectively referred to in this Agreement as the "Parties." This contract consists of the following documents:

- ***Dell Contract Code #51AHO, Customer Purchase Agreement for Products and Services between Dell Marketing L.P. and Wilson County Board of Education;***
- ***Waypoint's Quote #AAAQ11996 dated November 8, 2021; and***
- ***This Agreement***

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- 1. Any properly executed amendment or change order to this contract (most recent with first priority)***
- 2. This Agreement***
- 3. Dell Contract Code #51AHO, Customer Purchase Agreement for Products and Services between Dell Marketing L.P. and Wilson County Board of Education***
- 4. Waypoint's Quote #AAAQ11996 dated November 8, 2021***

In consideration of the promises contained in this Agreement, the Parties stipulate, represent and agree, each to the other, as follows:

- 1. Scope of Agreement.** This Agreement contains the entire Agreement and understanding with respect to the subject matter hereof and supersedes all prior discussions, agreements, proposals, negotiations, letters of intent or other correspondence. Neither of the Parties shall be bound by any conditions, definitions, warranties, understandings, or representations with respect to such subject matter other than as expressly provided in this Agreement or as agreed by the Parties in writing on or subsequent to the date of this Agreement.
- 2. Duties and Responsibilities of Waypoint.** Waypoint agrees to provide and City agrees to purchase the equipment and services set forth on Waypoint's Quote #AAAQ11996 dated November 8, 2021 from Dell Contract Code #51AHO, Customer Purchase Agreement for Products and Services between Dell Marketing L.P. and Wilson County Board of Education. Waypoint is an Authorized Reseller for Dell on the Wilson County Board of Education Contract. Furthermore, the City may utilize this Contract to procure additional equipment and services from Contractor per the Dell Contract Code #51AHO, Customer Purchase Agreement for Products and Services between Dell Marketing L.P. and Wilson County Board of Education through the term of the contract (March 28, 2019 to March 27, 2024). Such future procurements shall be executed through a Purchase Order after purchases exceeding \$25,000 have been approved by Council.

3. **Agreement for Services.** In undertaking the work set forth herein, Waypoint must comply with all applicable federal, state, and local laws and regulations, including acquiring and maintaining in good standing all permits, licenses and other entitlements necessary to its performance under this Agreement. Waypoint is solely responsible to any and all taxes imposed upon Waypoint and acknowledges it cannot claim exemption from taxes by virtue of any municipal exemption from taxation.
4. **Term.** The term of this contract shall be from March 28, 2019 (the "Effective Date") to March 27, 2024 (the termination date for the Dell Contract Code #51AHO, Customer Purchase Agreement for Products and Services between Dell Marketing L.P. and Wilson County Board of Education).
5. **Termination.** Waypoint'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 Waypoint, provided that Waypoint 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 Waypoint 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 Waypoint of any liability to the City for damages sustained by virtue of any breach by Waypoint.
 - e. Should the appropriation for Waypoint's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Waypoint.
6. **Independent Contractor.** In the performance of this Agreement, Waypoint, together with its staff, is acting as an independent contractor with respect to Waypoint's performance hereunder and neither Waypoint nor anyone used or employed by Waypoint shall be deemed for any purpose to be the employee, agent, servant or representative of City, and City shall have no direction or control of Waypoint, except in the results obtained.
7. **Payment.**
 - a. **Price.** The price for the goods and other items to be provided under the initial purchase under this Agreement are set forth in Waypoint's Quote #AAAQ11996 dated November 8, 2021, which reflects a purchase price of \$127,858.15. Future purchases under this Agreement which exceed \$25,000.00 will be presented to Council for approval through a purchase order and future purchases under \$25,000.00 will be presented to the City Manager for approval through a purchase order. Any compensation due Waypoint under this 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 Waypoint 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 number. Final payment shall not be made until after performance is complete.

- b. **Delivery.** Deliveries of all items shall be made within 60 calendar days of order or as best provided by Contractor at 1004 North Highland Avenue, Murfreesboro, TN 37130. Contact Person Bill Terry, Public Safety Information Technology Manager, (tel. 615-907-2249; email. wterry@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during normal working hours of the City, Monday through Friday. Deliveries of all items shall be made as stated in Waypoint's Quote #AAAQ11996. Should Waypoint fail to deliver items on or before its stated date, the City reserves the right to cancel the order or Agreement. Waypoint shall be responsible for making any and all claims against carriers for missing or damaged items.
 - c. **Acceptance.** 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. Such inspection shall take place within 10 days. 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 Dell Contract Code #51AHO, Customer Purchase Agreement for Products and Services between Dell Marketing L.P. and Wilson County Board of Education.
 - d. **Purchase Order.** All deliveries made pursuant to the Agreement 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 purchase price.
 - e. **Applicable Taxes.** City is exempt from State sales tax and will issue a tax exemption certificate to Waypoint as requested. City shall not be responsible for any taxes that are imposed on Waypoint. Furthermore, Waypoint understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
8. **Insurance.**
- a. During the term of this Agreement, Waypoint must maintain the following liability insurance policies:
 - i. Commercial general liability insurance of at least \$1,000,000 per occurrence and \$2,000,000 aggregate;
 - ii. Automobile liability insurance of at least \$1,000,000 per occurrence;
 - iii. Professional (errors and omissions) liability insurance of at least \$1,000,000 per claim and \$1,000,000 aggregate; and
 - iv. Workers' compensation complying with statutory requirements and employer's liability insurance with a limit of \$500,000 per occurrence.

- b. Waypoint 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."

9. Confidentiality.

All information disclosed by either party ("Disclosing Party") to the other party ("Receiving Party"), including, but not limited to information relating to a party's business activities and the results of Work performed by Waypoint pursuant to this Agreement, if disclosed in writing, marked as proprietary or confidential, or if disclosed orally, reduced to writing within thirty (30) days and labeled as proprietary or confidential ("Confidential Information") shall remain the sole property of Disclosing Party. Except for the specific rights granted by this Agreement, Receiving Party shall not use any Confidential Information of Disclosing Party for its own account. Receiving Party shall use the highest commercially reasonable degree of care to protect Disclosing Party's Confidential Information. Receiving Party shall not disclose Confidential Information to any third party without the express written consent of Disclosing Party (except solely for Receiving Party's internal business needs, to employees or consultants who are bound by a written agreement with Receiving Party to maintain the confidentiality of such Confidential Information in a manner consistent with this Agreement). Confidential Information shall exclude information (i) available to the public other than by a breach of this Agreement; (ii) rightfully received from a third party not in breach of an obligation of confidentiality; (iii) independently developed by Receiving Party without access to Confidential Information; (iv) known to Receiving Party at the time of disclosure; or (v) produced in compliance with applicable law or a court order, provided Disclosing Party is given reasonable notice of such law or order and an opportunity to attempt to preclude or limit such production.

Upon termination of this Agreement, Receiving Party agrees to cease using any and all materials embodying Confidential Information, and to promptly return such materials to Disclosing Party upon request, or make such other reasonable disposition as Disclosing Party may direct.

10. Warranty.

Unless otherwise specified, every item purchased shall meet the warranty requirements set forth in the quote or purchase order for the specific item.

11. Indemnification.

- a. **City Indemnity Obligation.** Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Waypoint from any claims arising from any failure, regardless of any language in any attachment or other document that Waypoint may provide.
- b. **Waypoint Indemnity Obligation.** Waypoint shall defend, indemnify and hold harmless City from any third-party claim or action that the Services, Work, Software or Equipment ("Deliverable")

delivered by Waypoint pursuant to this Agreement infringe or misappropriate that third party's patent, copyright, trade secret, or other intellectual property rights, and shall reimburse City for all reasonable expenses (including, without limitation, attorneys' fees and expenses) as they are incurred in connection with pursuing or defending any third-party claim or action, whether or not such claims are successful. In addition, if Waypoint receives notice of a claim that, in Waypoint's reasonable opinion, is likely to result in an adverse ruling, then Waypoint shall at its option, (a) obtain a right for City to continue using such Service or Deliverable; (b) modify such Service to make it non-infringing; (c) replace such Service or Deliverable with a non-infringing equivalent; or (d) refund any pre-paid fees for the allegedly infringing Service or Deliverable that have not been provided. Notwithstanding the foregoing, Waypoint shall have no obligation under this Section for any claim resulting or arising from (a) City's modifications of the Service or Deliverable that was not approved by Waypoint; (b) the combination, operation or use of the Service or Deliverable in connection with a third-party product or service (the combination of which causes the infringement); or (c) Waypoint's compliance with City's written specifications or directions, including the incorporation of any Deliverable or other materials or process provided by or requested by City. Waypoint shall be responsible for all physical injuries (including death) to persons (including but not limited to employees of City) or damage to property (including, but not limited to the property of City and Waypoint) resulting from the negligence of Waypoint or its employees and shall indemnify and save City harmless from loss and liability upon any and all claims on account of such injuries to persons or damage to property, and from all direct costs and expenses finally awarded in suit which may be brought against City on account thereof, provided, however, the City or Waypoint, as the case may be, shall be responsible for workers compensation claims brought by their respective employees, without regard to the negligence of either.

This Section states each Party's exclusive remedies for any third-party claim or action, and nothing in this Agreement or elsewhere will obligate either party to provide any greater indemnity to the other.

12. **Time Limitation.** NO ACTION, REGARDLESS OF FORM, ARISING OUT THE TRANSACTIONS UNDER THIS AGREEMENT, MAY BE BROUGHT BY EITHER PARTY MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS OCCURRED EXCEPT THAT AN ACTION FOR NON-PAYMENT MAY BE BROUGHT WITHIN TWO YEARS OF THE DATE OF LAST PAYMENT.
13. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Waypoint and the authorized representatives of the City. It is thereafter effective as of the date set forth above.
14. **City Data.** City is responsible for securing a full data backup 24 hours before Work is to commence on an existing system for scheduled maintenance or system modification.
15. **General Provisions.**

- a. **Exclusive Remedies.** The remedies in this Agreement are exclusive.
- b. **Compliance with Laws.** Waypoint agrees to comply with any applicable federal, state and local laws and regulations.
- c. **Maintenance of Records.** Waypoint 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.
- d. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
- e. **Relationship of the Parties.** Nothing herein may in any way be constructed 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 the paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
- f. **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.
- g. **Employment.** Waypoint 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.
- h. **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, Waypoint 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.
- i. **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.

- j. **Entire Agreement/Assignment.** This Agreement: (i) is the complete and exclusive statement of the agreement between the parties, (ii) supersedes all proposals, oral or written, and all other communications between the parties relating to the subject of this Agreement; and (iii) may not be assigned, sublicensed, or otherwise transferred by either party without the prior written consent of the other party, but its terms and conditions shall extend to and bind any permitted successor or assign. If any provision of this Agreement is void or unenforceable, the remainder of this Agreement will remain in full force and will not be terminated.
- k. **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 Waypoint may provide. The exclusive jurisdiction for any legal proceedings shall be in the courts of the State of Tennessee, County of Rutherford, and the parties expressly submit to the jurisdiction of said courts.
- l. **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.
- m. **Survival of Proprietary Rights.** The proprietary rights and confidentiality obligations of the parties shall survive the expiration or earlier termination hereof.
- n. **Titles.** The section headings in this Agreement are for convenient reference only and shall be given no substantive or interpretive effect.
- o. **Notices.** Any and all notices between the parties under this Agreement shall be in writing and deemed received when mailed by registered mail, postage prepaid, first class, electronic mail (e-mail) to a partner, officer, or authorized representative, or delivered by courier to the following addresses:

Waypoint Business Solutions, LLC

City of Murfreesboro

ATTN: Travis Pulliam
118 Vintage Park Blvd, W414
Houston, Texas 77070

ATTN: City Manager
111 West Vine Street
Murfreesboro, TN 37130

or

or

Email: tpulliam@waypointsolutions.com

Email: ctindall@murfreesborotn.gov with
copy to wterry@murfreesborotng.gov

- p. **Delay.** Waypoint shall not be liable to City for any delay or failure by Waypoint to perform its obligations hereunder or otherwise if such delay or failure by Waypoint to perform its obligations hereunder or otherwise if such delay or failure arises from any cause or causes beyond the reasonable control of Waypoint, including but not limited to, labor disputes, strikes, other labor or industrial disturbances, acts of God, floods, hurricanes, lightning, shortages of materials, rationing, utility or communication failures, earthquakes, casualty, war, acts of public enemy, riots, insurrections, embargoes, blockages, actions, restrictions, regulations, or orders of any government agency or subdivision thereof, or temporary unavailability of service personnel due to other service calls received by Waypoint. In the event of such a delay or failure, and notwithstanding anything to the contrary in any Statement of Work, such delay or failure shall be excused during the continuance thereof, and the period of performance shall be extended to such extent necessary to enable Waypoint to perform after the cause of delay has been removed.
- q. **Dispute Resolution.** City and Waypoint will attempt to resolve any claim, or dispute or controversy (whether in contract, tort or otherwise) arising out of or relating to this Agreement (a "Dispute") through face-to-face negotiation with persons fully authorized to resolve the Dispute or through mediation utilizing a mutually agreeable mediator, rather than through litigation. The existence or results of any negotiation or mediation will be treated as confidential. Notwithstanding the foregoing, either party will have the right to obtain from a court of competent jurisdiction a temporary restraining order, preliminary injunction or other equitable relief to preserve the status quo, prevent irreparable harm, avoid the expiration of any applicable limitations period, or preserve a superior position with respect to other creditors, although the merits of the underlying Dispute will be resolved in accordance with this paragraph. In the event the parties are unable to resolve the Dispute within 60 days of notice of the Dispute to the other party, the parties shall be free to pursue all remedies available at law or equity.
- r. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

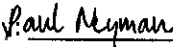
[signatures appear on the following page]

IN WITNESS WHEREOF, the parties enter into this agreement as of November 18, 2021 (the "Effective Date").

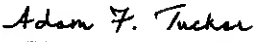
City of Murfreesboro, Tennessee

DocuSigned by:
By: 
Shane McFarland, Mayor

Waypoint Business Solutions, LLC

DocuSigned by:
By: 
Paul Neyman, President

Approved as to form:

DocuSigned by:

Adam F. Tucker, City Attorney



DELL CONTRACT CODE# 51AHO

CUSTOMER PURCHASE AGREEMENT FOR PRODUCTS AND SERVICES

between

Dell Marketing L.P.
One Dell Way
Round Rock, TX 78682
("Dell")

and

Wilson County Board of Education
415 Harding Drive
Lebanon, Tennessee 37087
("Customer")

This Customer Purchase Agreement ("CPA"), made between Customer and Dell as of the date of last signature below (the "Effective Date"), together with any Schedules, governs Customer's purchase of Products and Services from Dell for internal use. Customer and Customer's Affiliates may order from Dell and Dell's Affiliates under this CPA, in which case such Affiliates shall be "Customer" and "Dell" for the purposes of such orders. Dell and Customer are each referred to individually as a "party," and collectively as the "parties."

1. DEFINITIONS

- A. "Dell" means Dell Marketing L.P. or the Dell Affiliate identified on the Order.
- B. "Dell Affiliate" means a direct or indirect subsidiary of Dell Inc. located in the United States.
- C. "Hardware" means computer hardware, related devices and other accessories including all embedded components (excluding Software).
- D. "Hardware Services" means (a) services to be performed by or on behalf of Dell necessary to repair a defect in materials or workmanship of Hardware and as otherwise defined in the Hardware Schedule or SOW, (b) standard deployment services, such as Basic Deployment Services, ProDeploy or ProDeploy Plus services, or c) standard configuration services, including Static and Dynamic Imaging, Asset Tagging, Asset Reporting, standard System Configuration services (BIOS Settings, Hard Drive Partitioning, Application Installation and Operating System Settings).
- E. "Order" means an order placed for Products and/or Services by (a) a written ordering document or agreement under this CPA that is executed by the parties, such as a signed Dell quotation or SOW, (b) Dell's online ordering process at Dell.com or other Dell electronic ordering process agreed to by Dell and Customer, or (c) a Customer purchase order accepted by Dell.
- F. "Products" means Hardware, Software or both.
- G. "Professional Services" means services, other than Hardware Services, to be performed by or on behalf of Dell pursuant to an SOW.
- H. "Schedule(s)" means the Product Schedule or Services Schedule to this CPA, and any other schedules later executed by the parties under this CPA, as well as any attachments to such Schedule(s). Unless otherwise defined in a Schedule, capitalized terms in Schedules shall have the meaning defined in the CPA.
- I. "Services" means either Hardware Services, Professional Services, or both.
- J. "SOW" means any mutually agreed document or agreement describing Services to be provided by or on behalf of Dell to Customer, including without limitation, "Statements of Work," "Service Descriptions," "Specification Sheets," "Task Orders," "Order Forms" and any other such documents executed under the terms of a Professional Services Schedule hereto or otherwise available at Dell.com/servicecontracts/global.
- K. "Third-Party Products" means any Products or Services that are not manufactured, created, licensed, branded or performed by or on behalf of Dell.

2. TERM; AUTO-RENEWAL

This CPA continues for a period of five (5) years from the Effective Date. Unless terminated under Section 10 ("Termination"), this CPA may be renewed on the anniversary of the Effective Date for one (1) additional five (5) year period (each period, a "Term"), unless either party provides written notice of non-renewal at least 30 days prior to the expiration of the then-current Term. Each Service and Software license will continue for the term stated in the applicable SOW or Software Agreement (as defined in Section 5.B), unless terminated earlier in accordance with its terms or this CPA. Hardware Service may be renewed if Customer pays a renewal invoice from Dell or continues to use the Hardware Service past its initial term.

3. ORDERING AND PAYMENT

- A. **Quotes and Orders.** Customer must identify Dell's quotation (if any), the Dell Contract Code assigned to this CPA (if any), the Products and Services ordered, the requested shipment dates, and shipping and invoice addresses on all Orders. Each Order is subject to acceptance by Dell. Quoted prices are effective until the expiration date of the quote, but may change due to shortages in materials or resources. Orders for Third-Party Products are subject to availability and are cancellable only by Dell. Dell may, prior to shipment, cancel and refund Orders affected by typographical errors. Customer shall place all Orders in the country where the Products and Software are to be shipped and for Services, where the Services benefit is received.
- B. **Payment.** Invoices are due and payable within 30 days of the invoice date unless the invoice states payment terms greater than 30 days. Payment must be made in the method and currency identified by Dell. Dell must approve in writing any assignment by Customer of its payment obligations to a third-party financing company (other than Dell Financial Services, LLC). Dell, without waiving any other rights or remedies and without liability to Customer, may suspend any or all Services until all overdue amounts are paid in full. Customer will pay all reasonable legal fees (including reasonable attorney's fees) and costs associated with collection of overdue amounts.
- C. **Taxes.** Customer is responsible for payment of any sales, use, VAT, GST and any other similar taxes or governmental fees associated with Customer's Order, except for taxes based on Dell's net income, gross revenue or employment obligations. If Dell is obligated by applicable law to collect and remit any taxes or fees, then Dell will add the appropriate amount to Customer's invoices as a separate line item. If Customer qualifies for a tax exemption, Customer must provide Dell with a valid certificate of exemption or other appropriate proof of exemption. The charges stated on each line item of the invoice shall include all duties, levies or any similar charges and exclude VAT or equivalent sales or use tax. Customer shall also pay all freight, insurance, and taxes (including but not limited to import or export duties, sales, use, value add, goods and services, and excise taxes). Dell's invoice shall be in accordance with applicable law. If Customer is required by law to make a withholding or deduction from payment, Customer will make payments to Dell net of the required withholding or deduction, and will supply to Dell satisfactory evidence (e.g. official withholding tax receipts) that Customer has accounted to the relevant authority for the sum withheld or deducted. If such evidence is not provided to Dell within 60 days of remittance to the applicable tax authority, Dell will impose a penalty payment on Customer, and Customer will be liable for such penalty, in the amount of the withholding imposed on that particular transaction.

4. SERVICES

The following shall apply to all purchases of Services under this CPA:

- A. **SOW.** Services shall be subject to the additional terms contained in any SOW executed or otherwise provided by Dell in connection with the Service.
- B. **Third-Party Products.** If Customer provides or makes available Third-Party Products for Dell to use in connection with the Services, Customer (a) authorizes Dell to use such Third-Party Products as needed to provide the Services, (b) warrants that it has all consents, licenses, and sublicense rights as may be necessary to make the Third-Party Products available to Dell, and (c) agrees that Dell shall not be liable to Customer if Dell's authorized use causes warranties or other services contracts for the Third-Party Products to become void.
- C. **Services Software.** "Services Software" is Software that Dell may make available to Customer as necessary to enable Customer to receive and use the Services. Services Software may be hosted by Dell or installed on Customer's computers. Customer agrees that it shall (i) only use the Services Software as necessary to receive

and/or use the Services during the term thereof, (ii) use any Services Software hosted by Dell in a lawful manner, without interfering with other Dell customers' use of the Services Software, and without attempting to disrupt the security or operation of the network or systems used to provide the Services Software; and (iii) not misappropriate, disclose, or otherwise violate Dell's or its suppliers' intellectual property rights in the Services Software.

- D. **Customer Obligations.** Except as may be expressly agreed by the parties in writing, Customer shall be solely responsible to back up all data on its systems and to install all equipment or technology upgrades, refreshes, and replacements. Customer shall provide timely access to Customer personnel, systems and information as may be needed for Dell to perform the Services. If the Services are provided on Customer's premises, Customer shall provide, without charge to Dell, a reasonable work environment for Dell personnel that is in compliance with all applicable laws and regulations and that includes work space, reproduction, computer, and other equipment, supplies, and services all as may be needed to perform the Services.
- E. **Data.** In connection with Dell's performance of or Customer's use of the Services or Services Software, Dell may obtain, receive, and/or collect data or information, including system-specific data (collectively, the "Data"). Customer grants Dell (i) a non-exclusive, worldwide, royalty-free, perpetual, irrevocable license to use, compile, distribute, display, store, process, reproduce, or create derivative works of the Data solely to provide the Services or the Services Software; (ii) a license to aggregate and use the Data in an anonymous manner in support of Dell's internal, marketing and sales activities; and (iii) the right to copy and maintain the Data on Dell's or its suppliers' servers as necessary to provide the Services. Customer represents and warrants that it has obtained all rights, permissions, and consents necessary to use and transfer the Data within and outside of the country in which Customer is located in order for Dell to provide Services hereunder.
- F. **Updates.** It may be necessary for Dell to perform scheduled or unscheduled repairs or maintenance, or remotely patch or upgrade the Services Software, which may temporarily degrade the quality of the Services or result in a temporary outage of the Services Software.

5. SOFTWARE

Customer may purchase Software licenses under this CPA for Software licensed to Customer by Dell or a Dell Affiliate ("Dell Licensed Software") and for Software licensed to Customer by a third party ("Third-Party Software").

- A. **"Software"** means any software, library, utility, tool, or other computer or program code, each in object (binary) code form, and the printed materials, online and electronic documentation provided by Dell with the Software and any copies thereof.
- B. **"Software Agreement"** means either (i) the software license agreements included with the software media packaging or presented to Customer during the installation or use of the Software, or (ii) if no license terms accompany Dell Licensed Software or are not otherwise made available to Customer by Dell, then the applicable licensing terms found at www.dell.com/licenseagreements will apply.
- C. **"Software Terms"** means the terms in a Software Agreement for Dell Licensed Software that state (a) the Dell Affiliate that is the licensor of the Software (the "Licensor") (b) Software title, license definitions, rights, and restrictions; (c) Software warranties and remedies; (d) maintenance and support services for the Software; (e) the Licensor's rights in connection with a change of control of Licensor or a sale of its assets; (f) Customer's compliance obligations with respect to the Software; (g) the parties' rights and obligations with respect to a termination of the Software Agreement or a license granted thereunder, and (h) the parties' liability in the event of a misappropriation, misuse, or disclosure of the other party's intellectual property, including, but not limited to the Software.
- D. **Governing Terms.** Dell Licensed Software shall be governed by this CPA, the Software Terms, and the applicable Order provided to Customer by Dell (if any). Third-Party Software shall be governed by the Software Agreement that is provided with such Software and, as between Dell and Customer, the sections of this CPA regarding payment, taxes, warranty, and liability.

6. LIMITED WARRANTY

DELL'S WARRANTY TERMS FOR PRODUCTS SHALL BE PROVIDED AS INDICATED IN THE PRODUCT SCHEDULE OR THE SOFTWARE TERMS. DELL'S WARRANTIES FOR SERVICES SHALL BE PROVIDED IN THE SERVICES SCHEDULE. EXCEPT AS

EXPRESSLY STATED BY DELL ELSEWHERE, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, DELL (INCLUDING DELL AFFILIATES, CONTRACTORS, AND AGENTS, AND EACH OF THEIR RESPECTIVE EMPLOYEES, DIRECTORS, AND OFFICERS), ON BEHALF OF ITSELF AND ITS SUPPLIERS AND LICENSORS MAKES NO EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO ANY OF THE PRODUCTS OR SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY (a) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY, OR NON-INFRINGEMENT; (b) FOR ANY THIRD-PARTY PRODUCTS OR SERVICES; (c) FOR THE PERFORMANCE OF OR RESULTS TO BE OBTAINED FROM ANY PRODUCTS OR SERVICES; OR (d) THAT THE PRODUCTS OR SERVICES WILL OPERATE OR BE PROVIDED WITHOUT INTERRUPTION OR ERROR. PRODUCTS AND SERVICES ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS, REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS ANY APPLICATION IN WHICH THE FAILURE OF THE PRODUCTS OR SERVICES COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR PROPERTY DAMAGE (COLLECTIVELY, "HIGH-RISK ACTIVITIES").

WARRANTIES DO NOT COVER DAMAGE DUE TO EXTERNAL CAUSES, SUCH AS ACCIDENT, ABUSE, MISUSE, PROBLEMS WITH ELECTRICAL POWER, SERVICES NOT PERFORMED OR AUTHORIZED BY DELL (INCLUDING INSTALLATION OR DE-INSTALLATION), USAGE NOT IN ACCORDANCE WITH THE DOCUMENTATION, NORMAL WEAR AND TEAR, OR USE OF PARTS AND COMPONENTS NOT SUPPLIED OR INTENDED FOR USE WITH THE PRODUCTS OR HARDWARE SERVICES. ANY WARRANTY ON A THIRD-PARTY PRODUCT IS PROVIDED BY THE PUBLISHER, PROVIDER, OR ORIGINAL MANUFACTURER. ALL THIRD-PARTY PRODUCTS ARE PROVIDED BY DELL "AS IS."

7. CONFIDENTIALITY

"**Confidential Information**" means information that is designated as confidential or should reasonably be understood to be confidential. Confidential Information may only be disclosed to the receiving party's personnel, professional advisors, agents, and subcontractors ("**Representatives**"), or governmental taxing authorities, on a "need-to-know" basis in connection with this CPA. Representatives shall be bound to treat the Confidential Information under terms at least as restrictive as those herein, and the receiving party shall be liable for unauthorized disclosures by its Representatives. Each party will use at least the same degree of care as it employs with respect to its own Confidential Information, but not less than a commercially reasonable standard of care. The foregoing shall not apply to information that (i) is independently developed without use of the other party's Confidential Information; (ii) has been obtained from a source which is not under a confidentiality obligation; or (iii) is or becomes publicly available without fault of the receiving party. If receiving party must disclose Confidential Information as required by law, it shall give reasonable prior notice to the disclosing party. These obligations shall continue for 3 years from the initial date of disclosure, except that obligations related to information about a party's trade secrets and intellectual property shall never expire.

8. INDEMNIFICATION

- A. Dell shall defend and indemnify Customer against any third-party claim that Dell-branded Products, Services or any tangible items provided as part of the Services (excluding Third-Party Products and open source software) infringe or misappropriate that third party's U.S. patent, copyright, trade secret, or other intellectual property rights ("**Claims**"). In addition, if Dell receives prompt notice of a Claim that Dell believes is likely to result in an adverse ruling, then Dell shall at its option, (1) obtain a right for Customer to continue using such Products or Service-related deliverables, if any, or for Dell to continue performing the Services; (2) modify such Products or Services to make them non-infringing; (3) replace such Products or Services with a non-infringing substitute; or (4) refund any pre-paid fees for the allegedly infringing Services that have not been performed or provide a reasonable depreciated or pro rata refund for the allegedly infringing Product or Service-related deliverables, if any. Dell shall have no obligation for any claim arising from (a) modifications of the Products or Services that were not performed by or on behalf of Dell; (b) misuse, or the combination or use with Third-Party Products; (c) Dell's compliance with Customer's written specifications or directions, including the incorporation of any software or other materials or processes Customer provides or requests or (d) Customer's failure to incorporate free Software updates or upgrades that would have avoided the alleged infringement. Dell's duty to indemnify and defend under this Indemnification Section is contingent upon: (i) Customer's prompt written notice of the Claim (ii) Dell's right to solely control the defense and resolution of the Claim, and (iii) Customer's cooperation in defending and resolving the Claim. These are the exclusive remedies for any third-party intellectual property claim, and nothing in this CPA or elsewhere will obligate Dell to provide any greater indemnity.

- B. Subject to the availability of lawful appropriation and consistent with the Tennessee Governmental Tort Liability Act, Customer shall indemnify, to the extent allowed by law, Dell against any third-party claim resulting or arising from (1) Customer's failure to obtain any appropriate license, intellectual property rights, or other permissions, regulatory certifications, or approvals associated with technology or data provided by Customer, or associated with non-Dell software or other components directed or requested by Customer to be used with, installed or integrated as part of the Products or Services; (2) Customer's violation of Dell's proprietary rights; (3) any inaccurate representation regarding the existence of an export license or any allegation made against Dell due to Customer's violation or alleged violation of applicable export laws; or (4) Customer transferring or providing access to Excluded Data to Dell.
- C. Subject to the availability of lawful appropriation and consistent with the Tennessee Governmental Tort Liability Act, each party shall indemnify, to the extent allowed by law, the other against any third-party claim for personal bodily injury, including death, where the injury has been exclusively caused by the indemnifying party's gross negligence or willful misconduct in the performance of its obligations under this CPA.
- D. The indemnified party will (a) promptly notify the indemnifying party in writing of any such claim and grant the indemnifying party sole control of the defense and resolution of such claim and (b) cooperate with the indemnifying party, at the indemnifying party's expense, in defending and resolving such claim. The indemnification provisions of this section shall be limited by the availability of lawful appropriation and consistent with the Tennessee Governmental Tort Liability Act as applied to Customer.

9. COMPLIANCE WITH LAWS

- A. Customer's purchase of Dell's Products or Services is for its own use, not for resale, export, re-export, or transfer. Customer is subject to and solely responsible for compliance with the export control and economic sanctions laws of the United States and other applicable jurisdictions, as well as comply with Dell's trade compliance policies. Customer's purchase may not be used, sold, leased, exported, re-exported, or transferred except with prior written authorization by Dell's trade compliance and/or legal teams and in compliance with such laws, including, without limitation, export licensing requirements, end-user, end-use, and end-destination restrictions, and prohibitions on dealings with sanctioned individuals and entities, including but not limited to persons on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List or the U.S. Department of Commerce Denied Persons List. Customer represents and warrants that it is not the subject or target of, and that Customer is not located in a country or territory that is the subject or target of, economic sanctions of the United States and other applicable jurisdictions.
- B. Customer certifies that all items (including hardware, software, technology and other materials) it provides to Dell for any reason that contain or enable encryption functions either (i) satisfy the criteria in the Cryptography Note (Note 3) of Category 5, Part 2 of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies or (ii) employ key length of 56-bit or less symmetric, 512-bit asymmetric or less, and 112-bit or less elliptic curve. Dell is not responsible for determining whether any Third-Party Product to be used in the Products and Services satisfies regulatory requirements of the country to which such Products or Services are to be delivered or performed, and Dell shall not be obligated to provide any Product or Service where the resulting Product or Service is prohibited by law or does not satisfy the local regulatory requirements.
- C. Dell's privacy policies explain how Dell treats personal information and protects its customers' privacy and can be found at Dell.com/privacy.

10. TERMINATION

Either party may terminate this CPA for convenience by providing at least 30 days prior written notice to the other or by providing timely written notice of non-renewal under Section 2. Either party may terminate this CPA, a SOW, or a Software Agreement (a) for a material breach of the CPA, SOW, or Software Agreement by the other party which is not cured within 30 days of the breaching party's receipt of written notice of the breach

Dell may terminate this CPA, a SOW, or a Software Agreement with 10 days' written notice if Customer does not make payment as required by this CPA or the applicable SOW or Software Agreement (where such payment is not subject to a good faith dispute). If this CPA is terminated for convenience (or not renewed), all then-existing SOWs and Software Agreements shall remain in force for their stated term and shall continue to be governed by this CPA. If this CPA or an SOW or Software Agreement is otherwise terminated, all rights and obligations of the parties under this CPA or the

terminated SOW or Software Agreement shall automatically terminate, except for rights of action accruing prior to termination, payment obligations, and any obligations that expressly or by implication are intended to survive termination.

11. LIMITATION OF LIABILITY

- A. EXCEPT FOR CLAIMS RESULTING FROM A PARTY'S GROSS NEGLIGENCE, FRAUD, CRIMINAL CONDUCT OR WILLFUL MISCONDUCT, A VIOLATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS OR AS OTHERWISE SET FORTH IN THE APPLICABLE SCHEDULES, NEITHER PARTY WILL BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS CPA OR THE PRODUCTS OR SERVICES, OR FOR ANY OF THE FOLLOWING: (a) LOSS OF REVENUE, INCOME, PROFIT (IN EACH CASE, EXCEPT FOR CUSTOMER'S PAYMENT OBLIGATIONS), SAVINGS OR SHARE VALUE; (b) LOST OR CORRUPTED DATA OR SOFTWARE, LOSS OF USE OF A SYSTEM OR NETWORK, OR THE RECOVERY OF SUCH; (c) LOSS OF BUSINESS OPPORTUNITY; (d) BUSINESS INTERRUPTION OR DOWNTIME; (e) LOSS OF GOODWILL OR REPUTATION; OR (f) THE PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES.
- B. EXCEPT FOR CLAIMS RESULTING FROM THE A PARTY'S GROSS NEGLIGENCE, FRAUD, CRIMINAL CONDUCT OR WILLFUL MISCONDUCT, CUSTOMER'S BREACH OF ITS PAYMENT OBLIGATIONS, VIOLATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS OR OTHER RESTRICTIONS ON USE IN AN ORDER OR SOFTWARE AGREEMENT, OR AS OTHERWISE SET FORTH IN THE APPLICABLE SCHEDULES, EACH PARTY'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS, ACTIONS AND CAUSES OF ACTION RELATED TO ANY DISPUTE (AS DEFINED BELOW) SHALL BE LIMITED TO THE AMOUNTS PAID DURING THE 12 MONTH PERIOD PRECEDING THE DATE THAT THE DISPUTE FIRST AROSE, FOR (i) THE PRODUCT THAT IS THE SUBJECT OF THE DISPUTE OR (ii) THE SERVICES THAT ARE THE SUBJECT OF THE DISPUTE, IN EACH CASE EXCLUDING AMOUNTS RECEIVED AS REIMBURSEMENT OF EXPENSES OR PAYMENT OF TAXES.
- C. THESE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS APPLY TO ALL DISPUTES AND CLAIMS FOR DAMAGES, WHETHER BASED IN CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, TORT, STATUTE, EQUITY OR OTHERWISE. THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR DELL'S SALE OF PRODUCTS OR SERVICES TO CUSTOMER, AND WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES.

12. ADDITIONAL TERMS

- A. **Independent Contractor Relationship; Assignment; Subcontracting.** The parties are independent contractors. Neither party will have any rights, power or authority to act or create an express or implied obligation on behalf of the other party except as specified in this CPA. Neither party's employees, agents, nor consultants shall be considered under any circumstances to be employees of the other party. Dell has the right to assign, transfer, subcontract, or delegate in whole or in part this CPA, or any of its rights, duties, obligations or liabilities provided that if it delegates or subcontracts its duties in providing Services, Dell shall remain responsible for the performance of such Services under this CPA. Customer may not assign or transfer this CPA without Dell's permission, which shall not be unreasonably withheld.
- B. **Excused Performance.** Neither party shall be liable to the other for any failure or delay in performing its obligations due to circumstances beyond its reasonable control, provided that the other party is promptly notified in writing, and such party uses reasonable commercial efforts to resume performance. The failure of Dell, its affiliates or their subcontractors to perform their obligations under this CPA will be excused to the extent such non-performance is caused by the acts or omissions of Customer, its Affiliates, agents, contractors or other third parties. This Section shall not relieve either party of its obligations under this CPA (including payment), but rather will only excuse a delay in performance.
- C. **Personnel.** If Customer submits a written notice (with details of Customer's concerns) request to Dell to discontinue immediately or as of a certain date from using a particular individual or subcontractor (whether an individual or entity) to provide services under this CPA, Dell will work to quickly comply with the request and notify Customer of the steps to be taken to address the request; and, Customer understands and acknowledges that any change that may occur as a result of the request may have an impact on the timing and availability of the services and products that are impacted by any such change.

- D. **Excluded Data.** Customer acknowledges that Products and Services provided under this CPA are not designed to process, store or be used in connection with any of the following categories of data: (i) data that is classified and/or used on the U.S. Munitions list, including software and technical data; (ii) articles, services and related technical data designated as defense articles and defense services; (iii) ITAR (International Traffic in Arms Regulations) related data; and (iv) other personally identifiable information that is subject to heightened security requirements as a result of Customer's internal policies or practices or by law (collectively referred to as "**Excluded Data**"). Customer is solely responsible for reviewing data that will be provided to or accessed by Dell to ensure that it does not contain Excluded Data.
- E. **U.S. Government Restricted Rights.** The software and documentation provided with the Products and Services are "commercial items" as that term is defined at 48 C.F.R. 12.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end-users acquire the software and documentation with only those rights set forth herein. Contractor/manufacturer of Dell-branded Products is Dell, One Dell Way, Round Rock, Texas 78682.
- F. **Governing Law.** This CPA and any related SOW(s) and Software Agreements, and ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT AND EQUITABLE CLAIMS) BETWEEN CUSTOMER AND DELL, including their affiliates, contractors, and agents, and each of their respective employees, directors, and officers (a "**Dispute**") will be governed by the laws of the State of Tennessee, without regard to conflicts of law. The UN Convention for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply.
- G. **Venue.** The parties agree that any Dispute shall be brought exclusively in the state or federal courts located in the State of Tennessee. The parties agree to submit to the personal jurisdiction of such courts and waive any right to have any Dispute resolved in any other venue. If any party breaches this provision by filing in any other court, the breaching party will owe the non-breaching party all their attorneys' fees and costs incurred in response to that breach.
- H. **Limitation Period.** NEITHER PARTY SHALL BE LIABLE FOR ANY CLAIM OR DISPUTE FILED MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION FOR SUCH CLAIM FIRST AROSE.
- I. **Dispute Resolution.** Customer and Dell will attempt to resolve any Dispute through negotiation. If the parties are unable to reach a resolution within 30 days of notice of the Dispute to the other party, the parties may pursue all other courses of action available at law or in equity.
- J. **Attorneys' Fees.** In any Dispute, each party will bear its own attorneys' fees and costs.
- K. **Notices.** Notice to Dell under this CPA or any related Order must be in writing and sent by registered or certified mail (postage prepaid first-class mail and return receipt requested) by overnight delivery service or by electronic mail to the address below, to be effective upon receipt.
- Dell Marketing L.P., Attn: Contracts Manager
One Dell Way, Round Rock, Texas 78682
Dell_Legal_Notices@dell.com
- Wilson County Schools
Deputy Director of Schools
415 Harding Drive
Lebanon, TN 37087
- L. **Entire Agreement; Order of Precedence; Severability.** This CPA, including its Schedules, attachments and Orders, each of which is incorporated in this CPA for all purposes, constitutes the entire agreement between the parties concerning the subject matter of this CPA. There are no representations, understandings or agreements, written or oral, relative to this CPA that are not fully expressed in this CPA. In entering into this CPA, neither party is relying upon any representations or statements of the other that are not fully expressed in this CPA; rather each party is relying on its own judgment and due diligence and expressly disclaims reliance upon any representations or statements not expressly set forth in this CPA. In the event of a conflict or ambiguity between the terms of this CPA, a Schedule, or an Order, the terms will take precedence in the following order: the Order, the Schedule, and

this CPA. In the event of a conflict or ambiguity between the terms of this CPA, a Software Agreement, or an Order, the terms will take precedence in the following order: the Order, the Software Terms, and this CPA. Notwithstanding the foregoing, any preprinted terms on Customer's purchase order shall be of no force or effect. Modifications to this CPA will be made only through a written amendment signed by both parties. If any provision of this CPA, or any Schedule or SOW is found to be void or unenforceable, such provision will be stricken or modified, but only to the extent necessary to comply with the law, and the remainder of this CPA or the affected Schedule or SOW will remain in full force. No rights may arise by implication or estoppel, other than those expressly granted herein.

By their signatures below, Dell and Customer agree to the terms and conditions in this CPA:

Dell Marketing L.P. ("Dell")

By:

Amanda Elizabeth Hudson
Signature

Amanda E. Hudson

Printed Name

Contracts Manager

Position

March 28, 2019

Date

Wilson County Board of Education ("Customer")

By:

Donna L. Wright
Signature

Donna L. Wright

Printed Name

Director of Schools

Position

3-22-19

Date

By:

Larry Tomlinson
Signature

Larry Tomlin

Printed Name LARRY TOMLINSON

Chairman of the Board

Position

3/22/19

Date

Product Schedule to Customer Purchase Agreement

1. **General.** This Product Schedule ("Schedule"), in addition to the Customer Purchase Agreement ("CPA"), into which this is hereby incorporated, states the terms for Orders for Products and Hardware Services by Customer from Dell. Unless otherwise defined in this Schedule, capitalized terms herein shall have the meaning defined in the CPA.
2. **Prices.** The prices charged for Products purchased under this Schedule shall be the fixed price for Standard Configurations as specified in Exhibit A to this Schedule or as otherwise quoted by Dell. Additional charges will apply if Customer requests Hardware Services that are performed outside of contracted hours or are beyond the normal coverage for the particular Hardware Service.
3. **Shipping Charges; Title; Risk of Loss.** Shipping and handling charges are not included in Product prices unless expressly indicated at the time of sale. Title to Hardware passes from Dell to Customer upon shipment. Delivery of Software is FOB Origin. Loss or damage that occurs during shipping (including returns) is the responsibility of the party that selected the carrier. Shipping and delivery dates are estimates only. Customer must notify Dell within 5 days of the invoice date if Customer believes any part of its order is missing, wrong, or damaged.
4. **Hardware Returns, Exchanges and Repairs.** Customer agrees to Dell's return policy at Dell.com/returnspolicy. Before returning or exchanging Hardware, Customer must contact Dell to obtain an authorization number for the return. Customer must return Hardware in its original or equivalent packaging, and Customer is responsible for risk of loss and shipping and handling fees. Additional fees may apply. If Customer fails to follow the return or exchange instructions, Dell will not be responsible for any loss, damage, or modification of Hardware, or processing of Hardware for disposal or resale. Credit for partial returns may be less than invoice or individual component prices due to bundled or promotional pricing associated with Customer's purchase. Parts used in repairing or servicing Products may be new, equivalent-to-new, or reconditioned. Title to returned or exchanged Hardware shall pass to Dell upon receipt at the specified Dell facility.
5. **Cancellation of Order.** Customer may change or cancel an order for Dell-branded Products only up until the time Dell begins manufacturing the Products. Otherwise, Customer may change or cancel an order as set forth in the applicable Dell quote or as expressly agreed by both parties.
6. **Exclusions.** Hardware Services do not include preventive maintenance or repairs required due to (a) software problems; (b) alteration, adjustment, or repair of the Hardware by anyone other than Dell or Dell's representatives; (c) accident, misuse, or abuse of the system or component (such as fire, water leakage, use of incorrect line voltages or fuses, use of incompatible devices or accessories, improper or insufficient ventilation, or failure to follow operating instructions) that have not been caused by Dell; (d) moving of the system from one geographic location or entity to another; or (e) an act of nature.
7. **Suspension of Hardware Services.** Dell may suspend Hardware Services if Customer purchased the Hardware Services through a reseller and the agreement between Customer and such reseller expires or is terminated, or Customer's reseller is delinquent on its payment obligations to Dell due to nonpayment by Customer.
8. **Limited Warranty.** The limited warranties for Dell-branded hardware shall be as stated in the documentation provided with the hardware. If there is no such documentation, then the warranties shall be as stated at Dell.com/warrantyterms. Dell warrants that Hardware Services shall be performed in a good and workmanlike manner. Customer's exclusive remedy and Dell's sole obligation for any breach of any Hardware Services warranty shall be for Dell to re-perform the non-conforming Hardware Services.

Exhibit A to Product Schedule Special Pricing Structure for Fixed Configurations

Special Pricing. During the Special Pricing Period, the referenced/attached Dell Configurations will be available to Customer for Customer's direct purchases from Dell and only for Customer's own internal use at the stated prices (for purchases from and delivered within the United States). Customer may only use such purchased items for its' own internal business uses and the purchases may not be sold, transferred, leased, or otherwise provided to any other entity or individual. The stated prices are fixed prices for the specific Dell Configurations and may not be aggregated or combined with any other discounts for which Customer may be eligible. In addition, the pricing terms set out above only apply to the specific Dell Configurations and any modifications or other items will be quoted by Dell for acceptance by Customer or otherwise as agreed in writing by Customer and Dell.

The Dell Configurations may be revised as mutually agreed without amending the contract, via mutually agreed quotations through the online electronic ordering portal made available for use by Customer.

Quarterly Reviews and Product Transition. Dell's account team will meet with Customer on a quarterly basis to review pricing, as well as Customer's purchased volumes and purchase forecasts. If an above Dell Configuration reaches the end of its life cycle during the Special Pricing Term, Dell will continue to work with Customer to develop a plan for a smooth transition to a comparably configured (specifications and functionality at or above the overall system levels of the discontinued Dell Configuration). The prices for any future configurations offered to Customer are subject to change for: (i) any factor external to Dell that may have a material impact on Dell's business operations or supply chain (ii) in the event of structural or significant changes in the way Dell develops its list pricing; (iii) if key vendors to Dell significantly change their pricing structure to Dell; or (iv) if Customer breaches or otherwise materially fails to comply with its commitments under this Agreement. In the event of a pricing change (whether a reduction or an increase), the new pricing will apply only to future orders placed by the Customer, and the new pricing will be subject to acceptance and approval by Customer through orders through Customer's electronic ordering portal or by a formal amendment to this agreement.

Technology Changes. As technology changes rapidly in our industry, with new products and revisions coming in to the marketplace on a regular basis, Dell's policy is necessarily one of product update and revision. Dell may revise and discontinue products (including components thereto) at any time without notice. In the event a product is discontinued, Dell will provide a product of the same or greater functionality, providing the product is available as part of Dell's standard product listing. Should the original product be discontinued before the replacement product has reached price parity with the original product, Dell reserves the right to re-negotiate prices for the products.

Exhibit A to the Product Schedule
Special Pricing Structure for Catalog Offers

Discount Structure

For general purchases, Dell will provide the minimum discounts identified below for select offerings generally described in the below table. The discounts are based on Dell's then current retail pricing and Dell reserves the right to change the retail pricing (which would also change the discounted selling price) at any time to apply to future orders.

Discounts: Product classifications and Categories may be changed by Dell without notice.

Discount Category	Product Classification	Minimum Discount off Dell Retail Price
A	PowerEdge Departmental Servers, PowerApp Appliance Servers, PowerVault Storage Products, Precision Workstations, Selected Dell/EMC; Selected OptiPlex Desktops and Selected Latitude Notebooks, VxRail	11.5%
F	Toner; Third-Party Printers through Dell S&P	No discount
H	Value Latitude, OptiPlex , Workstation, Future Products to be Determined	5%
M	3rd Party Software & Peripherals – Mainstream Products	5%
O	Selected Service on PowerEdge Departmental Servers; Directline Service; 4-Hr On-Site Critical Care Plus, Business Care Plus-On-Site Service (all years)	13%
R	On-Site Service – NBD On-Site Service (Extended years), Critical Care On-Site Service (all years)	14.5%
S	Selected Promotional Offers; Inspiron; Selected Latitude, SC PowerEdge; Selected Dell/EMC Branded Peripherals/Imaging; Power Connect, Axim, Projector, Printer	2%
X	Software and Peripheral (S&P) Specific, Non-discountable Products	No discount
ZS	Non-Discountable Service	No discount

Dell's current published retail price list is available at <http://ftpbox.us.dell.com/slg/weekly/dellpricereport.pdf>

In the event customers purchasing products and services receive more advantageous pricing based on the customer's requested solutions or participate in special promotional offers (included those that provide additional discounted or specially priced and bundled options), the above discounts will not be applicable. The final customer-accepted Dell Quote or Dell procurement response will contain the applicable pricing and other details for the ordered individual offerings or for bundled offering configurations or special offers. Customer understands that the bundled offering or special promotional offerings may include other discounted or reduced cost or no additional cost products and services and the Customer may compare the bundled offering and any additional services to the line item pricing and minimum discounts to the Dell retail price list.

Services Schedule to Customer Purchase Agreement

1. **General.** This Services Schedule ("**Schedule**"), in addition to the Customer Purchase Agreement ("**CPA**"), into which this Schedule is hereby incorporated, states the terms for Orders for Professional Services under the CPA.
2. **Orders.** An Order for Professional Services may be (a) in the form of an SOW or other order form executed by the parties; (b) as agreed to by Customer via a Dell online ordering process; or (c) a Customer purchase order for those Professional Services described in Service Descriptions at Dell.com/servicecontracts/global as of the date Dell receives the purchase order. For orders described in the preceding subsection (c), the Service Descriptions shall be deemed incorporated into the Order and preprinted terms on the purchase order shall not apply.
3. **Charges.**
 - A. **Billing.** Professional Services shall be billed at the rates stated in the SOW, which shall either be (a) per-hour or per-eight hour day ("**Time and Materials**") or (b) a fixed price for the tasks to be performed and deliverables to be provided ("**Fixed Price**"). The hours or days stated in a Time and Materials Services SOW are a good faith estimate of the time required to perform the Professional Services described in the SOW, but not a commitment to complete them in that amount of time. However, Dell will only perform Professional Services beyond the contracted hours on the written authorization of Customer. Additional charges will apply if Customer requests Services that are performed outside of contracted hours or are beyond the normal coverage for the particular Service.
 - B. **Travel Expenses; Taxes.** Unless otherwise stated in an SOW, Customer shall (i) reimburse Dell for actual, reasonable travel-related and other out-of-pocket expenses incurred in connection with any Services and (ii) pay any applicable sales, use, or other taxes Dell is required to collect in connection with the Services, except that Dell shall be responsible for its franchise, property, and employment taxes and taxes based on its net income.
 - C. **Cost of Living Adjustment.** This Section 3.C shall apply to SOWs with a term longer than 1 year. Dell may adjust prices on any anniversary of the effective date of such an SOW if on such date the ECI (as defined below) is higher than it was on the immediately preceding anniversary date. The permitted price adjustment shall be calculated by multiplying the then-existing price(s) by a factor equal to the new ECI divided by the immediately preceding ECI, minus one. Each price adjustment shall remain in effect until the next permitted adjustment.

For purposes of this Schedule, "**ECI**" means the Employment Cost Index, Total Compensation, Not Seasonally Adjusted, Private Industry for Professional, Specialty and Technical Occupations published by the Bureau of Labor Statistics of the United States Department of Labor or, if such index ceases to be published, then another comparable measure agreed to by Dell and Customer.
4. **Warranty.** Dell warrants that the Professional Services shall be performed by qualified personnel in a workmanlike manner consistent with or superior to good practice in the US information technology services industry. Customer's exclusive remedy and Dell's sole obligation for any breach of foregoing warranty shall be for Dell to re-perform the non-conforming Professional Services at no charge or cancel the fees applicable to the non-conforming Services. All breaches of the warranty stated in this Section must be reported within 30 days of the performance of the Services.
5. **Suspension of Professional Services.** Dell may suspend Professional Services if Customer purchased the Professional Services through a reseller and the reseller is delinquent on its payment obligations to Dell due to nonpayment by Customer. If Professional Services is purchased through a reseller and the agreement between Customer and such reseller expires or is terminated prior to the end of a SOW, the terms between Customer and the reseller to which Dell is a third party beneficiary shall remain in force as between Dell and Customer.
6. **Intellectual Property.** During the course of providing Professional Services, Dell may create and provide to Customer items including, but not limited to documents, designs, computer code, know-how, and methodologies which are protected by the intellectual property law of the United States, Canada, or the location in which the Professional Services are being provided ("**IP**"). Subject to payment in full, Customer is hereby granted a perpetual, irrevocable (except for non-payment), non-transferable, non-sublicenseable license to use the IP and any pre-existing Dell intellectual property that may be provided to Customer as part of the Professional Services ("**Pre-existing Dell IP**") for non-commercial purposes to manage its and its Affiliates' internal business operations. Except as may otherwise be expressly stated in an SOW, Dell shall have sole and exclusive ownership of all IP, except (a) Customer shall retain all its rights in any Customer information or pre-existing intellectual property that may be contained in the IP and (b) Dell may not disclose or distribute the IP to any third party unless it first removes any such Customer information or intellectual property. Other than the license granted to Customer in this Section, Dell shall retain all rights and ownership in all Pre-existing Dell IP.



118 Vintage Park Blvd, W414, Houston, TX 77070
Phone: 832-479-8540

QUOTE

Number AAAQ11996

Date Nov 8, 2021

Bill To

Murfreesboro Police Department
Bill Terry
1004 North Highland Avenue
Murfreesboro, TN 37130

Phone 615.893.1311

Email wterry@murfreesborotn.gov

Account Manager



Darren Orsag
979-325-0523
DOrsag@waypointsolutions.com

Ship To

Murfreesboro Police Department
Bill Terry
1004 North Highland Avenue
Murfreesboro, TN 37130

Phone 615.893.1311

Email wterry@murfreesborotn.gov

Contract

Wilson County Schools SPA
51AHO

Notes:

Line	Qty	Description	Unit Price	Ext. Price
1	115	OptiPlex 3090 Micro XCTO 10th Generation Intel Core i5-10500T (6-Core, 12MB Cache, 2.3GHz to 3.8GHz, 35W) Windows 10 Pro (Includes Windows 11 Pro License) English, French, Spanish No Microsoft Office License Included - 30 day Trial Offer Only 8GB (1x8GB) DDR4 non ECC memory M.2 256GB PCIe NVMe Class 35 Solid State Drive Thermal Pad M2X3.5 Screw for SSD/DDPE No Additional Hard Drive OptiPlex 3090 Micro with 65W up to 87% efficient adapter, DAO 65 Watt A/C Adapter Power Cord CMS Software not included No Wireless LAN Card (no WiFi enablement) No Wireless Driver (no WiFi enablement) No Stand Option No Additional Cable Requested No PCIe add-in card No Additional Video Ports Dell Pro Wireless Keyboard and Mouse - KM5221W - English Mouse included with Keyboard No Cable Cover Not selected in this configuration SupportAssist Dell(TM) Digital Delivery Cirrus Client Dell Client System Update (Updates latest Dell Recommended BIOS, Drivers, Firmware and Apps) Waves Maxx Audio	\$907.91	\$104,409.65

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Line	Qty	Description	Unit Price	Ext. Price
		Dell SupportAssist OS Recovery Tool OS-Windows Media Not Included ENERGY STAR Qualified SERI Guide (ENG/FR/Multi) Quick Setup Guide 3090 MFF No UPC Label Trusted Platform Module (Discrete TPM Enabled) Ship Material for OptiPlex Micro Form Factor Shipping Label Regulatory Label 3090MFF, Mexico No CompuTrace Intel(R) Core(TM) i5 Processor Label Desktop BTO Standard shipment No Anti-Virus Software Dell Watchdog Timer No Out-of-Band Systems Management No Option Included No AutoPilot No External ODD No Optane EPEAT 2018 Registered (Gold) Custom Configuration Speaker for OptiPlex MFF Dell Limited Hardware Warranty Plus Service ProSupport Plus: Accidental Damage Service, 5 Years ProSupport Plus: Keep Your Hard Drive, 5 Years ProSupport Plus: Next Business Day Onsite, 5 Years ProSupport Plus: 7x24 Technical Support, 5 Years		
2	115	Dell 24 Monitor - E2422H, 60.47cm (23.8") Dell Limited Hardware Warranty Advanced Exchange Service, 3 Years	\$203.90	\$23,448.50
SubTotal				\$127,858.15
Tax				\$0.00
Shipping				\$0.00
Total				\$127,858.15

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118 Vintage Park Blvd, W414, Houston, TX 77070
Phone: 832-479-8540

QUOTE

Number AAAQ13081

Date Mar 23, 2022

Bill To

Murfreesboro Police Department
Bill Terry
1004 North Highland Avenue
Murfreesboro, TN 37130

Phone 615.893.1311

Email wterry@murfreesborotn.gov

Account Manager



Darren Orsag
979-325-0523
DOrsag@waypointsolutions.com

Ship To

Murfreesboro Police Department
Bill Terry
1004 North Highland Avenue
Murfreesboro, TN 37130

Phone 615.893.1311

Email wterry@murfreesborotn.gov

Contract

Wilson County Schools SPA
51AHO

Notes:

Line	Qty	Description	Unit Price	Ext. Price
For Vice Office Stack				
1	2	N3248P-ON, 48x1G, 4x10G SFP+, 2x100G QSFP28, PoE 30W, 1xAC PSU, IO/PS, OS6 ReadyRails, Full set, 2x outer and 2x inner rail, 2 or 4 post racks, for select Dell Networking 1U Dell EMC N3200 User guide Dell Hardware Limited Warranty 1 Year Lifetime Limited Hardware Warranty with Basic Hardware Service Next Business Day Parts Only on Your Network Switch ProSupport Plus Next Business Day Onsite Service After Problem Diagnosis, 5 Years ProSupport Plus 7x24 HW-SW Technical Support, 5 Years Thank you for choosing Dell ProSupport Plus. For tech support, visit //www.dell.com/contactdell Certified Deployment Partner T2 Dell Networking Cable, 100GbE QSFP28 to QSFP28, Passive Copper Direct Attach Cable, 0.5 Meter Power Supply, 1050W AC, Hot Swap, for N2224PX, N3224P, N3248P, MPS-1S Shelf, MPS-3S Shelf 2- Power Cord, 125V, 15A, 10 Feet, NEMA 5-15/C13	\$8,219.18	\$16,438.36
For PROD – New Core				
2	2	Dell EMC S5248F-ON Switch, 48x25GbE SFP28, 4x100GbE QSFP28, 2x100GbE QSFP-DD, IO to PSU, 2xPSU, OS10 VLT Tech Sheet Document Dell EMC S52XX-ON Series User Guide OS10 Enterprise, S5248F-ON Dell Hardware Limited Warranty 1 Year ProSupport Plus:Next Business Day Onsite Service After Problem	\$20,714.29	\$41,428.58

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Line	Qty	Description	Unit Price	Ext. Price
		Diagnosis, 1 Year ProSupport Plus:Next Business Day Onsite Service After Problem Diagnosis, 4 Years Extended ProSupport Plus:7x24 HW/SW Technical Support and Assistance, 5 Years Thank you for choosing Dell ProSupport Plus. For tech support, visit //www.dell.com/contactdell Dell Limited Hardware Warranty Extended Year(s) Info 3rd Party Software Warranty provided by Vendor Certified Deployment Partner T2 5 Years ProSupport Plus OS10 Enterprise Software Support-Maintenance Dell Networking Cable, 200GbE QSFP28-DD Passive Direct Attach Cable, No FEC, 0.5 Meter Power Cord, 125V, 15A, 10 Feet, NEMA 5-15/C13 Power Cord, 125V, 15A, 10 Feet, NEMA 5-15/C13		

11 Fire Stations + 5 Tower Sites

3	16	N3224P-ON, 24x1G RJ-45, 4x10G SFP+, 2x100G QSFP28, PoE 30W, 1xAC PSU, IO/PS, OS6 ReadyRails, Full set, 2x outer and 2x inner rail, 2 or 4 post racks, for select Dell Networking 1U Dell EMC N3200 User guide Dell Hardware Limited Warranty 1 Year Lifetime Limited Hardware Warranty with Basic Hardware Service Next Business Day Parts Only on Your Network Switch ProSupport Plus Next Business Day Onsite Service After Problem Diagnosis, 5 Years ProSupport Plus 7x24 HW-SW Technical Support, 5 Years Thank you for choosing Dell ProSupport Plus. For tech support, visit //www.dell.com/contactdell Certified Deployment Partner T2 Power Supply, 1050W AC, Hot Swap, for N2224PX, N3224P, N3248P, MPS-1S Shelf, MPS-3S Shelf 2- Power Cord, 125V, 15A, 10 Feet, NEMA 5-15/C13	\$6,491.71	\$103,867.36
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SubTotal	\$161,734.30
Tax	\$0.00
Shipping	\$0.00
Total	\$161,734.30

Please contact me if I can be of further assistance.

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COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Amendment to Radio System Maintenance Agreement

Department: Police

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

Agreement with Motorola to provide a Field Service Technician for administration and support of the digital radio system.

Staff Recommendation

Approve the amendment to the Radio System Maintenance agreement with Motorola.

Background Information

The City and Rutherford County entered into an inter-local agreement to build the radio system into a system which provides county-wide coverage. The size of the system is such where a full-time radio system manager is needed. The City and County have proposed to share the costs of a full-time technician to be on-site to provide support and day to day administration of the system.

With the proposed amendment, the Department can eliminate a vacant Radio System Manager position from the FY22 Public Safety IT budget and transfer that budget item to fund the contracted position. Future funding will be provided for within the department's operating budget Radio Maintenance line item.

Council Priorities Served

Maintain Public Safety

Consistent, high-quality radio systems are a critical part of effective public safety.

Fiscal Impact

The expense, \$71,400 annually, is funded by the Department's Operating Budget.

Attachments

1. Motorola Amendment - FSO Tech

AMENDMENT
to
Motorola SUA II Maintenance Purchase Agreement
Between
City of Murfreesboro ("Murfreesboro")
And
Motorola Services, Inc. ("Service Provider")
Effective Date _____

This Amendment to the SUA II and Maintenance Services Statement of Work dated _____ 2022 is entered into by and between the City of Murfreesboro ("Murfreesboro"), on the one hand, and Motorola Solutions, Inc. ("Service Provider"), on the other hand, and is hereby incorporated into and made a part of the ten (10) year SUA II and Maintenance contract (the "Agreement") referenced under 'SUAII and Maintenance Purchase Agreement', effective as of March 19, 2020 by and between Murfreesboro and Service Provider. This Amendment modifies the above referenced SOW between the Parties.

The Parties agree to incorporate 'Appendix A: Motorola Dedicated System Technician' into the 10 year Maintenance and SUA II contract USC000028415.

- Appendix A SOW and pricing schedule shown on page two (2) below at \$71,400.00 a year for a total of \$714,000.00 for ten (10) years

EXCEPT AS EXPRESSLY AMENDED BY THIS AMENDMENT , THE SOW REMAINS IN FULL FORCE AND EFFECT.

CITY OF MURFREESBORO

Motorola Solutions, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney

APPENDIX "A"

Motorola Dedicated System Technician for: City of Murfreesboro and Rutherford County, TN Statement of Work

The Statement of Work for the dedicated Motorola System Technician would include, but not be limited to the following responsibilities and activities,

1. Work in concert with the Motorola System Technicians as needed or as requested by Rutherford County and/or Murfreesboro and perform other duties related to the mission as assigned.
2. The activities of the FST will be scheduled by FST needs and requests, system performance issues, etc. Requests for specific services should be routed through the appropriate Murfreesboro or Rutherford County directors in charge of the P25 System for their respective agencies.
3. Working hours will be a standard 40-hour workweek. The dedicated FST will be available for after-hours service at the request of Murfreesboro / Rutherford County, per the rate structure provided. Up to 4 hours of overtime will be provided each month without additional cost to either agency. These 4 hours do not accumulate or carryover month to month. Motorola will also have an Authorized Service Partner (Nashville Communications) available for backup and weekends to respond to the Murfreesboro / Rutherford County P25 system.
4. Regularly evaluate technical issues that are identified via the Motorola System Support Center, Murfreesboro, Rutherford County, UEM manager terminal, and the SDM / Moscad alarm system so as to create appropriate action steps to resolution.
5. Respond to any system alarms throughout the day on any County/Citywide sites. Interrogate equipment to determine if equipment is operating to specifications. Work proactively to catch problems so that the end users are not affected, and reduce system downtime.
6. Perform daily troubleshooting and repair to all Murfreesboro / Rutherford County fixed network equipment. When a problem is recognized or reported, the Motorola System Technician is responsible for troubleshooting the problem to the defective board, module or part. Once this is done he will fix or replace the defective unit.
7. Will be the technical point of contact with the Motorola System Support Center (SSC) and Network Management Operations (NMO).
8. Will be the technical point of contact for third party vendors (Site buildings provided by Motorola, generators provided by Motorola, UPS units supplied by Motorola).
9. Order Field Replacement Units (FRU's) on the P25 System and Sites. If a bad board or module is found the Motorola System Technician will coordinate with the SSC to have a new unit shipped to the customer location and the bad unit shipped to the Motorola Depot for repair.
10. Will implement various hardware and software upgrades as provided through Motorola's Security Update Service and be involved in any Upgrade Operations requests.
11. Perform weekly, monthly, semi-annual, and annual PM's. The dedicated Motorola System Technician performs the preventative maintenance, and will be the technical leader for Radio Management system, and for the joint effort (Motorola and Rutherford County / Murfreesboro) system optimization.
12. The Field Service Organization (FSO) Technician will have access to Provisioning Manager (PM) and no changes shall be applied to PM without the FSO Technician's consent. Any change requests/additions needing PM access shall be the responsibility of the FSO Technician to perform.

City of Murfreesboro and Rutherford County Responsibilities

- The following price schedule is for your current contract - this resource will be split between the City and County, but support the Radio System as a whole. This person would also answer requests, equally, between the two agencies (ie City of Murfreesboro & Rutherford County) - they are as much an employee of yours as they are Motorola. The discount shown below is the reduction of onsite overhead from NashComm covered by the FSO on site.

[illegible]

COUNCIL COMMUNICATION

Meeting Date: 05/26/2022

Item Title: Purchase of MWRD Administration Building

Department: Murfreesboro Water Resources Department

Presented by: Darren Gore, Assistant City 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

Purchase of Administration Building for Murfreesboro Water Resources Department.

Staff Recommendation

Approve purchase agreement with Wendell Mandrell, Linda Mandrell, and Jeffrey Collins.

Purchase of building was approved at Planning Commission on 5/4/2022.

The Water Resources Board has been informed and has raised no objection.

Background Information

MWRD is in need of a new administration building. The Department's current building has served its useful life and remodeling for needed enhancements are cost prohibitive. Moreover, relocating MWRD administration offices allows for the area behind City Hall and abutting Broad Street to be redeveloped to the benefit of the community.

With the significant increase in the construction cost, the City has explored purchasing existing buildings suitable to its needs. A building that will serve MWRD's current and growing office requirements with some remodeling has been located on Robert Rose Drive. The proposed Purchase Agreement allows for a due diligence period during which the condition of the building will be carefully assessed.

Council Priorities Served

Responsible budgeting

Monitoring construction costs, which can be substantial, is an aspect of responsible budget, and consideration alternatives with construction costs are high is an additional means or prudently managing the City's budget.

Fiscal Impact

The expenditure, \$5,400,000, is funded by the MWRD Working Capital Reserves. An additional \$850,000 is earmarked for furniture, fixtures and equipment (FF&E).

Attachments

Contract for Purchase of Real Estate with Wendell Mandrell, Linda Mandrell, and Jeffrey Collins.

5/17/2022

CONTRACT FOR PURCHASE
OF REAL ESTATE

This contract ("Contract") is entered into, as of the date of the last party to sign (the "Contract Date"), by and between the CITY OF MURFREESBORO, a municipal corporation in Rutherford County in the State of Tennessee, on behalf of the Murfreesboro Water Resources Department ("City"), and Wendell O. Mandrell, Linda B. Mandrell, and Jeffrey D. Collins (together, "Seller"), for themselves, and their heirs, successors and assigns.

For good and valuable mutual considerations, the receipt and sufficiency of all of which are hereby irrevocably acknowledged and confirmed, City agrees to purchase from Seller and Seller agrees to sell to City that certain real property together with all improvements located in Rutherford County, Tennessee, being of Tax Map 92 Parcel 23.02 according to the Assessor of Real Estate for Rutherford County, containing approx. 2.27 acres, and commonly known as 316 Robert Rose Drive, Murfreesboro TN (the "Property"), upon the following terms and conditions:

1. The purchase price of \$5,400,000.00(the "Purchase Price") shall be payable in good funds by the City at the Closing. The purchase price includes land and buildings owned by seller. All furniture and furnishings, including window treatments and cubicles owned by the Tenant located at the Property are included in the Purchase Price, if seller can acquire them from the tenant.
2. Closing shall occur at the office of Rick Mansfield, Attorney, or at such other place as to which the Parties may agree, not later than 20 days after the expiration of the Due Diligence period. At the closing:
 - a. Seller shall deliver a Special Warranty Deed to the Property in form and Substance acceptable to the City along with possession of the property.
 - b. Seller shall provide, at its cost, a Title Commitment from a Title Company of City's choosing, assuring good, sufficient and marketable title to the property subject only such Exceptions as have been accepted in writing by the City.
 - c. Seller shall pay the cost of preparing and obtaining any releases or other documents necessary for Seller to be able to provide good title.

5/17/2022

- d. Taxes for the year of sale shall be prorated to the Closing Date; Seller shall be solely responsible for any roll-back taxes.
- e. The City shall deliver good funds representing the balance of the purchase price as same may be adjusted by any closing items.
- f. The City shall pay the cost of preparing and recording the Special Warranty Deed as well as pay for the costs of the transfer taxes.
- g. The Seller shall pay from the Seller's proceeds a real estate commission equal to 1.5% of the purchase price to Charles Hawkins Co.

The Seller shall pay from the Seller's proceeds a real estate commission equal to 1.5% of the purchase price to Shelby Hutton, Parks Real Estate.
- h. Other Closing costs will be paid in accord with usual commercial real estate practices in Rutherford County. City shall pay all costs related to its inspection of the property such as a survey and environmental reports.
- i. Each party will deliver such other documents or certificates as may be necessary to effectuate the transaction.
- j. Each party will pay one-half (1/2) of the fees and costs due Title Company for its services.
- k. Seller shall deliver a Bill of Sale covering the items of furniture and furnishings that the Seller is able to convey with the Property, if the Seller is able to acquire said items from the Tenant.

3. The City shall have ninety (90) days after the date of the last party to sign to conduct Due Diligence with respect to the Property (the "Due Diligence Period"); any extension shall require the consent of Seller. Due Diligence shall include but shall not necessarily be limited to the following:

a. Within ten (10) days after the date of the last party to sign, City will order a Title Commitment from Title Company, along with copies of all documents that appear as exceptions or encumbrances ("Exceptions") to or upon the title. City shall have twenty (20) days after receipt of the Title Binder to object to any of the Exceptions. If the City objects to any such Exception, and if Seller cannot or elects not to cure same, the City may, at its sole option, terminate this Contract at which time the Earnest Money shall be refunded to the City and the parties shall have no further obligation to each other.

5/17/2022

4. In the event that the City discovers conditions or circumstances during the course of its due diligence which are unacceptable to the City ("Objections"), the City shall promptly notify Seller in writing. If the City gives notice of an objection, and if Seller cannot or elects not to cure same, the City may, at its sole option, terminate this Contract within the Due Diligence Period.

5. Seller represents that, to the best to its knowledge, information, and belief, there are and have been no hazardous substances, including without limitation, any solid, liquid, gaseous, or thermal irritant or contaminant, such as smoke, vapor, soot, fumes, alkalis, acids, chemicals or wastes, stored, discharged or leased, generated or allowed to escape from the property; nor are there underground storage tanks located on the property; nor are polychlorinated biphenyls located on or in the property; and there are no investigation, administrative orders, consent orders and agreements, litigation or settlements with respect the Property.

6. The Closing is contingent upon the following:

- a. The City, in its sole discretion, being satisfied that Seller can convey title to Property at the Closing that is satisfactory to the City;
- b. The City, in its sole discretion, being satisfied that the Property is suitable for use by the City for its intended purpose;
- c. All representations of Seller being true and accurate at the time of the Closing.

7. In the event of default by either party, the non-defaulting party shall have all rights and remedies permitted or allowed under the law and in equity.

8. Any notice permitted or required by this Contract shall be in writing and shall be deemed to have received upon the date of actual delivery if delivered in person or by reputable overnight delivery service; or upon the date of delivery if delivered by U.S. Certified Mail.

a. Notices to the City shall be delivered to:

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

With a copy to:

5/17/2022

Darren Gore, Assistant City Manager
111 West Vine Street, Murfreesboro TN 37130
Email: dgore@murfreesborotn.gov

And a copy to:

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

And a copy to:

Shelby Hunton
Parks Real Estate
1535 W. Northfield Boulevard
Murfreesboro TN 37129
Email: shelbyhunton@yahoo.com

b. Notices to Seller shall be delivered to:

Wendell O. and Linda B. Mandrell
2728 Hatteras Court
Murfreesboro TN 37____
Email:

Jeffrey D. Collins
323-B Victor Reiter Pkwy
Portland, TN 37148
Jfcollins58@bellsouth.net

With a copy to:

Paul Myers
Charles Hawkins
760 Melrose Avenue
Nashville TN 37211
Email: pmyers@charleshawkinsco.com

9. City and Seller both represent and warrant that neither has retained any broker or other agent who will have a claim for a commission or other fee with respect to this transaction other than the Broker(s) identified in Sec. 2.g, above. City and Seller shall indemnify each other from and against claims by or on behalf of any other person or entity claiming a commission or other fee through them with respect to this transaction.

5/17/2022

10. **EXCEPT AS TO THE REPRESENTATION OF SELLER CONTAINED IN SECTION 5 OF THIS CONTRACT, CITY ACKNOWLEDGES THAT IT IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER BY SELLER OR ANY AGENT OR EMPLOYEE THEREOF REGARDING THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ITS PHYSICAL CONDITION, ITS SUITABILITY FOR ANY PARTICULAR PURPOSE, ITS COMPLIANCE WITH LAWS, INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LAWS, OR THE PRESENCE OR ABSENCE OF CHEMICALS, TOXIC OR HAZARDOUS SUBSTANCES, MATERIALS OR WASTES THEREUPON, AND SELLER EXPRESSLY DISCLAIMS ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, EXCEPT FOR THE WARRANTY OF TITLE TO BE CONTAINED IN THE DEED TO BE DELIVERED AT THE CLOSING. CITY SHALL ACCEPT THE PROPERTY IN ITS "AS IS", "WHERE IS", "WITH ALL FAULTS" CONDITION, AND SELLER HEREBY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXPRESS OR IMPLIED.**

11. City understands that a portion of the Property is currently under lease which Seller shall be responsible for terminating prior to Closing. If the Seller is unable to terminate the lease prior to Closing, the City shall have the right to terminate this agreement and have the Earnest Money refunded.

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

13. This Contract and Lease shall in all things be governed by the laws of the State of Tennessee; venue for any dispute between the parties shall be in the Circuit Courts of Rutherford County, Tennessee.

14. **THIS CONTRACT AND LEASE SHALL BE OF NO FORCE OR EFFECT UNTIL APPROVED BY THE MURFREESBORO CITY COUNCIL.**

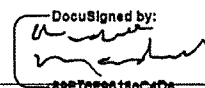
IN WITNESS WHEREOF, City and Seller have set forth their hands and seals below.

CITY OF MURFREESBORO

By: Shane McFarland, Mayor

Date: _____

SELLER

DocuSigned by:


Wendell O. Mandrell

Date: 5/17/2022

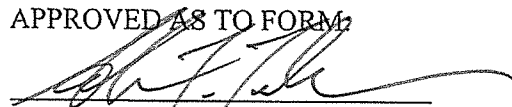
5/17/2022

ATTEST:

By: Jennifer Brown, City Recorder

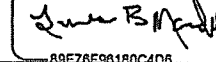
Date: _____

APPROVED AS TO FORM:


By: Adam F. Tucker, City Attorney

Date: 5/25/2022

DocuSigned by:


89E7AE08180C4D8

Linda B. Mandrell

Date: 5/17/2022

Jeffrey D. Collins DocuSigned by:


D75A13A2E6A54B7

Date: _____
05/17/2022

APPROVED BY PLANNING COMMISSION: May 4, 2022.

APPROVED BY CITY COUNCIL: _____