

MURFREESBORO CITY COUNCIL
Regular Meeting Agenda
Council Chambers – 6:00 PM
April 20, 2023

PRAYER

PLEDGE OF ALLEGIANCE

Consent Agenda

1. Investment Advisory & Consulting Agreement (Administration)
2. Lease for Wee Care Day Care (Administration)
3. Affordable Housing Program Legacy Pointe Development (Community Development)
4. FY23 City Manager Approved Budget Amendments (Finance)
5. Purchase of Simunition Protection Equipment (Police)
6. Asphalt and Concrete Purchase Report (Street)
7. Main Street Banner Request (Street)

Old Business

Ordinance

8. Ordinance 23-O-14 FY23 Budget Amendment Ordinance (2nd and Final Reading) (Administration)
9. Ordinance 23-O-13 Development Impact Fees (2nd and Final Reading) (Administration)
10. Ordinance 23-O-12 Conditions for Water and Sewer Service for Property Outside City Limits (2nd and Final Reading) (Water Resources)

Land Use Matters

11. Ordinance 23-OZ-07 Rezoning property along Agripark Drive (2nd and Final Reading) (Planning)

New Business

Resolution

12. Resolution 23-R-09 Budget Amendment #7 Additional Federal Awards (Schools)

On Motion

13. Contract for Ceiling Renovations at Mitchell-Nielson (Facilities)
14. Bulk Purchase of Petroleum Products (Fleet)
15. Approval of Pre-Emption Project Contract (MFRD)
16. Amendment No. 1 to Purchasing Agreement with Axon (Police)
17. Purchase of Public Safety Software Services (Police)
18. Purchase of Radio Equipment from Motorola (Police)

19. Professional Services Contract for Replacement of HVAC at Hobgood and Reeves-Rogers (Schools)
20. Old Fort Pkwy/Franklin Rd (SR-96) Resurfacing Contract with TDOT Amendment No. 1 (Transportation)

Board & Commission Appointments

Licensing

Payment of Statements

Other Business

Adjourn

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Investment Advisory & Consulting Agreement

Department: Administration

Presented by: Erin Tucker, Budget 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

Investment Advisory and Consulting agreement with Fiducient Advisors, formerly Chartwell Consulting

Staff Recommendation

Approve agreement with Fiducient Advisors LLC, formerly Chartwell Consulting

Background Information

The Pension Plan's current investment advisor, Chartwell Consulting, has merged operations with Fiducient Advisors. The same staff, fee schedule and services will be provided to the Pension Plan, the only notable difference being the name change.

Advisory fees range from 0.15% points on the first \$100m in assets with an additional 0.075% on the next \$100m in assets and 0.04% on any assets exceeding \$200m.

Council Priorities Served

Responsible budgeting

Utilizing an investment advisory firm provides the City with the expertise necessary to protect and maximize the City's Pension Plan assets.

Fiscal Impact

No general fund impact. Investment advisor fees are paid from Pension Plan assets based on actual asset values.

Attachments

1. Fiducient Advisors LLC Investment Advisory and Consulting Agreement
2. Fiducient Advisors LLC Disclosure Brochure

INVESTMENT ADVISORY AND CONSULTING AGREEMENT

City of Murfreesboro (the "Plan")

On behalf of and in its capacity as the responsible plan fiduciary of the Plan referenced above, subject to the terms and conditions hereinafter set forth in this agreement ("Agreement"), the undersigned employer or other sponsor ("Plan Sponsor") of the Plan, or if applicable its Plan Committee (in either case, such party in its fiduciary capacity being referred to as "Client"), hereby retains Fiducient Advisors LLC, an Illinois limited liability company with its principal office at 500 W. Madison, Suite 1700, Chicago, IL 60661 ("Adviser") to provide the services set forth in this Agreement for and on behalf of the Plan. With respect to those rights and obligations specifically belonging to Plan Sponsor under Section 6 (fees and costs) and Sections 10 and 13 (indemnification), Plan Sponsor enters into this Agreement for and on its own behalf and not in a fiduciary capacity on behalf of the Plan. Each of Client, Adviser and Plan Sponsor (acting on its own behalf) are referred to as a "Party," and collectively as the "Parties."

This Agreement is executed as of the date set forth in the Signature Page below with an effective date of March 2, 2023 ("Effective Date").

1. Services of Adviser

During the term of this Agreement, Adviser shall provide the services described in Appendix I, subject to the selections made in Section 15, and the limitations set forth in Section 2 immediately following (collectively, the "Services"). The Services shall include the provision of investment advice (either non-discretionary or discretionary, as selected in Section 15(a)) with respect to certain investments of the Plan (the "Investments"), and the other services described in Appendix I.

In performing certain of the Services, Adviser will be a "fiduciary" to the Plan, as such term is defined under Section 3(21) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), including regulations and other rulemaking issued by the U.S. Department of Labor (the "DOL"). However, and notwithstanding any other provision herein, this Agreement shall not be construed as providing that:

- (a) Adviser is subject to any requirement set forth in ERISA or DOL regulations if the Plan is not subject to ERISA; or
- (b) Adviser is a fiduciary to the Plan pursuant to ERISA, or the Investment Advisers Act of 1940 (the "Advisers Act"), with respect to the performance of any Services that are not fiduciary in nature under ERISA, or the Advisers Act, respectively.

2. Limitations on Services; Excluded Assets

Under the terms of this Agreement, under no circumstances whatsoever shall Adviser provide, or have any responsibility or authority to provide:

- (a) legal, accounting, tax, audit, recordkeeping, or actuarial services of any kind;
- (b) physical custody of any securities or other investments, assets, or property of the Plan whatsoever;
- (c) services as the Plan's administrator or trustee, or services otherwise involving the exercise of any discretionary authority, responsibility, or control with respect to the Plan's administration or management;
- (d) with the exception of reporting and other ministerial (non-fiduciary) support functions that Adviser agrees to

- furnish, any services with respect to employer stock held by (or potentially held by) the Plan. If applicable, Client (or another third-party fiduciary), and not Adviser, shall at all times retain the sole discretion to determine whether the Plan shall purchase, hold, or sell any employer stock; or
- (e) with the exception of reporting and other ministerial (non-fiduciary) support functions that Adviser agrees to furnish, any services with respect to direct or contractual interests in land or other real property, operating companies, personal property, equipment, intellectual property, loans, precious metals, art, collectibles, insurance policies or other assets that do not constitute securities or investment funds (together, “Non-Investment Assets”). Client (or another third-party fiduciary), and not Adviser, shall at all times retain the sole discretion to determine whether the Plan shall purchase, hold, or sell any Non-Investment Assets. For the avoidance of doubt, “alternative” investment funds such as real asset funds, private real estate funds, commodity pools, private equity and hedge funds, REITs and collective investment trust (CIT) funds of the type held by tax-qualified retirement plans that fall within, or are appropriate in light of, the Plan’s investment policy shall not be treated as Non-Investment Assets or Excluded Assets, as defined below.

In addition to the “Excluded Assets” described in subsections (d) and (e) above, other Excluded Assets that the Client will (or may) purchase, hold or sell on behalf of the Plan, if any, shall be identified by Client in Section 15(b). Likewise, any asset(s) purchased or acquired by the Plan which is not identified or known to Adviser is an Excluded Asset until such time as Adviser learns of, and agrees to provide Services with respect to, such asset(s). The Investments with respect to which Adviser shall provide investment advisory services (non-discretionary or discretionary, as selected in Section 15(a)) shall in no case shall include any Excluded Assets.

3. Certain Responsibilities of Client

Client agrees to promptly furnish Adviser with a copy of the applicable plan and/or trust documents, the investment guidelines applicable, including a list of any investment limitations or restrictions, a list of parties-in-interest and any other factors that may under ERISA or other applicable law (collectively, “Applicable Law”), give rise to additional restrictions as to the Investments that may be purchased by, or held by, the Plan (and which would therefore need to be reflected in the Plan’s investment policy).

Client further agrees to provide or cause its (i.e., the Plan’s) accountant(s), trustee(s), recordkeeper(s), TPA(s), legal adviser(s) or other professional advisors to provide information regarding income, investment performance, trade and trade execution details, and other pertinent matters as requested by Adviser from time to time. To the fullest extent permissible under Applicable Law, Adviser may rely upon conclusively, and shall have no duty to independently verify, information obtained from Client or Client’s (or Plan’s) professional advisors or other service providers. Client also agrees to inform Adviser, in writing, of any material change in any circumstances, needs or goals which might reasonably be expected to affect the Investments that may be purchased by, or held by, the Plan (and which would therefore need to be reflected in the Plan’s investment policy).

Client shall be responsible for selecting a “Qualified Custodian” under Rule 206(4)-2 of the Advisers Act for the Plan.

Unless the Plan is not subject to part 4 of Title I of ERISA, Client agrees to take all necessary actions to ensure that all reporting and disclosure requirements set forth under ERISA are satisfied in full.

4. Confidentiality

All information and advice furnished by any Party to another, including their agents, affiliates, and employees, will be treated as confidential and not disclosed to third parties except as agreed upon in writing or required by law. Notwithstanding the generality of the previous sentence, Adviser may share certain information for business purposes as described in Adviser’s Privacy Policy (as amended from time to time, a copy of which has been furnished to Client, and which is available on Adviser’s website), and any Party may make reasonable disclosure of confidential information to its own legal adviser(s), auditor(s) and similar professionals, as well as the recordkeeper and other professionals providing services to the Plan, provided that such professionals agree in each case to maintain the confidentiality of the same. Likewise, Client may identify the Plan’s attorney(s), accountant(s) and/or other professional advisors to whom Client authorizes Adviser to share information about the Plan’s investments and accounts (each, a “Contact”), in the attached Appendix II. Adviser may rely conclusively upon its authorization to share information with any Contact(s) identified by Client in Appendix II, until otherwise instructed by Client in writing.

5. Basis of Advice

Client, on behalf of the Plan, its participants, and their beneficiaries (“Participants”) acknowledges that Adviser obtains information from a wide variety of publicly available sources and/or certain private sources. The advice (whether non-discretionary or discretionary) provided by Adviser for the Plan is based upon Adviser’s analysis of such information, and Adviser cannot guarantee the accuracy or validity of the data upon which its analysis, policy recommendations, or studies are based.

6. Adviser’s Fees; Other Costs

- (a) As consideration for its Services under this Agreement, Adviser shall be entitled to receive the fees described in Section 15(d) (“Fees”), according to the terms described therein. All of Adviser’s fees are due upon receipt of the invoice by the Client.
- (b) Adviser’s Fees shall generally be paid by the Plan; provided however that Adviser’s Fees must be paid by Plan Sponsor to the extent that (i) it would be impermissible under the Plan’s governing documents and/or ERISA (or other Applicable Law) to pay Adviser’s Fees from Plan assets, as determined by Client; or (ii) Adviser’s Fees remain unpaid by the Plan sixty (60) days following the first date upon which they were first due and payable. Notwithstanding the generality of the previous sentence, this Agreement shall not be construed as prohibiting the payment of Adviser’s Fees by Plan Sponsor in any case, and Plan Sponsor may choose to do so. In all cases, Client shall be responsible for ensuring that any payment of Adviser’s Fees or other costs directly or indirectly from the assets of the Plan is permissible in all respects under the Plan’s governing documents and ERISA (or other Applicable Law).
- (c) In addition to Adviser’s Fees, the Plan (or Plan Sponsor, if it so chooses) is solely responsible for paying all investment management, investment advisory or other fees, transaction charges and other costs imposed by third-party portfolio managers or sub-advisers, brokers, custodians, mutual funds and other investment funds or products, and other investments of the Plan (together, “Other Costs”). By executing this Agreement, Client affirms its understanding that the Plan or the Plan Sponsor (and not Adviser) is responsible for paying all Other Costs, which apply in addition to, not in lieu of, Adviser’s Fees.

7. Additional Representations and Warranties

Client hereby represents and warrants that:

- (a) On behalf of the Plan, Client shall select a Qualified Custodian of Client’s own choosing. Client shall enter into arrangements with the Custodian for the Custodian to send Client (on no less than a quarterly basis) reports showing all receipts and disbursements from the Plan’s custodial account(s), which statements shall reflect the amount of Adviser’s Fees deducted from the account(s), all trades, the securities held in the custodial account(s) at the close of the period and the ending value of the custodial account(s). Client should review all statements for accuracy.
- (b) Client understands and acknowledges that Adviser is not responsible for the accuracy of any information disclosed in any report provided to the Adviser or the Client by any third party (including but not limited to any custodian, investment fund or third party investment manager) regarding any custodial account(s) or investment(s) of the Plan.
- (c) Client will reasonably cooperate with Adviser and any of its employees or agents on all matters relating to the Services for the Plan.
- (d) Client will provide, in a timely manner, accurate and complete information as Adviser may reasonably request in order to carry out the Services for the Plan.
- (e) Client understands that Adviser’s obligation is to perform only those Services reflected in Appendix I, which is incorporated fully by reference and constitutes an integral part of this Agreement, subject to all other terms, limitations and conditions set forth in this Agreement.

- (f) Client understands that past performance may not be indicative of future results and there is a risk of loss. Different types of investments involve varying degrees of risk, and there can be no assurance that the future performance of any specific investment, investment strategy, or product (including the Investments recommended or selected by Adviser - as the case may be - for the Plan), will be profitable, equal any corresponding indicated historical performance level(s), or prove successful. Client acknowledges that investment losses can and will occur.
- (g) Client understands that Adviser will be using and relying on information furnished to Adviser by Client. Adviser will rely solely on such information in assisting with the development of the Plan's investment policy and providing the other Services under this Agreement without assuming any responsibility for independent investigation or verification of such information. Adviser assumes no responsibility for the accuracy or completeness of such information or any other information regarding the Plan or otherwise provided by Client, all of which will be the sole responsibility of Client.

Adviser hereby represents and warrants that:

- (a) Adviser is a registered investment adviser under the Advisers Act.
- (b) Adviser qualifies to act as a "qualified professional asset manager" (QPAM) within the meaning of DOL Prohibited Transaction Class Exemption 84-14.
- (c) Adviser will carry out the Services as an independent contractor of Client and the Plan; Adviser shall be responsible for all Adviser's employees and contractors, including the payment of their compensation and any required withholdings, if applicable. No such individual shall be deemed an employee of Client or Plan Sponsor solely due to his or her provision of services on behalf of Adviser.

8. Term; Termination

This Agreement will commence on the Effective Date, and continue in force until terminated.

Each of Client and Adviser may terminate this Agreement at any time effective upon sixty (60) days' prior written notice to the other. The Plan (or Plan Sponsor, under the circumstances described in Section 6(b)) will be responsible for all Fees relating to Services performed by Adviser prior to the effective date of such termination, and any prorated (post-termination) portion of the Fees will be refunded.

Termination notices should be sent to the following addresses:

ADVISER

Fiducient Advisors, LLC
Attention: Compliance Department
500 W. Madison Street, Suite 1700
Chicago, IL 60661
Email: compliance@fiducient.com

CLIENT

City of Murfreesboro
Attention: Craig Tindall
111 West Vine Street
Murfreesboro, TN 37130-3573
Email: ctindall@murfreesborotn.gov

9. Required Disclosures - ERISA Section 408(b)(2); Advisers Act

- (a) Adviser is an investment adviser registered with the Securities and Exchange Commission under the Advisers Act.
- (b) Adviser will provide those Services that constitute investment advisory services (either non-discretionary or discretionary, as selected in Section 15(a)) as a "fiduciary" to the Plan, within the meaning of ERISA Section 3(21).
- (c) Adviser will perform such additional Services for the Plan as are described in Appendix I.
- (d) Except as otherwise noted in subsections (e), (f) and/or (g) below, Adviser's compensation for its Services shall consist solely of the Fees described in Sections 6(a) and 15(d), which shall be paid directly by the Plan (or Plan Sponsor, under

the circumstances described in Section 6(b)).

- (e) On occasion, any individual employee, officer or partner of Adviser may receive meals, entertainment, complimentary attendance at events, small gifts or tokens (valued at less than \$250 per year, and which shall not include cash or any cash equivalents) from investment product sponsors or other third parties whose products or services may be used (or potentially used) for the Plan. Such gifts and amenities are not based on any specific service relationship with a particular client of Adviser, including Client or the Plan.
- (f) Except as described under subsection (e) immediately preceding, Adviser (together with its affiliates and subcontractors, if any) shall not receive any "indirect compensation" (as defined in DOL regulations under ERISA Section 408(b)(2)) from parties other than the Plan or Plan Sponsor, in connection with the Services, unless otherwise disclosed in Adviser's ADV.
- (g) As defined in DOL regulations under ERISA Section 408(b)(2), Adviser (together with its affiliates and subcontractors, if any) shall not receive or pay among them any "compensation paid among related parties" that is transaction-based or charged against (or reflected in the value of) the Plan's investments, in connection with the Services, unless otherwise disclosed in Adviser's ADV.
- (h) In connection with the termination of this Agreement, Adviser shall not receive any special compensation, but rather shall be entitled to receive only those unpaid Fees described in Section 8 for Services previously furnished.
- (i) If any of the representations set forth in subsections (a) through (h) above should cease to be true during the term of this Agreement, Adviser shall furnish Client with updated disclosures according the timing and other requirements set forth in DOL regulations under ERISA Section 408(b)(2).
- (j) Adviser has delivered to Client Adviser's Privacy Policy, Parts 2A and 2B of Adviser's Form ADV. Client acknowledges receipt of such material.

10. Electronic Delivery and Signatures; Cybersecurity

By signing this Agreement, Client authorizes Adviser to deliver, and Client agrees to accept, all required regulatory notices and disclosures via electronic mail and/or via the Adviser's portal, as well as all other correspondence from Adviser. Adviser shall have completed all delivery requirements upon the forwarding of such document, disclosure, notice and/or correspondence to Client's last provided e-mail address (or upon advising Client via email that such document is available on the portal). It is Client's obligation to notify Adviser, in writing, of any changes to Client's email address. Until so notified, Adviser shall rely on the last provided e-mail address. Client acknowledges that Client has the ongoing ability to receive and open standard electronic mail and corresponding electronic documents. If, at any time, Client's electronic delivery situation changes, or Client is unable to open a specific document, Client agrees to immediately notify Adviser so that the specific issue can be addressed and resolved.

Client (and Plan Sponsor, on its own behalf) likewise agree that any Party can execute this Agreement, and any future agreements, additions or amendments thereto, by computer or other electronic device, including internet, telephonic and wireless devices. Client (and Plan Sponsor) agree that by clicking on an "Agree," "Execute," "Finish," "Sign," "Submit Application," or other similarly worded button or entry field with a mouse, keystroke or other device, this Agreement, and any future agreements, additions or amendments thereto will be legally binding and enforceable and will be the legal equivalent of a handwritten signature on an agreement that is printed on paper.

Adviser shall exercise commercially reasonable efforts to confirm that any subcontractors and third-party service providers engaged by Adviser have implemented appropriate cybersecurity measures. Nonetheless, by signing this Agreement, Client (and Plan Sponsor, on its own behalf) each acknowledge and affirm that Adviser cannot guarantee the efficacy of such measures, over which Adviser has no direct control

11. Assignment

This Agreement may not be assigned (within the meaning of the Advisers Act) by any Party without the prior consent of the

other Party(ies). Client, on behalf of the Plan, acknowledges and agrees that transactions that do not result in a change of actual control or management will not be considered an assignment pursuant to Rule 202(a)(1)-1 under the Advisers Act. Client, on behalf of the Plan, further acknowledges and agrees that if there is a pending assignment of this Agreement (within the meaning of Advisers Act), Client will be provided with written notice of such event. If Client does not object to such assignment in writing within 60 days, it will be assumed the Client has consented to the assignment, and Services will continue to be provided for the benefit of the Plan under the terms and conditions of this Agreement.

12. Governing Law; Disputes

Except to extent preempted by federal law, the validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the Parties hereunder, will be governed by the laws of the State of Tennessee (without regard to choice of laws principles).

Any action or proceeding arising out of, under, or in connection with this Agreement will be brought and determined only in the appropriate federal or state courts in the State of Tennessee. The Parties hereby irrevocably and unconditionally submit to the personal jurisdiction of such courts and agree to take any and all future action necessary to submit to the jurisdiction of such courts in any such suit, action or proceeding arising out of or relating to this Agreement.

Client and Adviser acknowledge and agree that the venue for any such proceeding shall be the City of Nashville, State of Tennessee, or such other location in Davidson County, Tennessee.

13. Indemnification

By signing this Agreement, to the fullest extent permissible under ERISA or other Applicable Law, Plan Sponsor agrees to indemnify and hold harmless Adviser and its affiliates and each of their respective managers, members, officers, directors, employees, agents, and representatives, from and against any civil penalties, losses, liabilities, claims, deficiencies, damages, expenses, and causes of action of any type (including, without limitation and regardless of whether incurred in connection with defending against or investigating a possible loss or otherwise, the reasonable fees and expenses of attorneys, accountants and experts ("Losses")), which result from or arise out of any:

- (i) act or omission constituting gross negligence, bad faith, willful misconduct, violation of Applicable Law or breach of fiduciary duty (i.e., under ERISA Section 404 or other Applicable Law) by Client (or Plan Sponsor) or its (their) officers, directors, employees, agents, or representatives;
- (ii) instructions provided to Adviser, or any inaccurate, incomplete, or untimely data provided to Adviser by Client or its officers, directors, employees, agents, or representatives, or the Plan's custodian or other data providers;
- (iii) breach of Client's responsibilities under this Agreement (including in particular those set forth in Sections 3 and 4); or
- (iv) breach of Client's representations and warranties under this Agreement (including in particular those set forth in Section 7).

By signing this Agreement, to the fullest extent permissible under ERISA or other Applicable Law, Adviser agrees to indemnify and hold harmless Client (and Plan Sponsor) and its (their) affiliates and each of their respective officers, directors, employees, agents, and representatives, from and against any Losses which result from or arise out of any:

- (i) act or omission constituting gross negligence, bad faith, willful misconduct, violation of Applicable Law or breach of fiduciary duty by Adviser or its managers, members, officers, directors, employees, agents, or representatives;
- (ii) breach of Adviser's responsibilities under this Agreement, provided that with respect to Services that are non-fiduciary in nature, Adviser shall not be deemed for any purpose whatsoever under this Agreement

- to have breached its responsibilities so long as Adviser exercised reasonable care in the carrying out of such Services; or
- (iii) breach of Adviser's representations and warranties under this Agreement (including in particular those set forth in Section 7).

Notwithstanding anything in this Agreement to the contrary, no provision of this Agreement shall be construed so as to provide for the indemnification or exculpation of any Party for any liability (including liability under U.S. federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith) to the extent (but only to the extent) that such indemnification or exculpation would be in violation of Applicable Law, but will instead be construed so as to effectuate such provision to the fullest extent permitted by law.

Likewise, this Agreement shall be construed in the broadest manner possible that is consistent with the limitations set forth in ERISA Section 410 and DOL regulations issued thereunder. In particular, the Parties acknowledge and agree that no indemnification for a fiduciary's breach or violation of part 4, Title I of ERISA by the Plan itself (i.e., from the Plan's assets) is permissible or intended.

14. Miscellaneous

- (a) This Agreement shall be applicable only to the Services provided by Adviser to or for the benefit of the Plan.
- (b) This Agreement represents the complete agreement of the Parties with regard to the subject matter and supersedes any prior understanding or agreement, oral or written.
- (c) To the fullest extent permissible under Applicable Law, Adviser may propose to amend this Agreement upon written notification to Client, and such amendment shall become effective upon the earlier of (i) Adviser's receipt of Client's written consent to the proposed amendment, or (ii) Client's failure to object to the proposed amendment in writing within 30 days of notification. If Client should object to the proposed amendment in writing within the 30 day period following notification, and the Parties cannot come to an agreement as to the proposed amendment, Adviser may terminate this Agreement immediately.
- (d) Each person executing this Agreement on behalf of a Party represents and warrants that he/she is authorized, without the need of further approval or consent from any other person or entity, to execute this Agreement, and that upon execution of this Agreement it will constitute a valid and binding obligation of a Party.
- (e) In the event any provision of this Agreement is found to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications of this Agreement shall not in any way be affected or impaired thereby.
- (f) Adviser, its officers, employees, and agents, may advise or take the same or similar positions in specific investments for their own accounts, or for the accounts of other clients, as the Adviser advises or takes with respect to the Investments of the Plan. Client expressly acknowledges and understands that Adviser shall be free to render the Services to others and Adviser does not make its services available exclusively to Client or the Plan. Nothing in this Agreement shall impose upon Adviser any obligation to recommend (or select, as the case may be) for the Plan's purchase or sale any security which Adviser, its principals, affiliates or employees, may purchase or sell for their own accounts or for the account of any other client.

15. Adviser's Services and Fees – Specific Selections

- (a) **Selection of/Authority over Plan Investments:** Subject to the investment policy for the Plan:

Non-Discretionary Advice (Consulting) Only. Adviser shall furnish Client with non-discretionary advice only, and Client shall retain the ultimate responsibility and authority for all decisions to purchase, hold or sell Investments for the Plan. If this option is selected, Client may accept or deviate from Adviser's recommendations, and Adviser will be a "fiduciary" to the Plan to the extent its Services are of the type

described in ERISA Section 3(21)(A)(ii).

In addition, by choosing this option and executing this Agreement, Client represents and warrants that the custody agreement(s) in force for the Plan during the entire term of this Agreement shall not provide that Adviser will have any authority to withdraw funds or securities upon Adviser's instruction to the Qualified Custodian(s), or to transfer funds or securities to a custodial account other than an account in the Plan's name. Client further acknowledges and affirms that, while Adviser may furnish Client with a list of possible candidates that are Qualified Custodians for Client's consideration (upon Client's request for such a list), Adviser shall not recommend, request or require the use of a particular Qualified Custodian for the Plan.

- (b) **Additional Excluded Assets, If Any.** In addition to the Excluded Assets set forth in Section 2 of this Agreement (employer stock, Non-Investment Assets and assets not identified or known to Adviser), Client has (or may) cause(d) the Plan to purchase or hold the following types of assets, which shall also be treated as Excluded Assets under this Agreement:
- (c) **Brokerage.** Adviser shall have the authority to select the brokers through which orders will be placed, provided, however, that Adviser shall effect all purchases and sales of securities through such brokers as, in the Adviser's best judgment, offer best execution of each transaction. Without limiting the generality of the foregoing, Adviser shall endeavor, in Adviser's best judgment, to ensure that all securities transactions are executed in such a manner that the total explicit and implicit costs and total proceeds in every transaction are the most favorable under the circumstances prevailing at that time. Adviser may effect, subject to Section 28(e) of the Securities Exchange Act of 1934, as amended, securities transactions that cause the Plan to pay a commission in excess of the amount of commission another broker or dealer would have charged, provided that the Adviser determines in good faith that such amount of commission is reasonable in relation to the value of brokerage and research services provided by the broker or dealer to Adviser, viewed in terms of either the specific transaction or the Adviser's overall responsibilities to the accounts for which the Adviser has investment responsibility. For this purpose, "research services" shall mean only products or services which provide lawful and appropriate assistance to Adviser's investment decision-making process.
- (d) **Adviser's Fees:** For all of its Services, the Fees that Adviser will receive under Section 6 of this Agreement shall be calculated and paid as follows:

Asset-Based Fees. Adviser shall receive an annual fee, billed and payable quarterly in arrears, equal to the sum of:

- 0.15% on assets up to \$100 million; plus
- 0.075% on the next \$100 million of assets; plus
- 0.04% on assets exceeding \$200 million

For this purpose, "assets" shall include the total gross value of Client's Investments calculated as of the end of the previous quarter (as reported by Client's custodian(s) or pursuant to the Adviser's Valuation Policy, as amended from time to time) including, for the avoidance of doubt, the value of Investments purchased on margin or otherwise with borrowed funds, but disregarding any Excluded Assets.

Initial here if Fiducient Advisors LLC is NOT permitted to use Client's name and/or logo on a Representative Client List.

Executed as of

ORGANIZATION: City of Murfreesboro

(Signature of Plan Sponsor, on its own behalf, and that of the Plan unless another responsible plan fiduciary shall act on behalf of the Plan)

Name: Mayor Shane McFarland

Title:

Address: 111 West Vine Street, Murfreesboro, TN 37130-3573 , United States of America

(Signature of Plan Committee or other responsible plan fiduciary – only required if different than Plan Sponsor

(Name of Plan Committee or other responsible plan fiduciary)

(Signature of Plan Sponsor, on its own behalf, and that of the Plan unless another responsible plan fiduciary shall act on behalf of the Plan)

Name: Craig Tindall

Title:

Address: 111 West Vine Street, Murfreesboro, TN 37130-3573 , United States of America

(Signature of Plan Committee or other responsible plan fiduciary – only required if different than Plan Sponsor

(Name of Plan Committee or other responsible plan fiduciary)

(Signature of Plan Sponsor, on its own behalf, and that of the Plan unless another responsible plan fiduciary shall act on behalf of the Plan)

Name: Jennifer Brown

Title:

Address: 111 West Vine Street, Murfreesboro, TN 37130-3573 , United States of America

(Signature of Plan Committee or other responsible plan fiduciary – only required if different than Plan Sponsor

(Name of Plan Committee or other responsible plan fiduciary)

(Signature of Plan Sponsor, on its own behalf,
and that of the Plan unless another responsible
plan fiduciary shall act on behalf of the Plan)

Name: Erin Tucker

Title:

Address: 111 West Vine Street, Murfreesboro, TN 37130-3573 , United States of America

(Signature of Plan Committee or other responsible
plan fiduciary – only required if different than
Plan Sponsor

(Name of Plan Committee or other responsible plan fiduciary)

(Signature of Plan Sponsor, on its own behalf,
and that of the Plan unless another responsible
plan fiduciary shall act on behalf of the Plan)

Name: Adam F. Tucker, City Attorney

Title:

Address: 111 West Vine Street, Murfreesboro, TN 37130-3573 , United States of America

(Signature of Plan Committee or other responsible
plan fiduciary – only required if different than
Plan Sponsor

(Name of Plan Committee or other responsible plan fiduciary)

Agreed and accepted:
Fiducient Advisors LLC

Signature:

By:

Title:

Appendix I – Adviser’s Services

Fiduciary Governance Calendar

- Adviser will assist in the creation and implementation of a Fiduciary Governance process or review the oversight process that has already been established. Adviser will provide information and education on various topics and documentation will be distributed and if the Client elects can be stored in a secure fiduciary Lockbox online portal.

Develop/Review an Investment Policy Statement

- Adviser will assist in the development and/or review of an investment policy statement. Adviser will analyze the particular circumstances of Client’s Account (return objectives, risk tolerance, liquidity needs, cash flows including plan liabilities, investment constraints, etc.) and render advice based on the information the Client provides to Adviser.

Asset Allocation Analysis

- Adviser will assist in the development of an asset allocation analysis. Adviser will analyze the particular circumstances of Client’s Account (return objectives, risk tolerance, liquidity needs, cash flows including plan liabilities, investment constraints, etc.) and render advice based on the information the Client provides to Adviser.

Independent Manager Search, Review and Recommendation

- Adviser will identify and present investment management candidates for your consideration. The information that Adviser utilizes in evaluation of such candidates is sourced both from commercially available databases and Adviser’s own proprietary tools and efforts.

Investment Performance Measurement, Analysis and Reporting

- Adviser will analyze the results of Client’s composite Account and the individual investment manager(s) on a quarterly basis. Adviser’s reviews include a variety of statistical information that Adviser deems relevant to the evaluation of Client’s Account results including, but not necessarily limited to, portfolio balances, cash flows, market and individual investment manager rates of return. The primary source of information for these efforts is Client’s Account’s custody statements.

Portfolio Diagnostic Review

- Adviser will undertake a thorough review of Client’s Accounts current structure and analyze its investment policy statement (or assist in the development of one should none exist), Client’s current allocation of assets and investment manager(s), and the historical performance of Client’s total Account and individual investment manager(s). Adviser will identify areas in need of attention and make recommendations as required.

Vendor Search and Analysis (additional costs may apply)

- ___ Custodian Bank
- ___ Defined Benefit Administration Services
- ___ Actuarial Services
- ___ Bundled Plan (defined benefit & defined contribution)
- ___ Defined Contribution
- ___ Transition Management

Appendix II – Plan Contacts

Notwithstanding Section 4 or any other provision of the Agreement, Client hereby identifies the following Contact(s) (by name, address and/or other contact information) and authorizes Adviser to share information concerning the Plan and the Plan's investments with such Contact(s) upon each identified Contact's request. Client understands and acknowledges that Adviser may rely conclusively upon this authorization until otherwise instructed by Client in writing.

Plan's Accountant(s):

Plan's Attorney(s):

Other Authorized Contact(s):

Other Authorized Contact(s):

Item 1 – Cover Page

DISCLOSURE BROCHURE (FORM ADV PART 2A)

FIDUCIENT ADVISORS LLC

500 W. Madison, Suite 1700

Chicago, IL 60661

312-853-1000

www.FiducientAdvisors.com

April 8, 2022

This Form ADV, Part 2A (the “Brochure”) provides information about the qualifications and business practices of Fiducient Advisors LLC (“Fiducient Advisors”). If you have any questions about the contents of this Brochure, please contact the Compliance Department at 312-853-1000 or compliance@fiducient.com. The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission (“SEC”) or by any state securities authority.

Fiducient Advisors is a registered investment adviser (SEC File Number 801-48820, CRD/IARD Number 106720). Registration of an investment adviser does not imply any level of skill or training.

The information provided in this Brochure should not be considered a recommendation to purchase or sell any particular security.

Additional information about Fiducient Advisors is also available on the SEC’s website at www.adviserinfo.sec.gov.

Item 2 – Material Changes

This Item of the Brochure will discuss only material changes that are made to the Brochure and provide clients with a summary of such changes.

There have been no material changes since our last Brochure dated March 24, 2022. This Brochure was revised to provide an updated value for assets under management.

Item 3 – Table of Contents

Item 1 – Cover Page.....	1
Item 2 – Material Changes.....	2
Item 3 – Table of Contents	3
Item 4 – Advisory Business	4
Item 5 – Fees and Compensation.....	10
Item 6 – Performance-Based Fees and Side-By-Side Management.....	11
Item 7 – Types of Clients.....	11
Item 8 – Methods of Analysis, Investment Strategies and Risk of Loss	11
Item 9 – Disciplinary Information	18
Item 10 – Other Financial Industry Activities and Affiliations	18
Item 11 – Code of Ethics, Participation in Client Transactions and Personal Trading.....	18
Item 12 – Brokerage Practices	19
Item 13 – Review of Accounts	21
Item 14 – Client Referrals and Other Compensation.....	21
Item 15 – Custody.....	22
Item 16 – Investment Discretion	23
Item 17 – Voting Client Securities.....	23
Item 18 – Financial Information	23

Item 4 – Advisory Business

Fiducient Advisors provides investment consulting and investment management services designed to meet a broad array of investor needs for institutional and individual clients. As used in this Brochure, the words "we", "our" "us" and "the Firm" refer to Fiducient Advisors and the words "you", "your" and "client" refer to you as either a client or prospective client of our firm.

A. Ownership and Management

We are a limited liability company formed in the State of Illinois and opened in 1995. We are currently owned by Fiducient Holdings, LLC, a limited liability company formed in the State of Delaware. Fiducient Advisors is a joint venture with two distinct membership classes. Class A membership interests are owned by thirty-five individual Partners. Class B membership interest is owned by NFP Corp. ("NFP"). We have maintained a relationship with NFP since September 2000.

NFP also owns other registered investment advisers, broker-dealers, insurance agencies and other product and service providers. Fiducient Advisors is under no obligation to sell any products or recommend any services to our clients as a result of NFP's ownership.

Certain Partners of the Firm are charged with running Fiducient Advisors' day-to-day operations as members of our Executive Committee. The Executive Committee includes Robert A. DiMeo, Michael S. Benoit, Jessica Ludwig, Brian Carlson, Matt Rice, Anthony Tranghese, Mark Wetzel, Michael Goss, Ryan Gardner and Julie Vander Weele.

B. Business Lines

1. Retirement Plans:

Our personal approach to working with retirement plan sponsors allows us to build strong, committed relationships with clients and offer tailored strategies intended to help reduce expenses, improve performance and satisfy fiduciary responsibilities.

A. Retirement Plans – Participant Directed

- **Defined Contribution Plans – ERISA 3(21) Services:** We provide certain services specifically designed to meet the needs of participant-directed plans. These services include assistance in determining the type and number of investments to be offered to participants, a fiduciary governance calendar, development of criteria to be used in selecting service providers, evaluation of recordkeeping fees, investment manager evaluations, drafting governance documents and participant education, which can include enrollment seminars and written educational materials. Depending on the situation, some clients will pay a fee to us for certain written educational materials, either as an explicit fee or as part of a bundled fee arrangement.
- **Defined Contribution Plans – ERISA 3(38) Services:** We also accept and acknowledge discretionary authority over retirement plan sponsors' investment options as an ERISA 3(38)

investment manager which allows us to select, monitor and replace investment options. Clients can mitigate risk by delegating significant responsibility related to the plan's investments.

B. Cash Balance Plans, Traditional Defined Benefit Plans, Non-Participant Directed Defined Contribution Plans and Taft Hartley Plans

- We provide investment advice, both discretionary and non-discretionary, to non-participant directed retirement plans. Client services typically include a fiduciary governance calendar, development/refinement/review of investment policy statements, asset allocation analysis, independent manager search, review and recommendations, investment performance measurement, analysis and reporting, portfolio diagnostic review and vendor searches. For some clients, we may provide asset liability analysis and periodic estimates of the plan's funded position based on information received by the plan's actuary.

We will also provide other services to non-discretionary and discretionary retirement clients if clients request a specific service. Each client situation and authority are different as are the fees we charge for such services.

2. Endowments and Foundations and other nonprofits:

Client types we serve in this practice include colleges and universities, hospitals and healthcare groups, associations, independent schools, charitable organizations, religious institutions and other nonprofit organizations.

Our investment approach is predicated on our robust market and investment manager research, with a focus on identifying optimal managers and creating diversified, efficient and cost-effective portfolios. Our approach to serving our endowment and foundation clients involves not only asset allocation and manager selection, but also review/creation of Investment Policy Statements and spending policy, fee negotiation, peer benchmarking, governance and administrative/operational assistance.

- A. OCIO Services (Discretionary):** We assist clients on a discretionary basis with establishing investment objectives and policies. We then assume responsibility for asset allocation and portfolio construction, investment manager due diligence and selection, investment performance measurement, analysis and reporting, operational and administrative support, investment program governance and client education.
- B. Consulting (Non-Discretionary):** We offer non-discretionary investment advice and support to clients. This includes assisting the client with establishing investment objectives and policies, asset allocation and portfolio construction, investment manager due diligence and selection, investment performance measurement, analysis and reporting, investment program governance and client education. Under our Non-Discretionary model, clients can engage us for our Implemented Services program which includes, based on client need, various levels of administrative and operational support services.

We will also provide other services to non-discretionary and discretionary clients if a client requests a specific service. Each client situation and authority are different as are the fees we charge for such services.

3. The Wealth Office®:

- A.** The Wealth Office® works with private clients, family offices, corporate executives, business owners and family foundations with the goal of protecting their assets from excessive taxation, inflation and unwarranted investment risk.

As part of The Wealth Office® services, we provide non-discretionary and discretionary investment advice, establish objectives and policies, develop asset allocation and cash flow policies, conduct money manager research and selection, evaluate and report performance and provide family education and other wealth management services. We work in cooperation with a client's professional team of insurance agents, attorneys and CPAs. Estate, insurance and accounting services are generally not provided.

For certain clients, we also incorporate various components of financial planning into the engagement. Depending on the client's circumstances and long-term objectives, this can include alignment of portfolio assets with longer-term objectives and risk tolerance, ongoing performance evaluation of composite portfolio and underlying managers/strategies, coordination with the client's tax and estate planning professionals and/or education planning. Our services are not intended to replace any tax, legal or accounting advice from a tax/legal/accounting professional.

Given that each client situation and authority is different, the fees we charge for such services can vary and are customized based on client scope and circumstances.

- B. Disciplined Portfolio Advisor ("DPA") & Model Portfolio Programs:** The DPA investment program is designed for clients who usually fall below our typical minimum account size and can be affiliated with existing clients or friends of the firm. A client in the DPA program accesses our best ideas on asset allocation, manager selection and portfolio rebalancing by investing in low-cost mutual funds and ETFs. As a result, the client will have access to a diversified portfolio similar to one of the hypothetical model portfolios created, monitored and approved by our Investment Committee. The DPA model portfolios have a minimum investment requirement of \$50,000 and are appropriate for either taxable or tax-exempt clients who wish to pursue one of the following broad investment strategies: cautious, conservative, balanced, moderately aggressive and aggressive.

Importantly, it is the responsibility of each client in the DPA program to be actively involved in and formally approve the selection of the appropriate model portfolio strategy. Further, it is the client's responsibility to notify us of any changes to the information provided on their Confidential Investor Profile. Clients have daily access to a personalized website through their custodian detailing their portfolio and they receive monthly statements or a link with their monthly statements from their custodian.

Separate from but similar to the DPA Program described above, we created and monitor two additional model portfolios programs. The first is accessible to investors associated with advisers who are not our representatives. In this program, each non-affiliated adviser retains sole responsibility for determining the needs of their client and choosing which model can be appropriate. We do not have direct knowledge of, nor direct communication with, the non-affiliated adviser's underlying client. The model portfolios have a minimum investment requirement of \$50,000 and are appropriate for clients who wish to pursue one of the following broad investment strategies: cautious, conservative, balanced, moderately aggressive and aggressive.

The second model portfolio program is accessible only to members of the American Society of Association of Executives ("ASAE"). The ASAE Investment Management Solution (formerly known as the ASAE Endowment, Foundation, and Investment Reserve Program) has a current minimum investment requirement of \$500,000 and is appropriate for ASAE members who wish to pursue one of the following broad investment strategies: income, conservative, moderate growth and growth.

Importantly, although ASAE markets this program, advisory contracts are solely between members choosing to invest in the program and us. It is the responsibility of each client in the program to be actively involved in and formally approve the selection of the appropriate model portfolio strategy. Further, it is the client's responsibility to notify us of any changes to the information provided on their Confidential Investor Profile. Clients have daily access to a personalized web site through their custodian detailing their portfolio and they receive monthly statements from their custodian.

As it relates to all model programs, it is not possible to invest in shares of any model; instead, a portfolio owns the underlying funds to accomplish the strategic goals of each model. We exercise investment discretion in implementing each strategy and rebalancing the portfolios as appropriate. We have general electronic communications to inform our model portfolio clients about the performance of the hypothetical model portfolios and to highlight current economic developments. Envestnet serves as administrator of all three of the model programs. Any individual or entity participating in any model program will be required to pay Envestnet an administration fee disclosed in **Item 5** of this Brochure.

4. Financial Institutions Advisory Business:

We assist financial institutions with asset allocation strategies, investment manager research and selection, performance reporting, marketing support and other services in exchange for a flat fee. The representatives of the financial institutions retain the authority to approve or reject all asset allocation strategies, investment manager recommendations or other materials that result from our services. In addition, each representative of the financial institutions retains sole responsibility for determining the needs of their client and in choosing which strategies or managers can be appropriate for them. We can enter into a relationship with an underlying client of the financial institution to provide services described in this Brochure, but only after executing a written agreement between us and that underlying client. Other than in these instances, we do not have direct knowledge of, nor direct communication with, the underlying client of the financial institution or registered investment adviser.

5. Assets Under Advisement

We believe the most accurate way to assess the scale of an investment consultant's business is through the measurement of client assets under advisement ("AUA"). This metric is technically different and follows a more expansive definition (as demonstrated below), than the assets under management ("AUM") figures required by the SEC on Form ADV, Part 1 [Items 5.D (3) and 5.F (2)]. The following numbers are as of December 31, 2021:

Discretionary Services	\$12,596,901,285.85
Internal DPA Program	+ \$225,007,730.72
Discretionary AUM	\$12,821,909,016.57
	+
Non-discretionary (Wealth Office /LPOA) Clients	\$25,053,984,249.24
Total AUM	\$37,875,893,265.18
	+
Non-discretionary Consulting Clients	\$226,156,320,159.13
TOTAL AUA and AUM	\$264,032,213,424.94

C. General Services Offered to Clients:

Based on our contract with a client, we will offer a broad range of services outlined below in several business units. We can also offer additional services which are individually negotiated with each client. These services can be offered through OCIO (Outsourced Chief Investment Officer) services or as non-discretionary consulting services.

- 1. Asset Allocation Studies** – Assistance is provided in the development and preparation of asset allocation studies and investment policy statements. These services typically involve analyzing a client's liquidity requirements, performance goals and risk tolerance levels as described to us by the client.
- 2. Asset Liability Analysis** – Asset liability analysis focuses on issues of asset mix and its impact on the projected future risk and return of the pension surplus/deficit for defined benefit plans given certain actuarial information provided by each plan's outside actuary.
- 3. Vendor Searches** – We assist clients in evaluating and comparing vendors that provide actuarial, recordkeeping, custodian, trust and other vendor services.
- 4. Investment Manager Searches** – We recommend independent investment managers from those included in our various databases that appear to be suitable for a client based upon information made available by the client (including the client's goals and financial needs) and by the managers. Where consistent with a client's profile (including a consideration of suitability, investment objectives, risk tolerance and liquidity needs), we can recommend interest in limited and private offerings, including but not limited

to interests in private equity, hedge funds and venture capital investments. Such limited and private offerings carry additional risks which are described in **Item 8**. We do not independently verify the information provided by a client regarding suitability, investment objectives, risk tolerance and liquidity needs.

5. Mutual Fund Searches – We recommend mutual funds for clients from those mutual funds included in various databases and based on how our proprietary database interprets the information from these databases. Mutual fund recommendations are made based on information provided by the client and publicly available information.

We generally do not have financial relationships for which we get paid by any financial or investment organizations except for financial or investment organizations who are clients paying for our consulting services. For example, if we provide investment consulting services for the 401k plan of a bank or a money management firm, the fees paid to us by the bank or money management firm are only for our retirement plan consulting services. We receive no other cash compensation from these clients. We also do not receive 12b-1 fees from mutual funds.

6. Investment Manager and Fund Performance Monitoring and Evaluation Reports – We will provide performance reports on a periodic basis for funds and/or separately managed accounts. The performance reports typically provide clients with a summary of assets at the beginning and end of the period, including any additions or withdrawals and industry standard time-weighted rates of return, or IRR, depending on the appropriate measure for a given manager or pool of assets. Performance is shown in compliance with SEC guidance. The reports can also include graphic and tabular presentations of performance (including comparisons to appropriate market indices, inflation and stated goals), as well as market cycle comparisons, performance attribution and risk/return analysis.

We create performance evaluation reports generally based upon custodial data for client accounts and information obtained and analyzed from a wide variety of sources, including information provided directly by investment managers and data services such as Morningstar and Lipper, amongst others. Although the information collected by us is believed to be reliable and we conduct due diligence on investment managers to assess the integrity and reliability of managers we recommend, we do not independently verify all information, nor do we guarantee the accuracy or validity of such information. For additional information on our manager selection process, please see **Item 8** of this Brochure.

7. Historical Performance Evaluation Reports – We provide historical asset performance evaluations for funds and/or managed accounts. Such reports can contain the same types of information as the current reports described above in number 6.

8. Participant Education – As requested by a plan sponsor, we can provide a range of general education/communication services including enrollment meetings, printed materials and various custom programs from time to time.

9. Performance Attribution Reporting – Performance attribution reports provide quantitative data regarding an investment manager’s effectiveness with respect to market timing, style implementation, economic sector, and industry and investment selection.

10. Limited Power of Attorney (“LPOA”) Responsibilities – Some clients have a written agreement with us and/or their custodian/broker that grants us certain administrative and trading responsibilities. These responsibilities can include an ability to: disburse assets owned by the client as requested and subject to written approval to the custodian from the client; execute portfolio trades pre-approved by the client or executed by us for discretionary accounts; and directly obtain fees earned by us from the respective client accounts held by the custodian/broker. Please refer to **Item 15 - Custody** for more information.

11. Customized Services – Consistent with our goal to satisfy the unique and special needs of clients, we have accepted certain other responsibilities involving a measure of discretionary control as defined by a written agreement with clients.

12. Reporting on Excluded Assets: We make available reports for clients, which provide periodic comprehensive reporting services and which can, if requested by a client, incorporate all the client’s investment assets, including those investment assets that are not part of the assets managed by us (the “Excluded Assets”). The client or their other advisors that maintain trading authority over the Excluded Assets are responsible for the management and performance of the Excluded Assets. Our service relative to the Excluded Assets is limited to reporting and non-discretionary consulting services only and does not include investment implementation. We do not have trading authority for the Excluded Assets. The client or their other investment professionals are responsible for implementing any recommendations made by us for the Excluded Assets.

Item 5 – Fees and Compensation

Typically, we charge a quarterly fee based on either a fixed dollar amount or a percentage of the client’s assets to which our services relate. Each client fee arrangement is individually negotiated depending on the nature of our engagement and the client’s distinct situation including the size of their AUA and other factors. Fixed fees charged to clients are generally based on the scope of services. For annual fees based on a percentage of the client’s assets, fees generally range from 0.00% to 1.0% of assets. Clients can pay the agreed upon fee in advance or in arrears. For project-based client arrangements and financial planning services, we will typically charge a client a fixed fee subject to a separate contract or as part of an amendment to the client’s existing advisory agreement.

Some clients give us the authority to automatically deduct our fees from their accounts and others elect to be invoiced. Depending on the underlying investment made by the client, we will charge their fee based on a final value or estimates in the case of certain Private, Hedge Funds or Commingled Trust Investments. We will rely upon the most current valuation information from the manager at the time client accounts are invoiced. For a copy of our Valuation and Billing policy and procedure, please contact Compliance at compliance@fiducient.com.

The fees we charge are separate and distinct from fees and expenses charged by other investment managers (including sub-advisers), private funds and mutual funds which are recommended to a client and are exclusive of all other costs a client can incur with respect to custodians, brokers and other third-party service providers.

Given the wide array of managers, custodians, brokers and other third-party service providers each client has to choose from, these additional fees can vary widely from one client to the next. However, specific clients invested in the DPA or ASAE Investment Management Solutions Programs will pay Envestnet an administrative sponsor fee ranging from 0.04% to 0.12% per year, with a minimum annual fee of \$250 for administering the program, in addition to the advisory fee paid to us. For information on fees charged by custodians, brokers, third party service providers, investment managers (including sub-advisers), private funds or mutual funds, clients should refer to their agreements or offering memorandum for those entities or review the prospectus in the case of mutual funds.

In addition to the administrative sponsor fee paid to Envestnet and an advisory fee paid to their investment adviser, those investors participating in the External DPA Program will pay a Model Provider fee to us of 0.25%. As stated in **Item 4** of this document, we have no advisory relationship with investors in the External DPA Program and act solely as a model provider in exchange for this fee.

In addition to the above fees, we will charge a portal access fee to certain clients. Additionally, for certain business units, a client will hire us to provide educational services and/or other services and agree to pay our travel costs and other related expenses. Associates and certain family members of Associates of our firm receive fee discounts related to advisory services provided by us.

Our investment advisory contract allows the client or us to terminate the relationship by providing written notice in the manner described in the contract, and any fees paid in advance will be refunded on a pro-rata basis.

Item 6 – Performance-Based Fees and Side-By-Side Management

We do not currently charge performance-based fees.

Item 7 – Types of Clients

We provide investment consulting and management services to retirement plan sponsors, Taft-Hartley plans, endowments and foundations (including hospitals and healthcare organizations, religions institutions, educational organizations, charitable organizations and other nonprofits), private institutions, municipalities, corporations, families, individuals and financial institutions. Various minimum account sizes or fee levels will apply depending on the type of client.

Item 8 – Methods of Analysis, Investment Strategies and Risk of Loss

Our investment research process includes members of the Research Team, certain Consultants and Performance Analysts, all of whom contribute to the investment research process. This effort is led and supervised by the Chief Investment Officer and the Investment Committee who make the final decision on recommended managers. It is the research effort that has led directly to our evolutionary improvements to the traditional asset allocation model, The

Frontier Engineer® and to the proprietary rebalancing overlay, The Portfolio Engineer®. The firm's Investment Committee consists of seventeen voting members who are either senior investment consultants or senior members of the research team.

We maintain a proprietary database of over 1,000 managers that either clients use and/or are under consideration for recommended lists. We also screen databases of between approximately 6,000 to 9,000 private managers (depending on the market cycle timing), over approximately 8,000 hedge fund strategies, and over 13,000 strategies within global public markets (fixed income, equity and real assets), to maintain a "stable" of what we consider to be strong candidates. We cover a wide range of asset classes and styles and do not charge any fees for managers to be included in our database. In addition to the proprietary database, we also purchase data from outside vendors. For certain asset classes, we retain a third-party to make introductions and/or conduct searches for third-party managers. Fees to the third-party search firm are paid by the third-party investment manager, not our clients or us. Managers referred to us through this program are also independently reviewed by us to help ensure they meet our standard due diligence requirements.

We also perform on-site or virtual visits, meet with managers and/or conduct due diligence with managers. In these manager meetings, we typically emphasize areas that cannot be ascertained by quantitative performance analysis: organizational structure, product-specific information, infrastructure, philosophy-buy/sell discipline, portfolio construction, performance, trading and compliance.

Although the asset classes for any client are dependent upon various factors including but not necessarily limited to the client's investment objectives and eligibility, we generally monitor the following asset classes for clients; applicable material risks for each asset class are listed below and more fully described at the end of **Item 8**:

Traditional Asset Classes

- Global Fixed Income
 - Cash
 - U.S. Treasury Inflation-Protected Securities
 - Investment Grade U.S. Nominal Bonds
 - Custom Liability LDI Bond (or derivative-based) Portfolios (for Pension Plans)
 - Foreign Bonds and Emerging Market Bonds
 - Non-Investment Grade (High Yield) U.S. Nominal Bonds
- Unconstrained Bonds
- Global Equities
 - U.S. Equities (large, mid & small cap)
 - Foreign Developed Equities
 - Emerging Market Equities

Alternative Asset Classes

- Real Assets
 - Real Estate (private and public)
 - Natural Resources

- Commodity Futures
 - Timberland
 - Infrastructure
 - Broadly Diversified Real Asset Strategies
 - Other Niche Real Asset Opportunities
- Hedge Funds
- Equity Hedge Strategies
 - Event-Driven Strategies
 - Macro Strategies
 - Relative Value Strategies
 - Multi-Strategy Funds
 - Funds of Underlying Hedge Funds
- Private Equity
- Venture Capital Funds
 - Buyout Funds
 - Growth Equity Funds
 - Distressed/Special Situation Funds
 - Private Credit
 - Other Niche Private Market Strategies
 - Funds of Underlying Private Equity Funds

Although not meant to be a fully exhaustive list, the following asset classes are currently excluded from our Frontier Engineer® asset allocation methodology:

- Insurance-Linked Securities
- Bank Loans
- Global Equity
- Natural Resources Equity
- Publicly-Listed Infrastructure Equity
- Commodity Futures
- Liquid Alternatives

However, even if we do not proactively recommend managers within these asset classes, we have identified a preferred list of investment managers within each asset class listed above for the purpose of meeting the needs of clients who have a different view on the efficacy of each asset class within a diversified investment portfolio. Additionally, while there are certain asset classes we currently do not recommend, we are able to include these classes in models for clients who want these asset classes.

In certain cases, legacy or client directed holdings will likely pass our due diligence process but are not recommended to other clients and are typically maintained in the requesting client's account only.

Investment Risks and Risk of Loss

Investing involves risk of loss that clients should be prepared to bear.

Though our methods of analysis and investment strategies do not present uncommon risks, we do not represent, warrant or imply that our methods of analysis can or will predict future results, successfully identify market tops or bottoms or insulate clients from losses due to market declines.

In any investment strategy there is risk of loss that clients should be prepared to bear including loss of principal and the risk of not achieving investment objectives. Our work in helping clients develop an investment strategy typically extends beyond portfolio structure. We analyze:

- Revenue (Inflows)
- Spending (Outflows)
- Investment Returns (Target Return)

Each client's unique circumstances can lead to the recognition that one of these factors is more rigid or flexible. We believe it is challenging to appropriately structure a portfolio without a clear understanding of each factor and its relative impact on the client. It is essential for an investor to thoroughly understand what risk really means and how to budget for that risk within an investment strategy. Some risks associated with investing are listed below.

General Market and Economic Risks: Market and economic risks are a factor in any investment strategy. Volatility could disrupt our investment strategy, decrease the value of our clients' portfolios and adversely impact profitability.

Market Volatility: At various times in the past, volatile market conditions have had a dramatic effect on the value of investments, both public and private. In addition, terrorist attacks, other acts of violence or war, health epidemics or pandemics, natural hazards and/or force majeure can affect the operations and profitability of client accounts. Such events also could cause consumer confidence and spending to decrease or result in increased volatility in the U.S. and worldwide financial markets and economy. Any of these occurrences could have a significant impact on the return of a client's investments.

Liquidity Risk: Some investments are subject to limited liquidity. This means clients are not able to buy or sell securities quickly enough to prevent or minimize a loss. In addition, clients can be subject to high costs or losses due to wide bid-ask spreads or large price movements. In times of crisis, liquidity risk can even affect investments generally deemed "safe," including money market funds and similar investments.

Interest Rates Risk: The value of investments in client portfolios can be impacted by changes in the level of interest rates, the spread between rates, the shape of the yield curve and other rate related movements. These changes can be unpredictable and can cause losses.

Currency Risk: Overseas investments are subject to fluctuations in the value of the dollar against the currency of the investments' originating country. This is also referred to as exchange rate risk.

Investment Recommendations: In certain cases, with respect to certain clients, we will recommend products offered by our other clients. Recommendations to clients on products offered by our other clients are disclosed to the client who receives the recommendation. We do not receive any additional compensation related to these types of recommendations.

Private Investments Risks: Private investments including private equity, private real estate, venture capital, hedge funds and similar offerings (collectively, “Private Investments”) are subject to legal or other restrictions on transfer and a liquid market will likely not exist for such investments. Investors will likely be unable to sell any Private Investments when desired or to realize previously anticipated fair value when sold. Calculating the fair market value of Private Investments is difficult and the expense of owning Private Investments is generally higher compared to public offerings.

These Private Investments are subject to a variety of risks and their value generally will fluctuate with, among other things, the financial condition of the obligors on or issuers of the assets, general economic conditions, the condition of certain financial markets, political events and developments or trends in any industry. Finally, Private Investments are subject to lower public reporting requirements (if any) and are less transparent than traditional investments such as ETFs or mutual funds.

These Private Investments, in certain cases depending on the investment, will likely use certain strategies, investment techniques and financial instruments that are considered aggressive, including but not limited to, investments in derivatives, short positions and leverage. Such techniques, if implemented by a Private Investment for the client, will cause dramatic changes (losses or gains) in a Private Investment.

Certain Private Investments recommended by us are offered through private funds and are exempt from registration under the Securities Act of 1933 (“33 Act”) pursuant to Regulation D. Additionally, these Private Investments will typically rely on the “exclusion” from the definition of “investment company” for certain “private” investment companies provided by the Investment Company Act of 1940 (“ICA”). As a result, these Private Investments have not registered and are not subject to regulation under the ICA or 33 Act, and investors are not afforded the protections that such registration and regulation might provide.

Environment, Social Responsibility and Corporate Governance (“ESG”): At the request of specific clients, we will make recommendations for ESG strategies that align with the request. In many cases, clients will provide us with their particular ESG parameters. Clients utilizing exclusionary investing strategies could underperform compared to other strategies recommended by us. ESG investments can exclude sectors or industries which could have a negative impact on client accounts. Pursuant to Department of Labor regulation, we will not use non-pecuniary ESG factors in selecting or recommending investments for ERISA plan clients unless meeting the conditions set forth in the regulation.

Unrelated Business Taxable Income: We are not an accounting firm or law firm and as such, do not provide legal or tax advice. Clients are responsible for the management of their tax affairs, including, without limitation, the payment of all taxes due and the making of all claims in relation thereto. Clients are encouraged to consult their own financial, tax and legal advisers relating to any investment decision regarding our investment advisory services. Clients sensitive to Unrelated Business Taxable Income (UBTI) can impose guideline restrictions on the purchase of securities having the potential to generate UBTI, such as real estate investment trusts and certain partnerships.

ETFs and Mutual Fund Risk: The ETFs and mutual funds recommended by us can include funds invested in domestic and international equities, including real estate investment trusts (REITs), corporate and government fixed income securities and commodities. Equity securities can include large capitalization, medium capitalization, small capitalization and micro- capitalization stocks. ETF and mutual fund shares invested in fixed income securities are subject to the same interest rate, inflation and credit risks associated with the underlying bond holdings.

Among the higher-risk ETFs used in our investment strategies are small capitalization stock funds, foreign developed and emerging markets funds, high yield bond funds and funds that invest in commodities or other real assets. Conservative fixed income securities have lower risk of loss of principal, but most bonds present the risk of loss of purchasing power through lower expected return. This risk is greatest for longer-term bonds.

Equity Securities Risk: Equity securities (common, convertible preferred stocks and other securities with values tied to the price of stocks, such as rights, warrants and convertible debt securities) could decline in value if the issuer's financial condition declines or in response to overall market and economic conditions. A fund's principal market segment(s), such as large cap, mid cap or small cap stocks, or growth or value stocks, can underperform other market segments or the equity markets as a whole. Investments in smaller companies and mid-size companies can involve greater risk and price volatility than investments in larger, more mature companies.

Options Risk: Investing in options can provide a greater potential for profit or loss than an equivalent investment in the underlying asset. The value of an option can decline because of a change in the value of the underlying asset relative to the strike price, the passage of time, changes in the market's perception as to the future price behavior of the underlying asset or any combination thereof. We do not actively recommend options or pursue option strategies for our clients.

Risks Associated with Non-U.S. Investments: From time to time, we make recommendations on investments outside the U.S. Such investments involve risks and special considerations, some of which are not typically associated with U.S. investments. These include political risks, economic risks, legal risks, foreign currency and exchange risks, accounting and tax risk, restrictions on repatriation of capital and profits and different tax requirements. Differences in tax and accounting standards and difficulties in obtaining information about foreign companies can negatively affect investment decisions. Unlike more established markets, emerging markets can have governments that are less stable, markets that are less liquid and economies that are less developed.

Government, Political and Regulatory Risk: U.S. and foreign legislative, regulatory and other government actions which can include changes to regulations, the tax code, trade policy or the overall regulatory environment can negatively affect the value of securities in a client's account. These regulatory risks can negatively impact a client's account by increasing the costs associated with a client account.

Government and Municipal Securities Risk: U.S. Government securities are subject to interest rate and inflation risks. Not all U.S. Government securities are backed by the full faith and credit of the U.S. Government. Certain securities issued by agencies and instrumentalities of the U.S. Government are only insured or guaranteed by the issuing agency or instrumentality. As a result, there is a risk that these entities will default on a financial obligation.

Municipal securities are subject to various risks based on factors such as economic and regulatory developments, changes or proposed changes in the federal and state tax structure, deregulation, court rulings and other factors.

Repayment of municipal securities depends on the ability of the issuer or project backing such securities to generate taxes or revenues. There is a risk the interest on an otherwise tax-exempt municipal security can be subject to federal income tax.

Reliance on Management and Financial Reporting: Many of the investment strategies implemented or recommended by us rely on financial information made available by issuers or third-party managers. We will not necessarily have the ability to independently verify the financial information disseminated by the issuers or third-party managers and will be dependent upon the integrity of both the management of these issuers and the financial reporting process in general. Recent events have demonstrated the material losses that investors can incur because of corporate mismanagement, fraud, and accounting irregularities.

Cybersecurity: Our information and technology systems can be vulnerable to damage or interruption from computer viruses, network failures, computer and telecommunication failures, infiltration by unauthorized persons and security breaches, usage errors by our professionals, power outages and catastrophic events such as fires, tornadoes, floods, hurricanes and earthquakes. Although we have implemented various measures to protect the confidentiality of our internal data and to manage risks relating to these types of events, if these systems are compromised, become inoperable for extended periods of time or cease to function properly, we will likely have to make a significant investment to fix or replace them. The failure of these systems and/or of disaster recovery plans for any reason could cause significant interruptions in our operations and result in a failure to maintain the security, confidentiality or privacy of sensitive data, including personal information relating to clients. Such a failure could harm our reputation or subject it to legal claims and otherwise affect our business and financial performance. We will seek to notify affected clients of any known cybersecurity incident that will likely pose a substantial risk of exposing confidential personal data about such clients to unintended parties.

Non-Discretionary Investment Advice: In addition, we do not render, nor are we responsible for rendering, any legal, accounting, or actuarial services to clients. Our non-discretionary consulting services are generally limited to recommendations and are usually not binding on the client. Clients retain absolute discretion over (and therefore responsibility for) the implementation and trading of our recommendations. We encourage clients to fully evaluate such recommendations. We do not assume any responsibility for the conduct or investment performance, either historical or prospective, of any manager or fund recommended by us and selected by a client. Moreover, the prior performance of a manager or fund is not necessarily indicative of such manager's or fund's future results. All consulting services and recommendations are tailored based on the individual needs and objectives of each client.

Third-Party Client Service Providers: We do not serve as an attorney, accountant or licensed insurance agent and no portion of our services should be construed as legal, accounting or insurance sales activity. To the extent requested by a client, we can refer the services of other professionals for certain noninvestment implementation purposes (i.e., attorneys, accountants, insurance agents). The client is under no obligation to engage the services of any referred professional. The client retains absolute discretion over all implementation decisions. Clients are responsible for retaining third-party professionals.

Limitations of Activities and Liability: Clients that engage us for retirement plan services acknowledge that we do not generally provide personalized investment advice to any plan participant. However, plan participants that are interested in our wealth management services will be allowed to retain us subject to the plan participant executing

a separate agreement with us. In addition, plan participants are responsible for implementing any transactions that are necessary or appropriate in their own individual account. We do not act as an agent in connection with personalized investment advice to any plan participant.

The risk of loss described herein should not be considered an exhaustive list of all the risks that clients should consider.

Item 9 – Disciplinary Information

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of us or the integrity of our management. We have no information applicable to this Item.

Item 10 – Other Financial Industry Activities and Affiliations

As mentioned in **Item 4** of this Brochure, we operate as a joint venture with NFP. NFP is a provider of benefits, insurance, and wealth management services. NFP owns 100+ affiliates, all of whom can refer clients to us. Some of these NFP affiliates are registered as investment advisers and/or broker-dealers. Currently, we receive referrals from Wealthspire Advisors, LLC and NFP-Retirement, each an affiliate and ultimately owned by NFP. Additionally, we receive referrals from unaffiliated broker-dealers and third-parties. However, we do not consider these referral arrangements to be material to our advisory business or clients.

More information about NFP can be found at www.nfp.com.

Firm personnel may be investors and/or partners/members in private investment partnerships, limited liability companies or corporations that invest in securities or private equity opportunities. Certain investors in the private investment partnerships, limited liability companies or corporations may also independently be clients of the Firm. Fiducient Advisors does not act as an advisor, sponsor or placement agent for these private investment partnerships, limited liability companies or corporations.

One or more of our Associates serve on third-party advisory boards. This arrangement creates a conflict of interest which we mitigate by subjecting such Associate(s) to our Code of Ethics. Certain Associates of ours serve on various boards as directors. In certain circumstances, an Associate will serve on the board of directors for a client as a director. In some cases, Associates can receive a fee for serving as a director on the board of a non-client.

A client or prospective client leaving an employer typically has four options regarding an existing retirement plan (and will likely engage in a combination of these options): (i) leave the money in the former employer's plan, if permitted, (ii) roll over the assets to the new employer's plan, if one is available and rollovers are permitted, (iii) roll over to an Individual Retirement Account ("IRA"), or (iv) cash out the account value (which could, depending upon the client's age, result in adverse tax consequences). If we recommend that a client roll over their retirement plan assets into an account to be managed by us, such recommendation creates a conflict of interest because we will

earn an advisory fee on the rolled over assets. No client is under any obligation to roll over retirement plan assets to an account managed by us.

Item 11 – Code of Ethics, Participation in Client Transactions and Personal Trading

We have a Code of Ethics for all supervised persons of the firm describing our high standard of business conduct and fiduciary duty to our clients. The Code of Ethics and related policies addressing the confidentiality of client information, a prohibition on insider trading, and personal securities trading procedures, among other things. All Associates must acknowledge their understanding of and compliance with the Code of Ethics on an annual basis.

We anticipate that, in appropriate circumstances, consistent with clients' investment objectives, we will cause accounts over which we have management authority to effect and will recommend to investment advisory clients or prospective clients, the purchase or sale of securities in which our supervised persons have a position of interest. Our supervised persons are required to follow the Code of Ethics. Subject to satisfying this policy and applicable laws, officers, directors and employees can trade for their own accounts in securities which are recommended to and/or purchased for our clients. The Code of Ethics is designed to help assure that the personal securities transactions, activities and interests of Associates will not interfere with making decisions in the best interest of advisory clients. On an ongoing basis, employee trading is monitored under the Code of Ethics. Clients or prospective clients can request a copy of the firm's Code of Ethics by contacting the Compliance Department at compliance@fiducient.com.

Item 12 – Brokerage Practices

Discretionary: In most situations where we have discretionary authority, portfolio transactions are placed with the client's custodian or with a broker selected by the client.

In selecting a custodian/broker, the client chooses the custodian/broker generally independent of us. While we typically provide an evaluation to clients, we generally do not choose the custodian or broker. Since the client directs us to use a certain custodian/broker, we will not seek best execution services or better prices from other custodians/brokers as these rates have been pre-negotiated between our client and the custodian/broker. It is possible the client can pay higher commissions, transaction costs, and greater spreads, or receive less favorable net prices on transactions than it would if the adviser had the authority to select brokers and negotiate prices. Directed brokerage will likely cause a disparity between the commissions borne by the client and the commissions borne by other clients of ours not using directed brokerage.

Non-Discretionary: We can introduce clients to establish brokerage arrangements with the institutional divisions of Charles Schwab, Fidelity, TD Ameritrade, Trade-PMR, Inc. or other registered broker-dealers (individually the "BD" or collectively the "BDs"). An institutional brokerage account holder receives a level of service that is not typically available to a retail investor. These services can include brokerage, custody, research and access to mutual fund and other investments that are otherwise generally available only to institutional investors or would require a significantly higher minimum initial investment. The BDs are compensated by account holders through commissions and other transaction-related fees depending on the BD. On behalf of our clients, we have negotiated what we

believe is a favorable fee rate schedule with each BD. However, ultimately the client chooses which custodian and/or broker to use.

Although client custodians will be directed to execute all trades for each client account, the custodian/broker-dealer or third-party manager can choose to use another broker-dealer to execute the trade (also known as a step-out transaction or trade-away). In doing so, other commissions or mark-ups/mark-downs will likely apply and will generally be netted into the price you receive for the trade. These commissions or mark-ups/mark-downs will not be listed separately on your custodial statement or trade confirmation. We do not have any control over whether the selected custodian/broker-dealer or third-party manager steps-out a trade in your account.

The BDs can also make available certain products and administrative services that benefit us, but do not benefit our clients directly. Broadly speaking, this can include ongoing assistance in managing and administering client accounts and in helping us manage and develop our business enterprise. The BDs can discount or waive the fees they would otherwise charge for some or all these products and services. The BDs do not get reimbursed by our clients or us for such services.

We do not typically maintain custody of client assets that are either managed or advised on by us. However, in certain circumstances, we are deemed to have custody of client assets if a client gives us authority to withdraw assets from a client's account (see **Item 15 - Custody**, below). Client assets must be maintained in an account at a "qualified custodian," generally a broker-dealer or bank. We recommend clients use a qualified custodian, but the decision is ultimately made by each client. We are owned and operated separate from BDs and are not affiliated with any BD. BDs will hold a client's assets in a brokerage account and buy and sell securities when we instruct the BD. Generally, we do not open the account for clients, although we can assist clients with account opening.

Generally, most BDs do not charge you separately for custody services but are compensated by charging you commissions or other fees on trades that they execute or that settle into client accounts. Certain trades (for example, many mutual funds and ETFs) cannot incur commissions or transaction fees. Many BDs are also compensated by earning interest on the uninvested cash in client accounts. For some accounts, a BD will charge clients a percentage of the dollar amount of assets in the account in lieu of commissions. BDs' commission rates and/or asset-based fees applicable to client accounts were negotiated by us. We believe this commitment benefits clients because the overall commission rates and asset-based fees a client pays are lower than they would be otherwise. In addition to the fees above, BDs will also typically charge clients a flat dollar amount as a "prime broker" or "trade away" fee for each trade that we have executed by a different broker-dealer but where the securities bought or the funds from the securities sold are deposited (settled) into client accounts held at a client's chosen qualified custodian. These fees are in addition to the commissions or other compensation clients pay the executing broker-dealer. Because of this, in order to minimize client trading costs, we have a client's chosen BD execute most trades.

Custodian Services that generally benefit Fiducient Advisors. Custodians typically offer other services intended to help their clients. These services include:

- Educational conferences and events;
- Consulting on technology, compliance, legal and business needs;
- Publications and conferences on practice management and business succession;
- Access to employee benefits providers, human capital consultants and insurance providers;

- Marketing consulting and support.

In certain cases, a qualified custodian can provide some of these services directly to us. In other cases, a qualified custodian will arrange for third-party vendors to provide the services to us. Qualified custodians can also discount or waive their fees for some of these services or pay all or a part of a third party's fees. Qualified custodians can also provide us with other benefits, such as occasional business entertainment of our personnel.

The availability of these services from BDs benefits us because we do not have to produce, purchase or pay for these services. The services are not contingent upon us committing any specific amount of business to a qualified custodian in trading commissions or assets in custody. This creates an incentive that a client maintains an account with a specific BD, based on our interest in receiving services that benefit our business and a BD's payment for services. This is a conflict of interest.

We perform various levels of due diligence on BDs. Our due diligence primarily reviews the scope, quality and price of BDs' services.

Given our practice of serving each client's unique circumstances and objectives, we do not incur situations which would require aggregating orders at any broker-dealers.

Block Trades: From time to time, we aggregate trades for multiple accounts to reduce commissions and execution costs. Accounts where trades are aggregated will receive an average execution price for the relevant trading block.

Item 13 – Review of Accounts

Client accounts are reviewed by an Associate of ours (generally a Partner and/or senior professional) on a periodic basis (typically on a quarterly basis), or when changes in client circumstances or market conditions dictate. The quarterly reviews are usually done in person or over the phone, depending upon the preferences of the client. Client service teams typically include a Partner and/or Senior Consultant, a co-Consultant, Consulting Analyst and Client Service Associate. Senior Consultants can do partial work on several clients and we monitor the workload of each Senior Consultant to help ensure client satisfaction.

Typically, regular reports on client accounts are prepared and provided to clients on a quarterly basis. Generally, these reports include information relating to the composition and market value of the client's portfolio, including the amount of any gains and losses, as well as the performance comparison information to industry indices and other relevant benchmarks.

Item 14 – Client Referrals and Other Compensation

We compensate persons for client referrals in compliance with Rule 206(4)-3 of the Investment Advisers Act of 1940. In addition, we receive referrals from professionals (e.g., attorneys and accountants), or from introducing broker-dealers and their registered representatives. We refer our clients to professionals who refer clients to us, but we will not receive any fees for such referrals. Specifically, we have a solicitor agreement with ASAE Business Services, Inc. that compensates them for the marketing and solicitation of the ASAE Investment Management Solutions

Program (formerly known as the ASAE Endowment, Foundation, and Investment Reserve Program). We provide advisory services to the non-profit assets of ASAE, an affiliate of the for-profit entity ASAE Business Services, Inc.

Currently, we have entered into referral arrangements with Wealthspire Advisors and NFP-Retirement, each an affiliate and ultimately owned by NFP along with other third-party solicitors. Solicitors can receive a fee from us depending on the referral. Referrals to our affiliated entities create a conflict of interest. We believe this conflict is mitigated by the fact that the firms are operationally independent from one another and neither firm has any additional incentive to refer or accept clients from the other.

We have an employee referral program for client referrals for certain eligible employees. For business that an employee refers which is successfully awarded to us, an employee will receive compensation in accordance with our written employee referral program in effect at the time of the client referral.

We receive economic benefits from BDs in the form of the support products and services they make available to us and other independent investment advisors whose clients maintain their accounts at each BD. In addition, certain BDs also agreed to pay for certain products and services for which we would otherwise have to pay. These services, how they benefit us and the related conflicts of interest are described above (see **Item 12 - Brokerage Practices**).

Item 15 – Custody

Clients should receive at least quarterly statements or links to their quarterly statements from the broker-dealer, bank or other qualified custodian that holds and maintains the client's investment assets. We urge clients to carefully review such statements and compare official custodial records to the reports we provide. Our reports can vary from custodial statements based on accounting procedures, reporting dates or valuation methodologies of certain securities.

We generally do not take physical custody of assets, but under SEC guidance, we are deemed to have custody as a result of standing letters of authorization ("SLOAs") allowing us to disburse funds on clients' behalf or our ability to debit advisory fees from client accounts. Under this guidance, advisers relying on SLOAs who make certain disbursements on behalf of the client can avoid obtaining a surprise asset verification if each client provides written instructions to their custodian regarding specific transactions. These instructions must state that the client authorizes the custodian to disburse funds in accordance with their SLOA upon our request. We have no ability to change any routing information regarding such disbursements and the client can terminate the relationship and the SLOA at any time.

In certain circumstances and at a client's request, we are authorized pursuant to a limited power of attorney to execute legal agreements in the name of a client. These client accounts will be subject to an annual surprise examination.

We recommend that client assets are held at qualified custodians. We engage an independent public accountant to conduct an annual surprise examination on those accounts requiring such an audit based on the nature of the

custody we are deemed to have for each account. Please see Item 9 on Form ADV, Part 1 for additional custody disclosures.

Item 16 – Investment Discretion

In some cases, we receive discretionary authority from the client at the outset of an advisory relationship to select the identity and number of securities to be bought or sold. This discretion will be exercised in a manner consistent with the stated investment objectives for a particular client account. When selecting securities and determining amounts, we observe the investment policies, limitations and restrictions of the clients. Investment guidelines and restrictions are generally provided to us in writing.

Item 17 – Voting Client Securities

We vote proxies for some, but not all, of our clients. When agreed to with a client, we will vote proxies held in a client's account. We have retained Institutional Shareholder Services Inc. ("ISS") as a proxy voting service provider to assist in connection with voting client proxies.

As a third-party proxy advisory company, ISS makes recommendations on how to vote proxies in accordance with their pre-determined guidelines. Generally, we vote in line with the recommendation of ISS provided we believe it is in the best interest of a client and there is no material conflict. If a material conflict of interest relating to a proxy arises between us and a client, we will review the conflict and determine the appropriate course of action, which can include a decision to vote the proxy in a particular manner, delegating proxy voting responsibility to the third-party proxy advisory company, passing the vote through to the client directly or abstaining from the vote.

Clients can obtain from us our Proxy Voting Policy, as well as information about how we voted clients' securities by contacting our Compliance Department. In certain circumstances, we provide general monitoring services and advice to clients regarding the voting of proxies. However, we generally do not provide advice about issues raised by proxy solicitations or other requests for corporate actions.

Clients can obtain proxy materials directly by written request to the account's custodian. For information about how to obtain proxy materials from a custodian, clients can contact us by email at compliance@fiducient.com, or by mail to the address on the front of this Brochure.

Item 18 – Financial Information

Registered investment advisers are required in this Item to provide you with certain financial information or disclosures about our financial condition. We have no financial commitment that impairs our ability to meet contractual and fiduciary commitments to clients and have not been the subject of a bankruptcy proceeding. We do not require prepayment of more than \$1,200 in fees per client, six months or more in advance.

Fiducient Advisors, L.L.C.

500 W. Madison, Suite 1700

Chicago, IL 60661

312-853-1000

www.fiducientadvisors.com

Form ADV, Part 2B – Brochure Supplement

Dated: March 31, 2022

This brochure supplement provides information about the following individuals (listed in alphabetical order): Chatelaine M. Achterberg, Gregory F. Adams, Eileen F. Allgrove, Mark A. Baker, Douglas M. Balsam, Jeff D. Benoit, Michael S. Benoit, Stephen A. Bergman, Scott G. Boulton, Nicholas P. Breit, V. Shreya Canakapalli, Jeffery J. Capone, Brian P. Carlson, Michael J. Chase, Christian S. Coleman, Joseph S. Cortese III, Sarah C. Cowenhoven, Richard P. Dahling, Robert A. DiMeo, Steven C. Dufault, Colleen A. Dumke, Kerry L. Elsass, Michael P. Emerson, Ahmed O. Farruk, Jonathon J. Fellows, Will S. Fisher, Devon C. Francis, Matthew J. Fratini, Taylor J. Furmanski, Ryan T. Gardner, Guadalupe Gomez, Michael E. Goss, Maura K. Goulart, Sarah E. Hinman, James M. Jensen, Christine M. Jordan, Christopher F. Kachmar, Matthew J. Kaminski, Bradford L. Long, Robert H. Lowry, Jessica P. Ludwig, Sean McCaffery, Carol F. McShera, Joseph P. Melia, James Modelski, Ryan L. Murphy, Peter D. Nadeau, Adam P. Newell, Timothy C. Ng, Anthony M. Novara, Kevin D. O'Brien, William J. Parker III, Karen R. Paulson, Kathryn J. Pizzi, Tyler B. Polk, Matthew P. Porter, Eric E. Ramos, Matthew R. Rice, Jacqueline A. Rondini, Christopher J. Rowlin, Andrew B. Salak, Brian J. Samuels, Joe A. Scime, Barrett R. Scott, Matthew T. Smith, Vincent M. Smith, Stephen W. Spencer, Michael J. Sustarsic, Joseph M. Syron, David M. Thome, Chad A. Tischer, Ryan P. Tracy, Anthony J. Tranghese, , Mark R. Wetzel, Brian M. White, Leslie A. Whitney and Altan O. Wuliji. It supplements the Fiducient Advisors, L.L.C. ("Fiducient") firm brochure (Form ADV, Part 2A) that you should have also received. Please contact the Compliance Department at the phone number above if you did not receive Fiducient's firm brochure or if you have any questions about the contents of any part of our Form ADV.

This brochure supplement identifies the Fiducient employees who have the most significant responsibility for providing investment consulting advice to clients and have direct client contact, have discretionary authority over client assets, along with those who have the most significant responsibility for the firm's Investment Committee. Where applicable we have disclosed any professional designations obtained by these individuals, and you will find brief explanations of those designations on the back page. Clients may also routinely interact with other Fiducient employees who are not permitted by the firm to formulate investment advice for clients; however those employees are not identified in this brochure supplement.

Chatelaine M. Achterberg

Educational Background and Business Experience

Chet is a Senior Consultant at Fiducient. She was born in 1992 and graduated from University of Texas in 2015 with a BA degree in Economics. Chet joined Fiducient in 2017. Prior to joining Fiducient she was a Fund Accountant at Northern Trust.

Disciplinary Information

Chet has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Chet is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

Chet does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire Fiducient. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Chet is supervised by Joseph S. Cortese III, Associate Director of OCIO. Joe can be reached at 312-853-1000.

Gregory F. Adams

Educational Background and Business Experience

Greg is a Consultant at Fiducient. He was born in 1985, and graduated from the University of Connecticut in 2008 with a Bachelor of Arts degree in Economics. He has earned the professional designation of Chartered Financial Consultant (ChFC®). Greg joined Fiducient in 2021, and prior to that he was a Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Greg has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Greg is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Greg does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Greg is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office of Fiducient. Adam can be reached at 312-853-1000.

Eileen F. Allgrove

Educational Background and Business Experience

Eileen is a Senior Consultant at Fiducient. She was born in 1972, and graduated from Allegheny College in 1994 with a BA degree in History and Political Science and in 1997 with a JD from Western New England University of Law. She has earned the professional designation of Certified Financial Planner (CFP®). Eileen joined Fiducient in 2021, and prior to that she was an Associate Director of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Eileen has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Eileen is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of her time.

Additional Compensation

Eileen does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Eileen is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office of Fiducient. Adam can be reached at 312-853-1000.

Mark A. Baker

Educational Background and Business Experience

Mark is a Regional Director and a Senior Consultant at Fiducient. He was born in 1957, and has a BBA from Southern Methodist University and an MBA from The University of Texas at Austin. He has earned the professional designation of Chartered Financial Analyst (CFA®). Prior to joining the firm in 2018, Mark was Managing Director and Head of Clearbrook Investment Consulting's Advisory Practice where he serviced corporate, nonprofit and high net worth clients. Mark also served as a Managing Director in the Boston office of CRA RogersCasey and a Chief Investment Analyst for the Pension Investment Division of the Massachusetts State Treasury.

Disciplinary Information

Mark has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Mark is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Mark does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Mark oversees the management, strategic initiatives and business development of the Fiducient's Boston office and is supervised by Mark Wetzel, Managing Partner and President of Fiducient. Mark can be reached at 312-853-1000.

Douglas M. Balsam

Educational Background and Business Experience

Doug is a Partner, Director of Institutional Consulting and a Senior Consultant at Fiducient. He was born in 1968, and graduated from Miami University in 1990 with a BS degree in Finance and from Loyola University Chicago in 1997 with an MBA degree. Doug has been with Fiducient since 1998.

Disciplinary Information

Doug has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Doug is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Doug receives an economic benefit based on the overall profitability of Fiducient. Doug does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Doug is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Jeff D. Benoit

Educational Background and Business Experience

Jeff is the Director of Taft Hartley Consulting and a Senior Consultant at Fiducient. He was born in 1957 and he earned the professional designation of Certified Investment Management Analyst (CIMA®). Jeff has been with Fiducient since 2000.

Disciplinary Information

Jeff has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Jeff is not actively engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Jeff does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Jeff is supervised by Mark Wetzel, Managing Partner and President of Fiducient. Mark can be reached at 312-853-1000.

Michael S. Benoit

Educational Background and Business Experience

Mike is a Partner and a Senior Consultant at Fiducient. He was born in 1961, and graduated from Bradley University in 1984 with a BS degree in Industrial Engineering. He has earned the professional designations of Certified Investment Management Analyst (CIMA®) and Certified Financial Planner (CFP®). Mike was a co-founder of Fiducient in 1995.

Disciplinary Information

Mike has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Mike is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Mike receives an economic benefit based on the overall profitability of Fiducient. Mike does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Mike is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Stephen A. Bergman

Educational Background and Business Experience

Stephen is a Consultant at Fiducient. He was born in 1990 and graduated from Ohio State University in 2013 with a BS degree in Economics. He has earned the professional designations of Chartered Financial Analyst (CFA®). Prior to joining the firm in 2021, Stephen was an advisor with Forum Financial.

Disciplinary Information

Stephen has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Stephen is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Stephen does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Stephen is a Consultant and is supervised by Chet Achterberg, Consultant of Fiducient. Chet can be reached at 312-853-1000.

Scott G. Boulton

Educational Background and Business Experience

Scott is a Senior Consultant in The Wealth Office at Fiducient. He was born in 1988, and graduated from the University of Northern Colorado in 2010 with a Bachelor of Science degree in Business Administration with an emphasis in Management. Scott joined Fiducient in 2021, and prior to that he was an Associate Research Analyst of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Scott has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Scott is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Scott does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Scott is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Nicholas P. Breit

Educational Background and Business Experience

Nick is a Partner, Director of Financial Planning Services, and a Senior Consultant at Fiducient. He was born in 1978, and graduated from the University of Illinois in 2002 with a BA degree in Finance and Economics. He has earned the professional designations of Certified Financial Planner (CFP®) and Chartered Financial Analyst (CFA®). Nick joined Fiducient in 2007, and prior to that he was a Senior Financial Planner at The Ayco Company.

Disciplinary Information

Nick has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Nick is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Nicholas receives an economic benefit based on the overall profitability of Fiducient. Nicholas does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Nick is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

V. Shreya Canakapalli

Educational Background and Business Experience

Shreya is a Principal and Senior Consultant at Fiducient. She was born in 1989 and graduated from Indiana University in 2011 with a BS degree in Business. She has earned the professional designation of Chartered Financial Analyst (CFA®). Prior to joining Fiducient in 2012, Shreya was an Analyst at Northern Trust Hedge Fund Services.

Disciplinary Information

Shreya has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Shreya is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

Shreya does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Shreya is supervised by Doug Balsam, Partner and Director of Institutional Consulting. Doug can be reached at 312-853-1000.

Jeffrey J. Capone

Educational Background and Business Experience

Jeffrey is a Partner and Senior Consultant at Fiducient. He was born in 1972, and graduated from Bucknell University in 1994 with a Bachelor of Arts degree (dual) in both International Relations and in Spanish, and a Masters Degree of Business Administration degree in 1990 from Tuck School at Dartmouth College. Jeffrey joined Fiducient in 2021, and prior to that he was a Senior Consultant at Fiduciary Investment Advisors, LLC.

Disciplinary Information

Jeffrey has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Jeffrey is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Jeffrey receives an economic benefit based on the overall profitability of Fiducient. Brian does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Jeffrey is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Brian P. Carlson

Educational Background and Business Experience

Brian is a Partner and Senior Consultant at Fiducient. He was born in 1977, and graduated from Northern Illinois University in 1999 with a BS degree in Finance. He has earned the professional designation of Chartered Financial Analyst (CFA®). Brian has been with Fiducient since 2006.

Disciplinary Information

Brian has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Brian is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Brian receives an economic benefit based on the overall profitability of Fiducient. Brian does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Brian is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Michael J. Chase

Educational Background and Business Experience

Michael is a Partner and Senior Consultant at Fiducient. He was born in 1983, and graduated from Colgate University in 2006 with a Bachelor of Arts degree in Economics and a Minor in Political Science. Michael joined Fiducient in 2021, and prior to that he was a Consultant at Fiduciary Investment Advisors, LLC.

Disciplinary Information

Michael has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Michael is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Michael receives an economic benefit based on the overall profitability of Fiducient. Brian does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Michael is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Christian S. Coleman

Educational Background and Business Experience

Chris is a Partner and Director of Business Development. He was born in 1971 and graduated from Providence College in 1994 with a BA degree. He joined Fiduciary Investment Advisors, LLC in 2008, which combined with Fiducient Advisors in 2020. Prior to joining the firm, Chris held leadership positions at MassMutual and CitiStreet.

Disciplinary Information

Chris has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Chris is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Chris receives an economic benefit based on the overall profitability of Fiducient. Chris does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Chris is supervised by Mike Goss, Managing Partner and Senior Consultant of Fiducient. Mike can be reached at 312-853-1000.

Joseph S. Cortese III

Educational Background and Business Experience

Joe is a Partner, Associate Director of OCIO Services and Senior Consultant at Fiducient. He was born in 1979, and graduated from the University of Iowa in 2002 with a BBA degree in Marketing, a Certificate in Entrepreneurial Management, and the University of Chicago Booth School of Business in 2010 with a MBA degree in Analytical Finance and Accounting. Joe has been with Fiducient since 2008. Prior to that he was a Service Associate at Morgan Stanley's Private Wealth Management Office.

Disciplinary Information

Joe has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Joe is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Joe receives an economic benefit based on the overall profitability of Fiducient. Joe does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Joe is supervised by Chad Tischer, Director of OCIO Services and Partner of Fiducient. Chad can be reached at 312-853-1000.

Sarah C. Cowenhoven

Educational Background and Business Experience

Sarah is a Consultant at Fiducient. She was born in 1979 and graduated from Simmons College in 2010 with a BA degree in Economics and is currently working on earning her Juris Doctor at the University of Connecticut School of Law. Sarah joined Fiduciary Investment Advisors in 2018, which combined with Fiducient Advisors in 2020. Before joining the firm, she was the operations manager for a Boston area wealth management firm servicing high net worth clients..

Disciplinary Information

Sarah has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Sarah is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

Sarah does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Sarah is a Consultant and is supervised by William Parker, Principal and Associate Director in The Wealth Office™ of Fiducient. William can be reached at 312-853-1000.

Richard P. Dahling

Educational Background and Business Experience

Richard is a Senior Consultant at Fiducient. He was born in 1959 and graduated from University of Virginia's Darden School of Business in 1987 with a MBA and earned a BA with Honors in Economics from Trinity College. He has earned the professional designations of Chartered Financial Analyst (CFA) charterholder, a Certified Financial Planner (CFP®) and a Chartered Alternative Investment Analyst (CAIA®). Richard has been with Fiducient since 2021. Prior to joining the firm in 2021, he was a Vice President/Investment Strategist for Fidelity Investments' Workplace Investing organization. Dick's industry experience also includes serving as a Director for BMO Nesbitt Burns, the investment banking division of the Bank of Montreal.

Disciplinary Information

Richard has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Richard is not actively engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Richard does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Richard is supervised by Ryan Gardner, Managing Partner and Head of Defined Contribution. Ryan can be reached at 312-853-1000.

Robert A. DiMeo

Educational Background and Business Experience

Bob is the Managing Partner and a Senior Consultant at Fiducient. He was born in 1962, and graduated from Bradley University in 1983 with a BS degree in Management. He has earned the professional designations of Certified Investment Management Analyst (CIMA®) and Certified Financial Planner (CFP®). Bob co-founded Fiducient in 1995.

Disciplinary Information

Bob has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Bob is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Bob receives an economic benefit based on the overall profitability of Fiducient.

Bob does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Bob is a Partner and Managing Director of Fiducient and as such he is supervised by the firm's Executive Committee.

Steven C. Dufault

Educational Background and Business Experience

Steve is the Defined Contribution Practice Leader, Principal and a Senior Consultant at Fiducient. He was born in 1974, and graduated from the University of Iowa in 1997 with a BBA in Finance. He has earned the professional designation of Certified Investment Management Analyst (CIMA®). Steve has been with Fiducient since 1999.

Disciplinary Information

Steve has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Steve is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Steve does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Steve is supervised by Doug Balsam, Partner and Director of Institutional Consulting. Doug can be reached at 312-853-1000.

Colleen A. Dumke

Educational Background and Business Experience

Colleen is a Senior Consultant at Fiducient. She was born in 1992 and earned a BS in Agriculture and Consumer Economics from the University of Illinois at Urbana-Champaign in 2014 with a concentration in Financial Planning. She has earned the professional designation of Certified Financial Planner (CFP®). Colleen joined Fiducient in 2018. Prior to joining Fiducient she was Senior Financial Analyst with Capstone Financial Advisors, Inc.

Disciplinary Information

Colleen has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Colleen is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of her time.

Additional Compensation

Colleen does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Colleen is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Kerry L. Elsass

Educational Background and Business Experience

Kerry is a Senior Consultant at Fiducient. She was born in 1976 and earned her MBA in Finance with Distinction from DePaul University Kellstadt Graduate School of Business in 2004 and earned her BS in Chemistry from Miami University in 1988. She has earned the professional designation of Chartered Alternative Investment Analyst (CAIA®). Kerry joined Fiducient in 2021. Prior to joining Fiducient she was a Principal and Senior Consultant with Mercer.

Disciplinary Information

Kerry has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Kerry is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

Kerry does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Kerry is supervised by Jessica Ludwig, Partner and Associate Director of Institutional Consulting. Jessica can be reached at 312-853-1000.

Michael P. Emerson

Educational Background and Business Experience

Michael is a Senior Consultant at Fiducient. He was born in 1988, and graduated from University of Chicago in 2010 with a BA degree in Public Policy – Economics. Michael joined Fiducient in 2016. Prior to joining Fiducient he was a Wealth Advisor at RMB Capital Management and before that was a Client Finance Analyst at Cavalry, Inc.

Disciplinary Information

Michael has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Michael is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Michael does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Michael is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Ahmed O. Farruk

Educational Background and Business Experience

Ahmed is a Senior Consultant at Fiducient. He was born in 1974, and received a BA in Economics from the University of Virginia and obtained the title Certified Investment Management Analyst (CIMA®). Prior to joining the firm, he was Deputy Managing Director at ORION Investment Advisors, which was acquired by Fiducient in 2017.

Disciplinary Information

Ahmed has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Ahmed is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Ahmed does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Ahmed is supervised by Doug Balsam, Partner and Director of Institutional Consulting at Fiducient. Doug can be reached at 312-853-1000.

Jonathon J. Fellows

Educational Background and Business Experience

Jon is a Partner and Senior Consultant at Fiducient. He was born 1970, and graduated from the University of Michigan in 1993 with a BBA degree in Finance & Accounting and from the University of Wisconsin in 2003 with a MS degree in Finance, Investment & Banking. He has earned the professional designation of Chartered Financial Analyst (CFA®). Jon has been with Fiducient since 2003.

Disciplinary Information

Jon has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Jon is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Jon receives an economic benefit based on the overall profitability of Fiducient.

Jon does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Jon is supervised by Jessica Ludwig, Partner and Associate Director of Institutional Consulting. Jessica can be reached at 312-853-1000.

Will S. Fisher

Educational Background and Business Experience

Bill is a Senior Consultant at Fiducient. He was born in 1961, and received a BS in Business Administration from Miami University in Oxford, Ohio and obtained the title Accredited Investment Fiduciary (AIF®). Prior to joining the firm, he served as Director at ORION Investment Advisors for more than 17 years before the firm was acquired by Fiducient in 2017.

Disciplinary Information

Bill has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Bill is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Bill does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Bill is supervised by Doug Balsam, Partner and Director of Institutional Consulting at Fiducient. Doug can be reached at 312-853-1000.

Devon C. Francis

Educational Background and Business Experience

Devon is a Partner and Senior Consultant at Fiducient. She was born in 1979, and graduated from Duke University in 2001 with a Bachelor of Arts degree, and from the University of New Haven in 2005 with a Masters in Secondary Education. She has earned the professional designation of Certified Investment Management Analyst (CIMA ®). Devon joined Fiducient in 2021, and prior to that she was a Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Devon has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Devon is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of her time.

Additional Compensation

As a Partner, Devon receives an economic benefit based on the overall profitability of Fiducient. Devon does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Devon is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Matthew J. Fratini

Educational Background and Business Experience

Matthew is a Consultant at Fiducient. He was born in 1991, and graduated from Assumption College in 2014 with a BA. Matthew joined Fiduciary Investment Advisors, LLC in 2014, which combined with Fiducient Advisors in 2020.

Disciplinary Information

Matthew has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Matthew is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Matthew does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Matthew is supervised by Anthony Traghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Taylor J. Furmanski

Educational Background and Business Experience

Taylor is a Senior Consultant at Fiducient. He was born in 1990, and graduated from The College of William & Mary with Bachelor's degree in Business Administration. Taylor has also earned the professional designation of Chartered Financial Analyst (CFA®). Prior to joining the firm in 2019, Taylor worked as a Senior Research Analyst at Ellwood Associates as well as a Consultant at Northern Trust.

Disciplinary Information

Taylor has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Taylor is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Taylor does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Taylor is supervised by Jessica Ludwig, Partner and Associate Director of Institutional Consulting. Jessica can be reached at 312-853-1000.

Ryan T. Gardner

Educational Background and Business Experience

Ryan is a Managing Partner and Senior Consultant at Fiducient. He was born in 1979, and graduated from the University of Hartford in 2001 with a Bachelor of Science degree in Marketing. He has earned the professional designations of Accredited Investment Fiduciary® (AIF®). Ryan is also a PLANSPONSOR Retirement Professional (PRP). Ryan joined Fiducient in 2021, and prior to that he was a Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Ryan has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Ryan is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Ryan receives an economic benefit based on the overall profitability of Fiducient. Ryan does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Ryan is supervised by Mark Wetzel, Managing Partner and President of Fiducient. Mark can be reached at 312-853-1000.

Guadalupe Gomez

Educational Background and Business Experience

Guadalupe is a Consultant at Fiducient. She was born in 1993, and graduated from University of Illinois at Chicago with a BS degree in Finance and Minor in Economics. Guadalupe joined Fiducient in 2018. She has earned the professional financial planning designation of Chartered Retirement Planning Counselor (CRPC®) awarded by the College of Financial Planning. Prior to joining the firm in 2018, Guadalupe was a Registered Client Associate at Merrill Lynch.

Disciplinary Information

Guadalupe has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Guadalupe is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

Guadalupe does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Guadalupe is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Michael E. Goss

Educational Background and Business Experience

Michael is a Managing Partner and Senior Consultant at Fiducient. He was born in 1970, and graduated from Boston College in 1992 with a Bachelor of Arts degree in English and a Masters of Business Administration degree in 2002 from Babson College. Michael is a PLANSPONSOR Retirement Professional (PRP). Michael joined Fiducient in 2021, and prior to that he was an Executive Vice President of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Michael has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Michael is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Michael receives an economic benefit based on the overall profitability of Fiducient. Michael does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Michael is supervised by Mark Wetzel, Managing Partner and President of Fiducient. Mark can be reached at 312-853-1000.

Maura K. Goulart

Educational Background and Business Experience

Maura is a Director of Client Analytics at Fiducient. She was born in 1968 and graduated from University of Massachusetts in 1992 with a BA degree in Economics. Maura joined Fiducient in 2008. Prior to joining Fiducient she began her career at Freedom Capital Management, serving in several roles where she was responsible for portfolio administration, performance and marketing.

Disciplinary Information

Maura has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Maura is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

Maura does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire Fiducient. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Maura is supervised by Julie Vander Weele, Chief Operating Officer. Julie can be reached at 312-853-1000.

Sarah E. Hinman

Educational Background and Business Experience

Sarah is a Senior Consultant at Fiducient. She was born in 1985 and graduated from University of Illinois in 2008 with a BS degree, in Accountancy, and received a Masters of Accounting Science degree in 2009. She has earned the professional designation of Certified Public Accountant (CPA), Personal Financial Specialist (PFS) and is a Certified Financial Planner (CFP®). Sarah joined Fiducient in 2017. Prior to joining Fiducient she was an Associate Financial Advisor with Trinity Financial Advisors.

Disciplinary Information

Sarah has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Sarah is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

Sarah does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Sarah is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

James M. Jensen

Educational Background and Business Experience

Jim is a Partner and Senior Consultant at Fiducient. He was born in 1970, and graduated from the University of Iowa in 1992 with a BBA degree in Finance. He has earned the professional designation of Certified Investment Management Analyst (CIMA®). Jim has been with Fiducient since 2004.

Disciplinary Information

Jim has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Jim is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner Jim receives an economic benefit based on the overall profitability of Fiducient. Jim does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Jim is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Christine M. Jordan

Educational Background and Business Experience

Christine is a Senior Consultant at Fiducient. She was born in 1978 and graduated from James Madison University with a BBA degree in Finance. She has earned the professional designation of Certified Financial Planner (CFP®). Christine joined Fiducient in 2018. Prior to joining Fiducient Christine was Vice President and Financial Advisor at Rappaport Reiches Capital Management, L.L.C. and held various positions with Fidelity Investments.

Disciplinary Information

Christine has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Christine is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

Christine does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Christine is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Christopher F. Kachmar

Educational Background and Business Experience

Christopher is a Partner and Chief Market Strategist at Fiducient. He was born in 1965, and graduated from Boston University in 1987 with a Bachelor of Science degree in Business Administration and a Masters of Business Administration degree in Finance in 1991 from University of Rochester. He has earned the professional designation of Chartered Financial Analyst (CFA®). Christopher joined Fiducient in 2021, and prior to that he was a Senior Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Christopher has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Christopher is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Christopher receives an economic benefit based on the overall profitability of Fiducient. Christopher does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Christopher is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Matthew J. Kaminski

Educational Background and Business Experience

Matthew is a Partner and Research Director of Global Markets at Fiducient. He was born in 1983, and graduated from Stonehill College in 2005 with a BSBA degree in Finance. He has earned the professional designations of Chartered Financial Analyst (CFA®). Matthew joined Fiducient in 2021, and prior to that he was a Partner and Director, Manager Research of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Matthew has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Matthew is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Matthew receives an economic benefit based on the overall profitability of Fiducient. Matthew does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Matthew is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Bradford L. Long

Educational Background and Business Experience

Brad is a Partner and Research Director – Global Public Markets at Fiducient. He was born in 1985, and graduated from the University of Colorado, Boulder in 2008 with BS in Finance. He has earned the professional designation of Chartered Financial Analyst (CFA®). Prior to joining Fiducient in 2012, Brad was a Research Analyst at Wells Fargo Advisors in New York, and a Consulting Group Analyst at Citi Smith Barney.

Disciplinary Information

Brad has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Brad is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Brad receives an economic benefit based on the overall profitability of Fiducient. Brad does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Brad is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Robert H. Lowry

Educational Background and Business Experience

Robert is a Senior Research Analyst-Global Public Markets at Fiducient. He was born in 1987, and graduated from the Bucknell University in 2009 with a Bachelor of Arts degree in Economics. He has earned the professional designation of Chartered Financial Analyst (CFA®). Robert joined Fiducient in 2021, and prior to that he was an investment adviser representative of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Robert has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Robert is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Robert does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Robert is supervised by Brad Long Research Director – Global Public Markets of Fiducient. Brad can be reached at 312-853-1000.

Jessica P. Ludwig

Educational Background and Business Experience

Jessica is a Partner, Associate Director of Institutional Consulting and a Senior Consultant at Fiducient. She was born in 1981, and graduated from Georgetown University in 2004 with a BA degree in English. Jessica has been with Fiducient since 2006.

Disciplinary Information

Jessica has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Jessica is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

As a Partner, Jessica receives an economic benefit based on the overall profitability of Fiducient. Jessica does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Jessica is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Sean McCaffery

Educational Background and Business Experience

Sean is a Research Analyst-Global Public Markets at Fiducient. He was born in 1992, and graduated from the University of Connecticut in 2014 with a Bachelor of Science degree in Finance. Sean joined Fiducient in 2021, and prior to that he was a Marketing Associate of Fiduciary Investment Advisors, LLC

Disciplinary Information

Sean has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Sean is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Sean does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Sean is supervised by Brad Long Research Director – Global Public Markets of Fiducient. Brad can be reached at 312-853-1000.

Carol F. McShera

Educational Background and Business Experience

Carol is a Consultant at Fiducient. She was born in 1989 and graduated from Boston University in 2011 with a BA degree in Mathematics and a BA in Economics, and received a Master of Arts in 2011. She joined Fiduciary Investment Advisors (FIA) in 2018, which was acquired by Fiducient in 2020, as a Consultant & Research Analyst. Prior to that, Carol was a Retirement Plan Consultant at Lion Street Financial and Kestra Investment Services and a Consultant Relations Associate at Well Capital Management.

Disciplinary Information

Carol has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Carol is a Consultant & Research Analyst of Fiduciary Investment Advisors LLC (FIA). As of April 1, 2020, FIA became a wholly owned subsidiary of Fiducient and anticipates fully integrating by January 1, 2021. Carol and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Carol does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Carol is supervised by Jessica Ludwig, Partner and Associate Director of Institutional Consulting. Jessica can be reached 312-853-1000.

Joseph P. Melia

Educational Background and Business Experience

Joseph is a Senior Consultant at Fiducient. He was born in 1964 and graduated from University of Massachusetts - Boston in 1988 with a BA in Political Science and Public Policy. Joseph has been with Fiducient since 2021. Prior to joining the firm in 2021, he was a Vice President and Managing Director for Fidelity Investments. Joseph's industry experience also includes serving as a Vice President and Relationship Manager for Putnam Investments.

Disciplinary Information

Joseph has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Joseph is not actively engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Joseph does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Joseph is supervised by Ryan Gardner, Managing Partner and Head of Defined Contribution. Ryan can be reached at 312-853-1000.

James B. Modelski

Educational Background and Business Experience

Jim is a Partner and Senior Consultant at Fiducient. He was born in 1967, and graduated from Columbia College in 1989 with a BA degree in Broadcast Communications and from Loyola University Chicago in 2000 with an MBA degree in Finance and Economics. Jim has been with Fiducient since 1998.

Disciplinary Information

Jim has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Jim is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Jim receives an economic benefit based on the overall profitability of Fiducient. Jim does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Jim is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Ryan L. Murphy

Educational Background and Business Experience

Ryan is a Senior Consultant at Fiducient. He was born in 1975, and has a BA in Economics and French from Franklin & Marshall College. Prior to joining Fiducient in 2018, Ryan was a Managing Director at Clearbrook Investment Consulting.

Disciplinary Information

Ryan has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Ryan is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Ryan does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Ryan is supervised by Mark Wetzel, Managing Partner and President of Fiducient. Mark can be reached at 312-853-1000.

Peter D. Nadeau

Educational Background and Business Experience

Peter is a Partner and Senior Consultant at Fiducient. He was born in 1983, and graduated from the University of Hartford in 2005 with a Bachelor of Arts and Sciences degree in Psychology. He has earned the designation of The SPARK Accredited Retirement Plan Consultant (ARPC). Peter joined Fiducient in 2021, and prior to that he was a Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Peter has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Peter is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Peter receives an economic benefit based on the overall profitability of Fiducient. Peter does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Peter is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Adam P. Newell

Educational Background and Business Experience

Adam is a Partner, Director of Consulting for The Wealth Office™ and a Senior Consultant at Fiducient. He was born in 1978, and graduated from Purdue University in 2000 with a BS degree in Finance and a minor in Financial Planning. He has earned the professional designations of Chartered Financial Analyst (CFA®) and Certified Financial Planner (CFP®). Adam has been with Fiducient since 2004.

Disciplinary Information

Adam has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Adam is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Adam receives an economic benefit based on the overall profitability of Fiducient. Adam does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Adam is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Timothy C. Ng

Educational Background and Business Experience

Timothy is a Senior Consultant at Fiducient. He was born in 1956, and graduated from Long Island University in 1980 with a MBA and earned his BA in Finance from Stony Brook University. Prior to joining the firm in 2021, Timothy was a Managing Director/Chief Investment Officer at Clearbrook Global Advisors, LLC.

Disciplinary Information

Timothy has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Timothy is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Timothy does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Timothy is supervised by Anthony Traghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Anthony M. Novara

Educational Background and Business Experience

Anthony is a Partner and Research Director – Global Hedge Fund Strategies at Fiducient. He was born in 1982, and graduated from Michigan State University in 2004 with a BA degree in Finance. He was granted the professional designation of Chartered Financial Analyst (CFA®) in 2008 and completed an MBA degree in Analytic Finance, Economics, & Entrepreneurship from the University of Chicago Booth School of Business in 2012. Prior to joining Fiducient, Anthony was a Research Associate at William Blair & Company, an Associate at Conversus Asset Management, and an Investment Analyst at National City Bank.

Disciplinary Information

Anthony has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Anthony is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Anthony receives an economic benefit based on the overall profitability of Fiducient. Chad does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Anthony is supervised by Matt Rice, Partner, the Chief Investment Officer and a Senior Institutional Consultant at Fiducient. Matt can be reached at 312-853-1000.

Kevin D. O'Brien

Educational Background and Business Experience

Kevin is a Partner and Senior Consultant at Fiducient. He was born in 1975, and graduated from the University of Massachusetts in Amherst in 1998 with a Bachelor of Science degree in Business Administration with a Finance concentration. He has earned the professional designations of Chartered Financial Analyst (CFA®). Kevin joined Fiducient in 2021, and prior to that he was a Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Kevin has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Kevin is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Kevin receives an economic benefit based on the overall profitability of Fiducient. Kevin does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Kevin is supervised by Anthony Traghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

William J. Parker, III

Educational Background and Business Experience

Bill is Associate Director of Consulting for The Wealth Office™, Principal, and a Senior Consultant at Fiducient. He was born in 1979, and graduated from Fordham University (NY) in 2001 with a BA degree in Philosophy & Political Science and from The Graduate School of Management at Lewis University with an MBA (2005) and an MSF (2008). He has earned the professional designation of Certified Investment Management Analyst (CIMA®). Bill joined Fiducient in 2011, and prior to that he was an Associate at Northern Trust Global Investments.

Disciplinary Information

Bill has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Bill is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Bill does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Bill is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Karen R. Paulson

Educational Background and Business Experience

Karen is a Partner and Senior Consultant at Fiducient. She was born in 1966, and graduated from the University of Hartford in 1988 with a BSBA degree in Economics/Finance. She has earned the professional designation of Certified Investment Management Analyst (CIMA ®). Karen is also a PLANSPONSOR Retirement Professional (PRP). Karen joined Fiducient in 2021, and prior to that she was a Senior Consultant at Fiduciary Investment Advisors, LLC.

Disciplinary Information

Karen has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Karen is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of her time.

Additional Compensation

As a Partner, Karen receives an economic benefit based on the overall profitability of Fiducient. Karen] does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Karen is supervised by Anthony Traghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Kathryn J. Pizzi

Educational Background and Business Experience

Kathryn is a Partner and Senior Consultant at Fiducient. She was born in 1977, and graduated from Boston University in 1999 with a Bachelor of Arts degree in Mathematics and Economics. She has earned the professional designations of Chartered Financial Analyst (CFA®). Kathryn joined Fiducient in 2021, and prior to that she was a Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Kathryn has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Kathryn is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of her time.

Additional Compensation

As a Partner, Kathryn receives an economic benefit based on the overall profitability of Fiducient. Kathryn does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Kathryn is supervised by Anthony Traghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Tyler B. Polk

Educational Background and Business Experience

Tyler is a Partner and Senior Consultant at Fiducient. He was born in 1981, and graduated from Williams College in 2004 with a Bachelor of Arts degree in English. Tyler joined Fiducient in 2021, and prior to that he was a Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Tyler has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Tyler is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Tyler receives an economic benefit based on the overall profitability of Fiducient. Tyler does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Tyler is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Matthew P. Porter

Educational Background and Business Experience

Matt is a Partner, Executive Research Director and a Senior Consultant at Fiducient. He was born in 1971, and graduated from the University of Illinois in 1993 with a BS degree in Finance. He has earned the professional designation of Certified Investment Management Analyst (CIMA®). Matt has been with Fiducient since 1998.

Disciplinary Information

Matt has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Matt is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Matt receives an economic benefit based on the overall profitability of Fiducient. Matt does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Matt is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Eric E. Ramos

Educational Background and Business Experience

Eric is a Senior Consultant at Fiducient. He was born in 1989 and graduated from Purdue University in 2011 with a BS degree in Financial Planning and Services. He has earned the professional designation of Chartered Financial Analyst (CFA®). Prior to joining Fiducient in 2013, Eric was a Personal Banker at JPMorgan Chase.

Disciplinary Information

Eric has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Eric is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Eric does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Eric is supervised by Jessica Ludwig, Partner and Associate Director of Institutional Consulting. Jessica can be reached at 312-853-1000.

Matthew R. Rice

Educational Background and Business Experience

Matt is a Partner, the Chief Investment Officer and Senior Consultant at Fiducient. He was born in 1974, and graduated from Northwestern University in 1997 with a BA degree in Economics. He has earned the professional designations of Chartered Alternative Investment Analyst (CAIA) and Chartered Financial Analyst (CFA®). Matt has been with Fiducient since 2001.

Disciplinary Information

Matt has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Matt is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Matt receives an economic benefit based on the overall profitability of Fiducient. Matt does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Matt is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Jacqueline A. Rondini

Educational Background and Business Experience

Jackie is a Senior Consultant at Fiducient. She was born in 1968, and graduated from Iowa State University in 1989 with a BBA. She has earned the professional designation of Certified Financial Planner (CFP®). Jackie has been with Fiducient since 1997.

Disciplinary Information

Jackie has not been involved in any legal or disciplinary events that would be material to a client's evaluation of her or Fiducient.

Other Business Activities

Jackie is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of her income or involves a substantial amount of her time.

Additional Compensation

Jackie does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Jackie is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Christopher J. Rowlins

Educational Background and Business Experience

Christopher is a Partner and Senior Consultant at Fiducient. He was born in 1965, and graduated from Boston University in 1990 with a Bachelor of Arts degree in Economics. He has earned the professional designation of Accredited Investment Fiduciary® (AIF®). Christopher joined Fiducient in 2021, and prior to that he was a Principal and Senior Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Christopher has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Christopher is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Christopher receives an economic benefit based on the overall profitability of Fiducient. Christopher does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Christopher is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Andrew B. Salak

Educational Background and Business Experience

Andrew is a Senior Consultant in The Wealth Office at Fiducient. He was born in 1982, and graduated from Fordham University in 2004 with a Bachelor of Arts degree in Communications. Andrew joined Fiducient in 2021, and prior to that he was an Associate Director of Wealth of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Andrew has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Andrew is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Andrew does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Andrew is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office of Fiducient. Adam can be reached at 312-853-1000.

Brian J. Samuels

Educational Background and Business Experience

Brian is a Senior Consultant at Fiducient. He was born in 1984 and graduated from Goucher College in 2007 with a BA degree in Management and a BA in Communication & Media Studies. In 2013 he received his Master of Business Administration (MBA) with concentrations in Investment and Corporate Finance from Duke University's Fuqua School of Business. Brian joined Fiducient in 2017. He has earned the professional designation of Chartered Financial Analyst (CFA®). Prior to joining Fiducient, Brian was an Investment Consultant with Willis Towers Watson.

Disciplinary Information

Brian has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Brian is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Brian does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Brian is supervised by Jessica Ludwig, Partner and Associate Director of Institutional Consulting. Jessica can be reached at 312-853-1000.

Joseph A. Scime

Educational Background and Business Experience

Joe is a Principal and Senior Consultant at Fiducient. He was born in 1986, and graduated from the University of Michigan in 2008 with a BA degree in Economics. He has earned the professional designations of Certified Financial Planner (CFP®) and Chartered Financial Analyst (CFA®). Joe joined Fiducient in 2012 and prior to that he was an Investment Associate at UBS Financial Services.

Disciplinary Information

Joe has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Joe is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Joe does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Joe is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Barrett R. Scott

Educational Background and Business Experience

Barrett is a Consultant at Fiducient. He was born in 1990, and graduated from Clemson University in 2013 with a BS in Business Management and a minor in Finance. Prior to joining Fiducient, Barrett was a Client Service Associate at ORION Investment Advisors which was acquired by Fiducient in 2017. Prior to that, Barrett was an intern at RBC in the Wealth Office department.

Disciplinary Information

Barrett has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Barrett is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Barrett does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Barrett is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Matthew T. Smith

Educational Background and Business Experience

Matthew is a Senior Research Analyst-Global Public and Global Private Markets at Fiducient. He was born in 1986, and graduated from the University of Massachusetts in 2009 with a Bachelors of Business Administration degree in Finance. He has earned the professional designations of Chartered Financial Analyst (CFA®). Matthew joined Fiducient in 2021, and prior to that he was a Research Analyst of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Matthew has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Matthew is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Matthew does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Matthew supervised by Matthew Kaminski, Research Director of Global Markets of Fiducient. Matthew can be reached at 312-853-1000.

Vincent M. Smith

Educational Background and Business Experience

Vincent is a Partner and Senior Consultant at Fiducient. He was born in 1976, and graduated from the Stonehill College in 1999 with a Bachelor of Arts degree in Economics. He has earned the professional designation of Accredited Investment Fiduciary® (AIF®). Vincent joined Fiducient in 2021, and prior to that he was a Senior Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Vincent has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Vincent is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Vincent receives an economic benefit based on the overall profitability of Fiducient. does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Vincent is supervised by Anthony Tranghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Stephen W. Spencer

Educational Background and Business Experience

Steve is a Senior Consultant at Fiducient. He was born in 1969, and graduated from the University of New Hampshire in 1992 with a BA in Economics. He has earned the professional designation of Certified Investment Management Analyst (CIMA®). Steve has been with Fiducient since 2000.

Disciplinary Information

Steve has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Steve is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Steve does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Steve is supervised by Doug Balsam, Partner and Director of Institutional Consulting. Doug can be reached at 312-853-1000.

Michael J. Sustarsic

Educational Background and Business Experience

Michael is a Principal and Research Director at Fiducient. He was born in 1989, and graduated from University of Chicago in 2012 with a BA in Economics. He was granted the professional designation of Chartered Financial Analyst (CFA®). Prior to joining the firm in 2015, Michael was a Financial Analyst at General Growth Properties and a Research Analyst with Caldera Investment Group.

Disciplinary Information

Michael has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Michael is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Michael does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Michael is supervised by Matt Rice, Partner, the Chief Investment Officer and a Senior Institutional Consultant at Fiducient. Matt can be reached at 312-853-1000.

Joseph M. Syron

Educational Background and Business Experience

Joe is a Senior Consultant at Fiducient. He was born in 1969, and earned a Bachelor's degree in political science and economics from Michigan State University in 1999. He holds the professional designation of Professional Plan Consultant. Prior to joining Fiducient, Joe was Director of Retirement Plan Services at ORION Investment Advisors which was acquired by Fiducient in 2017. Prior to that, Joe was an Investment Consultant with Cambridge Associates.

Disciplinary Information

Joe has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Joe is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Joe does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Joe is supervised by Doug Balsam, Partner and Director of Institutional Consulting. Doug can be reached at 312-853-1000.

David M. Thome

Educational Background and Business Experience

David is a Senior Consultant at Fiducient. He was born in 1981, and graduated from James Madison University in 2003 with a BBA degree in Finance and is a Certified Financial Planner (CFP®). Prior to joining Fiducient, David was Director of Wealth Management at ORION Investment Advisors which was acquired by Fiducient in 2017. Prior to that, David was a Financial Advisor with Morgan Stanley.

Disciplinary Information

David has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

David is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

David does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

David is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Chad A. Tischer

Educational Background and Business Experience

Chad is a Partner, Director of OCIO services and a Senior Consultant at Fiducient. He was born in 1978, and graduated from St. Cloud State University in 1999 with a BA degree in Finance and from DePaul University in 2005 with an MBA in Finance. He has earned the professional designation of Certified Financial Planner (CFP®). Chad has been with Fiducient since 2003.

Disciplinary Information

Chad has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Chad is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Chad receives an economic benefit based on the overall profitability of Fiducient. Chad does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Chad is a Partner and is supervised by Bob DiMeo, Partner and the Managing Director of Fiducient. Bob can be reached at 312-853-1000.

Ryan P. Tracy

Educational Background and Business Experience

Ryan is a Senior Consultant at Fiducient. He was born in 1987, and graduated from Eastern Illinois University in 2012 with a BS degree in Finance and Accounting. He has earned the professional designation of Certified Financial Planner (CFP®). Ryan joined Fiducient in 2017. Prior to joining Fiducient, Ryan was Managing Partner at 360 Financial Group, L.L.C.

Disciplinary Information

Ryan has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Ryan is not engaged in any other investment-related business or occupation. Ryan is a Realtor for Charles Rutenberg Realty and compensation earned from his role as a realtor could be considered a substantial source of his income.

Additional Compensation

Ryan does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Ryan is supervised by Adam Newell, Partner and Director of Consulting in The Wealth Office™ of Fiducient. Adam can be reached at 312-853-1000.

Anthony J. Traghese

Educational Background and Business Experience

Anthony is a Managing Partner and Director of Institutional Consulting at Fiducient. He was born in 1974, and graduated from Marist College in 1996 with a Bachelor of Science degree in Business Administration and from Carroll School of Management at Boston College in 2002 with a Master of Science in Finance degree. He has earned the professional designations of Chartered Financial Analyst (CFA®). Anthony joined Fiducient in 2021, and prior to that he was a Senior Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Anthony has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Anthony is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Anthony receives an economic benefit based on the overall profitability of Fiducient. Anthony does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Anthony is supervised by Mark Wetzels, Managing Partner and President of Fiducient. Mark can be reached at 312-853-1000.

Mark R. Wetzel

Educational Background and Business Experience

Mark is a Managing Partner and President at Fiducient. He was born in 1961, and graduated from the University of Vermont in 1983 with a Bachelor of Science degree in Business Administration and from Tuck School at Dartmouth College in 1990 with a Master of Business Administration degree. Mark joined Fiducient in 2021, and prior to that he was the President of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Mark has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Mark is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

As a Partner, Mark receives an economic benefit based on the overall profitability of Fiducient. Mark does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Mark is supervised by the Executive Committee of Fiducient. A member of the Executive Committee can be reached at 312-853-1000.

Brian M. White

Educational Background and Business Experience

Brian is a Senior Consultant at Fiducient. He was born in 1978, and graduated from the University of Northern Iowa in 2001 with a BA degree in Marketing. Brian began his professional career at Fiducient in 2007.

Disciplinary Information

Brian has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Brian is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Brian does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Brian is supervised by Doug Balsam, Partner and Director of Institutional Consulting. Doug can be reached at 312-853-1000.

Leslie A. Whitney

Educational Background and Business Experience

Leslie is a Partner and Senior Consultant at Fiducient. She was born in 1961, and graduated from the University of Denver, Denver Colorado in 1983 with a Bachelor of Arts degree in Economics. Leslie joined Fiducient in 2021, and prior to that she was a Consultant of Fiduciary Investment Advisors, LLC.

Disciplinary Information

Leslie has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Leslie is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of her time.

Additional Compensation

As a Partner, Leslie receives an economic benefit based on the overall profitability of Fiducient. Leslie does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients.

Supervision

Leslie is supervised by Anthony Traghese, Managing Partner and Director of Institutional Consulting of Fiducient. Anthony can be reached at 312-853-1000.

Altan O. Wuliji

Educational Background and Business Experience

Altan is a Senior Consultant at Fiducient. He was born in 1986, and graduated from the University of Illinois in 2009 with a BS degree and from Texas Tech University in 2011 with a MS degree in Personal Financial Planning. He has earned the professional designation of Certified Financial Planner (CFP®). Altan joined Fiducient in 2014 and prior to that he was a Senior Planner with Balasa Dinverno Foltz L.L.C. and an Analyst with RegentAtlantic.

Disciplinary Information

Altan has not been involved in any legal or disciplinary events that would be material to a client's evaluation of him or Fiducient.

Other Business Activities

Altan is not engaged in any other investment-related business or occupation, and is not engaged in any other business or occupation for compensation which provides a substantial source of his income or involves a substantial amount of his time.

Additional Compensation

Altan does not receive economic benefits from any person or entity other than Fiducient in connection with the provision of investment advice to clients. Fiducient does offer a New Business Bonus Program which rewards Associates for referring a potential client who subsequently decides to hire the Firm. The referral bonus is based on the first-year firm revenues attributable to a referred retainer relationship.

Supervision

Altan is supervised by Joseph S. Cortese III, Associate Director in OCIO. Joe can be reached at 312-853-1000.

Professional Designations

Chartered Financial Analyst (CFA®)

To earn the charter, one must have four years of qualified investment work experience; become a member of the CFA Institute; pledge to adhere to the CFA Institute Code of Ethics and Standards of Professional Conduct; and complete the CFA Program. The CFA Program provides a strong foundation of the real-world investment analysis and portfolio management skills and practical knowledge needed in today's investment industry. The CFA Program is organized into three levels each culminating in a six-hour exam. For more information one can visit www.cfainstitute.org.

Certified Investment Management Analyst (CIMA®)

Certificants must complete a rigorous process that includes a pre-study period leading up to passing the Qualification Examination, attend a one-week onsite intensive at The Wharton School, University of Pennsylvania, pass a comprehensive Certification Examination, and sign and adhere to CIMCA's Code of Professional Responsibility. For more information one can visit <https://investmentsandwealth.org>.

Certified Financial Planner (CFP®)

In order to fulfill the requirements one must complete an advanced college-level course of study addressing the financial planning subject areas that CFP Board's studies have determined as necessary for the competent and professional delivery of financial planning services, and attain a Bachelor's degree from an accredited university; pass the comprehensive CFP Certification Examination administered in 10 hours over a two-day period; complete at least three years of full-time financial planning experience; and agree to be bound by the CFP Board's Standards of Professional Conduct. For more information one can visit www.cfp.net.

Chartered Alternative Investment Analysts (CAIA)

The CAIA program is designed to facilitate self-directed learning through a comprehensive set of readings on risk-return attributes of institutional quality alternative assets. The program is organized into two levels of study. The Level I and Level II exams are offered twice each year, in March and September. The CAIA designation demonstrates mastery of alternative investment concepts, tools, and practices and promotes adherence to the highest standards of professional conduct. For more information one can visit www.caia.org.

Chartered Retirement Planning Counselor (CRPC®)

Individuals who hold the CRPC® designation have completed a course of study encompassing pre-and post-retirement needs, asset management, estate planning and the entire retirement planning process using models and techniques from real client situations. The program is designed for approximately 120-150 hours of self-study. The program is self-paced and must be completed within one year from enrollment. For more information one can visit <https://www.cffp.edu>.

Accredited Investment Fiduciary (AIF®)

The AIF designation awarded by fi360 demonstrates a focus on the components of a comprehensive investment process, related fiduciary standards of care, and commitment to excellence. To receive the designation, individuals must complete a training program, successfully pass a comprehensive, closed-book final examination under the supervision of a proctor and agree to abide by the AIF Code of Ethics. On an ongoing basis, completion of continuing education and adherence to the Code of Ethics are required to maintain the AIF designation. For more information one can visit www.fi360.com.

The PLANSPONSOR Retirement Professional (PRP) designation requires that a PRP must have five (5) or more years of direct retirement industry sales, service and/or support experience, must complete both on-line coursework and an instructor lead training session, and successfully pass a final examination. In addition, each PRP candidate must submit a letter of reference that attests to his or her qualifications for certification, agree to PLANSPONSOR Institute's PRP code of ethics, and, on an ongoing basis, complete twelve (12) hours of continuing education.

The SPARK Accredited Retirement Plan Consultant (ARPC) designation is awarded to sales and marketing professionals who have demonstrated individual proficiency in the retirement savings plan industry, have met the eligibility requirements and successfully completed an examination.

Fiducient Advisors LLC California, U.S. and GDPR Privacy Policy

Table of Contents:

[Our Commitment to Protect your Privacy](#)

[Changes to this Privacy Policy](#)

[Why We Collect Information](#)

[Information We Collect From You](#)

[How We Collection Information](#)

[How We Use Your Information](#)

[Information We May Disclose to Third Parties](#)

[Limits on Sharing](#)

[Lawful Basis for Processing](#)

[Individual Rights](#)

[California Residents](#)

[Will your Personal Information be kept Accurate, Complete and Up to Date?](#)

[How We Protect Information](#)

[Do We Use “Cookies” or Obtain Personal Information by Automated Means on Our Website?](#)

[How do We Respond to Do Not Track Signals on Our Website?](#)

[Information about Children on Our Website](#)

[Retention and Processing of Personal Information](#)

[Data Transfers](#)

[Data Controller](#)

[Whom You Can Contact at Fiducient](#)

[Definitions](#)

Our Commitment to Protect your Privacy

Fiducient Advisors LLC (“Fiducient,” “us”, “our” or “we”) values the trust our clients place in us and we commit to responsible management, use and protection of our clients’ (“you” or “your”) personal information. Applicable federal and international laws (for example, the General Data Protection Regulation (“GDPR”) and the California Consumer Privacy Act (“CCPA”)) require we inform you how we collect, share, use, and protect your personal information (including on our Website) as well as your privacy rights prescribed by applicable law.

In addition to Fiducient’s interactions offline, clients may also have access to our services through Fiducient’s Website (“Website”). To deliver these services as effectively and conveniently as possible, it is essential that we manage and maintain certain client information.

If you are a California resident or otherwise covered under CCPA, personal information and nonpublic information also includes personal information as defined under CCPA but does not include personal information that is exempted from the CCPA, such as personal information covered by other privacy law, such as the Gramm-Leach Bliley Act.

If you are a resident of the European Union or otherwise covered under GDPR, personal information and nonpublic information also includes personal data as defined under GDPR. Please take a moment to review our “Privacy Policy.”

When you visit our Website, you are accepting the practices described in this Privacy Policy. If you do not agree, please do not use our Website.

Changes to this Privacy Policy

This Privacy Policy may change from time to time and should be reviewed periodically. Fiducient provides annual notice to each of its clients concerning its sharing practices. If, at any time, Fiducient adopts material changes to its privacy policies, the firm shall provide each client with a revised notice reflecting the new privacy policies. Any changes shall be effective immediately upon issuance of the updated Privacy Policy and/or posting on our Website.

A copy of our most current version of this Privacy Policy is available upon request or can be accessed from the link on the bottom of our homepage, or at the bottom of our other Website pages. By accessing our Website after we have posted changes to this Privacy Policy, you are agreeing to the terms of the Privacy Policy as modified.

Why We Collect Information

Fiducient gathers information to help us serve your financial needs, provide customer service, and fulfill legal and regulatory requirements. Any collection of personal information is used to support our normal business operations and to service and develop our relationship with you. In addition to the information collected, during the course of our relationship, we may also collect a variety of nonpublic personal information from other sources.

Information We Collect From You

The type of nonpublic personal information we collect and share depends on the offering or service we provide you. This information can include, but is not limited to, your:

- Personal information and identifiers – Information contained in applications and other forms such as; name, address, telephone number, email address, family member information, occupation, education level,

beneficiaries, driver's license, passport, tax identification number, account numbers, assets, and income;

- Protected classification characteristics – We do not collect client information regarding characteristics of protected classifications such as; race, nation origin, ethnicity, gender, religious beliefs, sex, disability;
- Commercial information – Records of products or services purchased, obtained or considered, account balances and transactions and payment history;
- Biometric information – We do not collect client information regarding fingerprints or any other genetic or biological characteristics or activity patterns used for identify personal information
- Internet or other electronic network activity information – Email address, IP address, and information from visits to our website such as; site visitorship data and cookies
- Geolocation data – IP address
- Sensory data – We do not collect client information regarding sensory, other than voicemails recorded by prospects and clients to respond to request and facilitate relationships;
- Professional or employment related information – RFPs, due diligence questionnaires, vendor and third-party service provider agreements;
- Education information that is not public – We do not collect client information regarding non-public education records;
- Information required for us to meet legal and regulatory requirements, including anti-money laundering regulations;
- Any other information you may provide to us – Client information voluntarily provided in order better to effect transactions and maintain your account.

Our products and services are not intended for children and we will not knowingly collect any data related to children unless they are a beneficiary in which case we will only collect and use the information as required to perform our obligations to the associated client.

How We Collect Information

Commonly, we will collect client information directly from you when you contact us or provide information in order for us to provide our products and services as well as effect transactions and maintain your account. This personal information may include, but are not limited to:

- Information on applications and related forms, such as name, address, Social Security Number, assets and income
- Information regarding your transactions, such as purchases, sales and account balances
- Information from your employer, association, or benefit plan sponsor, such as name, address, Social Security Number, assets, and income

Any information we collect when guests visit our Website does not identify individual users, however we do collect the amount of traffic visiting the Website, which pages are visited and for how long, where visitors come from, and what ISP they are using. We use the information we collect to improve the quality of our Website, enhance or tailor the information we offer, and make your experience on our Website as valuable and efficient as possible.

For more information please see the section below titled, "Do We Use "Cookies" or Obtain Personal Information by Automated Means?"

How We Use Your Information

We collect and use your personal information for the purpose of providing our investment consulting and investment management services, as well as other related services, including handling transactions or providing services requested by you or persons authorized by you. In managing your investment for you, we will use your personal information to:

- Monitor, audit, evaluate and otherwise administer our services;
- Provide continuous service to you and to conduct business processing functions including by providing personal information to our contractors, certain Affiliates, service providers, or other third parties;
- Communicate with you and respond to your inquiries;
- In an effort to prevent and protect against fraud and identify theft;
- In an effort to prevent copyright infringement, unauthorized use and distribution of protected content and other unlawful activity, claims and liabilities;
- Pursuit of our legitimate interests;
- Conduct investigations and comply with and enforce applicable legal obligations, relevant industry standards, contractual obligations and our policies and terms; and/or
- For other purposes required or authorized by law, including other purposes for which you have provided your consent.

In the event that we use your personal information purposes not identified above where your direct is required under applicable rules, laws and/or regulations we will provide specific notice at the time we collect such personal information.

Information We May Disclose to Third Parties

Fiducient does not and will not sell your personal information to anyone. We do not disclose nonpublic personal information about you to anyone, except as permitted or required by law.

In the course of servicing your account, Fiducient may share information collected about you for business purposes with Affiliated and authorized Nonaffiliated parties. Affiliated and Nonaffiliated parties are not authorized to use or disclose your personal information except as necessary to perform services on our behalf or comply with legal requirements. Third parties may include; mutual fund companies, broker/dealers, insurance companies, banks and investment firms and autonomous marketing distribution vendors. We share personal information with business partners and Affiliates who manage and

assist with our administrative, technology and business operations including CRM and billing software management, as well as email storage and archiving. We also disclose personal information about you to an Affiliated SEC registered Investment Adviser, in order to help perform and market services on our behalf to service you and, alongside Fiducient, market our products to you. We may also disclose your information to other organizations such as government agencies and law enforcement officials (for example, for tax reporting or under court order), or to other organizations and individuals with your consent (for example, to your attorney or tax professional).

Finally, Fiducient may share information with other third-party organizations Fiducient engages to service and maintain your account (for example, software companies used for client reporting) or to meet firm regulatory obligations. Fiducient does not disclose your nonpublic personal information, except as provided above.

Disclosure of any personal information about our former clients and business contacts is handled in the same manner as for our current clients and business contacts.

In the section below pursuant to U.S. Federal Laws, we list the reasons financial companies can share their customers' personal information; the reasons Fiducient chooses to share; and whether you can limit this sharing.

Reasons we can share your Personal Information	Does Fiducient share?	Can you limit sharing?
For our everyday business purposes - such as to process your transactions, maintain your account(s), respond to court orders and legal investigations	Yes	No
For our marketing purposes - to offer our services to you	Yes	Yes
For joint marketing with other financial companies	No	We don't share
For our Affiliates' everyday business purposes - information about your transactions and experiences	Yes	No
For our Affiliates' everyday business purposes - information about your creditworthiness	No	We don't share
For our Affiliates to market to you	No	We don't share
For Nonaffiliates to market to you	No	We don't share

Limits on Sharing

To the extent U.S. Federal laws apply to your personal information, you have the right to limit only:

- sharing for Affiliates' everyday business purposes - information about your creditworthiness;
- Affiliates from using your information to market to you; and
- sharing for Nonaffiliates to market to you.

U.S. state laws and individual companies may give you additional rights to limit sharing. Residents of California have additional rights described below.

Lawful Basis for Processing

Fiducient may have one or more of the following lawful bases to process your personal information:

- Consent: you're freely, informed, and voluntary consent to process your personal information in connection to our investment services.
- Contract: processing your personal information is necessary in order to fulfill a contract.
- Legal Obligation: processing is necessary to comply with applicable rules, laws, and regulations.
- Legitimate Interests: processing is necessary to the legitimate interests of our firm and/or a third party.

Individual Rights

To the extent permitted by the applicable law of your jurisdiction, in relation to your personal information, you may request:

- to have your personal information corrected, for example, if it is incomplete or incorrect;
- to opt out of receiving marketing communications at any time;
- the right to file a complaint with an applicable government regulator such as a Data Protection Authority.

In addition to the foregoing, if you are located in the European Economic Area ("EEA"), to the extent permitted by applicable law, in relation to your personal information, you may request:

- to access the personal information held by us about you;
- the right to restrict or object to the processing of your personal information, or request that your personal information is erased;
- the right to receive a copy of the personal information which you have provided to our firm, in a structured, commonly used and machine-readable format (known as "data portability");
- have a copy of the personal information we hold about you provided to you or another controller where technically feasible;
- where you have provided personal information voluntarily, or otherwise consented to its use, the right to withdraw your consent.

To help protect your privacy and maintain security, we may take steps to verify your identity before granting you access to your information.

To the extent permitted by applicable law, a charge may apply before we provide you with a copy of any of your personal information that we maintain.

California Residents

The CCPA provides residents of California with certain rights with respect to the personal information held by a

business. These rights may include:

- **Right to Access** – You have the right to request that we disclose the categories of personal information that we have collected about you and the specific pieces of that personal information we have collected in the past 12 months, the categories of sources from which personal information is collected, the categories of third parties with which we share personal information, and the business purpose or commercial purpose for collection.
- **Right to Request Deletion** – You have the right to request that we delete certain personal information about you that we collect or a service provider collects on our behalf. However, certain requests to delete personal information may be denied if we are required to retain the information to comply with legal obligations, the information is necessary for detecting or preventing security incidents, exercising free speech, protecting or defending against legal claims, or for internal uses that are reasonably aligned with consumer expectations based on your relationship with us.
- **Right to Non-Discrimination** – You have the right not to receive discriminatory treatment by us for exercising these privacy rights. We do not offer financial incentives directly related to the provision of personal information.
- **Authorized Agent** – You have the right to designate an authorized agent to make these requests on your behalf.

These rights do not cover personal information that is restricted or prohibited by law, rule or regulation, or is otherwise exempted from the CCPA, such as personal information covered by other privacy laws; including the Gramm-Leach Bliley Act. If the CCPA applies to you and wish to exercise any of these rights, please call 1-800-392-9998 or email us at compliance@fiducient.com. We may need to obtain additional information from you in order to confirm your identity before we release any personal information. Once your identity is verified, we will respond to consumer requests within 45 days or, if additional time is necessary to fulfil the request, notify the you that additional time is needed, up to 45 more days (90 days in total).

Will your Personal Information be kept Accurate, Complete and Up to Date?

We will endeavor to ensure your personal information is kept accurate, complete, up to date and relevant. Please let us know if any of your details change. If you feel your personal information is not accurate, complete or up to date, please notify us and we will take reasonable steps to ensure it is corrected. You can contact us using the details listed below.

How We Protect Information

Fiducient maintains physical, electronic, and procedural safeguards to protect your nonpublic personal information to ensure we comply with our own policy, industry practices, and federal or state regulations. If you ever become an inactive client, we will continue to adhere to the privacy policies and practices described in this notice.

As our Website is linked to the internet, and the internet is inherently insecure, we cannot provide any assurance regarding the security of transmission of information you communicate to us online. We also cannot guarantee that the information you supply not be intercepted while being transmitted over the internet. Accordingly, any personal information or other information which you transmit to us online is transmitted at your own risk.

Links to Third-Party Websites. As a convenience to you, Fiducient may provide hyperlinks to websites operated by

third parties. When you select these hyperlinks you will be leaving our Website.

Fiducient has no control over third party websites, their content, or security. Accordingly, when you access these third-party websites it is at your own risk. We encourage you to read the associated privacy policy by such third-party websites to learn more about their data privacy management practices. Fiducient may, in its sole discretion, block links to our Website and Content without prior notice.

Do We Use “Cookies” or Obtain Personal Information by Automated Means on Our Website?

We may use “cookies” to help us tailor our Website to better suit your needs (for example, we may use cookies to enable us to save any personal preferences indicated by you) and to provide a more effective route to various components of our Website.

Cookies are small text files that are stored in your computer's memory and hard drive when you visit certain web pages. They are used to enable websites to function or to provide information to the owners of a website.

Automated Decision Making. Our Website contains cookies that function as an automated decision-making mechanism to determine user location.

Third party cookies. Third party cookies are cookies set by a website other than the website you are currently visiting. When you visit our Website, if we have link to third-party website, you may receive cookies that are set by that third party. These cookies are used for the purposes described in the bullet points above. We do not control the setting of these third-party cookies, so we suggest you might wish to check the third-party websites for more information about their use of cookies and how to manage them.

Amending internet browser settings to disable cookies. You can configure your browser to accept all cookies, reject all cookies, notify you when a cookie is set, or delete cookies that have already been set. Each browser is different, so check the “Help” menu of your browser to learn how to change your cookie preferences. You are free to decline our cookies if your browser permits, although in that case you may not be able to use certain features on our Website. In addition, a number of companies offer utilities designed to help you visit websites anonymously.

For more information about cookies and how to disable them please visit www.allaboutcookies.org, or you may consult the vendor documentation for your specific software.

For more information on how our firm utilizes cookies, please refer to our Cookies Policy. A copy of our most current version of our Cookies Policy is available upon request or can be accessed on our Website at the link on the bottom of our homepage, or at the bottom of our other Website pages.

How do We Respond to Do Not Track Signals on Our Website?

We do not track users across time or over multiple websites, we do not receive, or respond to, browser do-not-track signals or other similar mechanisms. However, as noted above, some third-party websites do keep track of your browsing activities when they serve you content, which enables them to tailor what they present to you.

Amending your internet browser's Do Not Track signal: Do Not Track (“DNT”) is a privacy preference that users can set in certain web browsers and is a way for users to inform websites and services that they do not want certain information about their webpage visits collected over time and across websites or online services.

To learn more about setting up a Do Not Track signal, please visit <https://allaboutdnt.com/>.

For more information on how our firm responds to Do Not Track signals, please refer to our [Cookie Policy](#).

Information about Children on Our Website

Our Website is not directed to children under the age of 18 years. By using our Website, you represent and warrant that you are at least 18 years old.

If you are a parent or guardian and believe we may have collected information about a child under the age of 18, please contact us as described in the “Whom You Can Contact at Fiducient” section below so we can take reasonable steps to remove that information from our servers.

Please be aware that such a request does not ensure complete or comprehensive removal of the content or information you have posted and that there may be circumstances in which the law does not require or allow removal even if requested.

Retention and Processing of Personal Information

To the extent permitted by applicable law, we retain your personal information for the period necessary to serve the purposes for which we obtained it. We may also retain your personal information beyond such period in accordance with applicable laws, regulations, or another lawful basis, including but not limited to, compliance with our contractual obligations, legal obligations, regulatory obligations, legal claims, or another legitimate interest.

Retention of Cookies

When you visit our Website, we retain certain “cookies” for a period of time. For more information about how our firm retains cookies, please refer to our [Cookies Policy](#).

Data Transfers

We may transfer the personal information we obtain about you to recipients in countries other than the country in which the information originally was collected. Those countries may not have the same data protection laws as the country in which you initially provided the information. To the extent required by applicable law, when we transfer your information to recipients in other countries (such as the United States, United Kingdom, Ireland or Cayman Islands), we will protect that information as described in this Online Privacy Policy.

If you are located in the European Economic Area (“EEA”), we will comply with applicable legal requirements regarding the provision of appropriate safeguards for the transfer of personal information to recipients in countries for which the European Commission has not issued an adequacy decision.

Data Controller

As identified under applicable law, the data controller for this Privacy Policy is Fiducient, located at the address below.

Whom You Can Contact at Fiducient

We welcome your questions regarding our privacy policy. Please feel free to contact the Compliance Department via telephone at (312) 853-1000, via email at compliance@fiducient.com, or via regular mail at 500 West Madison Street, Suite 1700, Chicago, IL 60661.

Definitions

Affiliates: Companies related by common ownership or control. They can be financial and nonfinancial companies. Specific affiliates include NFP Corp (“NFP”) and companies under a common ownership of NFP. More information about these relationships can be found in Fiducient’s Form ADV Brochure and Part 2A which is available at www.adviserinfo.sec.gov.

- Fiducient does not share with any affiliate companies so they can market to you.

Nonaffiliates: Companies not related by common ownership or control. They can be financial and nonfinancial companies.

- Fiducient does not share personal information with nonaffiliates so they can market to you.

Joint Marketing: A formal agreement between nonaffiliated financial companies that together market financial services to you.

- Fiducient does not jointly market.

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Lease for Wee Care Day Care
Department: Administration
Presented by: Angela Jackson, Executive Director of Community Services
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

Renew lease agreement with Wee Care Day Care.

Staff Recommendation

Approve lease agreement with Wee Care Day Care.

Background Information

Wee Care Day Care is a nonprofit organization that serves low-income families and is licensed by the State of Tennessee to provide childcare services for children ages six-weeks to five-years. The facility housing Wee Care is City-owned and located at 510 Hancock Street, adjacent to Patterson Park Community Center. It was constructed in 1980 with funds provided by the Department of Housing and Urban Development's Community Development Grant and has been utilized by Wee Care exclusively since then.

The Strategic Partnership process requires assessment and reporting to ensure measurable goals and objectives are met, and tracks not only direct funding, but also in-kind services. The renewal of this lease allows an extension of the existing agreement.

Council Priorities Served

Responsible Budgeting

Strategic Partnerships identify and support value-added services that directly impact and enhance the City's mission.

Fiscal Impact

None. This continues as an in-kind contribution by the City to Wee Care Day Care for monthly rental that is valued at \$2,750 per month.

Attachment

Lease Agreement

THIS INSTRUMENT PREPARED BY:
Katie Driver
Staff Attorney
City of Murfreesboro
111 W. Vine Street
Murfreesboro, TN 37130
(615) 849-2616

LEASE AGREEMENT

This Lease Agreement made and entered into on this the ____ day of _____, 2023, by and between **CITY OF MURFREESBORO**, a municipal corporation organized pursuant to the laws of the state of Tennessee and located in Rutherford County, hereinafter referred to as "Lessor" and **WEE CARE DAY CARE CENTER**, a non-profit Tennessee corporation, with its principal office currently at 510 South Hancock Street, Murfreesboro, Tennessee, hereinafter referred to as "Lessee":

W I T N E S S E T H:

Subject to the terms and conditions hereinafter set forth, Lessor lets and leases unto Lessee and Lessee hereby accepts as tenant of said Lessor, the Day Care Center Building and adjacent land contiguous thereto and fenced, located at 510 South Hancock Street, in the 13th Civil District of Rutherford County and in the City of Murfreesboro, Tennessee. Wee Care Day Care shall use the Premises to serve the community as a childcare provider appropriately licensed with the Tennessee Department of Human Services.

1. The term of the Lease shall be for one year, from February 20, 2023 to February 19, 2024.
2. The monthly rental shall be \$2,750.00 per month; PROVIDED HOWEVER that for so long as the Lessee is not in default of any provision of this Lease, Lessor shall treat the monthly rent as an in-kind contribution.
3. The Lessee shall maintain liability insurance on the Property and shall name the Lessor as an additional insured. Annually, Lessee shall provide Lessor a copy of the insurance certificate and endorsement naming Lessor as an additional insured. Lessee shall provide Lessor with a copy of such insurance policy upon request. The Lessee shall maintain a minimum of One Million Dollar combined single limits for general liability, professional liability, automobile liability, and non-owned liability insurance. Notwithstanding the foregoing, Lessor may require Lessee to maintain minimum liability limits greater than One Million Dollars as provided herein, upon review by Lessor annually upon renewal based upon the Consumer Price Index for Cost of Living and other relevant factors bearing upon the subject of liability insurance.
4. The Lessee shall maintain worker's compensation insurance on all employees, if required by law and shall assure that employees of any partner or subtenant organizations are likewise covered by workers' compensation if required by law. If workers' compensation insurance is not required by law, Lessee shall assure that its employees or volunteers, and the employees and volunteers of any partner or subtenant organizations, are covered by appropriate insurance covering accidental injury suffered while on or about the Premises.
5. The Lessor shall maintain fire and casualty insurance on the building. Lessee shall be solely responsible for providing fire, casualty or other such insurance in appropriate amounts on personal property, furnishings or other building contents.
6. The Lessor shall be responsible for maintaining the roof and the structural exterior walls. All other maintenance and repairs shall be at the expense of the Lessee. Lessee shall be responsible for all mechanical, electrical, heating and air-conditioning, equipment, appliances, and plumbing. Lessee shall be responsible for maintenance of the parking lot, driveway and grounds. Lessee shall be solely responsible for providing playground equipment and ensuring that the playground meets all applicable regulations and requirements solely at their expense. In the event maintenance or repairs are required, Lessor shall perform an inspection and provide a deadline to Lessee for time to complete the work.

7. The Lessee shall be responsible for paying all utilities.
8. The Lessee shall continue to satisfy the purposes set forth in its Charter for Non-Profit Corporation filed with the Secretary of State of Tennessee on January 3, 1980 and shall satisfy the requirements of an 25 U.S.C. § 501 (c)(3) corporation. Any deviation will be treated as a breach of this Lease Agreement. In addition, the Lessee shall make its books and records available to the City of Murfreesboro at all reasonable times. The Lessee shall submit its proposed budget annually and also an exact statement of its actual operating expenses for the previous year.
9. Lessee shall maintain a childcare license with the State of Tennessee in good standing throughout the duration of this lease. If such childcare license is suspended or revoked for any reason, the City reserves it right to immediately terminate this Lease Agreement.
10. The Lessee covenants and agrees that it will not otherwise sublet any part of the Leased Premises, or assign the Lease or any part thereof, without the prior written consent of Lessor.
11. Lessee hereby covenants and agrees that it will not discriminate against any person on any unlawful basis, including but not limited to race, religion, national origin, age, sex, or disability and that its programs and services comply with the Americans with Disability Act.
12. Lessee agrees that all new construction and all activities shall be in conformity with the Americans with Disabilities Act.
13. Lessee shall have the right, at Lessee's cost and expense, to make alterations and additions to the building located on the Property let hereby, provided, however, that major alterations and additions of \$7,500.00 or more are approved by Lessor in writing, which approval will not be unreasonably withheld. Such alterations and additions shall be in accord with the laws, rules and regulations of applicable governmental authority or any agency thereof and Americans with Disabilities Act as provided in the paragraph 12.
14. Lessor shall have the right to inspect the Property. Lessee shall provide the Lessor a copy of inspections performed by the State of Tennessee or other governing body within 30 calendar days of receipt, providing evidence of compliance, correction action taken or planned by the abatement date indicated on the notice.
15. The Lessee shall provide maintenance and inspection reports to include:
 - a. Quarterly inspections completed by Lessee;
 - b. Facility budget and record of expense for repairs and improvements;
 - c. Maintenance activity checklists (completed, required/scheduled for completion, & future needs)
16. The Lessee shall provide basic termite/pest control protection to the Structure. Basic termite/pest control shall encompass an annual termite inspection with treatment as needed and pest control as needed.
17. The Lessee covenants and agrees as follows:
 - a. To indemnify Lessor against, and to hold Lessor free and harmless from loss from, each and every claim and demand of whatever nature, made on behalf of or any other person or persons, for any wrongful or negligent act or omission on the part of Lessee, its agents, servants and employees, and from all loss and damages by reason of such acts or omissions;
 - b. That no signs or advertising may be erected or posted on the above described Property without the prior written approval of Lessor and that any signage erected with Lessor's approval shall comply with the City of Murfreesboro Sign Ordinance;
 - c. To observe and obey all rules, regulations and procedures promulgated by Lessor;
 - d. To Follow all rules and regulations of the State Fire Marshall's Office, the Murfreesboro Fire Department, the City of Murfreesboro, and the Rutherford County Health department while utilizing the kitchen on these Premises.

- e. Lessee agrees and understands that no children under the age of eighteen (18), including children of Lessee's employees, shall be allowed in the kitchen at any time.
- 18. The Lessee shall provide the Lessor, upon request, access to any and all records of Lessee relative to this Agreement, and shall respond to the Lessor's requests for information, as necessary for Lessor to verify and/or determine Lessee's compliance with the terms of this Lease Agreement and Lessee shall provide copies of same to Lessor if necessary.
- 19. Either Party may terminate the Lease Agreement, with thirty (30) days written notice. Termination may result from a Party's failure to abide by the terms of this Lease Agreement. In the event of a breach of the Lease Agreement, the non-breaching party may, but is not required to, give the breaching party an opportunity to timely correct the default. In the event the breaching party defaults in performing any of the terms or provisions of this Lease and fails to cure such default within thirty (30) days after the date of receipt of written notice of default from the non-breaching party, the non-breaching party at its option may at once terminate this Lease by written notice to the breaching party, whereupon this Lease shall end.
- 20. Upon termination or expiration of this Lease, Lessee shall peaceably surrender to Lessor the Property in as good order and condition as when received, reasonable use and wear thereof and damage by earthquake, fire, public calamity, the elements, acts of God, or circumstances over which Lessee has no control or acts for which Lessor is responsible pursuant to this Lease, excepted. Upon expiration or termination of the Lease, improvements made to the Property shall revert to Lessor. Notwithstanding the above, Lessee shall have the right to remove any trade fixtures from such Property, subject to Lessee's obligation to repair any damage to the Property resulting from such removal.
- 21. The Lessee shall provide an authorized person to be the point of contact for the Lessor and such person shall be responsible for updating the Lessor with any changes relative to the officers of the Lessee, addresses, telephone numbers, etc.
- 22. If the Property becomes inoperable or unusable or the Lessor discontinues operation, then the Lessor has no obligation to provide substitute space for Lessee's use.
- 23. Time is of the essence of this Lease Agreement. The provisions, covenants, agreements and conditions of this Lease shall be binding upon and/or shall inure to the benefit of Lessor and Lessee, their successors and assigns.
- 24. If Lessee remains in possession of premises after the expiration of the term hereof or any extension thereof, Lessee shall be a tenant at will and there shall be no automatic renewal of this Lease by operation of law.
- 25. All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addressed as follows:

To Lessor at: City of Murfreesboro Attention: City Manager 111 West Vine Street Murfreesboro, TN 37130	To Lessee at: Wee Care Day Care Center c/o Stephen Smith, Board Chair 510 South Hancock Street Murfreesboro, TN 37130
---	--
- 26. This Lease contains the entire agreement of the parties hereto and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein, shall be of any force or effect.
- 27. The provisions, covenants, agreements and conditions of this Lease shall be binding upon and/or shall inure to the benefit of the Lessor and the Lessee, their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the day and date first above written.

CITY OF MURFREESBORO

WEE CARE DAY CARE CENTER

By: _____
Mayor Shane McFarland

DocuSigned by:
By: Jolene Radnoti
F4F17A5F7BEE4D0...
Jolene Radnoti, Vice-Chair

ATTEST:

Jennifer Brown, City Recorder

The foregoing Lease Agreement
approved as to form, this the
April 13, 2023.

DocuSigned by:
Adam Tucker
43A2035E51F9401...
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 4/20/2023

Item Title: Affordable Housing Program – Legacy Pointe Development

Department: Community Development

Presented by: Robert Holtz, Director of Community Development

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Down payment assistance from federal Community Development Block Grant (CDBG) funds for the City’s Affordable Housing Assistance Program.

Staff Recommendation

Approve the expenditure from CDBG funds for down payment assistance.

Background Information

The three purchasers of new homes in Legacy Pointe developed by Habitat for Humanity have applied for down payment assistance. The properties are: 2817, 2820, and 2821 Humanity Trail. The program will provide \$10,000 towards each down payment from existing Community Development Block Grant (CDBG) funds under the City’s Affordable Housing Assistance Program. The three applicants each meet the qualifications for assistance.

Council Priorities Served

Responsible Budgeting

Utilizing federal funds to provide community-based assistance is a cost-effective means of address the needs of the community.

Fiscal Impact

The expenditure, \$30,000, is fully funded by CDBG funds allocated to the City’s Affordable Housing Assistance Program.

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: FY23 City Manager Approved Budget Amendments

Department: Finance

Presented by: Jennifer Brown, Finance Director

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

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:

Purchasing

To purchase a Microsoft Surface device to be used in the field. Move \$2,000 from Travel & Training to Computer Equipment.

Fleet

The cost for parts and inventory has increased more than anticipated. Move \$250,000 from Unforeseen Contingencies to Fleet Vehicle Parts & Repair.

Parks & Recreation

On February 8, Council approved the spending plan for \$3,020,000 of ARPA funds earmarked for Parks & Recreation. This moves the unallocated budget to the correct budget accounts. Move \$1,620,000 Unforeseen Grant Expense-ARPA to Parks & Recreation Grants-ARPA and move \$1,400,000 from Unforeseen Grant Expense-ARPA to Parks & Recreation Other Improvements-ARPA.

Fire

The cost of the EVP Pre-Emption System has come in higher than anticipated and the scope has been expanded. Move \$97,000 from Unforeseen Grant Expenses-ARPA to Fire Computer Equipment-ARPA.

Finance

Three (3) receipt printers, which are no longer compatible, need to be replaced. Move \$1,662 from Accounting & Auditing Services to Computer Equipment.

Two printers have become inoperable and need to be replaced and four (4) desk chairs are needed to replace broken ones. Move \$800 from Accounting & Auditing Services to

Computer Equipment and move \$3,200 from Accounting & Auditing Services to Furniture & Fixtures.

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



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: 2023

Move funds from:

Org 10113008

Object 528000

Acct Name Travel & Training

Amount \$2,000.00

Move funds to:

Org 10113009

Object 594702

Acct Name Computer Equipment

Explanation: To purchase a Microsoft Surface device for use in the field.

Cathy L. Smith

Department Head Signature

3/6/23

Date

Amanda DeRosia

Reviewed by Finance

03/06/2023

Date

Approved	<input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>3.6.23</u>
Declined	<input type="checkbox"/>	City Manager	Date

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



... 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: 2023

Move funds from:

Org 10130008
Object 599909
Acct Name Unforeseen Contingencies
Amount \$250,000.00

Move funds to:

Org 10125008
Object 533200
Acct Name Vehicle Parts & Repair

Explanation: The cost for parts and inventory have increased more than anticipated.

[Signature]
Department Head Signature

3-8-2023
Date

[Signature]
Reviewed by Finance

3/8/2023
Date

Approved	<input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>3-9-23</u>
Declined	<input type="checkbox"/>	City Manager	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: 2023

Move funds from:

Org 10130008
 Object 599931-ARPA
 Acct Name Unforeseen Grant Expenses
 Amount \$1,620,000.00

Move funds to:

Org 10413008
 Object 577000-ARPA
 Acct Name Grants

Explanation: On February 8, Council approved the spending plan for \$3,020,000 of ARPA funds earmarked for Parks & Recreation. This moves the unallocated budget to the correct accounts.

Move funds from:

Org 10130008
 Object 599931-ARPA
 Acct Name Unforeseen Grant Expenses
 Amount \$1,400,000.00

Move funds to:

Org 10413009
 Object 593900-ARPA
 Acct Name Other Improvements

Explanation: On February 8, Council approved the spending plan for \$3,020,000 of ARPA funds earmarked for Parks & Recreation. This moves the unallocated budget to the correct accounts.

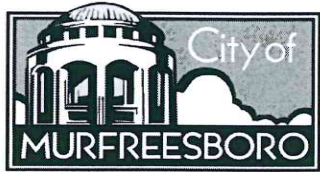
Jennifer Guo
 Department Head Signature

3/27/2023
 Date

Amanda DeRosia
 Reviewed by Finance

03/27/2023
 Date

Approved	<input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>3-28-23</u>
Declined	<input type="checkbox"/>	City Manager	Date



T E N N E S S E E

... 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: 2023

Move funds from:

Org 10130008

Object 599931-ARPA

Acct Name Unforeseen Grant Expenses

Amount \$97,000.00

Move funds to:

Org 10211009

Object 594702-ARPA

Acct Name Computer Equipment

Explanation: The cost of the EVP Pilot Pre-Emption System has come in higher than anticipated and the scope has been expanded.

Jennifer Bon
Department Head Signature

3/31/2023
Date

Amanda DeRosia
Reviewed by Finance

03/31/2023
Date

Approved	<input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>4.3.23</u>
Declined	<input type="checkbox"/>	City Manager	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: 2023

Move funds from:
 Org 10112008
 Object 525300
 Acct Name Accounting & Auditing Services
 Amount \$1,662.00

Move funds to:
 Org 10112009
 Object 594702
 Acct Name Computer Equipment

Explanation: For three (3) receipt printers to replace old ones which are no longer compatible.

Jennifer Buss
 Department Head Signature

3/31/2023
 Date

Amanda DeRosia
 Reviewed by Finance

03/31/2023
 Date

Approved	<input checked="" type="checkbox"/>	<u>CST</u>	<u>4.3.23</u>
Declined	<input type="checkbox"/>	City Manager	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: 2023

Move funds from:

Org 10112008
 Object 525300
 Acct Name Accounting & Auditing Services
 Amount \$800.00

Move funds to:

Org 10112009
 Object 594702
 Acct Name Computer Equipment

Explanation: To replace two (2) inoperable printers.

Move funds from:

Org 10112008
 Object 525300
 Acct Name Accounting & Auditing Services
 Amount \$3,200.00

Move funds to:

Org 10112009
 Object 594901
 Acct Name Furniture & Fixtures

Explanation: To replace four (4) desk chairs.

Jennifer Bur
 Department Head Signature

4/6/2023
 Date

Amanda DeRosia
 Reviewed by Finance

04/06/2023
 Date

Approved

[Signature]
 City Manager

4.7.23
 Date

Declined

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Purchase of Simunition Protection 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 Simunition protection equipment manufactured by General Dynamics from Vance Outdoor, Inc. Law Enforcement division.

Staff Recommendation

Approve the contract with Vance Outdoor for the purchase of Simunition protection equipment.

Background Information

MPD officers are equipped with head and body protection for use during simulated training procedures. This equipment is sold under the tradename Simunition. Previously, MPD had 30 sets of protective equipment that officers shared. This purchase will allow the department to reach the goal of each officer being assigned a set of protection equipment.

There are only two vendors authorized to sell Simunition gear in the State of Tennessee and Vance Outdoor offers the lowest price.

Council Priorities Served

Maintain Public Safety

Simulation training with Simunition gear is a critical law enforcement training tool that enhances safety of the public.

Fiscal Impact

This expense, \$38,800, is funded by the American Rescue Plan Act funds.

Attachments

Contract with Vance's Law Enforcement for Simunition Helmets and Protection Sets

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
VANCE'S LAW ENFORCEMENT
FOR SIMUNITION HELMET AND PROTECTIVE SETS**

This Contract is entered into and effective as of the _____ day of _____ 2023 ("Effective Date"), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **VANCE OUTDOORS, INC**, a corporation of the State of Ohio ("Contractor").

This Contract consists of the following documents:

- ***This Contract***
- ***Contractor's Sales Quote #00044801 dated March 14, 2023, and Quote #00048540 dated April 13, 2023***
- ***Any properly executed amendments to this Agreement***

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

- ***First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority)***
- ***Second, this Contract***
- ***Finally, Contractor's Sales Quote #00044801 dated March 14, 2023, and Quote #00048540 dated April 13, 2023***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase:

- As set forth in Contractor's Sales Quote #00048540 dated April 13, 2023: One Hundred (100) Simunion FX9003 Helmet Head Protectors (Black)
- As set forth in Contractor's Sales Quote #00044801 dated March 14, 2023: One Hundred Eighty-Nine (189) Simunion FX9000 Protective Throat Collars (One Size Fits All); One Hundred Fifty (150) Simunion FX9000 Groin Protectors – Male; and Thirty-Two (32) Simunion FX9000 Groin Protectors – Female

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 Contract is set forth in the Contractor's Sales Quote #00048540 dated April 13, 2023, reflecting a **Purchase Price of Nineteen Thousand, Six Hundred Twenty-Three Dollars and Zero Cents (\$19,623.00)** and Contractor's Sales Quote #00044801 dated March 14, 2023, reflecting a **Purchase Price of Nineteen Thousand, One Hundred Seventy-Seven Dollars and Zero Cents (\$19,177.00) with a Total Purchase Price of Thirty-Eight Thousand, Eight Hundred Dollars and Zero Cents (\$38,800.00)**. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Contract and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete. Invoices should be sent to: accountspayable@murfreesborotn.gov.
- b. Deliveries of all items for the Police Department shall be made within 90-120 days of issuance of Purchase Order to Attn: Cary Don Fanning – Police Department – 1004 N. Highland Avenue, Murfreesboro, TN 37130. Contact Person Don Fanning (tel. 629-201-5589; email: 0273@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
- c. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
- d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor's Quote.
- e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

- 4. **Warranty.** Unless otherwise specified, every item quoted shall meet the warranty requirements set forth in the specifications and the manufacturer's standard warranty.

5. **Indemnification.**

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent

contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
 - c. Copyright, Trademark, Service Mark, or Patent Infringement.
 - i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (1) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (2) no cost or expense whatsoever accrues to the City at any time; and (3) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
 - ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 - 1. Procure for the City the right to continue using the products or services.
 - 2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 - 3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
 - iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.
6. **Notices.** Notice of assignment of any rights to money due to Contractor under this Contract must be mailed first class mail or hand-delivered to the following:

If to the City of Murfreesboro:

City of Murfreesboro
Attn: City Manager
Post Office Box 1139
111 West Vine Street
Murfreesboro, TN 37133-1139

If to the Contractor:

Vance Outdoors, Inc.
Attn: Doug Vance
3723 Cleveland Ave
Columbus, OH 43224
dvance@vanceoutdoors.com

7. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
8. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.
9. **Maintenance of Records.** Contractor shall maintain documentation for all charges against City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of five (5) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by City or its duly appointed representatives. The records shall be maintained in accordance with the Generally Accepted Accounting Principles.
10. **Modification.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto.
11. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
12. **Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
13. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying-off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to

post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

a) **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**

b) **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**

c) **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**

15. **Title VI of the Civil Rights Act of 1964, as amended.** Contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract. Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.
16. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

17. **BONDING REQUIREMENTS.** (2 CFR § 200.326)

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (\$250,000), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- i. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - ii. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
 - iii. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
18. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148).** (all prime construction contracts in excess of \$2,000 awarded by non-Federal entities) Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once a week. A copy of the current prevailing wage determination issued by the Department of Labor can be found in the solicitation. Award of the contract or subcontract is conditioned upon the acceptance of the wage determination. The City will report all suspected or reported violations to the Federal awarding agency.
19. **COPELAND “ANTI-KICKBACK” ACT.** Contractor must comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City will report all suspected or reported violations to the Federal awarding agency.
20. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

21. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
22. **PROCUREMENT OF RECOVERED MATERIALS (2 CFR § 200.323)**. Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
23. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (2 CFR § 200.216)**.
- (a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
1. Procure or obtain;
 2. Extend or renew a contract to procure or obtain; or
 3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- (b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall

prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

24. **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
25. **Integration.** This Contract, Sales Quotations, and State contract set forth the entire agreement between the parties with respect to the subject matter hereof and govern the respective duties and obligations of the parties.
26. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, epidemic, pandemic or other cause of similar or dissimilar nature beyond its control.
27. **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.
28. **Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.
29. **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.
30. **SAMS.gov Registration and UEI #.** All vendors are required to be registered with SAMS.gov and supply their Unique Entity ID (UEI).
31. **Debarment and Suspension.**
 - a) The City certifies, to the best of its knowledge and belief, that the Selected Contractor:
 - i. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - ii. has not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- iii. is not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- iv. has not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

- b) The City will provide immediate written notice to the U.S. Department of Treasury or granting authority, if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, the Selected Contractor is excluded or disqualified, or presently falls under any of the prohibitions of sections i-iv.
- c) The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Non-procurement Suspension and Debarment,” 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement),” 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:
 - i. Debarred from participation in any federally assisted Award;
 - ii. Suspended from participation in any federally assisted Award;
 - iii. Proposed for debarment from participation in any federally assisted Award;
 - iv. Declared ineligible to participate in any federally assisted Award;
 - v. Voluntarily excluded from participation in any federally assisted Award; or
 - vi. Disqualified from participation in any federally assisted Award.
 - vii. By signing this Agreement, Contractor certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C, as supplemented by 2 CFR Part 1200, throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

32. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

33. **Lobbying Certification. (4220.1F.IV.2.a.(4); 49 CFR Part 20).**

- a) Contractors that apply or bid for an award exceeding \$100,000 must file the lobbying certification before the awarding of the contract, and if applicable, a lobbying disclosure from a prospective third party contractor. See, DOT regulations, “New Restrictions on Lobbying” 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352, which implement the Byrd “Anti-Lobbying” Amendment, 31 U.S.C. Section 1352. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract,

grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

- b) The Contractor certifies, to the best of its knowledge and belief, that:
- i. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Promisor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- c) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

34. **SINGLE AUDIT REQUIREMENTS.** Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.⁷

Note that the Compliance Supplement provides information on the existing, important compliance requirements that the federal government expects to be considered as a part of such audit. The Compliance Supplement is routinely updated, and is made available in the Federal Register and on OMB's website: <https://www.whitehouse.gov/omb/office-federal-financial-management/> Recipients and subrecipients should consult the Federal Audit Clearinghouse to see examples of Single Audit submissions.

Note that the Compliance Supplement provides information on the existing, important compliance requirements that the federal government expects to be considered as a part of such audit. The Compliance Supplement is routinely updated, and is made available in the Federal Register and on OMB's website: <https://www.whitehouse.gov/omb/office-federal-financial-management/> Recipients and subrecipients should consult the Federal Audit Clearinghouse to see examples of Single Audit submissions.

35. **COMPLIANCE WITH APPLICABLE LAW & REGULATIONS.** Recipient agrees to comply with the requirements of sections 602 and 603 of the Act, regulations adopted by Treasury pursuant to

sections 602(f) and 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

Federal regulations applicable to this award include, without limitation, the following:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part 180 and Treasury's implementing regulations at 31 CFR Part 19.
- Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- New Restrictions on Lobbying, 31 C.F.R. Part 21.
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- Generally applicable federal environmental laws and regulations.
- Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:
 - Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

- Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
36. **HATCH ACT**. The City agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
37. **PUBLICATIONS**. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to City of Murfreesboro by the U.S. Department of the Treasury.”
38. **PROTECTIONS FOR WHISTLEBLOWERS**. The City shall inform its employees in writing of the rights and remedies provided under clause 16 of the Grant Agreement, in the predominant native language of the workforce. Specifically, clause 16 states:
- In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
 - The list of persons and entities referenced in the paragraph above includes the following:
 - A member of Congress or a representative of a committee of Congress;
 - An Inspector General;
 - The Government Accountability Office;
 - A Treasury employee responsible for contract or grant oversight or management;
 - An authorized official of the Department of Justice or other law enforcement agency;
 - A court or grand jury; or
 - A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
39. **Domestic preferences for procurements**. (2 CFR 200.322)
- a) As appropriate and to the extent consistent with law, the Contractor, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
 - b) For purposes of this section:

- i. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
40. **Increasing Seat Belt Use in the United States**. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
41. **Reducing Text Messaging While Driving**. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.
42. **Effective Date**. This Contract shall not be binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties enter into this agreement as of _____,
2023 (the “Effective Date”).

CITY OF MURFREESBORO

VANCE OUTDOORS, INC

By: _____
Craig Tindall, City Manager

By: _____
Doug Vance, President

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney



Send PO's To:
 3723 Cleveland Ave
 Columbus, OH 43224
 ph (614)471-0712
 fx (614)471-2134

Remit Pymt To:
 4250 Alum Creek Dr
 Obetz, OH 43207
 ph (614)489-5025
 fx (614)489-5077

Account Name MURFREESBORO POLICE DEPARTMENT
 Contact Name BECKI TUCKER
 Bill To 1004 NORTH HIGHLAND AVENUE
 MURFREESBORO, TN 37130
 Phone (629) 201-5510
 Email 0086@murfreesborotn.gov

Date 4/13/2023
 Quote Number 00048540
 Prepared By Mike Glass

Quantity	Style	Product Family	Description	Unit	Quantity	Sales Price	Total Price
100.00	8971998	Simunition	FX9003 Helmet Head Protector (Black)	Each		\$194.00	\$19,400.00

Subtotal	\$19,400.00
Trade In Value	\$0.00
Shipping and Handling	\$223.00
Tax	\$0.00
Quote Grand Total	\$19,623.00

Payment Details

- Net 30
- Check
- Credit Card

Name _____
 CC # _____

Office Use Only Should you require lifegate service, that charge would be \$377.00

Expires _____ CRV CODE _____
 CREDIT CARDS OVER \$1,000 incur a 3% SURCHARGE



Send PO's To:
 3723 Cleveland Ave
 Columbus, OH 43224
 ph (614)471-0712
 fx (614)471-2134

Remit Pymt To:
 4250 Alum Creek Dr
 Obetz, OH 43207
 ph (614)489-5025
 fx (614)489-5077

Account Name MURFREESBORO POLICE DEPARTMENT
 Contact Name BECKI TUCKER
 Bill To 1004 NORTH HIGHLAND AVENUE
 MURFREESBORO, TN 37130
 Phone (629) 201-5510
 Email 0086@murfreesborotn.gov

Date 3/14/2023
 Quote Number 00044801
 Prepared By Mike Glass

Quantity	Style	Product Family	Description	Unit Quantity	Sales Price	Total Price
189.00	8971764	Simunition	FX9000 Protective Throat Collar - One Size Fits All	Each	\$46.00	\$8,694.00
150.00	8971770	Simunition	FX9000 Groin Protector - Male	Each	\$58.00	\$8,700.00
32.00	8971771	Simunition	FX9000 Groin Protector - Female	Each	\$48.00	\$1,536.00

Subtotal	\$18,930.00
Trade In Value	\$0.00
Shipping and Handling	\$247.00
Tax	\$0.00
Quote Grand Total	\$19,177.00

Payment Details

Net 30
 Check
 Credit Card

Number of Days
 Quote Valid

Quote Valid 30 Days

Name _____
 CC # _____

Office Use Only Should you require liftgate service, that charge would be \$401.00

Expires _____ CRV CODE _____
 CREDIT CARDS OVER \$1,000 incur a 3% SURCHARGE

COUNCIL COMMUNICATION

Meeting Date: 4/20/2023

Item Title: Asphalt and Concrete Purchase Report
Department: Street
Presented by: Raymond Hillis, Executive Director, Public Works
Requested Council Action:

Ordinance
Resolution
Motion
Direction
Information

Summary

Report of asphalt and concrete purchases.

Background Information

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

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

Council Priorities Served

Responsible budgeting

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

Maintain public safety

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

Fiscal Impacts

Asphalt purchases, \$100,000, and concrete purchases, \$55,000, are funded by the Department's FY23 Budget.

Attachments

Asphalt and Concrete Purchases Report

STREET DEPARTMENT ASPHALT PURCHASES FY 23

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
10/24/2022	Hawkins	411E Mix	\$ 92.91	4.77	\$ 443.18	\$ 443.18

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/5/2022	Blue Water	E Mix 64-22	\$ 64.95	1.04	\$ 67.55	\$ 67.55
7/8/2022	Blue Water	E Mix 64-22 RP	\$ 64.95	2.04	\$ 132.50	\$ 200.05
7/13/2022	Blue Water	E Mix 64-22 RP	\$ 64.95	2.76	\$ 179.26	\$ 379.31
7/13/2022	Blue Water	BM2 64-22 RP	\$ 58.05	4.30	\$ 249.62	\$ 628.93
7/14/2022	Blue Water	E Mix 64-22 RP	\$ 86.54	7.02	\$ 607.51	\$ 1,236.44
7/14/2022	Blue Water	E Mix 64-22	\$ 90.03	3.04	\$ 273.69	\$ 1,510.13
7/20/2022	Blue Water	E Mix 64-22 RP	\$ 86.54	1.13	\$ 97.79	\$ 1,607.92
7/29/2022	Blue Water	E Mix 64-22 RP	\$ 86.54	1.05	\$ 90.87	\$ 1,698.79
8/3/2022	Blue Water	E Mix 64-22 RP	\$ 86.54	8.70	\$ 752.90	\$ 2,451.69
8/4/2022	Blue Water	E Mix 64-22	\$ 90.03	7.35	\$ 661.72	\$ 3,113.41
8/9/2022	Blue Water	E Mix 64-22	\$ 90.03	1.19	\$ 107.14	\$ 3,220.55
8/11/2022	Blue Water	E Mix 64-22	\$ 90.03	2.03	\$ 182.76	\$ 3,403.31
8/12/2022	Blue Water	E Mix 64-22	\$ 90.03	2.25	\$ 202.57	\$ 3,423.12
8/22/2022	Blue Water	E Mix 64-22 RP	\$ 74.01	0.81	\$ 59.95	\$ 3,280.50
8/23/2022	Blue Water	E Mix 64-22	\$ 90.03	7.94	\$ 714.84	\$ 4,137.96
8/25/2022	Blue Water	E Mix 64-22	\$ 90.03	9.09	\$ 818.37	\$ 4,956.33
8/25/2022	Blue Water	E Mix 64-22 RP	\$ 86.54	2.49	\$ 215.48	\$ 5,171.81
8/31/2022	Blue Water	E Mix 64-22	\$ 90.03	2.08	\$ 187.26	\$ 5,359.08
8/31/2022	Blue Water	E Mix 64-22	\$ 90.03	7.30	\$ 657.22	\$ 6,684.32
9/2/2022	Blue Water	E Mix 64-22	\$ 90.03	7.42	\$ 668.02	\$ 6,027.10
9/7/2022	Blue Water	E Mix 64-22	\$ 90.03	8.77	\$ 789.56	\$ 7,473.88
9/8/2022	Blue Water	E Mix 64-22	\$ 90.03	8.61	\$ 775.16	\$ 8,249.04
9/12/2022	Blue Water	E Mix 64-22	\$ 90.03	15.13	\$ 1,362.15	\$ 9,611.19
9/20/2022	Blue Water	E Mix 64-22	\$ 90.03	1.22	\$ 109.84	\$ 9,721.03
9/22/2021	Blue Water	E Mix 64-22	\$ 90.03	2.04	\$ 183.66	\$ 9,904.69
9/30/2022	Blue Water	E Mix 64-22	\$ 90.03	0.73	\$ 65.72	\$ 9,970.41
9/30/2021	Blue Water	E Mix 64-22	\$ 90.03	10.62	\$ 956.12	\$ 10,926.53
10/7/2022	Blue Water	E Mix 64-22	\$ 90.03	7.38	\$ 664.42	\$ 11,590.95
10/14/2022	Blue Water	E Mix 64-22	\$ 90.03	2.12	\$ 190.86	\$ 11,781.81
10/21/2022	Blue Water	E Mix 64-22	\$ 90.03	8.07	\$ 726.54	\$ 12,508.35
10/26/2022	Blue Water	E Mix 64-22 RP	\$ 90.03	1.45	\$ 130.54	\$ 11,912.35
10/28/2022	Blue Water	E Mix 64-22 RP	\$ 86.54	2.10	\$ 181.73	\$ 12,690.08

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/19/2022	Vulcan	411E PG 64-22	\$ 87.00	1.02	\$ 88.74	\$ 88.74
7/19/2022	Vulcan	BITM-AC 5.6	\$ 12.72	1.02	\$ 12.72	\$ 101.46
7/26/2022	Vulcan	411E PG 64-22	\$ 87.00	4.30	\$ 374.10	\$ 475.56
7/26/2022	Vulcan	BITM-AC 5.6	\$ 12.72	4.30	\$ 54.70	\$ 530.26
7/29/2022	Vulcan	411E PG 64-22	\$ 87.00	18.10	\$ 1,574.70	\$ 2,104.96
7/29/2022	Vulcan	BITM-AC 5.6	\$ 12.72	18.10	\$ 230.23	\$ 2,335.19
8/10/2022	Vulcan	411E PG 64-22	\$ 87.00	6.26	\$ 544.62	\$ 2,879.81
8/10/2022	Vulcan	BITM-AC 5.6	\$ 12.76	6.26	\$ 79.88	\$ 2,959.69
8/10/2022	Vulcan	411E PG 64-22	\$ 87.00	8.21	\$ 714.27	\$ 3,673.96
8/10/2022	Vulcan	BITM-AC 5.6	\$ 12.76	8.21	\$ 104.76	\$ 3,778.72
8/16/2022	Vulcan	411E PG 64-22	\$ 87.00	1.57	\$ 136.59	\$ 3,915.31
8/16/2022	Vulcan	BITM-AC 5.6	\$ 12.76	1.57	\$ 20.03	\$ 3,935.34
9/6/2022	Vulcan	411E PG 64-22	\$ 87.00	5.51	\$ 479.37	\$ 4,414.71
9/6/2022	Vulcan	BITM-AC 5.6	\$ 12.23	5.51	\$ 67.39	\$ 4,482.10
9/13/2022	Vulcan	307BM PG 64-22	\$ 75.50	5.19	\$ 391.85	\$ 4,873.95
9/13/2022	Vulcan	BITM-AC 5.6	\$ 9.17	5.19	\$ 47.59	\$ 4,921.54
9/30/2022	Vulcan	307BM PG 64-22	\$ 75.50	2.07	\$ 156.29	\$ 5,077.83
9/30/2022	Vulcan	BITM-AC 5.6	\$ 9.17	2.07	\$ 18.98	\$ 5,096.81
12/13/2022	Vulcan	411E PG 64-22	\$ 87.00	2.06	\$ 179.22	\$ 5,276.03
12/13/2022	Vulcan	BITM-AC 5.6	\$ 8.03	2.06	\$ 16.54	\$ 5,292.57
12/13/2022	Vulcan	411E PG 64-22	\$ 87.00	2.14	\$ 186.18	\$ 5,478.75
12/13/2022	Vulcan	BITM-AC 5.6	\$ 8.03	2.14	\$ 17.18	\$ 5,495.93
2/24/2023	Vulcan	411E PG 64-22	\$ 84.50	15.21	\$ 1,285.10	\$ 6,781.03
2/28/2023	Vulcan	411E PG 64-22	\$ 84.50	8.79	\$ 742.67	\$ 7,523.70

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
11/21/2022	Wiregrass Construction	411-E	\$ 86.54	2.51	\$ 217.22	\$217.22
11/22/2022	Wiregrass Construction	411-E	\$ 86.54	2.23	\$ 193.98	\$411.20
11/28/2022	Wiregrass Construction	411-E	\$ 86.54	1.87	\$ 161.83	\$573.03
11/29/2022	Wiregrass Construction	411-E	\$ 86.54	2.08	\$ 180.00	\$753.03
12/13/2022	Wiregrass Construction	411-E	\$ 86.54	10.08	\$ 872.32	\$1,625.35
3/7/2023	Wiregrass Construction	411-E	\$ 86.54	13.84	\$ 1,197.71	\$2,823.06

STREET DEPARTMENT CONCRETE PURCHASES FY 23

Invoice Date	Vendor	Type	Rate	Yards	Surcharge	Total	FY Total
7/1/2022	Nashville Ready Mix	Flowable Fill	\$ 112.00	2		\$ 224.00	\$ 224.00
7/6/2022	Nashville Ready Mix	3500 CF5	\$ 124.00	3		\$ 372.00	\$ 596.00
7/6/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	3		\$ 15.00	\$ 611.00
7/6/2022	Nashville Ready Mix	Flowable Fill	\$ 112.00	2		\$ 224.00	\$ 835.00
7/7/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 1,083.00
7/7/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 1,093.00
7/8/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	3		\$ 372.00	\$ 1,465.00
7/8/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	3		\$ 15.00	\$ 1,480.00
7/11/2022	Nashville Ready Mix	Flowable Fill	\$ 112.00	5		\$ 560.00	\$ 2,040.00
7/11/2022	Nashville Ready Mix	Min Load charge	\$ 75.00	1		\$ 75.00	\$ 2,115.00
7/11/2022	Nashville Ready Mix	fuel surcharge	\$ 50.00	1		\$ 50.00	\$ 2,165.00
7/14/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	1		\$ 124.00	\$ 2,289.00
7/14/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	1		\$ 5.00	\$ 2,294.00
7/20/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	3		\$ 372.00	\$ 2,666.00
7/20/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	3		\$ 15.00	\$ 2,681.00
7/21/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 2,929.00
7/21/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 2,939.00
7/25/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 3,187.00
7/25/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 3,197.00
7/27/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 3,445.00
7/27/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 3,455.00
7/28/2022	Nashville Ready Mix	3500 CF5	\$ 124.00	2		\$ 248.00	\$ 3,703.00
7/28/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 3,713.00
8/9/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	1		\$ 124.00	\$ 3,837.00
8/9/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	1		\$ 5.00	\$ 3,842.00
8/12/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	1.5		\$ 186.00	\$ 4,028.00
8/12/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	1.5		\$ 7.50	\$ 4,035.50
8/16/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 4,283.50
8/16/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 4,293.50
8/17/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 4,541.50
8/17/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 4,551.50
8/18/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 4,799.50
8/18/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 4,809.50
8/19/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	1		\$ 124.00	\$ 4,933.50
8/19/2022	Nashville Ready Mix	Half Fibers	\$ 3.00	1		\$ 3.00	\$ 4,936.50
8/25/2022	Nashville Ready Mix	3413 LF5	\$ 123.00	2		\$ 246.00	\$ 5,182.50
8/25/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	3		\$ 15.00	\$ 5,197.50
8/25/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	1		\$ 124.00	\$ 5,321.50
8/26/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 5,569.50
8/26/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 5,579.50
8/29/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 5,827.50
8/29/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 5,837.50
8/31/2022	Nashville Ready Mix	4451 LF5	\$ 125.00	2		\$ 250.00	\$ 6,087.50
8/31/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 6,097.50
9/16/2022	Nashville Ready Mix	3500 CF5	\$ 124.00	2		\$ 248.00	\$ 6,345.50
9/19/2022	Nashville Ready Mix	3413 LF5	\$ 123.00	3		\$ 369.00	\$ 6,714.50
9/19/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	3		\$ 15.00	\$ 6,729.50
9/22/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2.5		\$ 310.00	\$ 7,039.50
9/22/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2.5		\$ 12.50	\$ 7,052.00
9/23/2022	Nashville Ready Mix	3500 CF5	\$ 124.00	2.5		\$ 310.00	\$ 7,362.00
9/23/2022	Nashville Ready Mix	Half Fibers	\$ 3.00	2.5		\$ 7.50	\$ 7,369.50
9/26/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	1		\$ 124.00	\$ 7,493.50

9/26/2022	Nashville Ready Mix	Half Fibers	\$ 3.00	1		\$ 3.00	\$ 7,496.50
9/27/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	1		\$ 124.00	\$ 7,620.50
9/27/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	1		\$ 5.00	\$ 7,625.50
9/28/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2		\$ 248.00	\$ 7,873.50
9/28/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 7,883.50
10/3/2022	Nashville Ready Mix	3500 CF5	\$ 124.00	2		\$ 248.00	\$ 8,131.50
10/3/2022	Nashville Ready Mix	Half Fibers	\$ 3.00	2		\$ 6.00	\$ 8,137.50
10/4/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	2.5		\$ 310.00	\$ 8,447.50
10/4/2022	Nashville Ready Mix	Half Fibers	\$ 3.00	2.5		\$ 7.50	\$ 8,455.00
10/5/2022	Nashville Ready Mix	3500 CF5	\$ 124.00	1.5		\$ 186.00	\$ 8,641.00
10/5/2022	Nashville Ready Mix	Half Fibers	\$ 3.00	1.5		\$ 4.50	\$ 8,645.50
10/10/2022	Nashville Ready Mix	3413 CF5	\$ 124.00	1		\$ 124.00	\$ 8,769.50
10/10/2022	Nashville Ready Mix	Half Fibers	\$ 3.00	1		\$ 3.00	\$ 8,772.50
10/13/2022	Nashville Ready Mix	3600 CF5	\$ 124.00	1		\$ 124.00	\$ 8,896.50
10/13/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	1		\$ 5.00	\$ 8,901.50
10/14/2022	Nashville Ready Mix	3500LF5	\$ 123.00	1		\$ 123.00	\$ 9,024.50
10/14/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	1		\$ 5.00	\$ 9,029.50
10/18/2022	Nashville Ready Mix	4500PSI Chips AE	\$ 128.00	4		\$ 512.00	\$ 9,541.50
10/18/2022	Nashville Ready Mix	Min Load charge	\$ 75.00	1		\$ 75.00	\$ 9,616.50
10/18/2022	Nashville Ready Mix	Fuel surcharge	\$ 50.00	1		\$ 50.00	\$ 9,666.50
10/18/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	4		\$ 20.00	\$ 9,686.50
10/19/2022	Nashville Ready Mix	3500PSI Chips AE	\$ 124.00	2		\$ 248.00	\$ 9,934.50
10/19/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 9,944.50
10/21/2022	Nashville Ready Mix	3500PSI Chips AE	\$ 124.00	2		\$ 248.00	\$ 10,192.50
10/21/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 10,202.50
10/24/2022	Nashville Ready Mix	3500PSI Chips AE	\$ 124.00	2		\$ 248.00	\$ 10,450.50
10/24/2022	Nashville Ready Mix	Full Fibers	\$ 5.00	4		\$ 20.00	\$ 10,470.50
1/27/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	1		\$ 138.00	\$ 10,608.50
1/27/2023	Nashville Ready Mix	Non0Chloride Accelerator	\$ 6.00	1		\$ 6.00	\$ 10,614.50
1/27/2023	Nashville Ready Mix	Full Fibers	\$ 5.00	1		\$ 5.00	\$ 10,619.50
2/7/2023	Nashville Ready Mix	3500PSI Chips AE	\$ 138.00	2.5		\$ 345.00	\$ 10,964.50
2/10/2023	Nashville Ready Mix	3500PSI Chips AE	\$ 138.00	4		\$ 552.00	\$ 11,516.50
2/10/2023	Nashville Ready Mix	Min Load charge	\$ 75.00	1		\$ 75.00	\$ 11,591.50
2/10/2023	Nashville Ready Mix	fuel surcharge	\$ 50.00	1		\$ 50.00	\$ 11,641.50
2/21/2023	Nashville Ready Mix	3500PSI Chips AE	\$ 138.00	2.5		\$ 345.00	\$ 11,986.50
2/23/2023	Nashville Ready Mix	3500PSI Chips AE	\$ 138.00	2.5		\$ 345.00	\$ 12,331.50
2/24/2023	Nashville Ready Mix	3500PSI Chips AE	\$ 138.00	1		\$ 138.00	\$ 12,469.50
3/6/2023	Nashville Ready Mix	3500PSI Chips AE	\$ 138.00	3		\$ 414.00	\$ 12,883.50
3/8/2023	Nashville Ready Mix	3500PSI Chips AE	\$ 138.00	2		\$ 276.00	\$ 13,159.50
3/9/2023	Nashville Ready Mix	3500PSI Chips AE	\$ 138.00	2.5		\$ 345.00	\$ 13,504.50

Invoice Date	Vendor	Type	Rate	Yards	Surcharge	Total	FY Total
3/14/2023	Orgain Ready Mix	3500 PSI 1/2" Agg	\$ 135.00	3		\$ 405.00	\$ 13,909.50
3/14/2023	Orgain Ready Mix	Fuel Surcharge			\$ 40.00	\$ 40.00	\$ 13,949.50
3/14/2023	Orgain Ready Mix	Delivery Charge	\$ 50.00			\$ 50.00	\$ 13,999.50

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Main Street Banner Request
Department: Street Department
Presented by: Raymond Hillis, 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

Request from Stones River Crafts Association to hang a banner over East Main Street.

Staff Recommendation

Approve banner to be displayed from November 13 – November 17,2023

Background Information

The banner will help promote attention to annual Art Studio Tour which has served the community for thirty years. This event is a free community event and features handmade local arts and crafts. Dozens of studios all over Rutherford County will open their doors to welcome the community to find local pieces for their home and/or business.

Council Priorities Served

Establish strong City brand

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

Fiscal Impact

None.

Attachments

1. Letter of request from Stones River Crafts Association



March 31, 2023

City of Murfreesboro
Lisa Mangrum
620 West Main Street
Murfreesboro, TN. 37130

Dear Mayor McFarland and Murfreesboro City Council,

As a committee member of the Stones River Craft Association, I would like permission to have our approved banner displayed over Main Street in Murfreesboro from November 13 through 17, 2023.

This banner will help draw attention to the annual Art Studio Tour, which has been a part of Murfreesboro and Rutherford County community events for the last 30 years.

I have been in contact with Lisa Mangrum for approval of these dates. Thank you for your continuing support for this yearly event.

Kay Currie
Committee Member
Stones River Craft Association
88 Hoyt Knox Rd.
Readyville, TN. 37149
615-477-4759
kcurrie18@gmail.com

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: FY23 Budget Amendment Ordinance

Department: Administration

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

Amendment to the City's FY23 Budget.

Staff Recommendation

Approve Ordinance 23-O-14, amending the City's budget on 2nd and Final reading.

Background Information

GENERAL FUND

The FY23 Hotel/Motel Tax revenues are projected to come in over budget by \$609,000. The corresponding transfer to the Chamber of Commerce also needs to be increased by \$91,350.

Parks & Recreation

The high demand for special permits, cooperative use agreements and special use agreements throughout the City have resulted in the need for a Facility Coordinator – Special Permits, resulting in an increase to headcount and adjustment to the Parks and Recreation Department's payroll budget by \$18,500 for salaries and benefits. The annual budget for this position is anticipated at \$74,000.

Council Priorities Served

Responsible budgeting

The budget amendments reflect General Fund's increased expenses.

Fiscal Impact

The additional position will result in an increase to General Fund's headcount and a decrease to the FY23 budget of \$499,150.

Attachments

FY23 Budget Ordinance 23-O-14 and Exhibits A & B

ORDINANCE 23-O-14 amending the 2022-2023 Budget (6th Amendment).

WHEREAS, the City Council adopted the 2022-2023 Budget by motion; and,

WHEREAS, the City Council adopted an appropriations ordinance, Ordinance 22-O-11, on June 8, 2022 to implement the 2022-2023 Budget; and,

WHEREAS, it is now desirable and appropriate to adjust and modify the 2022-2023 Budget and authorized full-time position counts adopted by this Ordinance to incorporate expenditure and hiring decisions made during the 2022-2023 fiscal year.

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

SECTION 1. The 2022-2023 Budget adopted by the City Council is hereby revised and amended as shown on Exhibit A, attached hereto.

SECTION 2. The 2022-2023 Authorized Full-time Position Counts adopted by the City Council is hereby revised and amended as shown on Exhibit B, attached hereto.

SECTION 3. 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 2022-2023 at the earliest practicable time, the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

43A2036E61F9401...
Adam F. Tucker
City Attorney

SEAL

Department	Account	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
<u>General Fund</u>				
<u>Revenues</u>				
	<u>Unassigned</u>			
	Hotel/Motel Tax	\$ 3,740,000.00	\$ 4,349,000.00	\$ 609,000.00
				<u>\$ 609,000.00</u>
 <u>Expenditures</u>				
	<u>Unassigned</u>			
Parks & Recreation	Salaries & Benefits	\$ 9,706,690.00	\$ 9,725,190.00	\$ 18,500.00
Administration	Chamber of Commerce	\$ 561,000.00	\$ 652,350.00	\$ 91,350.00
				<u>\$ 109,850.00</u>
CHANGE IN UNASSIGNED FUND BALANCE (CASH)		\$ (11,695,395.99)	\$ (11,196,245.99)	\$ 499,150.00
	TOTAL CHANGE IN FUND BALANCE (CASH)	\$ (34,746,303.82)	\$ (34,247,153.82)	499,150.00

EXHIBIT B					
City of Murfreesboro					
Authorized Full Time Position Counts FY 2020 to FY 2023					
	Actual	Actual	Estimated	Adopted	Budget Amendment
Department	FY 2020	FY 2021	FY 2022	FY 2023	FY 2023
Mayor and Council	7	7	7	7	7
City Manager's Office	13	11	13	14	15
Finance and Tax	18	18	21	21	21
Legal	9	9	10	10	10
City Court	6	6	7	7	7
Purchasing	2	2	3	3	3
Information Technology	20	23	25	24	24
Communications	6	6	6	7	7
Employee Services	10	10	11	11	11
Facilities Maintenance	11	12	13	13	13
Fleet Services	16	17	20	21	21
Police	351	369	376	393	393
Fire & Rescue	236	238	241	243	243
Building & Codes	26	25	26	26	26
Planning	14	15	15	17	17
Community Development	1	3	3	3	4
Transportation	25	27	27	28	28
Engineering	14	14	13	14	14
Street	51	51	52	53	53
Civic Plaza	1	1	1	1	1
Parks and Recreation	90	89	98	99	100
Golf Course	15	15	17	17	17
Solid Waste	43	46	47	47	47
Airport	3	4	4	4	4
Risk Management	0	0	0	0	0
	988	1018	1056	1083	1086

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Development Impact Fees
[Second Reading]

Department: Administration

Presented By: Craig Tindall, City Manager

Requested Council Action:

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

Summary

Ordinance adopting Development Impact Fees.

Staff Recommendation

Pass and adopt Ordinance 23-O-13.

Background Information

Development impact fees are a method of supplementing a municipal budget to offset the costs associated with new development. Most of the other municipalities in Middle Tennessee utilize development impact fee to offset the costs associated with population growth. Council has on several occasions publicly studied and discussed the proposed fee.

Council Priorities Served

Responsible budgeting

Development impact fees are a source of revenue that offsets the cost of expanding or enhancing services and infrastructure that are incurred because of new development.

Fiscal Impact

Impact fees are a revenue source and will have a positive effect on budget revenue that will be offset by the expenses for which this revenue will be restricted.

Attachments

Ordinance 23-O-13

ORDINANCE 23-O-13 amending the Murfreesboro City Code, by establishing Chapter 16, Impact Fees.

WHEREAS, the City of Murfreesboro has been recognized as one of the fastest growing cities in both the State of Tennessee and the nation; and

WHEREAS, the anticipated population and employment growth in Murfreesboro creates demand for additional roadways, park and recreational facilities, public safety facilities, and school facilities; and

WHEREAS, the City is responsible for and committed to providing such public facilities and services at levels of service necessary to support anticipated residential and employment growth; and

WHEREAS, the City's capital improvements plan apportions the costs of providing additional public facilities and services among existing and future users of such facilities in proportion to the demands for these facilities generated by such users; and

WHEREAS, the demand for additional roadways, parks and recreational facilities, public safety facilities, and school facilities is generated in part by residential development and in part by nonresidential development; taking into consideration factors such as usage of public facilities by individuals residing outside of the city and demand for specialized services necessitated by nonresidential development, the ratio of the impact on public facilities and services attributable to new residential development and new nonresidential development is approximately 2:1; and

WHEREAS, City Council finds it is in the best interest of the City to establish and collect the following impact fees in a reasonable and equitable manner to fund these future additional public facilities.

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

SECTION 1. Chapter 16 of the Murfreesboro City Code is hereby amended by creating the following new Chapter and Sections:

“CHAPTER 16 - IMPACT FEES

ARTICLE I. GENERAL PROVISIONS.

Section 16-1 Short Title.

This chapter shall be known and may be cited as the City of Murfreesboro Impact Fee Ordinance.

Section 16-2 Purpose.

It is the intent and purpose of this chapter to establish the regulatory procedure for assessing and collecting fees of new development within the City of Murfreesboro to

ensure timely construction of public capital improvements that are necessary to serve new development by ensuring that necessary financing is available for such improvements. The impact fees to be paid by each new development pursuant to this chapter are to be proportional to the impact that the new development will have on the types of facilities for which the fees are charged.

Section 16-3 Authority.

This chapter is adopted pursuant to the powers conferred by the City of Murfreesboro Charter, Section 4 B(7), as amended by Tennessee Private Acts, 1990, ch. 180 § 1.

Section 16-4 Declaration of Findings and policy.

(A) The Murfreesboro City Council recognizes and finds that:

- (1) The City of Murfreesboro is one of the fastest growing cities in the State of Tennessee and in the nation; and
- (2) The anticipated population and employment growth in Murfreesboro creates the demand for additional roadways, park and recreational facilities, public safety facilities, and school facilities; and
- (3) The City is responsible for and committed to the providing such public facilities and services at levels of service necessary to support anticipated residential and employment growth; and
- (4) The City's capital improvements plan apportions the costs of providing additional public facilities and services among existing and future users of such facilities in proportion to the demands for these facilities generated by such users; and
- (5) The demand for additional roadways, parks and recreational facilities, public safety facilities, and school facilities is generated in part by residential development and in part by Nonresidential development; taking into consideration factors such as usage of public facilities by employees residing outside of the city and demand for specialized services necessitated by Nonresidential development, the ratio of the impact on public facilities and services attributable to new residential development and new Nonresidential development is approximately 2:1.

(B) City Council declares it is in the best interest of the City to establish and collect the impact fees in a reasonable and equitable manner to fund these future additional public facilities.

Section 16-5 Definitions.

For purposes of this chapter, the following terms shall have the meanings ascribed to them in this section:

- (1) *Administrator* means the City's Planning Director or other person(s) designated by City Council to administer this chapter.
- (2) *Building Permit* means a permit issued by the Building Official authorizing performance of a specified activity in or on a Structure.
- (3) *City* means the City of Murfreesboro, Tennessee.
- (4) *Developer* means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group, combination, or entity responsible for a new development or a new development project.
- (5) *Development* means the construction, building, reconstruction, erection, extension, betterment, or improvement of land by providing a new Structure or the addition to any Structure, or any part thereof, which provides, adds to, or increases the floor area of a Residential or Nonresidential use, and includes any interrelated set of developments, approved by the city pursuant to a subdivision plat, planned development, or other development plan.

- (6) *Development Impact Fee District* means an area within the corporate boundaries of the City of Murfreesboro that City Council has designated as subject to specified development impact fees.
- (7) *Nonresidential* refers to a Development or Structure for any use other than residential use, except as may be exempted by this chapter.
- (8) *Place of Worship* means that portion of a Structure owned by a religious institution that has property tax exempt status and that is used primarily for religious worship services and related functions; provided, however, that a place of worship does not include Structures and portions of Structures that are used for purposes other than worship and related functions or that are intended to be leased, rented, or used by persons who do not have a tax exempt status.
- (9) *Residential* means to a Development or Structure that includes one or more dwelling units. A dwelling unit is any room or set of interconnected rooms providing independent permanent facilities for living, sleeping, cooking, eating, and sanitation designed for or used exclusively as living quarters by one or more persons living together as a common household, and physically separated from any other dwelling units that may be located in the same building, including a room or suite of rooms in an extended stay hotel, but excluding a tent, travel trailer, a room in a hotel motel, or boarding house.
- (10) *Roadway Administrator* means the City's Executive Director for Public InfraStructure or other person(s) designated by City Council to administer this chapter.
- (11) *Structure* means anything built, constructed, or erected that is located permanently or semi-permanently on the ground or attached to something having a permanent or semi-permanent location on the ground, but specifically excluding paving or other resurfacing of the ground.

Section 16-6 Applicability; exceptions.

- (A) All new development in the City shall be subject to the assessment and collection of impact fees unless otherwise expressly provided herein. The City will not issue a certificate of occupancy for any Structure until the required impact fee has been paid in full. For other uses not ultimately requiring a Building Permit, the City will not approve a development plan until the requisite impact fee has been paid in full. In addition, the City will issue a stop work order on any development for which the applicable impact fee has not been paid as required.
- (B) No impact fee shall apply or be collected as a result of the following actions:
 - (1) Any development by the federal government or any agency of the federal government, or by the state of Tennessee or any agency or political subdivision of the state of Tennessee, including, but not limited to, Rutherford County, the City, the Rutherford County School District, the Murfreesboro City Schools, the Consolidated Utility District of Rutherford County or other district, the Tennessee Board of Regents, or Middle Tennessee State University;
 - (2) Any development, including but not limited to the mere subdivision of land, installation of utilities, or the use of land for limited recreational, agricultural, filling, or dredging purposes, which, in the opinion of the Administrator, will not result in a significant net increase in the demand for public facilities subject to this chapter;
 - (3) Placing temporary construction trailer or office on a lot during the term of the Building Permit issued for the construction served by the trailer or office;
 - (4) Nonresidential accessory Structures, provided, however, that in the event an existing Industrial Accessory Building is converted, improved or changed in such a manner as to meet the applicable definition(s) stated within the City's code as a non-accessory "Industrial" Structure, the impact fee scheduled cost shall be applied at the current rate upon the initial change. A nonresidential accessory Structure means an enclosed storage shed that lacks heating and plumbing facilities and is used primarily for the storage of equipment, tools, heavy machinery, or similar appliances that are not for sale—either retail or

wholesale; or an open perimeter shelter which may be open on one or more sides that lacks heating and plumbing facilities and may be used for the storage of materials available for sale—retail or wholesale;

- (5) Garages (whether attached or unattached) and other Accessory Structures constructed on residential property provided such Structures or parts thereof are neither heated or air-conditioned;
 - (6) Places of Worship;
 - (7) The replacement of a destroyed or partially destroyed Structure with a new Structure of like size, capacity, and use;
 - (8) Developments that received a final site plan approval or building permit prior to the effective date of the Ordinance.
- (C) The park impact fee and the school impact fee shall not apply to Nonresidential Developments.

Section 16-7 Development Impact Fee District.

- (A) The City's corporate boundaries constitute a single Development Impact Fee District and the development impact fees imposed by City Council shall be applicable to all development within the City until such time as City Council, after a duly noticed public hearing, establishes additional development impact fee districts that shall have specific development impact fees applicable to that district.
- (B) The boundaries of a development impact fee district may be modified, separate impact fees may be assessed separately within the districts, and each impact fee may have separate districts should City Council deem it beneficial to do so following notice and a public hearing on the proposed changes.
- (C) Impact fees collected within a development impact fee district shall be spent within that district.

Section 16-8 Impact Fee Schedule

- (A) *Calculation based on fee schedule.* Impact fees shall be calculated as follows.
 - (1) The impact fees shall be calculated for the proposed development based on the development plan approval or permit allowing the use according to the applicable fee schedule.
 - (2) City Council will adopt and may modify by ordinance a development impact fee schedule that will establish the development impact fees that is imposed by new Development on the following:
 - (a) Roadway;
 - (b) Parks;
 - (c) Public Safety; and
 - (d) City Schools.
 - (3) The units of development specified in the fee schedule shall be interpreted in terms of building square footage, which shall be measured in terms of gross floor area, as determined by the Administrator. For purposes of this chapter, "gross floor area" means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of a party wall separating such buildings or portions thereof, or within lines drawn parallel to and two feet within the roof line of any building or portions thereof without walls, but excluding in the case of nonresidential facilities: arcades, porticoes and similar open areas which are accessible to the general public but are not designed or used as sales, display, storage, service or production areas.
 - (4) For categories of uses not specified in the applicable impact fee schedule, the Administrator shall apply the category of use set forth in the applicable fee schedule that is deemed to be most similar to the proposed use.
 - (5) If the development plan approval or permit for the proposed development indicates a mix of uses in the development, the impact fees shall be calculated

separately for each use according to the fee schedule, and the results aggregated. Accessory uses that are customarily part of the principal use of a Structure or lot shall be assessed at the same rate as the principal use.

- (6) For an addition to or replacement of existing Structures, or a change of use, the impact fee to be paid shall be the difference, if any, between:
- (a) The fee, if any, that would be payable for existing development on the site or, in the case of demolition or removal of a Structure or the reuse of a vacant Structure, the previous development and use on the site, provided that the demolition or removal of the Structure or the discontinuation of the previous use has occurred within five years of the date of submittal of the application for which impact fees are assessed; and
 - (b) The fee, if any, that would be payable for the total development on the site after the new development.
- (7) Upon written request of an applicant, the Administrator may provide an estimate of the current fee based on sufficient data being provided prior to submission of an application Building Permit or development plan; provided, however, the Administrator shall not be responsible for determining the accuracy of the information provided or the estimate and the applicant may not act in reliance on the preliminary estimate.

Section 16-9 Collection of impact fees.

- (A) Except as set forth in subsection (B) below, the impact fees for all new development shall be calculated in conjunction with the application for a Building Permit and shall be paid to the City prior to the issuance of a certificate of occupancy.
- (B) For other uses not ultimately requiring a Building Permit, the fee shall be calculated and collected prior to or at the time of approval of the development plan.
- (C) The Building and Codes Department shall transmit to the Finance Department all fees collected and a copy of all related fee transaction documents for recordation. The Finance Department shall be responsible for depositing all collected fees in the appropriate fund accounts.
- (D) A monthly summary of all fee collection transactions, by service area and type of use, shall be prepared by the Building and Codes Department and transmitted to the City Manager, the Executive Director for Development Services, and the Administrator.

Section 16-10 Fund accounting.

- (A) The City shall establish a separate accounting fund in which the impact fees collected for a particular type of facility within the development impact fee district shall be credited. Such fees shall be invested by the City and the yield on such fees, at the actual rate of return to the City, shall be credited to such accounting fund periodically in accordance with the accounting policies of the City. Such funds shall be segregated from other City monies for accounting purposes.
- (B) Any yield on such accounting fund into which the fees are deposited shall accrue to that fund and shall be used for the purposes specified for such fund.
- (C) The City shall maintain and keep financial records for such accounting fund showing the revenues to such fund and the disbursements from such fund, in accordance with normal City accounting practices. The records of such fund shall be open to public inspection in the same manner as other financial records of the City.

Section 16-11 Expenditure of fees.

- (A) Except as otherwise provided in subsections (B) below, impact fees may be spent only on qualifying improvements.

- (1) Qualifying improvements on which Roadway Impact fees may be spent are set forth in § 16-20;
 - (2) Qualifying improvements on which Park Impact fees may be spent are set forth in § 16-22;
 - (3) Qualifying improvements on which Public Safety Impact Fees may be spent are set forth in § 16-24; and
 - (4) Qualifying improvements on which City School Impact Fees may be spent are set forth in § 16-26.
- (B) Impact fees collected pursuant to this chapter may be used to pay the fees actually paid or contracted to be paid to qualified professionals preparing or updating impact fee studies and ordinances.
- (C) The Finance Department shall have the responsibility for tracking the expenditure of roadway impact fee revenues by service area.

Section 16-12 Refunds.

- (A) If development for which an impact fee has been paid has not begun, the impact fee and any accrued interest thereon shall be returned to the applicant, provided that the applicant applies for the refund in writing within 60 days after the expiration of the Building Permit or other approval (or any extension thereof) on which it was assessed.
- (B) The City shall charge an administrative fee for verifying and computing the refund of 3% of the amount of the refund.

Section 16-13 Offsets.

- (A) Offsets are reductions from the impact fee that would otherwise be due from a development and shall be credited at the same percent of the maximum impact fee rate assessed per fee type.
- (B) The Administrator shall grant an offset for qualifying improvements, as defined in Section 16-11, or cash contributions for such improvements, that are required to be paid as a condition of development approval for the type of facility against which such offset is claimed.
- (C) Offsets shall be allowable and payable only to offset impact fees otherwise due for the same category of improvements and shall not result in reimbursements from, nor constitute a liability of, the City.
- (D) Offsets shall be given only for the value of any construction of improvements or contribution or dedication of land or money by a fee payer or his or her predecessor in title or interest for qualifying improvements of the same category for which an impact fee was imposed.
- (E) No offset shall be provided under this section for contributions, payments, or construction made more than one year prior to the effective date of this chapter.
- (F) The person applying for an offset shall be responsible for providing appraisals of land and improvements, construction cost figures, and documentation of all contributions and dedications necessary to the computation of the offset claimed. The Administrator shall have no obligation to grant offsets to any person who cannot provide the documentation in such form as the Administrator may reasonably require.
- (G) The value of land dedicated or donated shall be based on the appraised land value of the parent parcel (which land value is based on the date of transfer of ownership to the City) as determined by a certified appraiser who was selected and paid for by the applicant, and who used generally accepted appraisal techniques. If the City disagrees with the appraised value, the City may engage another appraiser at the City's expense, and the value shall be an amount equal to the average of the two appraisals.
- (H) Offsets provided for qualifying improvements meeting the requirements of this section shall be valid from the date of approval until two years after the date of approval or until the last date of construction within the project, whichever occurs first.

- (I) The right to claim offsets shall run with the land and may be claimed only by owners of property within the development for which the qualifying improvement was required.
- (J) Any claim for offsets must be made not later than the time of submittal of a Building Permit application or application for another permit subsequent to development plan approval that is subject to impact fees. Any claim not so made shall be deemed waived.

Section 16-14 Development Agreements.

- (A) Where a development includes or requires a qualifying improvement, as defined in Section 16-11, the City and the Developer may agree in writing to have the Developer participate in the financing or construction of part or all of the qualifying improvements. In addition, as an economic incentive for a Development, City Council by resolution may waive, in whole or in part, the amount of the impact fee that would otherwise be assessed for a Development, where City Council reasonably believes, based on objective facts and reasonable projections set forth in the resolution, that the economic or other public benefit of the Development to the City will outweigh the benefit of collecting the impact fee, in whole or in part, from the Developer. Such development agreement may provide for cash reimbursements, offsets, or other appropriate compensation to the Developer for the Developer's participation in the financing and/or construction of the improvements or providing the City with measurable economic improvement.
- (B) The agreement shall include:
 - (1) The estimated cost of the qualifying improvements, using the lowest responsive bid by a qualified bidder, which bid is approved by the Administrator; or, if no bid is available, the estimated cost certified by a licensed engineer and approved by the Administrator;
 - (2) A schedule for initiation and completion of the improvement;
 - (3) A requirement that the improvement be designed and completed in compliance with any applicable City ordinances; and
 - (4) Such other terms and conditions as deemed necessary by the City.
- (C) If City Council waives, in whole or in part, the amount of the impact fee due for a Development as an economic incentive, City Council shall cause to be appropriated from other City funds the amount of the reduction in the impact fee to the account for the service area in which the property is located. The Administrator shall keep a record of all waivers and variances granted pursuant to this section by service area. Prior to the commencement of the next ensuing fiscal year, City Council shall appropriate an amount equal to the sum of all waivers granted as economic incentives within the service area and shall cause that amount to be transferred to the impact fee account for the service area, which shall thereafter be considered funds of the amount. Such funds shall be appropriated from any source other than from the proceeds of impact fees in accordance with the laws of the state.

Section 16-15 Supplemental regulation.

- (A) Except as herein otherwise provided, impact fees are in addition to any other requirements, taxes, fees, or assessments imposed by the City on development or the issuance of Building Permits or certificates of occupancy which are imposed on and due against property within the jurisdiction of the City. Such fees are intended to be consistent with the City's comprehensive plan, capital improvements program, development regulations, and other City policies, ordinances, and resolutions by which the City seeks to ensure the provision of capital facilities in conjunction with development.
- (B) In addition to the use of impact fees, the City may finance qualifying capital improvements through the issuance of bonds, the formation of assessment

districts, or any other authorized mechanism in such manner and subject to such limitations as may be provided by law.

Section 16-16 Updates to Impact Fee Schedules.

Not less often than every five years, City Council, following a public hearing, shall review and, if warranted, recommend changes in the schedules of impact fees. Factors to be considered may include, without limitation, past and projected growth in Residential and Nonresidential development, qualifying improvements actually constructed, changing levels of service, revised cost estimates for qualifying improvements, changes in the availability of other funding sources, changes in demand generation characteristics, sources of non-City funds and such other factors as may be relevant.

Section 16-17 Relief Procedures.

(A) City Council may grant a variance or waiver from a requirement of this chapter.

- (1) To secure a variance or waiver, a Developer must present a written request to the Administrator detailing the grounds for the waiver and provide any additional information requested by the Administrator. The Administrator and Legal Department shall prepare findings of fact and conclusions of law that includes consideration of uses permitted by right or conditionally under existing development regulations, and a recommendation as to any requested variance or waiver. The Administrator shall submit such findings of fact, conclusions of law, and recommendation to City Council to consider whether a variance or waiver is appropriate.
- (2) Upon review of the Administrator's findings of fact, conclusions of law, and recommendation at a public meeting, City Council may a variance or waiver upon determination that a strict application of such requirement would result in de facto taking of the property. City Council may reduce or waive the impact fee.
- (3) If City Council grants a variance or waiver to the amount of the impact fee due for a Development under this section, it shall cause to be appropriated from other City funds the amount of the reduction in the impact fee to the account for the service area in which the property is located. The Administrator shall keep a record of all waivers and variances granted pursuant to this section by service area. Prior to the commencement of the next ensuing fiscal year, City Council shall appropriate an amount equal to the sum of all waivers and variances granted within the service area and shall cause that amount to be transferred to the impact fee account for the service area, which shall thereafter be considered funds of the amount. Such funds shall be appropriated from any source other than from the proceeds of impact fees in accordance with the laws of the state.

Section 16-18 Appeals.

A fee payer affected by a decision of the Administrator under this chapter may appeal such decision to the City Manager, by filing with the City Recorder written notice specifying the grounds of the appeal within ten business days of the date of the decision. The City Manager shall decide the appeal within 30 days after a fully stated appeal is made.

Sections 16-20—16-29 Reserved.

ARTICLE II. ROADWAY IMPACT FEES.

Section 16-30 Roadway impact fee schedule.

The roadway impact fee shall be calculated based on the fee schedule adopted with the annual budget ordinance or subsequently amended by ordinance. The Administrator and the Roadway Administrator shall jointly determine the land use category in the fee schedule that best represents the proposed use based on the definitions provided in this chapter.

Section 16-31 Individual assessments of roadway impact fees.

- (A) The roadway impact fee for a proposed new development shall be calculated using an individual assessment of roadway impacts if:
- (1) The Roadway Administrator determines that the nature, timing, or location of the proposed development makes it likely to generate impacts costing substantially more to mitigate than the costs attributable to the development in the fee schedule; or
 - (2) The Developer chooses to have the amount of the fee determined by such method.
- (B) The Developer shall be responsible for preparing the individual assessment of roadway impacts if the Developer chooses to conduct such analysis as provided in subsection (A)(3) above. Otherwise, the City shall be responsible for preparation of the individual assessment.
- (C) An individual assessment shall include a traffic study prepared and signed by a licensed traffic engineer. Such traffic study shall include the following elements:
- (1) A projection of the number of vehicular trips entering and departing from the project during an average weekday;
 - (2) If the site is already developed, and some or all of the existing development will be replaced by the completed project, a calculation of the number of vehicular trips for that portion of the existing development which will be replaced by the completed project;
 - (3) The percentage of those trips identified in subsections (1) and (2) above, which are “primary trips” (as opposed to “pass-by trips” or “diverted-link trips” for which the project is not the primary destination);
 - (4) The assumptions and conclusions from which any projections are made. If the assumptions or conclusions are derived from the current edition of the ITE manual or other standard reference materials, the materials shall be identified and appropriate excerpts or specific references provided. Otherwise, the reasoning underlying the assumptions and conclusions shall be clearly stated in writing; and
 - (5) Such other information as the Administrator shall reasonably request.
- (D) The Administrator shall determine the fee based on the review of the independent assessment and the following formula.

$$\text{MAXIMUM FEE} = (\text{PK HR VMT} \times (\text{NET COST/VMT})) \times \text{PERCENT}$$

Where:

$$\text{PK HR VMT} = \text{PK HR TRIPS} \times \% \text{NEW} \times (\text{LENGTH}/2)$$

PK HR TRIPS = Trip ends during PM peak hour of adjacent street traffic.

%NEW = Percent of trips that are primary, as opposed to pass-by or diverted-link trips.

LENGTH = Average length of a trip on the major roadway system. Note: dividing LENGTH by 2 when calculating PK HR VMT avoids double-counting trips for origin and destination.

NET COST/VMT = Average net cost to accommodate a new vehicle-mile of travel during the peak hour. Until recalculated by an update of the impact fee study, this shall be \$86.58.

PERCENT = Percent at which maximum fees are currently being assessed by the City.

VMT = Vehicle-miles of travel

- (E) The Roadway Administrator shall determine the appropriate impact fee for the development, based on the above formula, the information provided by the applicant and any other information determined to be relevant by the roadway Administrator. The Administrator shall accept the calculations of the individual assessment if the Administrator finds that:
- (1) The proposed development is in fact so unique in its long-term impacts that the strict application of the fee schedule or administrative determination would result in inaccurate impact projections; and
 - (2) The individual assessment results in a fee that differs by at least 10% from the fees calculated under the fee schedule.
- (F) If the City accepts the computations of the individual assessment under this section, the applicable fee shall be determined from the individual assessment regardless of whether it is higher or lower than the fee calculated under the fee schedule or administrative determination.
- (G) The applicant may appeal the decision of the Roadway Administrator on the individual assessment to City Council pursuant to Section 16-15.

Section 16-32 Use of roadway impact fees.

- (A) The revenues from roadway impact fees collected within the Development Impact Fee District and accrued interest on such revenues shall be used to finance project costs of capacity-expanding improvements to the major roadway system, as determined by City Council, provided that the improvements are located within the same Development Impact Fee District. Such revenues may also fund the cost of consultants used in updating the transportation portion of the capital improvements program and in updating the roadway impact fee computations.
- (B) Capacity-expanding improvements are those that increase the capacity of the major roadway system to accommodate additional traffic. Such improvements include, but are not limited to, widening of roadways to increase lane and/or shoulder width or to add additional travel lanes, signalization, addition of turn lanes, and other intersection improvements. Improvements such as intersection improvements or acceleration/deceleration lanes that primarily serve traffic entering or exiting a development project shall not be considered capacity-expanding improvements.
- (C) Qualifying project costs include project engineering costs; the acquisition cost of rights-of-way and easements, including legal costs; the construction cost of improvements, including, but not limited to, public street travel lanes, public pedestrian and bicycle pathways, turning lanes or the portion thereof located within the right-of-way of a public street, lighting, signalization, signage and landscaping improvements that are required for the roadway improvement to function effectively; and the principal, interest, and other financing costs of bonds, notes, or other obligations issued by or on behalf of the City to finance qualified improvements.
- (D) Monies collected as roadway impact fees shall not be used to pay for any of the following:
- (1) Construction, acquisition, or expansions of public facilities other than qualifying major roadway system improvements;
 - (2) Repair, operation, or maintenance of existing or new public street or pathway improvements;

- (3) City personnel and consultants hired for purposes other than those expressly permitted under this section; and
- (4) Streets, pathways, and related transportation improvements that are within and intended to serve only a specific development such as a new residential subdivision.

Sections 16-33—16-39 Reserved.

ARTICLE III. PARK IMPACT FEES.

Section 16-40 Park impact fee schedule.

The park impact fee shall be calculated based on the fee schedule adopted with the annual budget ordinance or subsequently amended by ordinance. The Administrator shall determine the land use category in the fee schedule that best represents the proposed use.

Section 16-41 Use of park impact fees.

- (A) The revenues from park impact fees collected within the Development Impact Fee District and accrued interest on such revenues shall be used to finance project costs of capacity-expanding improvements to the City's parks and recreation facilities, as determined by City Council, provided that the improvements are located within the same Development Impact Fee District. Such revenues may also fund the cost of consultants used in updating the parks and recreation portion of the capital improvements program and in updating the park impact fee computations.
- (B) Capacity-expanding improvements are those that add land and facilities to the City's park and recreation system that are available to be used by City residents. Such improvements include, but are not limited to, acquiring or developing new parks and recreation facilities, improvements to existing parks that add new facilities, and expansions of existing recreation facilities.
- (C) Qualifying project costs include project design and engineering costs; the acquisition cost of land and easements, including legal costs; the construction cost of improvements; and the principal, interest, and other financing cost of bonds, notes, or other obligations issued by or on behalf of the City to finance qualified improvements.
- (D) Monies collected as park impact fees shall not be used to pay for any of the following:
 - (1) Construction, acquisition, or expansion of public facilities other than qualifying parks and recreation improvements;
 - (2) Repair, operation, maintenance, or replacement of existing parks and recreation facilities; and
 - (3) Private parks and recreational facilities that are not open to the public.

Sections 16-42—16-49 Reserved.

ARTICLE IV. PUBLIC SAFETY IMPACT FEES.

Section 16-50 Public safety impact fee schedule.

The public safety impact fee shall be calculated based on the fee schedule adopted with the annual budget ordinance or subsequently amended by ordinance. The Administrator shall determine the land use category in the fee schedule that best represents the proposed use.

Section 16-51 Use of public safety impact fees.

- (A) The revenues from public safety impact fees collected within the Development Impact Fee District and accrued interest on such revenues shall be used to finance project costs of capacity-expanding improvements to the City's public safety facilities, as determined by City Council, provided that the improvements are located within the same Development Impact Fee District. Such revenues may also fund the cost of consultants used in updating the public safety facilities portion of the capital improvements program and in updating the public safety impact fee computations.
- (B) Capacity-expanding improvements are those that add land and facilities to the City's public safety facilities that are available to serve City residents. Such improvements include, but are not limited to, acquiring or developing new fire and police stations, including land acquisition, expansions to existing fire and police stations that add additional space for personnel or equipment, and acquisition of new apparatus or vehicles for fire protection or police protection services.
- (C) Qualifying project costs include project design and engineering costs; the acquisition cost of land and easements, including legal costs; the construction cost of improvements; and the principal, interest, and other financing costs of bonds, notes, or other obligations issued by or on behalf of the City to finance qualified improvements.
- (D) Monies collected as public safety impact fees shall not be used to pay for any of the following:
- (1) Construction, acquisition, or expansion of public facilities other than qualifying public safety facilities;
 - (2) Repair, operation, maintenance, or replacement of existing fire or police stations or equipment; or
 - (3) Acquisition of apparatus, vehicles, or equipment that essentially replaces existing or older equipment that is being taken out of service; provided that if the new equipment will provide better service than the comparable equipment being retired and is more costly than the current replacement cost of the existing equipment, the difference in cost may be funded out of public safety impact fees.

Sections 16-52—16-59 Reserved.

ARTICLE IV. SCHOOL IMPACT FEES.

Section 16-60 City Schools Impact Fee schedule.

- (A) The City Schools Impact Fee shall be calculated based on the fee schedule adopted with the annual budget ordinance or subsequently amended by ordinance. The Administrator shall determine the land use category in the fee schedule that best represents the proposed use.

Section 16-61 Use of City Schools Impact Fee.

- (A) The revenues from City Schools Impact Fee collected within the Development Impact Fee District and accrued interest on such revenues shall be used to finance project costs of capacity-expanding improvements to the Murfreesboro City Schools facilities, as may be recommended by the City School Board and determined by City Council, provided that the improvements are located within the same Development Impact Fee District. Such revenues may also fund the cost of consultants used in updating the school portion of the capital improvements program and in updating the City Schools Impact Fee computations.
- (B) Capacity-expanding improvements are those that add land, facilities, and buses to the City's school system that are available to be used by City students. Such

improvement include, but are not limited to, acquiring or developing new school facilities, improvements to existing school facilities that add new facilities, and expansions of existing school facilities.

- (C) Qualifying project costs include project design and engineering costs; the acquisition cost of land and easements, including legal costs; the construction cost of improvements; and the principal, interest, and other financing cost of bonds, notes, or other obligations issued by or on behalf of the City to finance qualified improvements.
- (D) Monies collected as City Schools Impact Fee shall not be used to pay for any of the following:
 - (1) Construction, acquisition, or expansion of public facilities other than qualifying school improvements;
 - (2) Repair, operation, maintenance, or replacement of existing school facilities; and
 - (3) Acquisition of vehicles or equipment that essentially replaces existing or older equipment that is being taken out of service; provided that if the new equipment will provide better service than the comparable equipment being retired and is more costly than the current replacement cost of the existing equipment, the difference in cost may be funded out of school impact fees.

Sections 16-62—16-63 Reserved.

SECTION 2. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker

43A2035E51F9401...
Adam F. Tucker
City Attorney

SEAL

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Ordinance 23-O-12 regarding the conditions for water and sewer service to property outside [Second Reading]

Department: Water Resources Department

Presented by: Darren Gore, Assistant City Manager

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Ordinance amending the City Code and establishing certain conditions for extending water and sewer service to school properties outside the City limits.

Staff Recommendation

Adopt Ordinance 23-O-12

Background Information

At its March 8, 2023, City Council discussed an amendment to the City Code that would allow City sewer to serve a school operated by the Rutherford County Board of Education located outside the City limits without first requiring a petition for annexation and further requested that staff prepare such an amendment for consideration by City Council. The substance of the proposed ordinance was presented to and approved by the City of Murfreesboro Water Resources Board on March 21, 2023.

If adopted by City Council, Ordinance 23-O-12 would allow City Council, acting in its sole discretion, to authorize sewer service by the City to a property located outside the City limits, provided:

- (1) the property is owned by either Rutherford County or the Rutherford County Board of Education;
- (2) a public elementary school and/or secondary school is located on or is intended to be constructed on the property; and
- (3) Rutherford County and the Rutherford County Board of Education enter into a written development agreement with the City with respect to the property, the terms of which are acceptable to City Council.

The Ordinance would also permit City Council to waive or rebate certain fees associated with the construction or expansion of a school that are otherwise typically be assessed by the City in connection with new construction located outside the city limits to be served by the City’s sewer system.

Fiscal Impact

None. There are no fiscal impacts to MWRD, sanitary sewer connection fees would still

be paid by the County and the school site would be charged 150% of the rates charged for inside City customers.

Attachments

Ordinance 23-O-12

ORDINANCE 23-O-12 amending the Murfreesboro City Code, Chapter 33, Water Resources, Article I, Section 33-2.1.1, regarding the conditions for water and sewer service to property outside City limits.

WHEREAS, at a meeting held on March 8, 2023, City Council discussed an amendment to the City Code that would allow City sewer to service a school operated by the Rutherford County Board of Education located outside the City limits without first requiring a petition for annexation and further requested that staff prepare such an amendment for consideration by City Council; and

WHEREAS, the City of Murfreesboro Water Resources Board voted on March 21, 2023, to recommend to City Council that it adopt the amendment set forth herein, with the exception of the last paragraph of subsection (D) concerning the waiver or rebating of certain fees, which was added by staff following the Board's vote; and

WHEREAS, the City Council finds that the amendment set forth herein is in the best interest of City residents who are both City and County taxpayers and is consistent with providing a quality education to City residents who may attend these schools at the lowest overall cost possible.

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

SECTION 1. Section 33-2.1.1, Conditions for water and sewer service to property outside City limits, of the Murfreesboro City Code is hereby amended by adding the following subsection (D) at the end thereof:

“(D) Notwithstanding anything in this chapter to the contrary, the City Council, acting in its sole discretion, may authorize sewer service by the City to a property located outside the city limits of the City, provided:

- (1) the property is owned by either Rutherford County or the Rutherford County Board of Education;
- (2) a public elementary school and/or secondary school is located on or is intended to be constructed on the property; and
- (3) Rutherford County and the Rutherford County Board of Education enter into a written development agreement with the City with respect to the property, the terms of which are acceptable to City Council.

In addition, and in its sole discretion, City Council may waive any application, permit, inspection, or other fees assessed by the City in connection with constructing a new school or expanding or renovating an existing school. In the alternative, the City Council may agree to rebate to the Rutherford County Board of Education any such fees paid to the City by the Rutherford County Board of Education's contractor. The foregoing authority to waive or rebate certain fees, however, shall not extend to: (i) fees and charges authorized by the City Code and assessed by the Murfreesboro Water Resources Department; or (ii) fees assessed in connection with the construction, expansion, or renovation of non-academic buildings and facilities that will be connected to and served by the City's sewer system.”

SECTION 2. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker
43A2035E54F9401...

Adam F. Tucker
City Attorney

SEAL

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Rezoning property along Agripark Drive
[Second Reading]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Rezoning approx. 9.75 acres located along Agripark Drive north of Old Fort Parkway.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the zoning request.

Background Information

FC Murfreesboro, LLC presented to the City a zoning application [2022-427] for approximately 9.75 acres located along Agripark Drive to be rezoned from CH (Highway Commercial District) to PRD (Planned Residential District). During its regular meeting on February 1, 2023, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On April 6, 2023, Council held a public hearing and approved this matter on First Reading.

Council Priorities Served

Improve Economic Development

This rezoning will enable the development of 166 multi-family residential dwelling units, restricted to ages 55 and up. This development will provide additional housing choices and opportunities for this demographic.

Attachments:

Ordinance 23-OZ-07

ORDINANCE 23-OZ-07 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 9.8 acres located along the east side of Agripark Drive from Highway Commercial (CH) District to Planned Residential Development (PRD) District (Arden at Murfreesboro PRD); FC Murfreesboro, LLC, applicant, [2022-427].

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

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

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

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

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

43A2036E64F0401...
Adam F. Tucker
City Attorney

SEAL

Ordinance 23-OZ-07

PCD

PCD

JOHN R RICE BLVD

I-24

RM-16

RM-16

CH

AGRIPARK DR

CH

RM-16

CH

CH

Area rezoned from CH to PRD

CH

CH

N



COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Schools Budget Amendment #7 Additional Federal awards

Department: City Schools

Presented by: Trey Duke, Director

Requested Council Action:

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

Summary

Schools' amendment # 7 to the FY23 Schools Federal Projects fund to budget additional ELC and Title III-A grant awards.

Staff Recommendation

Approve Resolution 23-R-09 amending the FY23 Schools Federal Projects budgets as presented.

Background Information

On April 18, 2023, the MCS Board approved the attached budget amendments to the FY23 Schools Federal Projects fund for additional funds received in the Epidemiology & Laboratory Capacity (ELC/Nursing) grant and in the Title III-A grant totaling \$441,750.

- ELC Grant: Budget additional revenues and expenditures in the amount of \$441,282 for a final allocation of \$1,061,978. Funds will be used to reimburse up to \$245,437 to the General Purpose Schools fund for four nurse's labor and benefits. The remaining \$195,845 will fund clinic supplies and furniture, nursing software, mannequins and AED training supplies and equipment. No new positions are funded with this additional allocation.
- Title III-A: Budget additional revenues and expenditures in the amount of \$468 for a final allocation of \$182,617. Funds are budgeted in medical and dental insurance accounts.

Council Priorities Served

Responsible budgeting

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

Fiscal Impact

The ELC/Nursing and Title III-A grants will be budgeted in the Schools Federal Projects fund to recognize new revenues and expenditures related to the grant

awards with no change to fund balance.

Attachments

1. Resolution 23-R-09
2. Exhibit A: MCS Budget Amendment # 7

RESOLUTION 23-R-09 amending the 2022-2023 Murfreesboro City Schools Budget (7th Amendment).

WHEREAS, the City Council adopted Resolution 22-R-16 on June 8, 2022 to implement the 2022-2023 Murfreesboro City Schools Budget; and

WHEREAS, it is now desirable and appropriate to adjust and modify the 2022-2023 Murfreesboro City Schools Budget by this Resolution to incorporate expenditure decisions made by the Murfreesboro City School Board.

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

SECTION 1. The 2022-2023 Murfreesboro City Schools Budget as adopted by the City Council is hereby revised as shown on attached Exhibit A.

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

Passed: _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker

Adam F. Tucker
City Attorney

RESOLUTION 23-R-09 amending the 2022-2023 Murfreesboro City Schools Budget (7th Amendment).

WHEREAS, the City Council adopted Resolution 22-R-16 on June 8, 2022 to implement the 2022-2023 Murfreesboro City Schools Budget; and

WHEREAS, it is now desirable and appropriate to adjust and modify the 2022-2023 Murfreesboro City Schools Budget by this Resolution to incorporate expenditure decisions made by the Murfreesboro City School Board.

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

SECTION 1. The 2022-2023 Murfreesboro City Schools Budget as adopted by the City Council is hereby revised as shown on attached Exhibit A.

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

Passed: _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker

Adam F. Tucker
City Attorney

Murfreesboro City Schools Budget Amendment

Schools Federal Projects Fund 142

Fiscal Year 2022-23

BOE Approval

4/18/2023

Exhibit A to Resolution 23-R-09

Epidemiology & Laboratory Capacity (ELC) grant

Account Number	Account Description	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
<u>Revenues</u>			
	Epidemiology & Laboratory Capacity (ELC)	441,282	441,282
Total Increase in Revenues		\$ 441,282	\$ 441,282
<u>Expenditures</u>			
	Medical Personnel	192,459	192,459
	Social Security	11,983	11,983
	Retirement	19,369	19,369
	Life Insurance	439	439
	Medical Insurance	14,692	14,692
	Dental Insurance	556	556
	Medicare	2,814	2,814
	Other Fringe Benefits	3,125	3,125
	Other Contracted Services	21,333	21,333
	Drugs & Medical Supplies	74,885	74,885
	Health Equipment	92,068	92,068
	Other Supplies & Materials	7,559	7,559
Total Increase in Expenditures		\$ 441,282	\$ 441,282

CHANGE IN FUND BALANCE (CASH)

-

This amendment budgets additional revenue for the Epidemiology & Laboratory Capacity (ELC) grant.

These additional funds are budgeted to reimburse general purpose funds for 4 nurse's labor and benefits in the FY23 general purpose budget. Additional funds are budgeted for items such as clinic supplies, furniture for clinics (less than \$5,000 ea), nursing software, mannequins and AED trainers. No new positions are funded with this grant.

Schools Federal Projects Fund 142
Fiscal Year 2022-23

Exhibit A to Resolution 23-R-09

Title III-A

Account Number	Account Description	BUDGET AS PASSED OR	AMENDED	AMENDMENT INCREASE
		PREV AMENDED	BUDGET	(DECREASE)
<u>Revenues</u>				
Title III-A		182,149	182,617	468
Total Increase in Revenues		\$ 182,149	\$ 182,617	\$ 468
<u>Expenditures</u>				
	Instruction - Medical Insurance	37,947	38,162	215
	Instruction - Dental Insurance	839	1,092	253
Total Increase in Expenditures		\$ 38,786	\$ 39,254	\$ 468
CHANGE IN FUND BALANCE (CASH)				(0)

To increase the FY23 Title III federal award by \$468 based on the final allocation of \$182,617.
Funds are budgeted in medical and dental insurance. There are no major programmatic changes.

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Ceiling Renovations at Mitchell-Neilson Elementary School

Department: Facilities Maintenance

Presented by: Brad Hennessee, Facilities Manager

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Contract for ceiling renovations at Mitchell-Neilson Elementary School.

Staff Recommendation

Approve the contract with Romach, Incorporated for \$502,000.

Background Information

The existing components of the suspended ceiling in the classrooms and hallways of the northeast and mid-south portion of the building have reached the end of their useful life. This project consists of the removal of existing ceilings, asbestos abatement of existing water pipe insulation, and installation of new suspended acoustical tile ceilings in those areas. The project was competitively bid and Romach was the lowest responsible bidder.

Council Priorities Served

Responsible Budgeting

Proactive maintenance of the City's largest asset classification is crucial to responsible budgeting and decreased CIP costs over the long-term.

Fiscal Impact

The expense, \$502,000, is funded by shared proceeds from County facility bonds.

Attachments

1. Building Diagram (Highlighted Portion Depicts Project Area)
2. Contract with Romach, Inc.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall

(Paragraphs deleted)

be the date specified in the Notice to Proceed issued by the Owner. Contractor is not authorized to undertake any Work until the date set forth in the Notice to Proceed.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

Not later than Sixty-two (62) calendar days from the date of commencement of the Work.

By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be Five Hundred Two Thousand Dollars (\$ 502,000.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
N/A	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Conditions for Acceptance
N/A		

§ 4.3 Allowances, if any, included in the Contract Sum: *(Identify each allowance.)*

Item	Price
For or abatement of existing asbestos containing water pipe insulation and installation of new water pipe insulation on pipes three inches or less in diameter.	1,400 Linear Feet

§ 4.4 Unit prices, if any: *(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price per Unit (\$0.00)
For abatement of existing asbestos containing water pipe insulation and installation of new water pipe insulation on pipes three inches or less in diameter.	Linear Feet	\$34.20

§ 4.5 Liquidated Damages

§ 4.5.1 Because failure to complete the Project within the time fixed in Section 3.3 will result in substantial injury to the Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, should the Contractor fails to achieve Substantial Completion of the Work within the time so fixed, or within such further time, if any, as shall be allowed for time extensions in accordance with the provisions of the Contract Documents, the Contractor or its Surety shall pay to the Owner as liquidated damages for such delay, and not as a penalty, \$500.00 for each and every calendar day elapsing between the date fixed for Substantial Completion in Section 3.3 and the date such Substantial Completion shall have been fully accomplished.

§ 4.5.2 Any liquidated damages assessed pursuant to Section 4.2.1. shall be payable in addition to any excess expenses or costs payable by the Contractor to the Owner under the provisions of Article 14 of the General Conditions, and shall not preclude the recovery of damages by the Owner under other provisions of the Contract Documents, except for Contractor’s delays. This provision for liquidated damages for delay shall in no manner affect the Owner’s right to terminate the Contract as provided in Article 14 of the General Conditions ("Termination or Suspension of the Contract") or elsewhere in the Contract Documents. The Owner may deduct from the balance of retainage the liquidated damages stipulated herein or in the next paragraph hereof, as the case may be, or such portion thereof as the retained balance will cover.

§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

§ 4.6.1 The Owner shall not be liable for the Contractor or any Subcontractor for claims or damages of any nature caused by or arising out of any delays. The sole remedy of Contractor or any Subcontractor for delays of any cause shall be the allowance of addition time for completion of Work, provided such additional time is reflected in a written, signed Change Order.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2

(Paragraphs deleted)

At least every 30 calendar days after the Contractor's commencement of the Work, but not more frequently than once per calendar month, the Contractor shall submit an Application for Payment to the Architect requesting payment for labor, services, and materials rendered or delivered during the preceding 30 calendar days. Each Application for Payment request shall contain such detail and be supported by sufficient information for the Owner and Architect to fully assess the request. The Architect will review the Contractor's Application for Payment and the accompanying data, information, and schedules (which are submitted in accordance with the Contract Document or at the Architect's request) to determine the amount the Contractor is due and, based on such review, together with its inspections of the Work, shall authorize in writing the requested payment to the Contractor.

§ 5.1.3 Provided the Application for Payment and all required supporting documentation is received by the Architect not later than the fifth day of the month, within 30 calendar days following Architect's authorization of payment, the Owner shall pay the sum authorized to the Contractor. No payment nor any use or occupancy of the Project, whether in total or partially, by the Owner constitutes an acceptance of any Work not in accordance with the Contract Documents.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

Init.

- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

five percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 [Intentionally omitted.]

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 a final Certificate for Payment has been issued by the Architect;
- .3 the Contractor has submitted its final waiver of lien and final waivers of lien from all of its Subcontractors and suppliers in a form acceptable to the Owner; and
- .4 the Contractor has submitted to the Owner all close-out documents, including without limitation, all as-build plans, warranties, manuals, and other materials set forth in the Contract Documents.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the *(Paragraphs deleted)* daily interest rate factor (365 days) of the prime interest rate reported by JP Morgan as of the payment due date.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker. *(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows: *(Check the appropriate box.)*

Arbitration pursuant to Section 15.4 of AIA Document A201–2017

Litigation in a court of competent jurisdiction

Other *(Specify)*

AIA Document A201™–2017, General Conditions of the Contract for Construction Addendum B, Dispute Resolution Procedures

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017. In addition, the Owner may terminate this Contract in the event of the unavailability of appropriated funds or a determination by Owner of the absence of continued need for the Project.

(Paragraphs deleted)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

Craig Tindall, City Manager
111 West Vine Street
Murfreesboro, TN 37130

Tel: (615) 849-2629
Email: ctindall@murfreesborotn.gov

or his designee as indicated in writing from time to time.

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Nathan Morgan, Vice President
Romach, Inc.
170 Reynolds Drive
Franklin, TN 37064
Tel: 615-794-8224
Email: nmorgan@romachconst.com

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Contractor shall purchase and maintain insurance as set forth in Exhibit A, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

8.7.1 Pursuant to T.C.A. §49-5-413, Contractor must agree to a background check, which requires a criminal history records check conducted by the TBI and the FBI, for each employee prior to permitting an employee to enter school grounds when students are present.

8.7.2 Tobacco Free School. Pursuant to Murfreesboro City Schools Board Policy 1.803 and state law, the use of tobacco and tobacco products, including smokeless tobacco, is prohibited on all Murfreesboro City Schools' property. Contractor and all employees of Contractor must abide by this policy.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 Exhibit A, Contractor's Insurance and Bonds Requirements
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction, including Addendum A, Contractor's Standard Form Subcontract, and Addendum B, Dispute Resolution Procedures
- .4 [Intentionally Omitted]

- .5 Drawings

Number	Title	Date
00 01 15	Drawing Index	January 20, 2023

.6 Specifications

Section	Title	Date	Pages
00 01 10	Table of Contents	January 20, 2023	1

.7 Addenda, if any:

Number	Date	Pages
N/A		

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
-------	------	-------

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

- Section 00 11 13, Advertisement for Bids, January 20, 2023 (2 pages)
- Section 00 21 13, Instructions to Bidders, January 20, 2023 (8 pages)
- Section 00 22 13, Supplementary Instructions to Bidders, January 20, 2023 (2 pages)
- Contractor's Bid Response, February 21, 2023 (11 pages)
- J+B No. 2221 Specification Book, January 20, 2023 (165 pages)

This Agreement entered into as of the day and year first written above.

City of Murfreesboro, Tennessee

Romach, Inc.
DocuSigned by:

OWNER (Signature)

CONTRACTOR (Signature)

Shane McFarland, Mayor
(Printed name and title)

Nathan Morgan Vice President
(Printed name and title)

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker

43A2035E51F9401

Adam F. Tucker, City Attorney

Additions and Deletions Report for AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 11:00:38 ET on 03/15/2023.

PAGE 1

City of Murfreesboro, Tennessee, a municipality organized under the laws of the State of Tennessee
111 West Vine Street
Murfreesboro, Tennessee 37130

...

Romach, Inc.
170 Reynolds Drive
Franklin, TN 37064

...

Ceiling Renovations at Mitchell- Neilson Elementary School
Murfreesboro, TN

...

J+B No. 2221

...

Johnson + Bailey Architects P.C.
100 East Vine Street
City Center, Suite 700
Murfreesboro, TN 37130

PAGE 2

§ 3.1 The date of commencement of the Work shall be:
(*Check one of the following boxes.*)

— The date of this Agreement.

— A date set forth in a notice to proceed issued by the Owner.

— Established as follows:
(*Insert a date or a means to determine the date of commencement of the Work.*)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement, be the date specified in the Notice to Proceed issued by the Owner. Contractor is not authorized to undertake any Work until the date set forth in the Notice to Proceed.

...

[X] Not later than Sixty-two (62) calendar days from the date of commencement of the Work.
PAGE 3

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Five Hundred Two Thousand Dollars (\$ 502,000.00), subject to additions and deductions as provided in the Contract Documents.

...

N/A

...

N/A

...

For or abatement of existing asbestos containing water pipe insulation and installation of new water pipe insulation on pipes three inches or less in diameter. 1,400 Linear Feet

...

For abatement of existing asbestos containing water pipe insulation and installation of new water pipe insulation on pipes three inches or less in diameter. Linear Feet \$34.20

§ 4.5 Liquidated damages, if any: Damages

~~(Insert terms and conditions for liquidated damages, if any.)~~ § 4.5.1 Because failure to complete the Project within the time fixed in Section 3.3 will result in substantial injury to the Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, should the Contractor fails to achieve Substantial Completion of the Work within the time so fixed, or within such further time, if any, as shall be allowed for time extensions in accordance with the provisions of the Contract Documents, the Contractor or its Surety shall pay to the Owner as liquidated damages for such delay, and not as a penalty, \$500.00 for each and every calendar day elapsing between the date fixed for Substantial Completion in Section 3.3 and the date such Substantial Completion shall have been fully accomplished. § 4.5.2 Any liquidated damages assessed pursuant to Section 4.2.1, shall be payable in addition to any excess expenses or costs payable by the Contractor to the Owner under the provisions of Article 14 of the General Conditions, and shall not preclude the recovery of damages by the Owner under other provisions of the Contract Documents, except for Contractor's delays. This provision for liquidated damages for delay shall in no manner affect the Owner's right to terminate the Contract as provided in Article 14 of the General Conditions ("Termination or Suspension of the Contract") or elsewhere in the Contract Documents. The Owner may deduct from the balance of retainage the liquidated damages stipulated herein or in the next paragraph hereof, as the case may be, or such portion thereof as the retained balance will cover.

PAGE 4

§ 4.6.1 The Owner shall not be liable for the Contractor or any Subcontractor for claims or damages of any nature caused by or arising out of any delays. The sole remedy of Contractor or any Subcontractor for delays of any cause shall be the allowance of addition time for completion of Work, provided such additional time is reflected in a written, signed Change Order.

...

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

At least every 30 calendar days after the Contractor's commencement of the Work, but not more frequently than once per calendar month, the Contractor shall submit an Application for Payment to the Architect requesting payment for labor, services, and materials rendered or delivered during the preceding 30 calendar days. Each Application for Payment request shall contain such detail and be supported by sufficient information for the Owner and Architect to fully assess the request. The Architect will review the Contractor's Application for Payment and the accompanying data, information, and schedules (which are submitted in accordance with the Contract Document or at the Architect's request) to determine the amount the Contractor is due and, based on such review, together with its inspections of the Work, shall authorize in writing the requested payment to the Contractor.

§ 5.1.3 ~~Provided that an the Application for Payment and all required supporting documentation is received by the Architect not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than () days after the Architect receives the Application for Payment.~~ fifth day of the month, within 30 calendar days following Architect's authorization of payment, the Owner shall pay the sum authorized to the Contractor. No payment nor any use or occupancy of the Project, whether in total or partially, by the Owner constitutes an acceptance of any Work not in accordance with the Contract Documents.

PAGE 5

five percent (5%)

...

§ 5.1.8 ~~If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.~~ [Intentionally omitted.]

...

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment; ~~and~~
- .2 a final Certificate for Payment has been issued by ~~the Architect,~~ the Architect;
- .3 the Contractor has submitted its final waiver of lien and final waivers of lien from all of its Subcontractors and suppliers in a form acceptable to the Owner; and
- .4 the Contractor has submitted to the Owner all close-out documents, including without limitation, all as-build plans, warranties, manuals, and other materials set forth in the Contract Documents.

PAGE 6

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the ~~rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~ (Insert rate of interest agreed upon, if any.)

~~—%—~~ daily interest rate factor (365 days) of the prime interest rate reported by JP Morgan as of the payment due date.

...

[] Other (Specify)

AIA Document A201™-2017, General Conditions of the Contract for Construction Addendum B, Dispute Resolution Procedures

...

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017. In addition, the Owner may terminate this Contract in the event of the unavailability of appropriated funds or a determination by Owner of the absence of continued need for the Project.

~~§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)~~

...

Craig Tindall, City Manager
111 West Vine Street
Murfreesboro, TN 37130
Tel: (615) 849-2629
Email: ctindall@murfreesborotn.gov

or his designee as indicated in writing from time to time.

PAGE 7

Nathan Morgan, Vice President
Romach, Inc.
170 Reynolds Drive
Franklin, TN 37064
Tel: 615-794-8224
Email: nmorgan@romachconst.com

...

~~§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™ 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.~~

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™ 2017-Exhibit A, and elsewhere in the Contract Documents.

...

8.7.1 Pursuant to T.C.A. §49-5-413, Contractor must agree to a background check, which requires a criminal history records check conducted by the TBI and the FBI, for each employee prior to permitting an employee to enter school grounds when students are present.

8.7.2 Tobacco Free School. Pursuant to Murfreesboro City Schools Board Policy 1.803 and state law, the use of tobacco and tobacco products, including smokeless tobacco, is prohibited on all Murfreesboro City Schools’ property. Contractor and all employees of Contractor must abide by this policy.

...

.2 AIA Document A101™ 2017, Exhibit A, Contractor’s Insurance and Bonds Requirements

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Adam F. Tucker, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:00:38 ET on 03/15/2023 under Order No. 3104238041 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

EXHIBIT A

CONTRACTOR'S INSURANCE AND BOND REQUIREMENTS

Contractor must, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, the insurance and bonds required by this Exhibit.

Contractor must secure and maintain such insurance coverage and bonds, without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Agreement requires any coverage to be maintained after final payment, in accordance with the requirements set forth below.

1. **Commercial General Liability Insurance.**

- 1.1 The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU (explosion, collapse, and underground), and products and completed operations, with a combined single limit of liability of not less than \$2,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$2,000,000 applicable solely to the Work, and meeting all other requirements of this Exhibit.
- 1.2 The general liability insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.
- 1.3 Each general liability policy must be endorsed or written to:
 - a. Include the per project aggregate endorsement;
 - b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");
 - c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;
 - d. Includes a severability of interest clause; and
 - e. Waive all rights of recovery against the Additional Insureds.

2. **Workers' Compensation Insurance.** Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

3. **Auto Liability Insurance**

- 3.1 Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.
 - 3.2 This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.
 - 3.3 This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.
4. **Environmental Liability.** Contractor must secure, pay for, and maintain Contractor's Pollution Liability (CPL) coverage, including mold coverage, in an amount not less than \$1,000,000 and endorsing the Owner as an Additional Insured. Contractor must also provide to the Owner proof of Contractor's Pollution Legal Liability (PLL) for sites owned or operated by Contractors and by any Subcontractors handling hazardous or potentially hazardous materials. Environmental liability coverage may be part of a package policy.
5. **Professional Liability.** Contractor must secure, pay for, and maintain professional liability coverage in the amount of not less than \$1,000,000 on a form acceptable to the Owner and with tail coverage of not less than two years.
6. **Umbrella Coverage.** Contractor must secure, pay for, and maintain professional liability coverage in the amount of not less than \$5,000,000 on a form acceptable to the Owner. Umbrella coverage must not be limited to excess coverage that merely follows form of underlying coverages.
7. **Equipment Property Insurance.** Contractor must secure, pay for, and maintain all-risk insurance as necessary and without exceptions in order to protect the Owner against loss of owned, non-owned, rented, or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor, its Subcontractors, or Lower Tier Entities and any construction material in transit (unless shipped FOB destination Project Site or (Incoterm) DAP Project site) or materials stored in any location other than the Site.
8. **Builder's Risk.** Unless otherwise instructed by the Owner, Contractor will secure a completed value, all-risk Builder's Risk policy in manuscript form acceptable to Owner for the Project (not merely the Work), including appropriate, as determinate by the Owner, coverages, coverage amounts and limits, deductibles, and exclusions. The Owner must be a named insured and the policy may not terminate until Substantial Final Completion or a certificate of occupancy applicable to the entire property is issued, whichever is latest.
9. **Waiver of Subrogation.** Contractor hereby waives, and will require each of its Subcontractors and Lower Tier Entities to waive, all rights of subrogation under all policies against the Owner and other Additional Insureds for losses or damages covered by any policy of insurance. Contractor, Subcontractors, and Lower Tier Entities must provide notice of waiver to all insurance carriers.
10. **Term of Coverage**
 - 10.1 The products and completed operations liability coverage required by this Agreement must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Agreement (the "Completed Operations Term").

- 10.2 If at any time during the Completed Operations Term Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.
- 10.3 Contractor will furnish certificates of insurance and other evidence that the Owner may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.
- 10.4 All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

11. Subcontractor and Lower-Tier Entities Insurance Requirements

- 11.1 Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:
 - a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$ 1,000,000 per occurrence, and \$ 1,000,000 as the annual aggregate limit; and
 - b. Timely furnish to the Owner proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.
 - c. The Lower Tier Entities' general liability policy must also be endorsed to provide the policy must be primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.
 - d. The Owner has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

12. Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

- 12.1 Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;
- 12.2 Provide that attorney's fees are outside of the policy's limits and be unlimited;
- 12.3 Include the Project per aggregate endorsement;
- 12.4 Waive all rights of subrogation against the Owner;
- 12.5 Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the Owner; and

- 12.6 Be otherwise satisfactory to the Owner. The Owner agrees to consider alternatives to the requirements imposed by this Exhibit but only to the extent that the Owner is satisfied the insurance is not commercially available to the insured. In such event, the Owner has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the Owner be a loss-payee under the policy.

13. Certificates and Endorsements

- 13.1 Within 10 days after the execution of this Agreement, Contractor must provide the Owner with certificates and endorsements;
- 13.2 Upon the Owner request, Contractor must provide the Owner with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Exhibit together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of coverage potentially available to the Owner under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the Owner.
- 13.3 If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

- 14. Reduction in Coverage.** Contractor must promptly inform the Owner of any reduction of coverage resulting from revised limits, claims paid, or both and must require its Subcontractors and Lower Tier Entities to promptly inform Contractor of same. The Owner has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

15. Suppliers and Materialmen Coverages

- 15.1 Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.
- 15.2 With respect to any equipment, machinery or other goods for which the Owner or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the Owner and Contractor as loss payee as their interests appear.

16. Condition Precedent to Starting Work

- 16.1 Prior to, and as a condition of its right to begin performing any Work on the Site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the Owner certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the Owner that the required insurance is in place; together with

the original of each bond required under this Agreement. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the Owner to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

- 16.2 The Owner is under no obligation or duty to make any such inquiry and the Owner is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The Owner's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.
- 17. **Additional Proofs of Insurance.** Contractor must, within 10 days after request, provide the Owner with certified copies of all policies and endorsements obtained in compliance with this Agreement.
- 18. **Indemnity.** The fact that Contractor and its Subcontractors are required by this Agreement to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the Owner and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.
- 19. **Interpretation.** In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Agreement, the terms of this Exhibit will govern.
- 20. **Performance Bond and Payment Bond.**

20.1 The Contractor shall provide surety bonds as follows:

Type	Penal Sum (\$0.00)
Performance Bond	100% of Contract Sum
Labor and Material Payment Bond	100% of Contract Sum

- 20.2 Bonds shall be issued by a surety licensed in the State of Tennessee and satisfactory to the Owner.
- 20.3 The Contractor must provide evidence of Bonds prior to the beginning of work. If the Performance and Payment Bonds are not furnished within ten (10) days of execution of the Agreement, the Owner, in its sole discretion, may elect to terminate the Agreement and award the Project to an alternate contractor.
- 20.4 The Owner will require the Contractor to increase the Performance and Payment Bonds to accommodate Change Orders that individually or cumulatively exceed 10% of the original Contract Sum. The Contractor shall furnish to the Owner and keep in force during the term of the Contract, performance and labor and material payment bonds guaranteeing that the Contractor will perform its obligations under the Contract and will pay for all labor and materials furnished for the Work.
- 20.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Bulk Purchase of Petroleum Products

Department: Fleet Service Department

Presented by: Jack Hyatt, Director Fleet Service

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Contract for the bulk purchase of petroleum products to be used in all City vehicles and equipment.

Staff Recommendation

Approve the contract for the bulk purchase of petroleum products.

Background Information

Fleet Services to purchase bulk petroleum products for use in the maintenance of the City fleet of vehicles. This purchase was put out for competitive bid and Hunter Oil Company submitting the lowest responsible bid.

Council Priorities Served

Responsible Budgeting

Securing necessary supplies that are consistent utilized in the Department's operations under an agreement for bulk purchases minimizes the long-term costs of the supplies.

Fiscal Impacts

Expenditures under the agreement are dependent of the Departments needs and are funded by Fleet Services Department's annual operating budget.

Attachment

Contract with Hunter Oil Company for Bulk Purchase of Petroleum Products

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
HUNTER OIL COMPANY
FOR
BULK PURCHASE OF PETROLEUM PRODUCTS**

This Agreement is entered into and effective as of the _____ day of _____ 2023 ("Effective Date"), by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Hunter Oil Company**, a corporation of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-48-2023 Bulk Purchase of Petroleum Products issued February 28, 2023 (the "Solicitation");
- Contractor's Proposal, dated March 15, 2023 ("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;
- Third, the Solicitation;
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor. Contractor is engaged to provide bulk purchase of petroleum products based on the specifications listed in the Solicitation and Contractor's Proposal as follows:

- a. 15W40Motor Oil \$10.36/Gallon
- b. Oil Analysis Kits for Heavy Duty Trucks \$4.05/Kit
- c. 5W20 Semisynthetic Blend Motor oil \$8.05/Gallon
- d. 5W30 Semisynthetic Blend Motor Oil \$8.05/Gallon
- e. Automatic Transmission Fluid-Multi-vehicle \$12.66/Gallon
- f. Hydraulic Oil AW 68 \$7.87/Gallon
- g. Hydraulic Oil AW 32 \$7.87/Gallon
- h. Grease \$3.04/Cartridge (14oz)
- i. Antifeeze \$321.75/Drum (55 Gallon)
- j. Diesel Exhaust Fluid \$759.00/Tote (330 Gallon)

2. Term.

The term of this Agreement commences on the Effective Date and expires in one (1) year, unless extended by mutual agreement of Contractor and the City or earlier terminated as set forth below. Upon mutual written agreement between Contractor and City, the Agreement may be renewed under the same terms and conditions for up to two (2) additional one year terms. Contractor's services may be terminated in whole or in part:

- a. Upon 30-day prior notice, for the convenience of the City.

- b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
 - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
 - e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.
3. **Price; Compensation; Method of Payment.** The price for the goods and other items to be provided under this Agreement is set forth in the Contractor's Proposal. 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.
4. **Insurance.** During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000.00, 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."
5. **Indemnification.**
- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
 - b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

c. Copyright, Trademark, Service Mark, or Patent Infringement.

- I. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
- II. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 - a. Procure for the City the right to continue using the products or services.
 - b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 - c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
- III. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

6. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:

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

If to Contractor:

John M. Shirley
Pricing Manager
PO Box 3646
Chattanooga, TN 37404
johnshirley@hunteroil.net

7. **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.
8. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
9. **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.
10. **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.
11. **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.
12. **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.

- 13. 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.
- 14. 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.
- 15. 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.
- 16. 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.
- 17. 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.
- 18. 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.

- 19. **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.
- 20. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2023 (the "Effective Date").

City of Murfreesboro, Tennessee

By: _____
Shane McFarland, Mayor

Hunter Oil Company

DocuSigned by:
John Shirley

John M. Shirley, Pricing Manager

Approved as to form:

DocuSigned by:
Adam F. Tucker

Adam Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Approval of Pre-Emption Project Contract
Department: Fire Rescue/Transportation
Presented by: Chief Mark McCluskey/Jim Kerr, Transportation 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

Pre-emption Project Contract between the City and Arcadis Inc.

Staff Recommendation

Approve professional service contract with Arcadis Inc. in the amount of \$159,914.

Background Information

A Request for Qualifications was issued to provide services for a Pilot Pre-emption project for Fire Stations 4 and 11 along Medical Center Parkway. The project entails connecting vehicle devices with 18 traffic signals along Medical Center Parkway, including Broad St. & Memorial Blvd., development of emergency vehicle pre-emption timing plans, and performing a before and after study. The purpose of this project is to allow fire apparatuses to pre-empt a traffic signal by changing the light green for the travel direction, allowing the fire apparatus to pass through intersections safely. The technology has proven to reduce response times and conflict at intersections.

Arcadis, Inc. is recommended to perform the desired services. Arcadis, Inc. is experienced with TDOT projects and is currently working with TDOT on the I-24 SMART Corridor Project.

Council Priorities Served

Responsible budgeting

A bid process was followed to determine the most responsible bidder for this project.

Safe and Livable Neighborhoods

Efficient signalization enhances the safety and operations of the City's roadways.

Fiscal Impact

The contract total of \$159,914 is funded through ARPA funds.

Attachments

Professional Services Agreement with Arcadis Inc.

PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** (the "Agreement") is entered into and made effective as of this 29 day of March, 2023 (the "Effective Date").

1. PARTIES (individually a "Party" and collectively the "Parties")

CLIENT	ARCADIS
Name: City of Murfreesboro (the "Client") Address 1: 111 West Vine Street Address 2: City: Murfreesboro State: TN Zip: 37130	Name: Luke Dixon ("Arcadis") Address 1: 501 Union Street Address 2: Suite 600E City: Nashville State: TN Zip: 37219
<p>The parties hereto acknowledge and agree that when individual Work Authorizations are necessary hereunder, all such Work Authorizations will be issued and executed by the appropriate Arcadis entity authorized and licensed to perform work in the respective state, country or province where the work is being performed.</p>	

2. PARTY REPRESENTATIVES

CLIENT REPRESENTATIVE	ARCADIS REPRESENTATIVE
Mail Originals: City of Murfreesboro 111 West Vine Murfreesboro, TN 37130 Attention: Jim Kerr Telephone: 615-893-6441 Fax: 615-849-2606	Mail Originals: Arcadis U.S., Inc. 501 Union Street Suite 600E Attention: Luke Dixon Telephone: 615-423-0993 Email: Luke.Dixon@arcadis.com
With Copies To: Legal Dept. 111 West Vine Murfreesboro, TN 37130 Attention: Adam Tucker Telephone No.: 615-849-2616 Facsimile No.: 615-849-2662	With Copies To: N/A

3. GENERAL TYPES OF SERVICES TO BE PERFORMED

Check each appropriate box:

Environmental Infrastructure PM/ CM
 Other _____

The specific Services performed under this Agreement are detailed in the Work Authorizations approved by the Client and Arcadis attached hereto as Exhibit C.

4. SPECIAL TYPES OF SERVICES TO BE PERFORMED

Check each appropriate box:

Phase I ESA
 TDD (Technical Due Diligence)
 Asbestos & Other Hazardous Materials
 PM / CM
 GPS / REACH

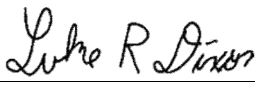
5. AGREEMENT

The following documents, as applicable, are attached hereto and are incorporated herein and form part of this Agreement:

- Exhibit A: General Terms and Conditions for Professional Services
- Exhibit(s) B: Federally Required Clauses
- Exhibit C: Work Authorization No. 1, Attachment 1.1 Scope, Attachment 1.2 Arcadis Fee Schedule

6. EXECUTION

In witness hereof, and in consideration of the promises and covenants set forth herein, and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the Parties have caused this Agreement to be executed on the day and year first set forth above.

Client	Arcadis
By:	By: 
Name: Shane McFarland	Name: Luke R. Dixon, PE
Title: Mayor	Title: Project Manager

APPROVED AS TO FORM

DocuSigned by:



Adam F. Tucker, City Attorney

**EXHIBIT A
GENERAL TERMS AND CONDITIONS
FOR PROFESSIONAL SERVICES**

1. WARRANTY/SERVICES TO BE PROVIDED

- 1.1 Arcadis shall perform the professional Consulting Services (“Services”) required under this Agreement in accordance with standard of care, skill, training, diligence and judgment normally provided by competent professionals who perform work of a similar nature, at the time and in the same geographical regions as the work described in this Agreement and any Work Authorization. No other warranty or guarantee is expressed or implied, and no other provision of this Agreement will impose any liability upon Arcadis in excess of this standard of care. Unless Arcadis expressly agrees otherwise in writing, any items not manufactured by Arcadis (including incidental materials and consumables used in the Services) shall carry only the warranty that the original manufacturers provide, and Arcadis gives no warranty on behalf of the manufacturers of such items.
- 1.2 Arcadis agrees to correct, at its own expense, any Service provided under this Agreement that does not conform to the standard of care herein for a period of one (1) year following the completion of that Service.
- 1.3 Services performed under this Agreement may be more fully described in specific detail in individual Work Authorizations approved by the Client and Arcadis and attached hereto, and which shall constitute a part of this Agreement. The parties hereto acknowledge and agree that when individual Work Authorizations are necessary hereunder, all such Work Authorizations will be issued and executed by the appropriate Arcadis entity that is authorized and licensed to perform services in the respective state, province or country where the work is being performed. Arcadis shall not subcontract the whole or any part of the Services (other than to its affiliates or subsidiaries) without first receiving the consent of Client. Arcadis may perform the Services through a combination of its own employees and employees of its Affiliates and that the use of such Affiliate labor

shall not be deemed a subcontract for purposes of this Agreement.

- 1.4 Arcadis shall have no obligation to commence the Services as stipulated in this Agreement and/or any associated Work Authorization until both this Agreement and the applicable Work Authorization are fully executed and delivered to Arcadis. Any schedule requirements applicable to Arcadis Services will be set forth in the Work Authorization. The Parties acknowledge and agree the Terms of this Agreement are primarily intended to govern Services performed in the United States. For any proposed Services performed outside of the U.S., the parties will address the relevant terms of those Services specifically in the Work Authorization, including but not limited to matters of governing law and any regulations of local concern to the jurisdiction where the Services are to be performed. In the event proposed work in a foreign jurisdiction creates changed obligations, including but not limited to health or safety concerns, currency rates, taxes, limitations of liability, insurance, indemnity or performance standards, Arcadis shall notify the Client, and Arcadis shall have no obligation to accept or proceed with any work under this Agreement or any proposed Work Authorization.
- 1.5 This Agreement shall remain in effect until terminated in accordance with the specifications noted in Section 3, herein.
- 1.6 At any time after execution of this Agreement, Client may request changes in Arcadis Services consisting of additions, deletions, and revisions within the general scope of services being performed by Arcadis under this Agreement and/or any applicable Work Authorizations. Whenever a change in the scope and/or time for performance of services occurs, or if Client has notified Arcadis of a change, Arcadis shall submit to Client within a reasonable time a written estimate of the changes in cost and/or schedule, with supporting calculations and pricing. Pricing shall be in accordance with the pricing structure of this Agreement. In addition, should Arcadis be obstructed or delayed in the

commencement, performance or completion of the Services, without fault on its part, then Arcadis will be entitled to an adjustment in compensation and/or an extension in the schedule.

1.7 Notwithstanding the above, Client may direct Arcadis in writing to perform the change prior to approval of price and schedule adjustments by Client. If so directed, Arcadis shall not suspend performance of this Agreement during the review and negotiation of such change, as long as the change is a reasonably foreseeable alteration of the Services originally contemplated.

2. PAYMENT TERMS

2.1 Client agrees to pay for the Services performed by Arcadis in accordance with this Agreement and any approved Work Authorization. In the event the Client, its successors and assigns are comprised of more than one individual or other legal entity (or any combination thereof), then each and every obligation or undertaking herein to be fulfilled or performed by Client shall be the joint and several obligation of each, including but not limited to responsibility for any payment obligations under this Agreement, regardless. The Work Authorization may also specify any required Mobilization Fee or other Retainer, Lump Sum Fees, then-current Hourly Billing Rates, and Reimbursable Expenses. For project sites located in the United States, payment shall be made in U.S. dollars. For project sites located outside the United States, payment shall be made in the currency as set forth in the individual Work Authorization. Furthermore, for project sites located outside the United States, responsibility for any taxes will be addressed in the Work Authorization.

2.2 Arcadis shall invoice the Client every thirty (30) days for Services in accordance with Arcadis standard invoicing practices; provided however, Arcadis may in its reasonable discretion, invoice the Client in advance and/or bi-weekly, unless contrary to regulations or the Client's procurement procedures. Invoices are due and payable on receipt and should be remitted by check or wire transfer of immediately available funds as follows:

Bank: Bank of America
ACH Bank routing (ABA) number: 071 000 039

Wire Transfer routing (ABA) number:
026 009 593
Account number: 8188093937
Account name: Arcadis US, Inc. Lockbox Account
SWIFT Code for international payments:
BOFAUS3N

Send eMail notifications of payment to:
Remit-Mailbox@arcadis-us.com

To send a check, use the following information (FOR U.S. MAIL and COURIER DELIVERY)

Please Remit To:
Arcadis US, Inc.
62638 Collections Center Drive
Chicago, IL 60693-0626

2.3 If Client fails to make any payment due Arcadis for services and expenses within thirty (30) days after receipt of invoice, the amounts due Arcadis will be increased at the rate of 1.5% per month, or the maximum rate of interest permitted by law for accounts not paid within thirty (30) days.

2.4 If Client reasonably objects to any portion of an invoice, the Client shall provide written notification to Arcadis of Client's objection and the basis for such objection within fifteen (15) days of the date of receipt of the invoice, and the Parties immediately shall make every effort to settle the disputed portion of the invoice. Client shall waive any objections to Arcadis invoice if it fails to timely provide such written notice to Arcadis. The undisputed portion shall be paid immediately and Client shall not offset amounts due Arcadis under a Work Authorization for any credit or disputes arising under a different Work Authorization. If payment of undisputed invoices by Client is not maintained on a current basis, Arcadis may, after giving seven (7) days' written notice to Client, suspend further performance until such payment is restored to a current basis. All suspensions shall extend the time for performance by a length of time equal to the duration of the suspension, and Arcadis shall be paid for Services performed and charges incurred prior to the suspension date, plus suspension charges. Suspension charges shall include, without limitation, putting of documents and analyses in order, personnel and equipment rescheduling or reassignment adjustments, additional insurance/bonding coverage, extended

overhead and costs, and all other related costs and charges incurred and attributable to suspension.

- 2.5 If Arcadis is required to respond to legal process arising out of a proceeding related to the Services, Client or Site, then Client shall promptly reimburse Arcadis for its reasonable fees and expenses (including without limitation reasonable attorney's fees and other legal costs incurred by Arcadis in response to a subpoena, or request for the production of documents, for appearance of an Arcadis employee and/or agent at a deposition, trial or other legal proceeding) – provided that Arcadis is not a named party to such legal proceeding.

3. TERMINATION OF AGREEMENT

- 3.1 **Termination for Convenience** - Either Party may terminate this Agreement and any associated Work Authorizations for its convenience after giving five (5) days' written notice to the other Party. However, Arcadis shall not have the right to terminate this Agreement, without cause, prior to completion by Arcadis of all Services required under the Agreement or any outstanding Work Authorizations. In the event Client terminates Arcadis services without cause and/or for Client's convenience, Client shall be liable to promptly pay Arcadis for all work performed through the date of termination, all of Arcadis expenses directly attributable to the termination, including fair and reasonable sums for overhead and profit for work performed, and all costs incurred by Arcadis in terminating any contracts entered into in connection with the performance of its Services.
- 3.2 **Termination for Cause** – Either Party may terminate this Agreement for cause. Termination for cause shall be by written "Termination Notice" from the terminating Party, delivered to the defaulting Party. The defaulting Party shall have thirty (30) days from receipt of the Termination Notice within which to cure the alleged default, or if the cure requires a period of time in excess of thirty (30) days the cure period shall be extended by mutual agreement so long as the defaulting Party has undertaken such reasonably diligent efforts to cure such default. Any termination for cause shall be without prejudice to any claims that either Party may have against the other Party, its agents or subcontractors.

4. CONFLICT OF INTEREST

- 4.1 Arcadis shall not perform, or enter into any agreement for services for any other person, corporation or entity, except with prior written consent of Client, if the performance of the services could result in a conflict with Arcadis obligations under this Agreement. Arcadis represents that it has reasonably evaluated potential conflicts and has disclosed to Client any prior or existing relationships which present, or could appear to present, a conflict with the Services to be performed.

5. USE OF DOCUMENTS

- 5.1 All documents provided by Arcadis pursuant to this Agreement are instruments of service of Arcadis, and Arcadis shall retain an ownership and property interest therein (including the right of reuse) until Client has made full payment to Arcadis for such documents pursuant to this Agreement. Upon full payment for this Agreement, ownership and property interest in the documents created and provided pursuant to this Agreement shall transfer to Client. Notwithstanding Client's ownership of the documents constituting a complete deliverable pursuant to a Work Authorization, Arcadis may continue to use separate constituent parts of the documents. Client agrees that any reuse, modification, or adaptation shall be at the Client's and user's sole risk, without any liability whatsoever to Arcadis,.
- 5.2 The Parties agree that reports prepared by or on behalf of Arcadis pertaining to site conditions, including but not limited to geotechnical engineering or geologic reports (hereinafter collectively "Site Condition Reports"), are prepared for the exclusive use of the Client and its authorized agents, and that no other party may rely on Site Condition Reports unless Arcadis agrees in advance to such reliance in writing. Site Condition Reports are not intended for use by others, and the information contained therein is not applicable to other sites, projects or for any purpose except the one originally contemplated in the Services. The Client acknowledges that the Site Condition Reports are based on conditions that exist at the time a study is performed and that the findings and conclusions of the Site Condition Reports may be affected by the passage of time, by manmade events such as construction on or adjacent to the site, or by natural events such as floods, earthquakes, slope

instability or groundwater fluctuations, among others. The Parties agree that interpretations of subsurface conditions by Arcadis or its subcontractors may be based on limited field observations including, without limitation, from widely spaced sampling locations at the Site. The Client acknowledges that site exploration by Arcadis or its subcontractors will only identify subsurface conditions at those points where subsurface tests are conducted or samples are taken. The Parties agree that Arcadis or its subcontractors may review field and laboratory data and then apply professional judgment to render an opinion about subsurface conditions at the Site and that the actual subsurface conditions may differ, sometimes significantly, from those indicated by Arcadis or its subcontractors. The Client agrees that any report, conclusions or interpretations will not be construed as a warranty of the subsurface conditions by Arcadis or its subcontractors. The Parties further agree that no warranty or representation, express or implied, is included or intended in any reports, conclusions, or interpretations prepared by or on behalf of Arcadis pertaining to site conditions.

6. RECORD RETENTION

6.1 Any material files, reports and other work product generated in connection with or related to Arcadis Services, shall be retained and stored by Arcadis in hard copy and/or electronic form for a period of ten (10) years from the completion of Services or such other period as specified by the client. If Client decides to retain said records, it must notify Arcadis no later than thirty (30) days prior to the expiration of the period. Any additional expense of retaining documents or transfer of documents to Client at the end of such ten (10) year period will be at Client's expense. Provided however, that this provision shall not apply to drafts of plans, specifications, drawings or reports that shall be destroyed immediately upon being superseded in the project.

7. PROPRIETARY RIGHTS

7.1 Client acknowledges that Arcadis has developed proprietary systems, processes, apparatus, analytical tools, models, software, source code, know-how and methods which Arcadis uses in its business. Such systems, processes, apparatus, analytical tools, models, and methods, including all source code, software, patents, copyrights and other intellectual property, and all derivations, enhancements or

modifications thereof made by Arcadis, including any made as a result of the Work or Services performed by Arcadis for Client hereunder ("Arcadis Intellectual Property"), shall be and shall remain the sole property of Arcadis. Neither the Client, nor any third party, shall acquire any right, title or interest in Arcadis Intellectual Property, regardless of whether the same was initially created, used or first reduced to practice in tangible or intangible form in the course of the provision of the Work or Services hereunder. In accordance with the terms of any Work Authorization(s) and/or "End-User License Agreement" (EULA), Arcadis hereby grants Client a royalty free, non-exclusive right to use any Arcadis Intellectual Property for its internal business purposes only, and to the fullest extent necessary for Client to enjoy the benefits of the Work or Services.

8. INDEMNIFICATION

8.1 Arcadis shall indemnify, defend and hold harmless Client, its directors, officers, employees, shareholders and affiliates from and against any and all liabilities, losses, damages, costs and expenses (including attorneys' fees and court costs) which Client and its directors, officers, employees and agents hereafter may suffer as the result of any claim, demand, action or right of action (whether at law or in equity) brought or asserted by any third party because of any personal injury (including death) or property damage to the extent caused as a result of negligent acts, errors, omissions, or willful misconduct on the part of Arcadis. Arcadis shall not be liable to the extent that any liability, loss, damage, costs, and expense results from an act or omission, negligence or willful misconduct by Client or its directors, officers, employees or agents, or by any other person or entity not acting on Arcadis' behalf or under Arcadis' right of direction or control.

The Client agrees that it will obtain indemnification of Arcadis from any contractors hired or retained by Client for claims arising from or related to the contractor's acts or omissions in performing any work that is the subject matter of this Agreement and any Work Authorizations.

Client acknowledges and agrees that Arcadis neither created nor contributed to, nor shall Arcadis be liable to Client or any third party for, the creation or existence of any type of hazardous or toxic waste, material, chemical, compound, or substance or any other type of environmental hazard, contamination,

nuisance or pollution, whether latent or not, or the release thereof or the violation of any law or regulation thereto, existing or present at the Site prior to the commencement of Services, whether known or unknown (“Pre-existing Contamination”), and the Client shall, to the extent allowed by applicable law, indemnify, defend and hold Arcadis harmless from any and all losses, interest, liabilities, proceedings, causes of action, claims, suits, demands, damages, judgments, penalties, costs and expenses (collectively “Claims”) sustained or incurred by Arcadis or its subcontractor(s) in connection with, arising from or related to any such Pre-Existing Contamination, except to the extent such Claims are caused by the negligence or willful misconduct of Arcadis and its subcontractor(s).

9. LIMITATION OF LIABILITY

9.1 Notwithstanding any other provision of this Agreement and to the fullest extent permitted by law, in no event shall either Client or Arcadis be liable to the other party for any incidental, indirect, punitive or consequential damages including, but not limited to, loss of revenues or profits, cost of capital, loss of use or opportunity, cost of substitute facilities, good or services arising out of, resulting from, or in any way related to the Project, Arcadis Services or this Agreement.

10. INSURANCE

10.1 Arcadis shall maintain for the term of this Agreement:

- Worker’s Compensation and Employer’s Liability insurance, statutory limits.
- Comprehensive General Liability insurance, a total of \$1,000,000 each occurrence and \$2,000,000 in aggregate.
- Comprehensive Automobile Liability insurance, a total of \$1,000,000 each occurrence and \$2,000,000 in aggregate.
- Professional errors and omissions insurance with a per claim limit of not less than \$3,000,000

Insurance requirements for project sites outside of the United States, as defined in the Work Authorization will be established by the parties on a case by case basis in accordance with customary business practices of the insurance market in which the project site is located. Client shall reimburse Arcadis for the costs of local insurance where such insurance is

required by the local law or government or regulatory authority. Arcadis will provide to Client: (i) standard certificates of insurance evidencing coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, and (ii) upon request and when applicable, endorsements naming Client as additional insured under the terms of the Comprehensive General Liability and Comprehensive Automobile Liability insurance policies as follows: “The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents.”

11. CONFIDENTIALITY

11.1 In order to protect the Client’s confidential and proprietary commercial and financial information, any documents records, data or communications provided by Client or produced by Arcadis for Client shall be treated as confidential. Such information shall not be disclosed to any third party, unless necessary to perform the Services. Information will not be considered confidential if: (i) the information is required to be disclosed as a part of the Services, hereunder; (ii) information is in the public domain through no action of Arcadis in breach of the Agreement; (iii) information is independently developed by Arcadis; (iv) the information is acquired by Arcadis from a third party not delivered to Arcadis in breach of any known confidentiality agreements; or (v) disclosure is required by law, court order or subpoena. In the event Arcadis believes that it is required by law to reveal or disclose any information, prior to disclosure or production Arcadis shall first notify Client in writing.

12. NOTICES

12.1 All notices shall be either: (i) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the U.S. Mail; (ii) sent by overnight delivery using a nationally recognized overnight courier, in which case it shall be deemed delivered one business day after deposit with such courier; or (iii) sent by personal delivery. Addresses may be changed by written notice to the other Party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give

or receive copies of any notice shall not be deemed a failure to give notice.

13. MEDIATION

13.1 If any dispute arises out of or relates to this Agreement, or the breach thereof, and the dispute cannot be settled through direct discussions by the representatives of the Parties, the Parties may mutually agree to submit the matter to mediation, mutually agree upon a mediator, under the applicable rules of the American Arbitration Association before having recourse to a judicial forum. The parties will share all costs associated with the mediation. No written or oral representation made during the course of any settlement negotiations or mediation shall be deemed a party admission.

14. CONSTRUCTION COST ESTIMATES

14.1 The Client shall advise Arcadis in writing before design commencement of any budgetary limitations for the overall cost of construction. Arcadis will endeavor to work within such limitations and will, if requested and included within the scope of services, submit to Client an opinion of probable construction cost. Opinions of probable construction cost will represent Arcadis' reasonable judgment as a design professional familiar with the construction industry, but does not represent that bids or negotiated prices will not vary from budgets or opinions of probable cost. Client acknowledges that neither Arcadis nor Client has control over the cost of labor, materials or methods by which contractors determine prices for construction.

15. PLAN INFORMATION

15.1 If the scope of services provide for the preparation of plans or drawings by Arcadis, Arcadis makes no representations that all existing utilities are shown or that any utilities shown thereon are accurately depicted.

16. GENERAL PROVISIONS

16.1 **Entire Agreement** – This Agreement, including all Exhibits and Addenda attached hereto, the applicable terms listed in the Client's RFQ-41-2023, and any properly executed Work Authorizations made a part of this Agreement, constitutes the entire agreement between the Parties with respect to the Services, and supersedes all prior negotiations, representations

or agreements relating thereto, written or oral, except to the extent they are expressly incorporated herein. Unless otherwise provided for herein, no amendments, changes, alterations or modifications of this Agreement shall be effective unless in writing, executed by Client and Arcadis.

16.2 **No Third Party Beneficiaries** - The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the Client and Arcadis, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of the Client and Arcadis that sub consultants and any other person other than the Client or Arcadis receiving any benefits from this Agreement shall be deemed to be incidental beneficiaries only.

16.3 **Force Majeure** –Neither Party shall be liable to the other for failure to perform its obligations hereunder if and to the extent that such failure to perform is caused by forces beyond its reasonable control, including without limitation, actions or inactions of any governmental agencies, changes in law, strikes, lockouts, or other industrial disturbances, acts or omissions of third-parties, civil disturbances, fires, floods, earthquakes, acts of God, acts of a public enemy or terrorism, epidemics or pandemics. If a Party is so impacted, in whole or in part, such Party will promptly notify the other Party in writing, explaining the reason for the delay. In the event of a force majeure event the time and costs of performance will be modified.

16.4 **Severability and Waiver** – If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either Party to enforce against the other Party any term or provision of this Agreement shall be deemed not to be a waiver of such Party's right to enforce against the other party the same or any other such term or provision.

16.5 **Governing Law and Venue** – The laws of the State of Tennessee shall govern this Agreement and the legal relations of the Parties. Venue for

any offer of mediation or filing of litigation or other legal process shall be in the locus of Murfreesboro, Tennessee, and/or courts of Rutherford County, Tennessee.

16.6 Compliance with Law – Arcadis and Client shall comply with all applicable federal, state and local laws, regulations or orders issued under such laws prohibiting any form of kickback, bribery or corrupt practices as defined in the Anti-Kickback Act of 1986, the Foreign Corrupt Practices Act and all other applicable federal, state, local laws, regulations or orders issued under such laws regarding kickbacks, bribery or corrupt practices. In addition, Arcadis and Client shall comply with all laws in effect at the time the Services are performed hereunder, which to the best of their knowledge, information and belief apply to their respective obligations under this Agreement. Client shall cooperate with Arcadis in obtaining any permits or licenses required for the performance of the Services.

16.7 Delegation and Assignment– A Party may at any time delegate or assign, orally or in writing, this Agreement, or any portion thereof, with the prior written consent of the other Party. No such delegation shall operate to relieve the Party of its responsibilities hereunder.

16.8 Headings – Headings of particular paragraphs are inserted only for convenience and are in no way to be construed as a part of this Agreement or as a limitation of the scope of the paragraphs to which they refer.

16.9 Excluded Services. Client acknowledges the Services provided by Arcadis hereunder do not and shall not include: (1) serving as a “municipal advisor” for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Client, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) the practice of law or other legal services; (4) nor any form of professional accounting or insurance advisory services.

17. ACCESS TO PREMISES

17.1 During the term of this Agreement, Client shall grant to or cause to be made available to Arcadis reasonable and necessary nonexclusive access to any location as necessary for purpose of allowing Arcadis to perform the Services and fulfill its obligations under this Agreement. Client shall immediately notify Arcadis if Client is unable to obtain necessary access within a timely manner. Should Arcadis be obstructed or delayed in the commencement, performance or completion of the Work, without fault on its part, by reason of not having full access to the location, and then Arcadis will be entitled to an adjustment in compensation and/or an extension in the completion time requirements.

18. SITE CONDITIONS

18.1 Arcadis shall not be liable for: (i) damage or injury to any subterranean structures (including, but not limited to, utilities, mains, pipes, tanks, and telephone cables) or any existing subterranean conditions; or the consequences of such damage or injury, if (with respect to this clause) (i) such structures or conditions were unknown (and could not be discovered by ordinary diligence) and were not identified or shown, or were incorrectly shown, in information or on plans furnished to or obtained by Arcadis in connection with the Services; (ii) concealed conditions encountered in the performance of the Services; (iii) concealed or unknown conditions in an existing structure at variance with the conditions indicated by the Scope of Services or Work Authorization; or (iv) unknown physical conditions below the surface of the ground that differ materially from those ordinarily encountered and are generally recognized as inherent in work of the character provided under this Agreement.

18.2 Client shall provide to Arcadis all plans, maps, drawings and other documents identifying the location of any subterranean structures on the Site. Prior to location of any drilling or excavation below the ground surface, Arcadis shall obtain the concurrence of the Client as to the location for such drilling or excavation. Should: (i) concealed conditions be encountered in the performance of the Services; (ii) concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Scope of Services or Work Authorization; or

(iii) unknown physical conditions below the ground differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided under this Agreement; then the amount of this Agreement and/or time for performance shall be equitably adjusted by change order upon claim by either Party made within twenty (20) days after the first observance of the conditions.

EXHIBIT B – SPECIAL TERMS AND CONDITIONS
FOR PROFESSIONAL SERVICES
FEDERALLY REQUIRED CLAUSES
FOR PROJECTS USING ARPA GRANT EXPENSES

The Services purchased by the Client (or, purposes of this Exhibit, the “City”) and provided by Arcadis (or, purposes of this Exhibit, the “Contractor” or “Proposer”) pursuant to this Agreement are governed by the State of Tennessee, the City of Murfreesboro, and various Federal laws, executive orders, and regulations, by Office of Management and Budget Circular A-102, Executive Order 12612, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Guidance” or 2 CFR Part 200), Coronavirus State and Local Fiscal Recovery Funds (SLFRF) statute, SLFRF Award Terms and Conditions, Department of Treasury’s interim final rule and final rule, applicable federal statutes, regulations and reporting requirements. These require, among other things, that purchases (including purchases for fixed assets, materials and supplies, construction, and/or services) utilizing federal grant funds be made according to approved plans and specifications, including the Federal clauses set forth below. In the event of a conflict between the terms and clauses in this Exhibit B and any other terms and conditions of this Agreement, this Exhibit B shall control.

- **CONFLICT OF INTEREST - 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.

- **SUSPENSION & DEBARMENT** - Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235),

“Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- a. The awarded Proposer shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by an Federal department or agency to be:
 1. Debarred from participation in any federally assisted Award;
 2. Suspended from participation in any federally assisted Award;
 3. Proposed for debarment from participation in any federally assisted Award;
 4. Declared ineligible to participate in any federally assisted Award;
 5. Voluntarily excluded from participation in any federally assisted Award; or
 6. Disqualified from participation in any federally assisted Award.
 - b. By signing submitting a Proposal, Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.
- **BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)** - Contractors that apply for bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
 - **CIVIL RIGHTS COMPLIANCE.** Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of

1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23. In order to carry out its enforcement responsibilities under Title VI of the Civil Rights Act, Treasury will collect and review information from non-Tribal recipients to ascertain their compliance with the applicable requirements before and after providing financial assistance. Treasury's implementing regulations, 31 CFR part 22, and the Department of Justice (DOJ) regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 CFR part 42, provide for the collection of data and information from recipients (see 28 CFR 42.406). Treasury may request that recipients submit data for post-award compliance reviews, including information such as a narrative describing their Title VI compliance status. This collection does not apply to Tribal governments.

- **CIVIL RIGHTS REQUIREMENTS.**

- a. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 USC §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC § 12132, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.

- b. Equal Employment Opportunity. Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, awarded Proposer shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC §2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the awarded Contract. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment; upgrading demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- c. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, Contractor shall refrain from discrimination against present and prospective employees for reason of age.

- d. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal

Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

- Clause 10, If City makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-recipients.
- **2 CFR 200.321 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.**
The City of Murfreesboro in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 41 U.S.C. 2000d to 2000d-4 hereby notifies all proposers that it will affirmatively insure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises (“DBE’s”) will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, creed, color, sex, national origin, or handicap in consideration for an award.
- **DOMESTIC PREFERENCES FOR PROCUREMENTS.** (2 CFR § 200.322)
 - (a) As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
 - (b) For purposes of this clause:
 - (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- **BONDING REQUIREMENTS.** (2 CFR § 200.326)
For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (\$250,000), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:
 - (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon

acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

- **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148).** (all prime construction contracts in excess of \$2,000 awarded by non-Federal entities) Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once a week. A copy of the current prevailing wage determination issued by the Department of Labor can be found in the solicitation. Award of the contract or subcontract is conditioned upon the acceptance of the wage determination. The City will report all suspected or reported violations to the Federal awarding agency.
- **COPELAND “ANTI-KICKBACK” ACT.** Contractor must comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City will report all suspected or reported violations to the Federal awarding agency.
- **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working

conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- **CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED** - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- **PROCUREMENT OF RECOVERED MATERIALS (2 CFR § 200.323).** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (2 CFR § 200.216).**
 - (a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - (1) Procure or obtain;
 - (2) Extend or renew a contract to procure or obtain; or
 - (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or

services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

- **RECORDKEEPING REQUIREMENTS.** The City must maintain records and financial documents for five years after all funds have been expended or returned to the Department of Treasury, as outlined in paragraph 4.c. of the Award Terms and Conditions. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

The City must agree to provide or make available such records to Treasury upon request, and to the Government Accountability Office (“GAO”), Treasury’s Office of Inspector General (“OIG”), and their authorized representative in order to conduct audits or other investigations.

- **SINGLE AUDIT REQUIREMENTS.** Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.⁷ Note that the Compliance Supplement provides

information on the existing, important compliance requirements that the federal government expects to be considered as a part of such audit. The Compliance Supplement is routinely updated, and is made available in the Federal Register and on OMB's website: <https://www.whitehouse.gov/omb/office-federal-financial-management/> Recipients and subrecipients should consult the Federal Audit Clearinghouse to see examples of Single Audit submissions.

- **COMPLIANCE WITH APPLICABLE LAW & REGULATIONS.**

Recipient agrees to comply with the requirements of sections 602 and 603 of the Act, regulations adopted by Treasury pursuant to sections 602(f) and 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

Federal regulations applicable to this award include, without limitation, the following:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part 180 and Treasury's implementing regulations at 31 CFR Part 19.
- Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- New Restrictions on Lobbying, 31 C.F.R. Part 21.
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- Generally applicable federal environmental laws and regulations.
- Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- **HATCH ACT**. The City agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
 - **PUBLICATIONS**. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to City of Murfreesboro by the U.S. Department of the Treasury.”
 - **PROTECTIONS FOR WHISTLEBLOWERS**. The City shall inform its employees in writing of the rights and remedies provided under clause 16 of the Grant Agreement, in the predominant native language of the workforce. Specifically, clause 16 states:
 - In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
 - The list of persons and entities referenced in the paragraph above includes the following:
 - A member of Congress or a representative of a committee of Congress;

- An Inspector General;
 - The Government Accountability Office;
 - A Treasury employee responsible for contract or grant oversight or management;
 - An authorized official of the Department of Justice or other law enforcement agency;
 - A court or grand jury; or
 - A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
-
- **INCREASING SEAT BELT USE IN THE UNITED STATES.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), the City encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

 - **REDUCING TEXT MESSAGING WHILE DRIVING.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

**EXHIBIT C
WORK AUTHORIZATION
NO. 1**

This Work Authorization is entered into by and between Arcadis U.S., Inc., a Delaware corporation (“Arcadis”) and City of Murfreesboro, TN (“Client”). This Work Authorization incorporates by reference the Professional Service Agreement entered into by the Parties dated March 29, 2023 (the “Services Agreement”). The Services Agreement is hereby amended and supplemented as follows:

1. GENERAL DESCRIPTION OF BASIC SERVICES

- 1.1 Client hereby authorizes Arcadis to perform the following general scope of Basic Services:
Murfreesboro Pilot Priority Pre Emption Project
- 1.2 See Attachment 1.1 Scope, Attachment 1.2 Arcadis Fee Schedule for details.

2. ADDITIONAL SERVICES

The Basic Services described do not include the following Additional Services which, upon written request from Client, will be performed by Arcadis in accordance with the terms of this Work Authorization:

RSU equipment purchase and installation will not be the responsibility of Arcadis.

3. COMPENSATION FOR SERVICES

9.1 Time and Material Method:

- 9.1.1 Arcadis’ current fee schedule is attached.
- 9.1.1.1 If the Agreement or Work Authorization contains a “not to exceed” or such other budgetary amount and terms, Arcadis shall be paid for the time and materials, as provided in this paragraph up to the not to exceed amount, plus any increase approved or directed by the Client.
- 9.1.1.2 Payment for services performed in furtherance of the Basic Services to be performed shall not exceed \$107,600 unless otherwise increased as directed by the Client. Arcadis shall provide notice to the Client in the event that the forgoing amount will be exceeded to complete or continue the services.

REMITTANCE INFORMATION

To pay invoices by ACH or Wire –

Bank: Bank of America
ACH Bank routing (ABA) number: 071 000 039

Wire Transfer routing (ABA) number: 026 009 593
Account number: 8188093937
Account name: Arcadis US, Inc. Lockbox Account
SWIFT Code for international payments: BOFAUS3N

Send eMail notifications of payment to:
Remit-Mailbox@Arcadis-us.com

To pay invoices by check, use the following information (FOR U.S. MAIL and COURIER DELIVERY)

**Please Remit To:
Arcadis US, Inc.
62638 Collections Center Drive
Chicago, IL 60693-0626**

4. SCHEDULE FOR SERVICES

Arcadis shall perform the Basic Services described above and plans to meet or exceed the schedule duration set in the RFQ (April 1, 2023 – November 30, 2023) assuming there are no major changes in scope or delays in providing the consultant notice to proceed.

CLIENT		ARCADIS	
By:		By:	<i>Luke R Dixon</i>
	Jim Kerr		Luke R. Dixon, PE
Title:	Transportation Director	Title:	Project Manager
Date:		Date:	March 29, 2023

**ATTACHMENT 1.1 & 1.2
BASIC SERVICES**

Scope – Murfreesboro Pilot Pre Priority Pre Emption

March 29, 2023

Task 1 – OBU & RSU Procurement Support and Project Management (Arcadis & 360ns)

This task will involve developing the technical specifications for the required project equipment and providing the city a recommendation on what equipment they need to purchase. This task includes:

- Procurement Support for dual-band on-board unit (OBU)
 - Vehicles to receive **permanently** installed OBU: Two Ladder trucks.
 - Vehicles to receive **portable** OBU: MFRD Ford Explorer, MFRD F-150 and Transportation 2021 Ford Explorer.
- Procurement Support for additional dual-band Road Side Unit (RSU)
- Provide the City of Murfreesboro a recommendation on the OBUs that are most appropriate for their intended application.
- Provide the City of Murfreesboro a recommendation on the dual-band RSU that is most appropriate for their intended application and recommend field locations for the three devices.
- Arcadis Team will provide recommended OBU and RSU Technical specifications and support to city staff during equipment procurement.
- Project Management - General project management, administrative, and accounting activities for the project.

Task 2 – OBU Installation (360ns Led)

This task involves installing the OBU equipment. This task includes:

- Existing fire apparatus vehicle Inventory - Collect and document existing vehicle data to confirm recommended units will meet the installation requirements of the five separate vehicles.
- **OBU Installation (To be purchased and installed by Arcadis Team)**
 - Vehicles to receive **permanently** installed OBU: Two Ladder trucks.
 - Vehicles to receive **portable** OBU: MFRD Ford Explorer, MFRD F-150 and Transportation 2021 Ford Explorer.
 - The Arcadis Team **will purchase** five OBUs required for project.
 - The Arcadis Team **will install** the OBUs on four fire apparatus vehicles and one transportation vehicle.
 - The Arcadis Team will develop installation manuals for each of the five OBU installations.
 - A Human Machine Interface (HMI) for OBU - Tablet or Heads Up Display (HUD) will be provided for each OBU.
- Arcadis Team will provide technical support to city staff as needed during OBU installation.
- Arcadis Team **will** provide documentation of the OBU installations.

Task 3 – Field Integration and Implementation (Arcadis Led)

This task includes developing, testing and implementing EVP signal timing plans. This task includes:

- Existing Signal Operations Field Inventory - Collect the existing signal operations and hardware infrastructure details at each of the 18 intersections.
- Pre-emption timing development - The controller databases will be configured for EVP for each approach. Standard preemption numbering system will be adopted to ensure consistency throughout all signalized intersections.
- Lab Testing /QAQC - Each database will be tested in the controller/emulator to ensure proper operation of the EVP in a lab environment. Any issues identified will be troubleshot and rectified before field implementation.
- Field implementation - The updated databases will be downloaded to the controller in the field using the Centracs server in the Murfreesboro TOC. A second stage of testing will be done with a drive through car equipped with an OBU and driving through all the intersections from each

Scope – Murfreesboro Pilot Pre Priority Pre Emption

approach and testing the EVP actuation. The drive through testing will be done by two personnel, one driver and the other observer. The observer will have each intersection's live database opened on a laptop through remote login to the Centracs server to see when the EVP was activated, served and dropped while driving through each intersection on the corridor.

Task 4 – Before / After Analysis (Arcadis Led)

- Before and after travel time analysis of the four fire apparatus vehicles. The City of Murfreesboro will provide "before" data. Arcadis will capture "after" data and develop a report that analyzes the effectiveness of the EVP.
- Post-implementation performance monitoring of EVP – Assist with monitoring EVP operation to confirm the system is meeting the city's expectations.

Task 5 – RSU Installation (S&W Contracting Co, Inc Led)

This task involves installing the RSU equipment. This task includes:

- **RSU Installation (To be purchased and installed by others)**
 - The City of Murfreesboro will purchase three additional RSU's for intersections on Fortress Blvd that were not included in the I-24 Smart Corridor.
 - The City's on call signal maintenance contractor, S&W Contracting Co, Inc. will install the RSUs.
- The RSU manufacturer (Iteris) will develop the SPAT and MAP files for each intersection. This cost is included with the equipment estimate.
- Arcadis Team will provide technical support to city staff as needed during RSU installation, including identifying the most advantageous location per intersection.

Summary of Tasks done by others:

- The City of Murfreesboro will purchase three additional RSU's for intersections on Fortress Blvd that were not included in the I-24 Smart Corridor project.
- The City's on call signal maintenance contractor, S&W Contracting Co, Inc. will install the RSUs.

Project Schedule

- Consultant will be expected to meet or exceed the schedule duration set in the RFQ (**April 1, 2023 – November 30, 2023**) assuming there are no major changes in scope or delays in providing the consultant notice to proceed. Given the notice to proceed, the Consultant must undertake the Scope of Services listed in Tasks 1 through 4 and complete the project in the proposed schedule.

Murfreesboro Pilot Pre Priority Pre Emption Fee Estimate

Consultant: **Arcadis**
 Prepared by: Luke Dixon
 Date Prepared: 3/29/2023

Number of Intersections:	18
Number of OBUs:	5
Number of RSUs:	3

ACTIVITY			Unit Cost / Per Device / Intersection	Total Pilot Pre Priority Pre Emption Cost
Task 1: OBU & RSU Procurement Support & Project Management (Arcadis & 360ns)				
Project Management				
Evaluate and recommend dual-band on-board unit (OBU) for intended application				
Evaluate and recommend dual-band Road Side Unit (RSU) for intended application				
Develop Bid Submittal Documents for OBU				
Develop Bid Submittal Documents for RSU				
Task 1 Subtotal			\$ 562.50	\$ 10,125.00
Task 2: – OBU Installation (360ns)				
Existing fire apparatus vehicle Inventory - Collect and document existing vehicle data				
Evaluate and recommend dual-band on-board unit (OBU) for intended application				
Evaluate and recommend dual-band Road Side Unit (RSU) for intended application				
360ns will install OBUs on four fire apparatus vehicles and one transportation vehicle.				
360ns will develop documentation of the OBU installations				

Murfreesboro Pilot Pre Priority Pre Emption Fee Estimate

Consultant: **Arcadis**
 Prepared by: Luke Dixon
 Date Prepared: 3/29/2023

Number of Intersections:	18
Number of OBUs:	5
Number of RSUs:	3

ACTIVITY			Unit Cost / Per Device / Intersection	Total Pilot Pre Priority Pre Emption Cost
Total OBU Installation Cost			\$ -	\$ -
Task 2 Subtotal			\$ 3,390.00	\$ 16,950.00
Task 3: Field Integration and Implementation (Arcadis)				
Project Management				
Existing Signal Operations Field Inventory - Collect the existing signal operations and hardware infrastructure details				
Pre-emption timing development, Lab Testing /QAQC configure the controller database for EVP for each approach.				
Program timings into Centrac Database and downloading to controller				
Field Implementation of timings. Testing and fine-tuning of EVP in field				
Documentation - Update Intersection Coding sheets with EVP timings				
Task 3 Subtotal			\$ 2,035.00	\$ 36,630.00
Task 4: Before / After Analysis (Arcadis)				
Post-implementation performance monitoring of EVP				
Before and after travel time analysis of the four fire apparatus vehicles, report development.				
Task 4 Subtotal			\$ 327.50	\$ 5,895.00

Murfreesboro Pilot Pre Priority Pre Emption Fee Estimate

Consultant: **Arcadis**
 Prepared by: Luke Dixon
 Date Prepared: 3/29/2023

Number of Intersections:	18
Number of OBUs:	5
Number of RSUs:	3

ACTIVITY			Unit Cost / Per Device / Intersection	Total Pilot Pre Priority Pre Emption Cost
----------	--	--	---	--

OBU Equipment Cost				
Dual Mode OBU (DSRC/CV2X) with Power Harness, V2X Antenna and LTE Antenna - Sim Card and Service not included			\$ 5,500.00	\$ 11,000.00
Portable Dual Mode OBU (DSRC/CV2X) with Power Harness, V2X Antenna and LTE Antenna - Sim Card and Service not included			\$ 6,500.00	\$ 19,500.00
Human Machine Interface (HMI) for OBU - Tablet or Heads Up Display (HUD)			\$ 1,500.00	\$ 7,500.00
Total OBU Equipment Cost			\$ 13,500.00	\$ 38,000.00

RSU Equipment Cost				
BlueTOAD Spectra/DSRC/C-V2X RSU - Combination of BlueTOAD & CV in single enclosure. Cat5/6 cable is NOT included.			\$ 7,100.00	\$ 21,300.00
In-cabinet CV Application Processor (V2I Hub) by Econolite			\$ 1,350.00	\$ 24,300.00
SCMS & MAP/SPaT File creation, validation and integration – New intersections only			\$ 585.00	\$ 1,755.00
Total RSU Equipment Cost³			\$ 9,035.00	\$ 47,355.00

Murfreesboro Pilot Pre Priority Pre Emption Fee Estimate

Consultant: Arcadis	Number of Intersections:	18
Prepared by: Luke Dixon	Number of OBUs:	5
Date Prepared: 3/29/2023	Number of RSUs:	3

ACTIVITY			Unit Cost Per Device / Intersection	Total Pilot Pre Priority Pre Emption Cost
----------	--	--	---	--

Arcadis Subtotal			\$ 2,925.00	\$ 52,650.00
360ns Subtotal			\$ 3,390.00	\$ 16,950.00
Total Integration Cost Per Intersection²			\$ 3,866.67	\$ 69,600.00
Total Equipment				\$ 85,355.00
3% Contingency				\$ 4,958.56
Arcadis & 360ns Project Total				\$ 107,600.00
Total Project Cost^{1,2,3}				\$ 159,913.56

¹ Does not include the cost for S&W Contracting Co, Inc to install the RSUs

² Unit Costs based on 18 intersections, 5 OBUs (2 Permanent & 3 Portable) and 3 RSUs

³ All RSU Equipment will be purchased by the City of Murfreesboro

Murfreesboro RFQ-41-2023 - Pilot Priority Pre-emption Project

Arcadis - Rate Schedule	
Job Classification	2023 Hourly Rate

CONTRACT / PROJECT OVERSIGHT

Principal	\$315.00
Contract / Project Manager	\$245.00
QA/QC	\$260.00

PROGRAM MANAGEMENT / SCHEDULING / ESTIMATING

Program Manager	\$240.00
Senior Program Scheduler	\$200.00
Program Scheduler	\$125.00
Senior Estimator	\$200.00
Estimator	\$130.00

INSPECTION

Construction Manager	\$135.00
CEI/Construction Inspector	\$90.00
Senior/Lead Inspector	\$107.00
Inspector	\$90.00
EPSC Inspector	\$125.00
Bridge/Structural Inspector	\$107.00
Senior Traffic Technician	\$140.00
Traffic Technician	\$100.00
Sr. Utility Coordinator	\$195.00
Utility Coordinator	\$135.00

Murfreesboro RFQ-41-2023 - Pilot Priority Pre-emption Project

Arcadis - Rate Schedule	
Job Classification	2023 Hourly Rate

DESIGN SUPPORT

Principal Transportation Engineer	\$250.00
Senior Transportation Engineer	\$210.00
Transportation Engineer	\$160.00
Project Engineer	\$130.00
Engineer Intern	\$105.00
Principal Transportation Designer	\$230.00
Senior Transportation Designer	\$140.00
Transportation Designer	\$120.00

PLANNING SUPPORT

Senior Planner	\$165.00
Planner	\$140.00
GIS Database Analyst	\$140.00
GIS Database Technician	\$115.00

SURVEYING & STAKING

Professional Land Surveyor	\$141.00
Survey Supervisor	\$141.00
Surveyor	\$84.00

**PUBLIC RELATIONS & ADMIN
SUPPORT**

Contract Specialist / Senior Administrative	\$125.00
Administrative Support	\$90.00
Graphic Artist/Designer	\$115.00
Public Relations Outreach Specialist	\$180.00

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Amendment No. 1 to Purchasing Agreement with Axon

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

Amendment No. 1 to Master Services and Purchasing Agreement with Axon Enterprise, Inc.

Staff Recommendation

Approve Amendment No. 1 to the contract with Axon for additional in-car cameras.

Background Information

Council approved the contract with Axon for the purchase of body cameras and in-car cameras on September 2, 2022. It is proposed that the agreement with Axon be expanded for installation of compatible camera's in MPD vehicles. MPD's 25 new patrol vehicles require in-car cameras installation.

This amendment adds \$62,132 annually to the 10-year contract of.

Council Priorities Served

Maintain Public Safety

In-car camera system enhances the Department's accountability to the citizens and provide video evidence for subsequent prosecutions of criminal acts.

Fiscal Impact

The FY23 expense, \$62,132, is funded by the American Rescue Plan Act Funds. Future expenses will be funded through MPD's operating budget.

Attachments

1. Amendment No. 1 to Master Service Agreement with Axon Enterprises
2. Quote Q-437531-44949.785TM from Axon Enterprises

**AMENDMENT # 1
TO
MASTER SERVICES AND PURCHASING AGREEMENT
BETWEEN
AXON ENTERPRISE, INC.
AND
CITY OF MURFREESBORO**

WHEREAS, the City of Murfreesboro, a municipal corporation of the State of Tennessee (“City”) and Axon Enterprise, Inc., a Delaware corporation (“Contractor”), entered into a Master Services and Purchasing Agreement for the purchase and use of Axon Devices and Services on September 2, 2022; and

WHEREAS, the City desires to purchase additional equipment pursuant to this Contract as set forth in Quote #437531-44949.785TM (Attachment A to Amendment #1); and

WHEREAS, the purchase of the additional equipment set forth in Quote ##437531-44949.785TM will be funded with monies from the ARPA Grant, also known as, Coronavirus State & Local Recovery Funds (“CSLFRF”); and

WHEREAS, ARPA Grant regulations require certain clauses be included in any contract utilizing the CSLFRF grant funds;

NOW THEREFORE, the Contract is amended by adding the following clauses to the Contract:

Section 19. Federally Required Clauses.

19.1 CONFLICT OF INTEREST - GRATUITIES AND KICKBACKS. It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

19.2 SUSPENSION & DEBARMENT - Debarment and Suspension (Executive Orders 12549 and 12689)

- A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

a. The awarded Proposer shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide

Debarment and Suspension (Nonprocurement),” 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by an Federal department or agency to be:

1. Debarred from participation in any federally assisted Award;
 2. Suspended from participation in any federally assisted Award;
 3. Proposed for debarment from participation in any federally assisted Award;
 4. Declared ineligible to participate in any federally assisted Award;
 5. Voluntarily excluded from participation in any federally assisted Award; or
 6. Disqualified from participation in any federally assisted Award.
- b. By signing submitting a Proposal, Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

19.3BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352) - Contractors that apply for bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

19.4CIVIL RIGHTS COMPLIANCE. Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23. In order to carry out its enforcement responsibilities under Title VI of the Civil Rights Act, Treasury will collect and review information from non-Tribal recipients to ascertain their compliance with the applicable requirements before and after providing financial assistance. Treasury's implementing regulations, 31 CFR part 22, and the Department of Justice (DOJ) regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 CFR part 42, provide for the collection of data and information from recipients (see 28 CFR 42.406). Treasury may request that recipients submit data for post-award compliance reviews, including information such as a narrative describing their Title VI compliance status. This collection does not apply to Tribal governments.

19.5CIVIL RIGHTS REQUIREMENTS.

- a. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 USC

§2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC § 12132, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.

- b. Equal Employment Opportunity. Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, awarded Proposer shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 USC §2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the awarded Contract. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment; upgrading demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- c. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, Contractor shall refrain from discrimination against present and prospective employees for reason of age.
- d. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

19.62 CFR 200.321 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

The City of Murfreesboro in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 41 U.S.C. 2000d to 2000d-4 hereby notifies all proposers that it will affirmatively insure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises (“DBE’s”) will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, creed, color, sex, national origin, or handicap in consideration for an award.

19.7DOMESTIC PREFERENCES FOR PROCUREMENTS. (2 CFR § 200.322)

- a. As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- b. For purposes of this clause:
 - 1. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

2. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

19.8 BONDING REQUIREMENTS. (2 CFR § 200.326)

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (\$250,000), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

19.9 DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148). (all prime construction contracts in excess of \$2,000 awarded by non-Federal entities) Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once a week. A copy of the current prevailing wage determination issued by the Department of Labor can be found in the solicitation. Award of the contract or subcontract is conditioned upon the acceptance of the wage determination. The City will report all suspected or reported violations to the Federal awarding agency.

19.10 COPELAND "ANTI-KICKBACK" ACT. Contractor must comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City will report all suspected or reported violations to the Federal awarding agency.

19.11 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708).

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

19.12 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

19.13 CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

19.14 PROCUREMENT OF RECOVERED MATERIALS (2 CFR § 200.323). Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

19.15 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (2 CFR § 200.216).

a. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- 1.** Procure or obtain;
- 2.** Extend or renew a contract to procure or obtain; or
- 3.** Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i.** For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii.** Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii.** Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

c. See Public Law 115-232, section 889 for additional information.

d. See also § 200.471.

19.16 RECORDKEEPING REQUIREMENTS. The City must maintain records and financial documents for five years after all funds have been expended or returned to the Department of Treasury, as outlined in paragraph 4.c. of the Award Terms and Conditions. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

The City must agree to provide or make available such records to Treasury upon request, and to the Government Accountability Office (“GAO”), Treasury’s Office of Inspector General (“OIG”), and their authorized representative in order to conduct audits or other investigations.

19.17 SINGLE AUDIT REQUIREMENTS. Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.

Note that the Compliance Supplement provides information on the existing, important compliance requirements that the federal government expects to be considered as a part of such audit. The Compliance Supplement is routinely updated, and is made available in the Federal Register and on OMB's website: <https://www.whitehouse.gov/omb/office-federal-financial-management/> Recipients and subrecipients should consult the Federal Audit Clearinghouse to see examples of Single Audit submissions.

19.18 COMPLIANCE WITH APPLICABLE LAW & REGULATIONS.

Recipient agrees to comply with the requirements of sections 602 and 603 of the Act, regulations adopted by Treasury pursuant to sections 602(f) and 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

Federal regulations applicable to this award include, without limitation, the following:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part 180 and Treasury's implementing regulations at 31 CFR Part 19.
- Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- New Restrictions on Lobbying, 31 C.F.R. Part 21.
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- Generally applicable federal environmental laws and regulations.
- Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis

of race, color, or national origin under programs or activities receiving federal financial assistance;

- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

19.19 HATCH ACT. The City agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

19.20 PUBLICATIONS. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to City of Murfreesboro by the U.S. Department of the Treasury.”

19.21 PROTECTIONS FOR WHISTLEBLOWERS. The City shall inform its employees in writing of the rights and remedies provided under clause 16 of the Grant Agreement, in the predominant native language of the workforce. Specifically, clause 16 states:

- In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- The list of persons and entities referenced in the paragraph above includes the following:
 - A member of Congress or a representative of a committee of Congress;
 - An Inspector General;
 - The Government Accountability Office;
 - A Treasury employee responsible for contract or grant oversight or management;
 - An authorized official of the Department of Justice or other law enforcement agency;
 - A court or grand jury; or
 - A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

19.22 INCREASING SEAT BELT USE IN THE UNITED STATES. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), the City encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

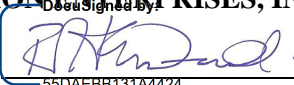
19.23 REDUCING TEXT MESSAGING WHILE DRIVING. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

In all other respects the Contract between the City of Murfreesboro and Axon Enterprises Inc., is affirmed with no additional changes or modifications. This amendment is hereby effective _____.

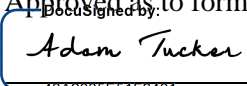
CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

AXON ENTERPRISES, INC.

By:  _____
Robert E. Driscoll, Jr., VP and Associate
General Counsel

Approved as to form:

 _____
Adam F. Tucker, City Attorney



Axon Enterprise, Inc.
 17800 N 85th St.
 Scottsdale, Arizona 85255
 United States
 VAT: 86-0741227
 Domestic: (800) 978-2737
 International: +1.800.978.2737

Q-437531-44949.785TM

Issued: 01/23/2023

Quote Expiration: 02/28/2023

Estimated Contract Start Date: 04/01/2023

Account Number: 452352

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Murfreesboro Police Dept.-1004 N Highland Ave 1004 N Highland Ave Murfreesboro, TN 37130-2454 USA	Murfreesboro Police Dept. - TN PO Box 1139 Murfreesboro, TN 37133-1139 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Travis Mathews Phone: 901-859-8087 Email: tmathews@axon.com Fax:	William Terry Phone: 6159072249 Email: wterry@murfreesborotn.gov Fax:

Quote Summary

Program Length	123 Months
TOTAL COST	\$683,461.80
ESTIMATED TOTAL W/ TAX	\$683,461.80

Discount Summary

Average Savings Per Year	\$12,418.80
TOTAL SAVINGS	\$127,292.70

Payment Summary

Date	Subtotal	Tax	Total
Mar 2023	\$62,132.88	\$0.00	\$62,132.88
Jul 2023	\$62,132.87	\$0.00	\$62,132.87
Jul 2024	\$62,132.87	\$0.00	\$62,132.87
Jul 2025	\$62,132.87	\$0.00	\$62,132.87
Jul 2026	\$62,132.87	\$0.00	\$62,132.87
Jul 2027	\$62,132.87	\$0.00	\$62,132.87
Jul 2028	\$62,132.87	\$0.00	\$62,132.87
Jul 2029	\$62,132.87	\$0.00	\$62,132.87
Jul 2030	\$62,132.87	\$0.00	\$62,132.87
Jul 2031	\$62,132.87	\$0.00	\$62,132.87
Jul 2032	\$62,133.09	\$0.00	\$62,133.09
Total	\$683,461.80	\$0.00	\$683,461.80

Quote Unbundled Price:	\$810,754.50
Quote List Price:	\$758,664.00
Quote Subtotal:	\$683,461.80

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
Program									
Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	123	\$255.86	\$238.92	\$212.90	\$654,667.50	\$0.00	\$654,667.50
A la Carte Software									
ProLicense	Pro License Bundle	5	123		\$39.00	\$46.82	\$28,794.30	\$0.00	\$28,794.30
Total							\$683,461.80	\$0.00	\$683,461.80

Delivery Schedule

Hardware

Bundle	Item	Description	QTY	Estimated Delivery Date
Fleet 3 Advanced 10 Year	11634	CRADLEPOINT IBR900-1200M-B-NPS+5YR NETCLOUD	25	03/01/2023
Fleet 3 Advanced 10 Year	70112	AXON SIGNAL UNIT	25	03/01/2023
Fleet 3 Advanced 10 Year	71200	FLEET ANT, AIRGAIN, 5-IN-1, 2LTE, 2WIFI, 1GNSS, BL	25	03/01/2023
Fleet 3 Advanced 10 Year	72034	FLEET SIM INSERTION, VZW	25	03/01/2023
Fleet 3 Advanced 10 Year	72036	FLEET 3 STANDARD 2 CAMERA KIT	25	03/01/2023
Fleet 3 Advanced 10 Year	72036	FLEET 3 STANDARD 2 CAMERA KIT	1	03/01/2023
Fleet 3 Advanced 10 Year	72040	FLEET REFRESH, 2 CAMERA KIT	25	03/01/2028
Fleet 3 Advanced 10 Year	72040	FLEET REFRESH, 2 CAMERA KIT	1	03/01/2028
Fleet 3 Advanced 10 Year	100092	FLEET REFRESH TWO, 2 CAMERA KIT	25	03/01/2033
Fleet 3 Advanced 10 Year	100092	FLEET REFRESH TWO, 2 CAMERA KIT	1	03/01/2033

Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Fleet 3 Advanced 10 Year	80400	FLEET, VEHICLE LICENSE	25	04/01/2023	06/30/2033
Fleet 3 Advanced 10 Year	80401	FLEET 3, ALPR LICENSE, 1 CAMERA	25	04/01/2023	06/30/2033
Fleet 3 Advanced 10 Year	80402	RESPOND DEVICE LICENSE - FLEET 3	25	04/01/2023	06/30/2033
Fleet 3 Advanced 10 Year	80410	FLEET, UNLIMITED STORAGE, 1 CAMERA	50	04/01/2023	06/30/2033
Pro License Bundle	73683	10 GB EVIDENCE.COM A-LA-CART STORAGE-	15	04/01/2023	06/30/2033
Pro License Bundle	73746	PROFESSIONAL EVIDENCE.COM LICENSE	5	04/01/2023	06/30/2033

Services

Bundle	Item	Description	QTY
Fleet 3 Advanced 10 Year	73391	FLEET 3 NEW INSTALLATION (PER VEHICLE)	25
Fleet 3 Advanced 10 Year	73392	FLEET 3 UPGRADE INSTALLATION (PER VEHICLE)	25

Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Fleet 3 Advanced 10 Year	80379	EXT WARRANTY, AXON SIGNAL UNIT	25	03/01/2024	06/30/2033
Fleet 3 Advanced 10 Year	80495	EXT WARRANTY, FLEET 3, 2 CAMERA KIT	25	03/01/2024	06/30/2033
Fleet 3 Advanced 10 Year	80495	EXT WARRANTY, FLEET 3, 2 CAMERA KIT	1	03/01/2024	06/30/2033

Payment Details

Mar 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.22	\$0.00	\$59,515.22
Year 1	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.88	\$0.00	\$62,132.88

Jul 2023

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.21	\$0.00	\$59,515.21
Year 2	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.87	\$0.00	\$62,132.87

Jul 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.21	\$0.00	\$59,515.21
Year 3	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.87	\$0.00	\$62,132.87

Jul 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.21	\$0.00	\$59,515.21
Year 4	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.87	\$0.00	\$62,132.87

Jul 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.21	\$0.00	\$59,515.21
Year 5	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.87	\$0.00	\$62,132.87

Jul 2027

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 6	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.21	\$0.00	\$59,515.21
Year 6	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.87	\$0.00	\$62,132.87

Jul 2028

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 7	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.21	\$0.00	\$59,515.21
Year 7	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.87	\$0.00	\$62,132.87

Jul 2029

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 8	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.21	\$0.00	\$59,515.21
Year 8	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.87	\$0.00	\$62,132.87

Jul 2030

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 9	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.21	\$0.00	\$59,515.21
Year 9	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.87	\$0.00	\$62,132.87

Jul 2031

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 10	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.21	\$0.00	\$59,515.21
Year 10	ProLicense	Pro License Bundle	5	\$2,617.66	\$0.00	\$2,617.66
Total				\$62,132.87	\$0.00	\$62,132.87

Jul 2032

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 11	Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$59,515.39	\$0.00	\$59,515.39
Year 11	ProLicense	Pro License Bundle	5	\$2,617.70	\$0.00	\$2,617.70
Total				\$62,133.09	\$0.00	\$62,133.09

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and the Axon Master Services and Purchasing Agreement between the Murfreesboro Police Department and Axon dated September 2, 2022, as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Exceptions to Standard Terms and Conditions

Agency has existing Contract 00080535 based on executed quote Q-378928, this proposal is co-termed with the existing contract with presiding terms and conditions with an estimated start date of 4/1/2023

Signature

Date Signed

1/23/2023



COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Purchase of Public Safety Software Services

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 Software Services to assist with providing current technology for communications and records.

Staff Recommendation

Approve the purchase of the Public Safety Software Services from Central Square.

Background Information

The Public Safety Software System requires server software updates and a new disaster recovery (DR) solution. Updates provide a current solution that will continue to be supported for several years. There is also a need to implement a testing and training environment for our records system to allow for configuration changes that cannot be done on the system while in live use. The upgrade system will allow for training new personnel on the field-based reporting system in the future.

Upgraded components include:

- Computer-Aided Dispatch Rehosting - \$38,025
- Always On Disaster Recovery Failover System - \$57,310
- Testing and Training Records Environment - \$20,340

The upgrades are available through the City's contract with Central Square.

Council Priorities Served

Maintain public safety

Maintaining public safety IT infrastructure is critical to effective and efficient operations.

Fiscal Impact

The cost of the equipment and services, \$115,675 funded from CIP Public Safety Software.

Attachment

Quotes from Central Square



SALES ORDER PURSUANT TO EXISTING AGREEMENT

This Sales Order is intended as a binding Agreement between City of Murfreesboro, TN (“Client”) and TriTech Software Systems, a CentralSquare Technologies company (“TriTech”), and shall be effective as of the date of the last signature herein.

Quote Number: Q-101218 is attached to this Sales Order as Exhibit “A”. The Quote contains a description of all products and services sold pursuant to this Sales Order. The Quote is hereby incorporated by reference as a term of this Sales Order.

Payment Terms.

Services

- 50% due upon execution of this Sales Order
- 50% due upon completion of Services

Payment due in full 30 days from date of invoice.

Master Agreement. This Sales Order shall be governed by the terms and conditions of the existing Agreement between the parties, more specifically described as: System Purchase Agreement signed and dated October 15th, 2015 (the “Master Agreement”). NO OTHER TERMS OR CONDITIONS OF THE MASTER AGREEMENT ARE NEGATED OR CHANGED AS A RESULT OF THIS DOCUMENT.

Purchase Order. Customer may provide TriTech with a valid purchase order, upon execution of this Sales Order. Notwithstanding anything to the contrary herein, purchase orders are to be used solely for Customer’s accounting purposes and any terms and conditions contained therein shall be deemed null and void with respect to the parties’ relationship and this Sales Order. Any such purchase order provided to TriTech shall in no way relieve Customer of any obligation entered into pursuant to this Sales Order including, but not limited to, its obligation to pay TriTech in a timely fashion.

Acceptance of Order Terms. By signing this Sales Order below, Customer represents and warrants that: (a) it has read and understands the Master Agreement and Quote that are incorporated by reference into this Sales Order and agrees to be bound by the terms thereof, and (b) it has full power and authority to accept this Sales Order.

Signature Page to Follow

TriTech Software Systems	City of Murfreesboro
1000 Business Center Dr. Lake Mary, FL 32746	1004 N Highland Ave. Murfreesboro, TN 37130
By:	By:
Print Name:	Print Name:
Print Title:	Print Title:
Date Signed:	Date Signed:

Exhibit A
(Attached)

Quote #: Q-101218**Primary Quoted Solution:** PSJ Enterprise**Quote expires on:** April 30, 2023**Quote prepared for:**

Bill Terry

Murfreesboro Police Department

1004 N Highland Ave

Murfreesboro, TN 37130

(615) 907-2249

Thank you for your interest in CentralSquare. CentralSquare provides software that powers over 8,000 communities. More about our products can be found at www.centralsquare.com.

WHAT SERVICES ARE INCLUDED?

DESCRIPTION	TOTAL
1. Public Safety GIS/Analytics Services - Fixed Fee	1,170.00
2. Public Safety Project Management Services - Fixed Fee	6,435.00
3. Public Safety Technical Services - Fixed Fee	30,420.00
Services Total	38,025.00 USD

QUOTE SUMMARY

Services Subtotal	38,025.00 USD
--------------------------	----------------------

Quote Subtotal	38,025.00 USD
-----------------------	----------------------

Quote Total	38,025.00 USD
--------------------	----------------------

WHAT ARE THE RECURRING FEES?

TYPE	AMOUNT
FIRST YEAR MAINTENANCE TOTAL	0.00
FIRST YEAR SUBSCRIPTION TOTAL	0.00

The amount totals for Maintenance and/or Subscription on this quote include only the first year of software use and maintenance. Renewal invoices will include this total plus any applicable uplift amount as outlined in the relevant purchase agreement.

This Quote is not intended to constitute a binding agreement. The terms herein shall only be effective once incorporated into a definitive written agreement with CentralSquare Technologies (including its subsidiaries) containing other customary commercial terms and signed by authorized representatives of both parties.

BILLING INFORMATION

Fees will be payable within 30 days of invoicing.

Please note that the Unit Price shown above has been rounded to the nearest two decimal places for display purposes only. The actual price may include as many as five decimal places. For example, an actual price of \$21.37656 will be shown as a Unit Price of \$21.38. The Total for this quote has been calculated using the actual prices for the product and/or service, rather than the Unit Price displayed above.

Prices shown do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice.

For customers based in the United States or Canada, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on the Quote Form.

PURCHASE ORDER INFORMATION

Is a Purchase Order (PO) required for the purchase or payment of the products on this Quote Form? (Customer to complete)

Yes [] No []

Customer's purchase order terms will be governed by the parties' existing mutually executed agreement, or in the absence of such, are void and will have no legal effect.

PO Number: _____

Initials: _____



SALES ORDER

PURSUANT TO EXISTING AGREEMENT

This Sales Order is intended as a binding Agreement between Murfreesboro Police Department, TN (“Customer”) and TriTech Software Systems, a CentralSquare Technologies, LLC company (“CentralSquare”) and shall be effective as of the date of the last signature herein.

Quote Number: Q-104784 is attached to this Sales Order as Exhibit “A”. The Quote contains a description of all products and services sold pursuant to this Sales Order. The Quote is hereby incorporated by reference as a term of this Sales Order.

Statement of Work. Services for the products purchased under this Sales Order shall be governed by the Statement of Work document attached to this Sales Order as Exhibit “B”.

Payment Terms.

Software

100 % due upon execution of this Sales Order

Services

50 % due upon execution of this Sales Order

50 % due at Go-Live

Hardware and Third-Party Software or Services

100 % due upon execution of this Sales Order

Payment due in full 30 days from date of invoice. Annual maintenance shall be due one year from Go-Live or completion of services. Annual maintenance is subject to increase of 5% per year.

Master Agreement. This Sales Order shall be governed by the terms and conditions of the existing Agreement between the parties, more specifically described as: System Purchase Agreement dated October 15th, 2015 (the “Master Agreement”). NO OTHER TERMS OR CONDITIONS OF THE MASTER AGREEMENT ARE NEGATED OR CHANGED AS A RESULT OF THIS DOCUMENT.

End User License Agreement. Software and Services for the products purchased under this Sales Order shall be governed by the End User License Agreement attached to this Sales Order as Exhibit “C”.

Purchase Order. Customer may provide CentralSquare with a valid purchase order, upon execution of this Sales Order. Notwithstanding anything to the contrary herein, purchase orders are to be used solely for Customer’s accounting purposes and any terms and conditions contained therein shall be deemed null and void with respect to the parties’ relationship and this Sales Order. Any such purchase order provided to CentralSquare shall in no way relieve Customer of any obligation entered into pursuant to this Sales Order including, but not limited to, its obligation to pay CentralSquare in a timely fashion.

Acceptance of Order Terms. By signing this Sales Order below, Customer represents and warrants that: (a) it has read and understands the Master Agreement and Quote that are incorporated by reference into this Sales Order and agrees to be bound by the terms thereof, and (b) it has full power and authority to accept this Sales Order.

TriTech Software Systems, a CentralSquare Technologies, LLC company	Murfreesboro Police Department
1000 Business Center Drive Lake Mary, FL 32746	1004 N Highland Ave Murfreesboro, TN 37130 United States
By:	By:
Print Name:	Print Name:
Print Title:	Print Title:
Date Signed:	Date Signed:

APPROVED AS TO FORM

Adam F. Tucker, City Attorney

Exhibit A

Quote

Quote #: Q-104784

Primary Quoted Solution: PSJ Enterprise

Quote expires on: April 30, 2023

Quote prepared for:

William Terry

Murfreesboro Police Department

1004 N Highland Ave

Murfreesboro, TN 37130

(615) 907-2249

Thank you for your interest in CentralSquare. CentralSquare provides software that powers over 8,000 communities. More about our products can be found at www.centralsquare.com.

WHAT SOFTWARE IS INCLUDED?

PRODUCT NAME	QUANTITY	UNIT PRICE	TOTAL
1. eGroup Miscellaneous Software License Fee	1	22,484.55	22,484.55
		Software Total	22,484.55 USD

WHAT SERVICES ARE INCLUDED?

DESCRIPTION	TOTAL	
1. eGroup Installation Services	4,800.00	
2. Public Safety Project Management Services - Fixed Fee	4,290.00	
3. Public Safety Technical Services - Fixed Fee	17,550.00	
	Services Total	26,640.00 USD

WHAT HARDWARE IS INCLUDED?

PRODUCT NAME	QUANTITY	UNIT PRICE	TOTAL
1. System Integration Fee - HW Hardware	1	8,185.37	8,185.37
		Hardware Total	8,185.37 USD

QUOTE SUMMARY

Software Subtotal	\$22,484.55 USD
--------------------------	------------------------

Services Subtotal 26,640.00 USD

Hardware Subtotal	8,185.37 USD
--------------------------	---------------------

Quote Subtotal 57,309.92 USD

Discount - \$0.00 USD

Quote Total **57,309.92 USD**

WHAT ARE THE RECURRING FEES?

TYPE	AMOUNT
FIRST YEAR MAINTENANCE TOTAL	0.00
FIRST YEAR SUBSCRIPTION TOTAL	\$0.00

The amount totals for Maintenance and/or Subscription on this quote include only the first year of software use and maintenance. Renewal invoices will include this total plus any applicable uplift amount as outlined in the relevant purchase agreement.

This Quote is not intended to constitute a binding agreement. The terms herein shall only be effective once incorporated into a definitive written agreement with CentralSquare Technologies (including its subsidiaries) containing other customary commercial terms and signed by authorized representatives of both parties.

BILLING INFORMATION

Fees will be payable within 30 days of invoicing.

Please note that the Unit Price shown above has been rounded to the nearest two decimal places for display purposes only. The actual price may include as many as five decimal places. For example, an actual price of \$21.37656 will be shown as a Unit Price of \$21.38. The Total for this quote has been calculated using the actual prices for the product and/or service, rather than the Unit Price displayed above.

Prices shown do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice.

For customers based in the United States or Canada, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on the Quote Form.

PURCHASE ORDER INFORMATION

Is a Purchase Order (PO) required for the purchase or payment of the products on this Quote Form? (Customer to complete)

Yes [] No []

Customer's purchase order terms will be governed by the parties' existing mutually executed agreement, or in the absence of such, are void and will have no legal effect.

PO Number:

Initials:

Exhibit B

Statement of Work

Summary of Services

Project: Murfreesboro Police, TN – Zerto and SQL AlwaysON

The parties mutually agree and acknowledge this Summary of Services is a high-level overview of the project requested, not a detailed requirements or design of solution.

Project Scheduling

Parties agree a schedule will be provided for services within sixty (60) days from the execution of the above quote number.

Change Requests

The parties may request a change to this summary of services, to increase hours or deliverables, through a written request to the CentralSquare project manager or resource.

Services Scope of Project

The project includes the following scope of services.

Central Square Technical Services will work with the Client and Third Party to test the Zerto Failover in the Production Environment.

CentralSquare will deploy a SQL AlwaysON 3 node Availability Group cluster in the Production and DR environment for Enterprise CAD HA and DR.

CentralSquare will host a planning meeting between the Technical Services staff and the Client's subject matter experts (IT staff, Operations staff and/or Client Project Manager). CentralSquare will provide an ISR (Installation Services Request) server sizing spreadsheet for completion by the Client. CentralSquare will provide a Project Scope document which is a detailed plan for the rehost operation and review with the Client.

CentralSquare will perform verification on all servers once the Client has created and provided access to them. CentralSquare will install SQL Server on new servers which require SQL Server. CentralSquare will install CentralSquare applications on the new servers and migrate some configuration prior to Go Live.

CentralSquare in conjunction with the client will migrate each new server into production in turn according to the project plan. CentralSquare will migrate databases to the new SQL Instances as part of this operation. CentralSquare will migrate configuration and Interfaces as part of this operation.

CentralSquare Technical Services Engineer to update CentralSquare documentation with all new server, Operating System, SQL version and configuration data.

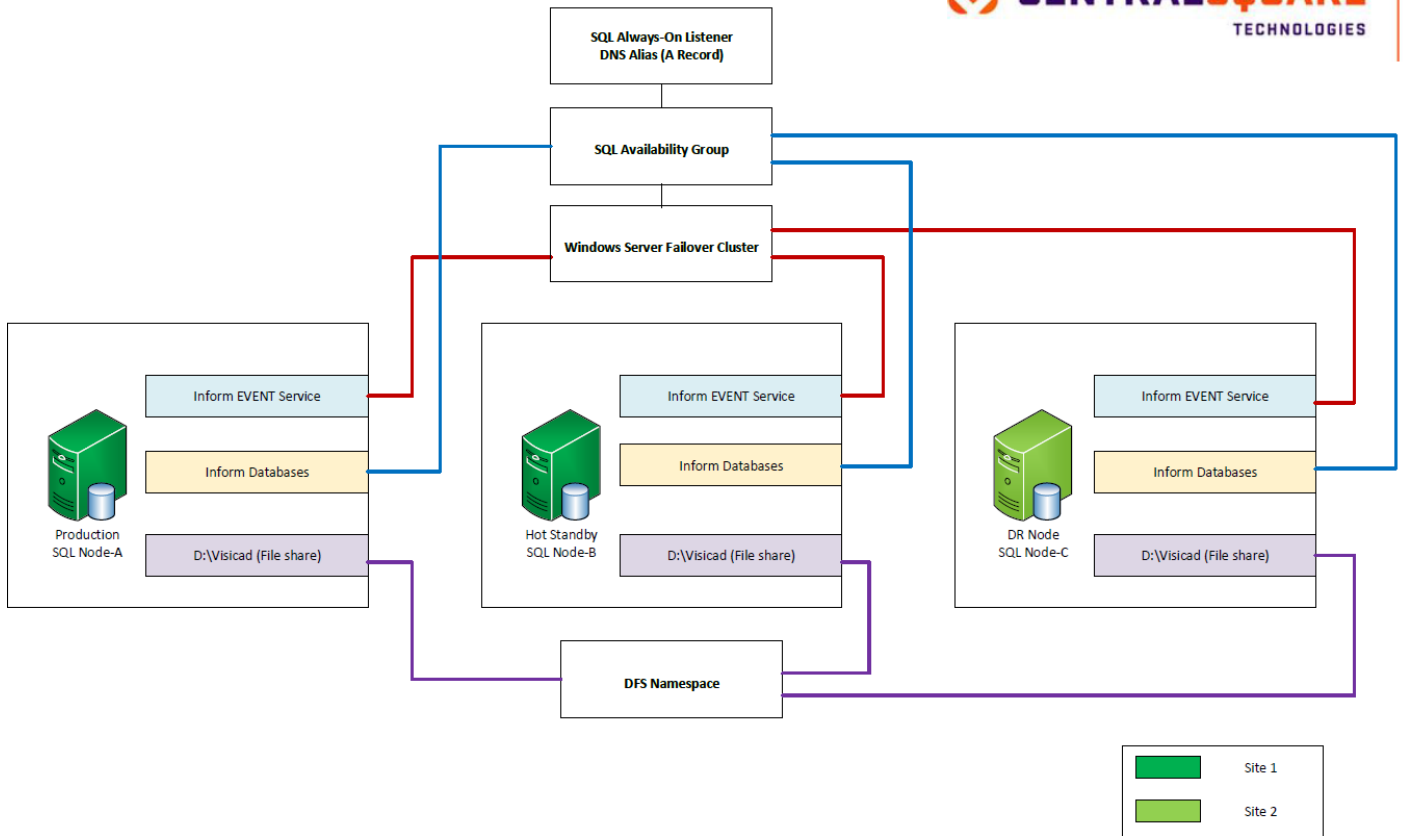
CentralSquare will deploy a 3 node Windows Server Failover Cluster to protect the CAD server and its event service. CentralSquare will deploy a DFS Namespace to protect the CAD file share. The

Inform file share and Event Services will be installed on the same servers as the SLQ AlwaysON Availability Group cluster.

Workstations and business servers will connect to the AlwaysON Listener for database connections and the Namespace for file share mapping.

CentralSquare will deploy a SQL AlwaysON 3 node Availability Group cluster in the Production and DR environment for Enterprise CAD HA and DR. MessageSwitch, CIM and Mobile databases may be migrated to the cluster per the scope above and compatibility at the time of the project kick off. Automatic failover will be configured for the Hot Standby server. Manual failover will be configured for the DR Server.

CAD HA and DR Diagram:



If the SQL Server version is updated as part of a SQL Always ON deployment, then any Reporting or Archive servers running SQL Replication must also be rehosted as part of the project.

SQL Enterprise licensing is required for SQL AlwaysON.

Assumptions and Client Responsibilities

- Services are proposed for delivery during normal business hours. To ensure the success of every project and availability of support resources from Central Square and various third-party vendors, which vary from site to site, certain limitations are imposed, and a specific definition of business hours is defined. For the purpose of scheduling such activities, business hours are defined as 9am-5pm EST, Monday thru Friday, excluding holidays. Services outside of normal business hours shall be scheduled between the hours of 5pm EST Monday and be completed no later than 5pm EST Thursday and incurs additional costs. Delivery of all services will be scheduled to avoid all client, Central Square and/or nationally recognized holidays.
- Client to supply hardware, virtualization software, Operating System licensing, SQL Server licensing and licensing of any other third-party hardware or software not specifically listed in the quote or Services Scope.
- Client to install hardware, create virtual machines and install Operating Systems unless specified as a CentralSquare or partner responsibility in the quote or Services Scope.
- Client will maintain remote connectivity to the site through CentralSquare's remote connectivity solution.
- CentralSquare staff will be permitted console access to all servers.
- CentralSquare staff will be permitted SQL administrator access to all database instances.
- Client will adhere to minimum specifications and disk space recommendations and guidelines as documented in the System Planning Guide and the client-specific specifications documented by the CentralSquare project team as a project artefact.
- Client to ensure any client-installed third-party software (for example utilities for backups, antivirus) are certified to operate on the new operating system.
- Client will be responsible for any physical connections to the servers such as serial interface connections.
- Client to run all Windows Critical and Important Updates on all new servers.
- Client to add all servers to the Client's domain and ensure the CentralSquare Console account has local administrative rights on all servers.
- During the staging process no new builds or configuration changes are recommended in any environment to be rehosted. If necessary, changes are to be coordinated through the Project Manager as well as Client Support. Some changes may require a Change Order to the project.
- Active Directory, Jump Servers and Hypervisor servers are not included in this scope unless explicitly contracted for. It is expected that these will be migrated or replaced by the Client.
- Product upgrades may be required to move to the latest supported Operating System and SQL Server versions. For older versions of software on 32-bit operating systems, or for certain version upgrades there is the potential for multiple rehost and upgrade operations to migrate to the latest supported Operating System and SQL Version.
- In some cases, SQL Server versions must match between certain server groups – example of these being SQL Replication partners, SQL Server versions per product across installed instances (i.e., Production and Test must match for refresh purposes), SQL Server versions for integrated products within a product line (i.e., Enterprise Classic and Enterprise Web RMS), SQL Cluster nodes\Availability Groups.
- for Disaster Recovery SQL Server protected systems, the SQL Server version of Production must match the SQL Server version of the DR site.

Project Management

Even in smaller, less complex projects, there needs to be a point of contact and someone driving a project to successful completion. CentralSquare's Implementation Methodology ensures a project

has the right amount of oversight needed to successfully complete the work, no more no less. A CentralSquare Project Manager will be your point of contact for the scoped work with you to develop a timeline to meet your needs, drive the timeline to completion, work to resolve any issues that may arise during the life of the project, all while keeping you up to date so you have the peace of mind your project is on track for a successful completion.

Professional Services

Throughout the course of the project, CentralSquare will use several types of services (defined herein) to complete the necessary steps for successful deployment of the contracted services. The overall services aligned to implementation include Consulting Services, Technical Services, Data Conversion Services, Training Services, and in some cases, Installation Services.

Exhibit C

End User License Agreement

THIS IS A CONTRACT. BY INDICATING YOUR ACCEPTANCE BELOW, OR BY USING THE SOFTWARE, YOU ACCEPT ALL THE TERMS AND CONDITIONS OF THIS LICENSE. This End User License Agreement (“EULA”) constitutes an offer that may be accepted by Murfreesboro Police Department (“Client”) as described above. Acceptance is expressly limited to the terms hereof and no different or additional terms contained in any purchase order, confirmation, or other writing with respect to the subject matter herein shall have any force or effect unless expressly agreed to in writing by TriTech Software Systems, a CentralSquare Technologies, LLC company (“CentralSquare”).

1.0 Definitions

“**Acceptance**” means the acceptance procedures defined in the Statement of Work.

“**Acceptance Test Procedure**” or “**ATP**” means the documents setting forth the Acceptance testing procedure and criteria with respect to the Deliverables hereunder.

“**Deliverable**” means an item of software, hardware, documentation or services to be provided by CentralSquare under the applicable agreement between CentralSquare and Client.

“**Designated Location**” means the physical site at which the CentralSquare Software is Installed.

“**Disaster Recovery Computer System**” means a server operating in a standby mode used to maintain a duplicate copy of the program and data contained in the Production Computer System.

“**Documentation**” means any standard user manuals or other related instructional and/or reference materials provided by CentralSquare, or an applicable vendor or subcontractor, including on-line help information and Release Notes issued in connection with Updates. In case of a conflict between written documentation (user manuals or Release Notes in printed or CD-ROM format) and on-line help information, the printed and CD-ROM documentation will control.

“**Equipment**” means the computer and peripheral equipment on which the CentralSquare Software operates. Unless otherwise specified in the Statement of Work, Equipment is not being provided by CentralSquare.

“**Go Live**” means the event that occurs when the Client first uses a Deliverable for Live Operations. A separate Go Live may take place with respect to the CentralSquare Software, each Interface, the Modifications if applicable, and each Third Party Product.

“**Help Desk**” means the CentralSquare function consisting of receiving calls from Client concerning system problems and, if necessary, assisting Client with respect to the manufacturers of Equipment, Third Party Software and/or Third Party Products acquired under the applicable agreement between CentralSquare and Client, under the applicable warranties and/or maintenance support agreements.

“**Installation**”, with respect to the CentralSquare Software means the process of running the CentralSquare Software under a procedure to demonstrate basic interoperability of said software.

“**Interfaces**” means the interface software.

“**Live Operations**” means use of a Deliverable as the primary means of performing its functions. Use of a Deliverable in parallel with Client’s existing system for a period not in excess of thirty (30) days where the existing system is the primary means of performing its functions and the Deliverable is being run in a test environment shall not be deemed Live Operations.

“**Modifications**” means changes or additions to the CentralSquare Software from the standard version thereof prepared hereunder, if applicable.

“**Object Code**” means any instruction or set of instructions of a computer program, including but not limited to, the CentralSquare Software, in machine-readable form.

“**Primary Computer System**” means a local or wide area network consisting of one or more servers and multiple computer Workstations.

“**Server**” means a computer in a local area network that runs administrative software which controls access to all or part of the network and its resources and makes such resources available to computers acting as workstations on the network. Such term includes, without limitation, the Primary Computer System and the Standby Computer System.

“**Software Error**” means an error in coding or logic that causes a program not to substantially function as described in the applicable Specifications.

“**Software Support**” means the providing by CentralSquare, under an annual Software Support, as more fully described in an annual Software Support Agreement between the parties.

“**Software Support Agreement**” means the agreement of that name for the rendering of Software Support services entered into between the parties coincident with this agreement and renewed from time to time thereafter.

“**Source Code**” means the original mnemonic or high-level statement version of the CentralSquare Software.

“**Specifications**” means (i) the functional requirements and Acceptance Test Procedure (“ATP”) with respect to the CentralSquare Software, (ii) the Interface Requirements Document (“IRD”) for each Interface or Operational Scenario Document (“OSD”) for each Modification, and (iii) the Acceptance Test Procedures and published specifications for applicable Third Party Products.

“**System Software**” means, Third Party Software including, without limitation, operating system software, database management software (DBMS), and communications software.

“**Statement of Work**” means that document which describes the deliverables and services to be provided by CentralSquare described therein.

“**Telephone Support**” means the service provided by CentralSquare for access to the CentralSquare Technical Services Department by telephone, on a twenty-four (24) hour a day, seven (7) day per week basis, under an annual Software Support Agreement.

“**Third Party Products and Services**” means the products and services provided by CentralSquare, if applicable and as specified in the applicable purchase or implementation agreement between CentralSquare and Client, that are procured from other vendors and/or subcontractors,.

“**Third Party Software**” means software supplied by a vendor or subcontract to CentralSquare under the applicable purchase or implementation agreement between CentralSquare and Client, the copyright to which is owned by persons or entities other than CentralSquare.

“**CentralSquare Software**” means the Object Code version of the software, and any applicable Modifications provided under the applicable implementation agreement between CentralSquare and Client.

“**Update**” means revisions or additions to the CentralSquare Software and the related Release Notes. The term "Update" does not include separate modules or functions that are separately licensed and priced, or new products that are developed and marketed as separate products by CentralSquare.

“**Use**” means copying of any portion of software from a storage unit or media into a computer or Server and execution of the software thereon.

“**User**” means the operator of a computer Workstation that is configured to access and/or utilize the capabilities and features of the CentralSquare Software.

“**Warranty Period**” means the period starting at Go Live of the CentralSquare Software and ending one (1) year thereafter. The Warranty Period for Interfaces and any Modifications will also end on the same date.

“**Workstation**” means a dispatcher station, supervisory station, or other computer input station that utilizes the functionality of the CentralSquare Software, whether the software resides locally or on a Server.

2.0 License.

2.1 In consideration for, and subject to, the payment of the license fee(s), and the other promises, covenants and conditions herein, Client is granted the following licenses to the Software:

2.1.1 The CentralSquare Software: A perpetual (unless terminated as provided herein), nontransferable, nonexclusive right and license to Use the CentralSquare Software and the Documentation for said Software for Client’s own internal use for the applications described in the Statement of Work, at the Designated Location, in the applicable environment (e.g., Production, Test, Training, or Disaster Recovery System). Client may make additional copies of the CentralSquare Software as reasonably required for archival or backup purposes, provided that such copies contain all copyright notices and other proprietary markings contained on the original, and are kept confidential in accordance with Section 7.0 herein. Additional CentralSquare Software licenses purchased after the execution of this Agreement shall also be licensed in accordance with the provisions of this Section 2.0. Client shall not Use, copy, rent, lease, sell, sublicense, create derivative works from/of, or transfer any CentralSquare Software or Documentation, or permit others to do said acts, except as provided in this Agreement. Any such unauthorized Use shall be void and may result in immediate and automatic termination of the CentralSquare Software license. In such event, Client shall not be entitled to a refund of any license fees paid. The CentralSquare Software may not be used to operate a service bureau or time-sharing service, outsourcing service, application service provider service or other services or businesses that provide computer-aided dispatching to third parties. Notwithstanding, Client shall be entitled to Use the CentralSquare Software at the applicable Designated Location for the purpose of the application(s) described in the Statement of Work to provide services for itself and other governmental agencies/entities in the county and state of the Designated Location, provided that the CentralSquare Software is installed and operated at only one physical location.

2.1.1.1 Each copy of the CentralSquare Software provided under this license that is identified as a Disaster Recovery license may be used in the event of a failure, malfunction or other out of service condition of its Production System. In the event the Production System fails to operate, live operations may transfer to the Disaster Recovery System until the Production System returns to normal operational mode, provided that Software is not simultaneously operating on both the Production System and Disaster Recovery System.

2.1.1.2 Notwithstanding anything to the contrary in this Section, if Client has purchased the Inform CAD API license, Client may use such Software to develop original applications which interface with the CentralSquare Software. The development and use of such interfacing applications is specifically permitted under the licenses herein and shall not be deemed derivative works provided that they are not, in fact, derived from the CentralSquare Software or the ideas, methods of operation, processes, technology or know-how implemented therein. Other than the licenses granted herein, Client shall not acquire any right, title or interest in the CentralSquare Software by virtue of the interfacing of such applications, whether as joint owner, or otherwise. Likewise, CentralSquare shall not acquire any right, title or interest in such Client developed non-derived applications, whether as owner, joint owner or otherwise.

2.1.2 Subcontractor Software: Licenses for any applicable Subcontractor Software provided by CentralSquare in connection with the applicable purchase or implementation agreement between CentralSquare and Client are set forth in the applicable subcontractor's license agreement provided as an exhibit such agreement.

2.1.3 System Software: The licenses set forth in the applicable vendor's license agreements that accompany Software are incorporated herein. Third Party Products providing supplemental software code to the CentralSquare Software and not subject to separate licensing provisions shall be licensed in accordance with the provisions of this Section 2.

2.2 Title to all CentralSquare Software or Documentation shall remain with CentralSquare. Title to any Third Party Software or Documentation shall remain with the applicable vendor or original licensor.

2.3 The Software licenses granted in this Agreement or in connection with it are for Object Code only and do not inSalesOrderclude a license or any rights to Source Code whatsoever.

2.4 Client may not export any Software or Documentation outside the United States without further prior written agreement of CentralSquare or the applicable Subcontractor. In the event of such agreed export, Client is responsible for complying with all applicable export laws or regulations. Software is provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by applicable government agencies is subject to restrictions as set forth in DFAR 48 CFR 252.227-7013 or FAR 48 CFR 52.227-14, as applicable.

2.5 These licenses are effective until surrendered or terminated hereunder or under the terms of the applicable license agreements.

2.6 Client may surrender any Software licenses provided in connection with this Agreement at any time by performing the actions described in Section 3.4 of this Agreement, or the applicable license agreement. Such termination shall not result in any refund of license fees.

3.0 Term and Termination.

3.1 Provided that the terms and conditions of this EULA are complied with at all times, and subject to the termination provisions below, the licenses provided hereunder are perpetual.

3.2 Client may surrender the licenses granted hereunder at any time by giving written notice to CentralSquare and ceasing use of the CentralSquare Software.

3.3 CentralSquare may terminate the licenses granted hereunder for cause if Client materially breaches the terms of this EULA or otherwise infringes CentralSquare's intellectual property rights in the CentralSquare Software, which breach is not remedied within thirty (30) days after the date of written notice to Client of such breach.

3.4 Upon termination of the licenses granted hereunder, Client shall permanently remove any CentralSquare Software from Client's equipment, back-up media, or other storage locations and either (i) return all copies thereof to CentralSquare or (ii) destroy such copies, as CentralSquare directs.

3.5 The provisions of Section 5, 6, 7, 8, and 10, shall survive the termination of the licenses granted herein.

4.0 Warranty.

4.1 The CentralSquare Software. CentralSquare warrants that, during the Warranty Period, the CentralSquare Software will perform in substantial conformity with the Specifications. If, during the Warranty Period, Client determines that a warranty defect exists in the CentralSquare Software, Client shall notify CentralSquare during Normal CentralSquare Customer Service Hours (7:30 a.m. to 7:30 p.m., CST, Monday through Friday, excluding CentralSquare holidays). CentralSquare shall, at its option, correct the defect, or replace the CentralSquare Software.

4.2 CentralSquare further warrants and represents that the CentralSquare Software does not contain any "back door", "time bomb", "Trojan horse", "worm", "drop dead device" or other program routine or hardware device inserted and intended by CentralSquare to provide a means of unauthorized access to, or a means of disabling or erasing any computer program or data, or otherwise disabling the CentralSquare Software. (Nothing herein shall be deemed to constitute a warranty against viruses. The provisions of paragraph 4.3.5, below, shall constitute the agreement of the parties with respect to viruses.) Client's sole remedy with respect to the foregoing warranty shall be to receive an Update to the CentralSquare Software that does not contain any of the above-described routines or devices.

4.3 If the CentralSquare Software is unable to function as warranted due to any one or more of the following factors, additional charges may be imposed by CentralSquare for actions necessary to correct or work around such factors:

4.3.1 Modification of the CentralSquare Software, System Software or Equipment by Client or a third party.

4.3.2 Misuse or neglect, including without limitation failure to use the CentralSquare Software as described in the Documentation, or other instructions provided by CentralSquare.

4.3.3 Software not provided by CentralSquare, not specified as compatible in the Documentation, or Client not following the procedures for loading third party software on a Workstation or Server as set forth in paragraph 4.7 of this Agreement.

4.3.4 Equipment which does not meet the configuration requirements specified in the Documentation, by failure of Client to provide and maintain the site and facility requirements described in the CentralSquare Documentation.

4.3.5 Computer viruses that have not been introduced into Client's system by CentralSquare. Client shall maintain up-to-date virus checking software and shall check all software received from CentralSquare or any other person or entity for viruses before introducing that

software into any part of the System including, but not limited to, Workstations or Servers. If desired by Client, CentralSquare will provide Updates on media rather than direct downloading to facilitate this virus checking. If, despite such check, a virus is introduced by CentralSquare, CentralSquare will provide a virus-free copy of the CentralSquare Software, and will, at its expense, reload said software (but not Client's data) on Client's Equipment. Client shall be responsible for reloading its data and, to that end, shall practice reasonable back-up procedures for the System to mitigate the consequences of any virus.

4.3.6 Equipment or software provided by third parties with which the CentralSquare Software interfaces or operates (including but not limited to system software), including but not limited to problems caused by changes in such equipment or software. If such changes occur which require modifications or other actions with respect to the CentralSquare Software, such modifications or actions shall be subject to the mutual written agreement of the parties, including but not limited to, additional charges by CentralSquare at its then current rates for engineering and technical support.

4.3.7 If mapping information is supplied with the CentralSquare Software, CentralSquare makes no representation or warranty as to the completeness or accuracy of the mapping data provided with the CentralSquare Software. The completeness or accuracy of such data is solely dependent on the information supplied by the Client or the mapping database vendor to CentralSquare.

4.4 Equipment, System Software and Subcontractor Hardware and Software, and any other Third Party Products or Software provided by CentralSquare under the applicable purchase or implementation agreement between CentralSquare and Client are warranted by the manufacturers or Vendors thereof, not by CentralSquare. CentralSquare shall pass through to Client any warranties on Third Party Items granted to it.

4.5 Problems in the CentralSquare Software or transmission of data caused by wireless services are not warranted by CentralSquare, or covered under the terms of this Agreement. Client's use of services provided by wireless service providers or carriers, and the security, privacy, or accuracy of any data provided via such services is at Client's sole risk.

4.6 Client is responsible for maintaining the required certifications for access to Client's state CJIS system(s), NCIC and/or other local state, federal and/or other applicable systems.

4.7 If, at any time after installation of the CentralSquare Software system, Client desires to load on a Workstation or Server any software not provided by CentralSquare, it shall, before loading such software, follow the procedures regarding third party software compatibility in the CentralSquare Documentation, and contact the CentralSquare Technical Services Department at the telephone numbers listed in the Software Support Agreement for assistance as required. **Such action shall not constitute approval, express or implied, for the loading of specific software on a Workstation or Server, nor any express or implied warranty, representation or other obligation by CentralSquare with respect to such software, including but not limited to its suitability, operability or capability to meet Client's needs or expectations.** Client agrees that if the loading of such third party software degrades the performance of the System, Client shall immediately uninstall such software. Client shall absolve, discharge and release CentralSquare from any obligations or liabilities related to operation or performance of the System, the CentralSquare Software, Subcontractor Software, or any other item provided by CentralSquare under this Agreement, including but not limited to any liabilities for damages related thereto in connection with the installation of such third party software

4.8 CENTRALSQUARE MAKES AND CLIENT RECEIVES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5.0 Intellectual Property Infringement.

5.1 CentralSquare represents and warrants that, to its actual, current knowledge, the CentralSquare Software does not infringe the copyrights, patents, trade secrets or trademarks (collectively "Intellectual Property Rights") of any third party. In the event of a claim, action or proceeding (collectively "Claim") brought against Client for infringement by the CentralSquare Software of the Intellectual Property Rights of a third party, CentralSquare will at its expense defend against such Claim, provided that Client immediately notifies CentralSquare of such Claim and cooperates fully with CentralSquare and its legal counsel in the defense thereof. CentralSquare may in its discretion (i) contest, (ii) settle, (iii) procure for Client the right to continue using the CentralSquare Software, or (iv) modify or replace the CentralSquare Software so that it no longer infringes (while maintaining substantially equivalent functionality and performance to that described in the user documentation.) Client may participate in the defense of such Claim at its own expense. If CentralSquare concludes in its sole judgment that none of the foregoing options are commercially reasonable, and Client's use of the CentralSquare Software is permanently enjoined as a result of a judgment of a court of competent jurisdiction in respect of such Claim, then CentralSquare will return to Client the CentralSquare Software license fee(s) paid by Client under this EULA less a portion of said fee(s) for Client's use of the CentralSquare Software, prorated over a period of three (3) years, and the licenses granted in this EULA shall terminate. In addition, in the event such Claim results in a final money judgment against Client which does not arise, wholly or in part, from the actions or omissions of Client, its officers, directors, employees, contractors, agents, or elected officials, or a third party, CentralSquare will indemnify Client therefrom to the extent indemnification for such judgment is not provided under Client's insurance policies (unless Client is self-insured in which case the preceding clause shall not apply). This section 5 states the entire obligation of CentralSquare regarding infringement of intellectual property rights, and it will survive the termination of this EULA.

5.2 Notwithstanding the above, CentralSquare shall have no duty under this Section 5 with respect to, and Client shall not bring an action against CentralSquare for indemnification or other causes of action with respect to any Claim arising from or related to infringements (i) by the equipment or operating system software upon or with which the CentralSquare Software runs, (ii) arising out of modifications to the CentralSquare Software not made by or under the direction of CentralSquare, (iii) resulting from use of the CentralSquare Software to practice any method or process which does not occur wholly within the CentralSquare Software, or (iv) resulting from modifications to the CentralSquare Software prepared pursuant to specifications or other material furnished by or on behalf of Client.

6.0 Limitation Of Liability.

6.1 The total liability of CentralSquare for any claim or damage arising under this EULA, whether in contract, tort, by way of indemnification or under statute shall be limited to (i) direct damages which shall not exceed the license fees paid hereunder or (ii) in the case of bodily injury or property damage for which defense and indemnity coverage is provided by CentralSquare's insurance carrier(s), the coverage limits of such insurance.

6.2 IN NO EVENT SHALL CENTRALSQUARE BE LIABLE, WHETHER IN CONTRACT OR IN TORT, FOR LOST PROFITS, LOST SAVINGS, LOST DATA, LOST OR DAMAGED SOFTWARE, OR ANY OTHER CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF THE USE OR NON-USE OF THE CENTRALSQUARE SOFTWARE, OR OTHERWISE RELATED TO THIS EULA, REGARDLESS OF WHETHER CENTRALSQUARE HAD KNOWLEDGE OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE.

7.0 Confidentiality. Client acknowledges that the CentralSquare Software and its associated Documentation (the "Confidential Information") constitute the trade secrets and proprietary information of CentralSquare. Client shall hold the Confidential Information in confidence and shall not disclose it to third parties except as necessary to exercise the licenses granted hereunder. Without limiting the generality of the foregoing, Client shall use reasonable means, not less than those used to protect its own trade secret and proprietary information, to safeguard the Confidential Information. Client shall not attempt, or authorize or permit others to attempt, to learn the trade secrets, technology, ideas, processes, methods of operation, know-how and/or confidential information contained in the Software by duplication, decompilation, disassembly, other forms of reverse engineering, or other methods now known or later developed. If any Confidential Information is subject to any Federal or State statute(s) providing for public access or disclosure of public records, documents or other material, Client shall as allowed by law (i) provide to CentralSquare written notice of any request or other action by a third party under said statute(s) for release, access, or other disclosure thereof, (ii) provide to CentralSquare a reasonable opportunity to respond to and/or oppose such action in the appropriate forum and (iii) take such steps as are permitted under said statutes to assert in response to such action any exemptions or other protections available thereunder to prevent, restrict and/or control the public release, access and/or disclosure of the Confidential Information.

8.0 Dispute Resolution. The Parties desire to first attempt to resolve certain disputes, controversies and claims arising out of this Agreement or any Addenda hereto before a Party begins litigation. Prior to commencing litigation, at the written request of either Party, the Parties agree to meet onsite at either CentralSquare's or the Client's location as determined by the Parties and negotiate in good faith to resolve any dispute arising under this Agreement. Each Party shall be responsible for its associated travel costs. If the above negotiations do not resolve the dispute with sixty (60) days of the initial written request, either Party may take appropriate legal action.

9.0 Force/Majeure. Neither party shall be liable for delays or failures of performance resulting from circumstances beyond their control, including without limitation, acts of God, transportation delays, riots, acts of war or terrorism, government regulations imposed after the date of this EULA, communications line or other network failures, interruptions or delays, or power failures.

10.0 General Terms.

10.1 This EULA represents the entire agreement between the parties hereto and a final expression of their agreements with respect to the CentralSquare Software, and CentralSquare Documentation and supersedes all prior written agreements, oral agreements, representations, descriptions, understandings or negotiations with respect to the matters covered by this EULA. If any term, provision, condition or covenant of this EULA is held to be invalid, void or unenforceable, the rest of the EULA shall remain in full force and effect and shall in no way be affected, impaired or invalidated. No amendment to this EULA shall be effective unless it is in writing and signed by an authorized officer of CentralSquare. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to or waiver of a breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach. Neither this EULA nor any rights or obligations hereunder shall be assigned or otherwise transferred by Client without the prior written consent of CentralSquare. This EULA shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, but nothing in this paragraph shall be construed as a consent to any assignment of this EULA except as provided hereinabove. A facsimile or electronic signature copy of this EULA and its exhibit(s) may be used as an original.

10.2 Except to the extent that this EULA is governed by the laws of the United States, this EULA shall be governed, interpreted and enforced in accordance with the laws of the State of California, USA, without regard to its conflict of law provisions or the United Nations Convention for the International Sale of Goods.

10.3 All notices required to be given under this EULA shall be made in writing by (i) first-class mail, postage prepaid, certified, return receipt, (ii) by regularly scheduled overnight delivery, (iii) by facsimile or email followed immediately by first-class mail, or (iv) by personal delivery, to the address set forth herein, or such other address as provided in writing. Such notices shall be deemed given three (3) days after mailing pursuant to (i) above, or one (1) day after full compliance with (ii), (iii) or (iv) above.

Quote #: Q-90566**Primary Quoted Solution:** PSJ Enterprise**Quote expires on:** April 30, 2023**Quote prepared for:**

William Terry

Murfreesboro Police Department

1004 N Highland Ave

Murfreesboro, TN 37130

(615) 907-2249

Thank you for your interest in CentralSquare. CentralSquare provides software that powers over 8,000 communities. More about our products can be found at www.centralsquare.com.

WHAT SOFTWARE IS INCLUDED?

	PRODUCT NAME	QUANTITY	UNIT PRICE	TOTAL
1.	Enterprise RMS Test or Training System (Add On) License Fee	1	10,980.00	10,980.00
			Software Total	10,980.00 USD

WHAT SERVICES ARE INCLUDED?

	DESCRIPTION	TOTAL
1.	Public Safety Project Management Services - Fixed Fee	1,560.00
2.	Public Safety Technical Services - Fixed Fee	7,800.00
	Services Total	9,360.00 USD

QUOTE SUMMARY

Software Subtotal	10,980.00 USD
--------------------------	---------------

Services Subtotal	9,360.00 USD
--------------------------	--------------

Quote Subtotal	20,340.00 USD
-----------------------	---------------

Quote Total	20,340.00 USD
--------------------	----------------------

WHAT ARE THE RECURRING FEES?

TYPE	AMOUNT
FIRST YEAR MAINTENANCE TOTAL	1,980.00
FIRST YEAR SUBSCRIPTION TOTAL	0.00

The amount totals for Maintenance and/or Subscription on this quote include only the first year of software use and maintenance. Renewal invoices will include this total plus any applicable uplift amount as outlined in the relevant purchase agreement.

BILLING INFORMATION

Fees will be payable within 30 days of invoicing.

Please note that the Unit Price shown above has been rounded to the nearest two decimal places for display purposes only. The actual price may include as many as five decimal places. For example, an actual price of \$21.37656 will be shown as a Unit Price of \$21.38. The Total for this quote has been calculated using the actual prices for the product and/or service, rather than the Unit Price displayed above.

Prices shown do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice.

For customers based in the United States or Canada, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on the Quote Form.

PAYMENT TERMS

License Fees & Annual Subscriptions

- 100% Due Upon Contract Execution

Contract Startup

- 100% Due Upon Contract Execution

Hardware & Third-Party Software

- 100% Due Upon Contract Execution

Services

- Fixed Fee: 100% Due Upon Completion
- Time & Material: Due as Incurred
- Services Bundle: Fixed Fee, 100% Due Contract Execution

Third-Party Services

- Fixed Fee: 50% Due Upon Contract Execution; 50% Due Upon Completion

Travel & Living Expenses

- Due as Incurred

PURCHASE ORDER INFORMATION

Is a Purchase Order (PO) required for the purchase or payment of the products on this Quote Form? (Customer to complete)

Yes [] No []

Customer's purchase order terms will be governed by the parties' existing mutually executed agreement, or in the absence of such, are void and will have no legal effect.

PO Number: _____

Initials: _____

Murfreesboro Police Department

Signature:

Name:

Date:

Title:

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Purchase of Radio Equipment from Motorola

Department: Police

Presented by: Bill Terry, Public Safety IT Manager

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Purchase of 25 new in-car radios from Motorola.

Staff Recommendation

Approve the purchase of 25 new in-car radios from Motorola.

Background Information

In September 2022, Council approved the purchase of 25 new police vehicles. These vehicles require installation of in-car radios. This equipment is available for purchase through the State's General Services Central Procurement Office, which is permitted by State statute and Council Resolution. Staff has verified the cost effectiveness of the current state contract.

Council Priorities Served

Maintain public safety

Properly equipped vehicles are necessary to provide officers all available resources while protecting citizens.

Fiscal Impact

The expense of \$179,569 is funded by the American Rescue Plan Act Funds.

Attachments

Agreement for Radio Equipment

Agreement for Radio Equipment

This Agreement is entered into and effective as of _____ (the "Effective Date") by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Motorola Solutions Inc**, a Corporation of the State of Delaware ("Contractor").

This Agreement consists of the following documents:

- This document
- Motorola Quote 2022711 dated January 24, 2023 ("Contractor's Proposal").
- State of Tennessee SWC #424 – "Motorola Radio Equipment and Services"
- Any properly executed amendments to this Agreement.

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

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority)
- Second, this Agreement
- Third, Contractor's Proposal – Motorola Quote 2022711 dated January 24, 2023.
- Lastly, State of Tennessee SWC #424 – "Motorola Radio Equipment and Services".

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase Radio Equipment from Motorola Services Inc. in accordance with State of Tennessee SWC #424 – "Motorola Radio Equipment and Services" and Motorola Quote 2022711 dated January 24, 2023.
2. **Term.** The term of this contract shall be from the Effective Date listed above to the expiration of the with State of Tennessee SWC #424 – "Motorola Radio Equipment and Services", March 14, 2025. 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. Either party may terminate this Agreement and/or any Statement of Work where the other party fails in any material way to perform its obligations under this Agreement or the Statement(s) of Work. 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 thirty (30) days after receiving the notice. 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.

- e. In the event of termination for any reason other than default, the City will pay the Contractor for all equipment delivered and services rendered up to the date of termination.

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 Motorola Quote 2022711 dated January 24, 2023, which reflects a **total purchase price of \$179,569.50**.
- b. 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. The City will pay invoices within thirty (30) days of the invoice date. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.
- c. Deliveries of all items shall be made within sixty (60) days of issuance Purchase Order to Attn: Bill Terry – Police Department – 1004 N. Highland Ave., Murfreesboro TN 37130 - Contact Person: Bill Terry (email: wterry@murfreesborotn.gov – phone: 615.907.2249) 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.
- d. Deliveries of all items shall be made as stated in the quote. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or Agreement. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
- e. 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. Inspection of equipment must occur within 5 working days of delivery or will be considered accepted. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor’s Quote.
- f. 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.

4. **Warranty.** Unless otherwise specified, every item provided shall meet the warranty requirements set forth in the State of Tennessee SWC #424 - “Motorola Radio Equipment and Services” and Motorola Quote 2022711.

5. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. In the event, the City does not provide a tax exemption certificate to the Contractor, City will be liable for sales taxes. 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.** All data, documents and materials produced and provided by Contractor under this Agreement are the property of the City, which retains the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. City acknowledges that Contractor may use this information. 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. Indemnification.

- a. Contractor will indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, arising from personal injuries or direct damages to tangible property resulting from, in part or in whole, the negligence of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement if City gives Contractor prompt, written notice of any claim or suit., City will cooperate with Contractor in its defense or settlement of the claim or suit. This section sets forth the full extent of Contractor's general indemnification of City from liabilities that are in any way related to Contractor's performance under this Agreement. 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.
- b. Copyright, Trademark, Service Mark, or Patent Infringement.
 - i. Contractor will defend at its expense any suit brought against City to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Contractor's duties to defend and indemnify are conditioned upon: City promptly notifying Contractor in writing of the Infringement Claim; Contractor having sole control of the defense of the suit and all negotiations for its settlement or compromise; and City providing to Contractor cooperation and, if requested by Contractor, reasonable assistance in the defense of the Infringement Claim. In addition to Contractor's obligation to defend, and subject to the same conditions, Contractor will pay all damages finally awarded against City by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Contractor in settlement of an Infringement Claim.
 - ii. If an Infringement Claim occurs, or in Contractor's opinion is likely to occur, Contractor may at its option and expense: (a) procure for City the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant City a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.
 - iii. Contractor will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Contractor; (b) the use of ancillary equipment or software not furnished by Contractor and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with City's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Contractor; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the

failure by City to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Contractor's liability resulting from its indemnity obligation to City extend in any way to royalties payable on a per use basis or the City's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Contractor from City's from sales or license of the infringing Motorola Product.

- iv. This Section provides City's sole and exclusive remedies and Contractor's entire liability in the event of an Infringement Claim. City has no right to recover and Contractor has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim
- v.

8. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:

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

If to the Contractor:

Motorola Solutions Inc.
Attn: Jared West
341 Cool Springs Blvd. #300
Franklin, TN 37067
jared.west@motorolasolutions.com

9. **Compliance with Laws.** Contractor agrees to comply with all directly applicable federal, state and local laws and regulations concerning the performance of this Agreement. Under no circumstances is a failure to comply with an applicable law a breach of contract. Contractor has thirty (30) days to propose a plan to cure any failure to comply with applicable laws.
10. **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.
11. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
12. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
13. **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.

14. **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.
15. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy.

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

- a. **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**
 - b. **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**
 - c. **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**
16. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

17. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.

18. **Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.

19. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, pandemic, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

20. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.

21. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.

22. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of the Effective Date first listed above.

CITY OF MURFREESBORO, TENNESSEE

MOTOROLA SOLUTIONS INC.

By: _____
Shane McFarland, Mayor

By: _____
Jared West, Area Sales Manager

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney

Billing Address:
 MURFREESBORO, CITY OF
 302 S CHURCH ST
 MURFREESBORO, TN 37130
 US

Shipping Address:
 MURFREESBORO, CITY OF
 302 S CHURCH ST
 MURFREESBORO, TN 37130
 US

Quote Date:01/24/2023
 Expiration Date:04/24/2023
 Quote Created By:
 Lauren Wiesner
 LAUREN.WIESNER@
 motorolasolutions.com

End Customer:
 MURFREESBORO, CITY OF
 Bill Terry
 wterry@murfreesborotn.gov
 615-849-2685

Contract: SWC424 - Tennessee

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
	APX™ 6500 / Enh Series	ENHANCEDAPX6500				
1	M25URS9PW1BN	APX6500 ENHANCED 7/800 MHZ MOBILE	25	\$3,253.00	\$2,342.16	\$58,554.00
1a	GA09008AA	ADD: GROUP SERVICES	25	\$165.00	\$118.80	\$2,970.00
1b	QA01648AA	ADD: HW KEY SUPPLEMENTAL DATA	25	\$6.00	\$4.32	\$108.00
1c	GA09007AA	ADD: OUT OF THE BOX WIFI PROVISIONING	25	\$0.00	\$0.00	\$0.00
1d	GA00318AF	ENH: 5 YEAR ESSENTIAL SVC	25	\$480.00	\$480.00	\$12,000.00
1e	G831AD	ADD: SPKR 15W WATER RESISTANT	25	\$66.00	\$47.52	\$1,188.00
1f	G996AS	ENH: OVER THE AIR PROVISIONING	25	\$110.00	\$79.20	\$1,980.00
1g	GA00250AA	ADD: WIFI/GNSS STUBBY ANTENNA LMR240	25	\$110.00	\$79.20	\$1,980.00
1h	GA00580AA	ADD: TDMA OPERATION	25	\$495.00	\$356.40	\$8,910.00
1i	GA01576AB	ADD: SMA TO QMA ADAPTER	25	\$22.00	\$22.00	\$550.00
1j	G51AU	ENH: SMARTZONE OPERATION APX6500	25	\$1,320.00	\$950.40	\$23,760.00



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.
 Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 - #: 36-1115800

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
1k	G67DT	ADD: REMOTE MOUNT E5 APXM	25	\$327.00	\$235.44	\$5,886.00
1l	GA09001AA	ADD: WI-FI CAPABILITY	25	\$330.00	\$237.60	\$5,940.00
1m	G843AH	ADD: AES ENCRYPTION AND ADP	25	\$523.00	\$376.56	\$9,414.00
1n	G444AH	ADD: APX CONTROL HEAD SOFTWARE	25	\$0.00	\$0.00	\$0.00
1o	QA03399AA	ADD: ENHANCED DATA APX	25	\$165.00	\$118.80	\$2,970.00
1p	G806BL	ENH: ASTRO DIGITAL CAI OP APX	25	\$567.00	\$408.24	\$10,206.00
1q	GA01670AA	ADD: APX E5 CONTROL HEAD	25	\$717.00	\$516.24	\$12,906.00
1r	GA01693AA	ADD : LEGACY TRUNNION SCREW KIT	25	\$11.00	\$7.92	\$198.00
1s	W22BA	ADD: STD PALM MICROPHONE APX	25	\$79.00	\$56.88	\$1,422.00
1t	W969BG	ADD: MULTIKEY OPERATION	25	\$363.00	\$261.36	\$6,534.00
1u	G174AD	ADD: ANT 3DB LOW-PROFILE 762-870	25	\$47.00	\$33.84	\$846.00
1v	G361AH	ENH: P25 TRUNKING SOFTWARE APX	25	\$330.00	\$237.60	\$5,940.00
1w	GA09012AA	ADD: MISSION CRITICAL GEOFENCE	25	\$165.00	\$118.80	\$2,970.00
	APX™ Radio Management	RADIO MANAGEMENT				
2	T7913A	RADIO MANAGEMENT OFFLINE*	1	\$0.00	\$0.00	\$0.00
2a	UA00048AA	ADD: RADIO MANAGEMENT LICENSES OFFLINE	25	\$110.00	\$93.50	\$2,337.50

Subtotal \$244,025.00

Total Discount Amount \$64,455.50

Grand Total \$179,569.50(USD)



Notes:

- Additional information is required for one or more items on the quote for an order.
- Unless otherwise noted, this quote excludes sales tax or other applicable taxes (such as Goods and Services Tax, sales tax, Value Added Tax and other taxes of a similar nature). Any tax the customer is subject to will be added to invoices.



COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Professional Services Contract for Replacement of HVAC systems at Hobgood and Reeves-Rogers Elementary Schools

Department: City Schools

Presented by: Brad Hennessee, Facilities Manager

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Contract for professional services agreement with Johnson + Bailey Architects P.C. for the replacement of the heating, ventilating and air conditioning (HVAC) systems at Hobgood and Reeves-Rogers Elementary Schools.

Staff Recommendation

Approve the contract with Johnson + Bailey Architects P.C. for professional services to replace the HVAC systems at Hobgood and Reeves-Rogers Elementary Schools.

On January 10, 2023, the Murfreesboro City School Board approved the project.

Background Information

HVAC system are a critical part of modern building construction. These systems protect the health and safety of the buildings' occupants and assure the building is useful to its maximum extent all year. The HVAC systems at Hobgood and Reeves-Rogers Elementary Schools require replacement due to age and lack of replacement parts for repairs.

Council Priorities Served

Responsible Budgeting

Proactive maintenance of the City's largest asset classification is crucial to responsible budgeting and decreased CIP costs over the long term.

Fiscal Impact

The contract price, \$171,000, is funded by a federal ESSER 3.0 grant awarded to City Schools.

Attachments

1. AIA Agreement between Owner and Architect
2. Federally Required Clauses for Projects Using ARPA Grant Expenses

 **AIA**® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 22nd day of February in the year 2023
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

and the Architect:
(Name, legal status, address and other information)

Johnson + Bailey Architects P.C.
100 East Vine Street
City Center, Suite 700
Murfreesboro, TN 37130

for the following Project:
(Name, location and detailed description)

HVAC Renovations
Hobgood & Reeves Rogers Elementary Schools
Murfreesboro, TN
J + B No. 2302

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

AIA Document B101 – 2017. Copyright © 1974, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks of The American Institute of Architects. This document was produced at 12:02:18 ET on 03/10/2023 under Order No 3104238041 which expires on 02/12/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1748200276)

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

To be determined

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

As noted in Johnson + Bailey Architects P.C. letter dated February 22, 2023

init.

.2 Construction commencement date:

As noted in Johnson + Bailey Architects P.C. letter dated February 22, 2023

.3 Substantial Completion date or dates:

As noted in Johnson + Bailey Architects P.C. letter dated February 22, 2023

(Paragraphs deleted)

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Lata Structural Engineers, LLC
8005 Church Street, East
Suite 216
Brentwood, TN 37027

.2 Mechanical Engineer:

Entech Engineering, Inc.
5301 Maryland Way, Suite 140

(Paragraphs deleted)

Brentwood, TN 37027

§ 1.1.11.2 Consultants retained under Supplemental Services:

None

§ 1.1.12 Other Initial Information on which the Agreement is based:

None

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

(Paragraph deleted)

Init.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9. Architect shall not cancel or modify an insurance coverage required by this Agreement without providing Owner with at least 30-days' prior written notice.

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$ 1,000,000.00) for each occurrence and One Million Dollars (\$ 1,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Hundred Thousand Dollars (\$ 100,000.00) each accident, One Hundred Thousand Dollars (\$ 100,000.00) each employee, and One Hundred Thousand Dollars (\$ 100,000.00) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per claim and One Million Dollars (\$ 1,000,000.00) in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

Init.

§ 2.5.9 Indemnification. The Architect agrees to indemnify, save and hold harmless the Owner, its officials, officers, and employees, from any and all claims of any nature, including all costs, expenses and attorneys' fees, which may in any manner arise out of or result from Architect's negligent acts or omissions or intentional misconduct in performing work under this Agreement, except to the extent that such claims arise from the negligent acts or omissions of the City or its employees and agents. Architect's obligation to indemnify, save and hold harmless the Owner shall not be limited to the amount of insurance actually secured under this Agreement, including any insurance above the minimum required, but shall extend to the full amount on any claims, loss or damage incurred or awarded, including costs, expenses and attorneys' fees.

§ 2.6 The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall exercise due professional care in endeavoring to comply with the requirements imposed by governmental authorities having jurisdiction over the Project, including, but not limited to, applicable ADA standards. The Architect shall use the standard care ordinarily utilized by other architects designing projects under the applicable standards and in identifying requirements imposed by governmental authorities. The Architect shall also identify to the Owner requirements that may be interpreted as conflicting with other requirements imposed by law.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary civil, structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall review thoroughly the services and information for completeness and sufficiency, and provide timely written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.7 The Architect shall assist the Owner in determining allowable construction time and amount of liquidated damages.

§ 3.1.8 In accordance with the standard of care, The Architect is responsible for the coordination of all drawings and design documents relating to Architect's design used on the Project, regardless of whether such drawings and documents are prepared or provided by Architect, by Architect's consultants, or by others. If preliminary or design development Work has been performed by others, Architect is nevertheless fully responsible for and accepts full responsibility for such earlier Work when Architect performs subsequent phases of the basic services called for under

this Agreement, as fully as if the preliminary, schematic, and design development Work had been performed by the Architect itself. Architect is responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by Architect. Architect is responsible for the completeness and accuracy of all drawings and specifications submitted by or through Architect and for their compliance with all applicable codes, ordinances, regulations, laws, and statutes.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. Owner's approval of the documents must be in writing to be binding against either party.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. Owner's approval of the documents must be in writing to be binding against either party.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. Construction drawings, specifications, or other Construction Documents submitted by Architect must be complete and unambiguous and in compliance with all applicable codes, ordinances, statutes, regulations, and laws. By submitting the same, Architect certifies that Architect has informed the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, inform the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time, and take any action required under Section 6.5, and request the Owner's written approval. Owner's approval of the documents must be in writing to be binding against either party. The Architect will also ascertain that all elements of the construction documents specific to the Owner's requirements, including modifications to the General Conditions, are correctly contained within the construction documents prior to bidding.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 organizing and constructing a pre-bid conference for prospective bidders;
- .2 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda;
- .3 responding to request of substitutions; and,
- .4 analysis and recommendations of bids received.

Init.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.4 The Architect shall be responsible for conducting progress meetings not less than monthly or as needed and for the preparation, distribution, and accuracy of minutes pertaining thereto to all parties as directed by the Owner.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect and Owner shall have the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to

require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or timely so as not to affect the Contract Time or the Contract Sum.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents. The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents; provided however, the Owner, with advice and assistance from the Architect, shall make final decisions on matters relating to aesthetic effect, Contract Time or the Contract Sum.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, in a timely manner so as not to affect the Contract Time or the Contract Sum.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. The Architect shall timely report to Owner, in writing, those minor changes in the Work authorized by Architect pursuant to this section. If the Architect and the Owner determine that the implementation of the requested change would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner who may authorize further investigation of such change.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. Additionally, the Architect shall review and, upon request by Owner, provide written documentation of the same of all change order requests and proposals with respect to the following criteria:

- .1 confirm proposed change is a material change to the Contract;
- .2 confirm appropriate credits are included for Work not completed;
- .3 verify that the proposed additional cost or credit is reasonable with respect to industry standards. Cost verifications may, as authorized by Owner, include independent estimates and/or consultations with contractors and vendors; and
- .4 confirm that the appropriate back up documentation is included and mathematically correct including mark ups and taxes pursuant to the requirements of the Contract Documents.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

Init.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall review, approve, and forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner and the Contractor to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect and Owner
§ 4.1.1.2 Multiple preliminary designs	Architect's Basic Services
§ 4.1.1.3 Measured drawings	Not provided
§ 4.1.1.4 Existing facilities surveys	Not provided
§ 4.1.1.5 Site evaluation and planning	Not provided
§ 4.1.1.6 Building Information Model management responsibilities	Not provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not provided
§ 4.1.1.8 Civil engineering	Not provided
§ 4.1.1.9 Landscape design	Not provided
§ 4.1.1.10 Architectural interior design	Not provided
§ 4.1.1.11 Value analysis	Not provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not provided
§ 4.1.1.13 On-site project representation	Not provided
§ 4.1.1.14 Conformed documents for construction	Not provided
§ 4.1.1.15 As-designed record drawings	Not provided
§ 4.1.1.16 As-constructed record drawings	Not provided
§ 4.1.1.17 Post-occupancy evaluation	Not provided
§ 4.1.1.18 Facility support services	Not provided
§ 4.1.1.19 Tenant-related services	Not provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Not provided
§ 4.1.1.21 Telecommunications/data design	Not provided

Init.

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.22 Security evaluation and planning	Not provided
§ 4.1.1.23 Commissioning	Not provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not provided
§ 4.1.1.25 Fast-track design services	Not provided
§ 4.1.1.26 Multiple bid packages	Not provided
§ 4.1.1.27 Historic preservation	Not provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not provided
§ 4.1.1.29 Other services provided by specialty Consultants	Not provided
§ 4.1.1.30 Other Supplemental Services	Not provided
	Not provided

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

The Architect is to perform all required Programming and Design Services, and to coordinate all work with the Owner's Consultants

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

1. Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
2. Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
3. Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

Init.

- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;

(Paragraphs deleted)

- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

(Paragraphs deleted)

- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 One (1) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Weekly () visits to the site by the Architect during construction
- .3 One (1) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One (1) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within Twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner, with the Architect's assistance, shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

Init.

§ 5.3.1 The Owner has the right to reject any portion of the Architect's Work on the Project, including but not limited to Schematic Design Documents, Design Development Documents, Construction Documents, or the Architect's provision of services during the construction of the Project, or any other design Work or documents on any reasonable basis, including, but not limited to aesthetics or because in the Owner's opinion, the construction cost of such design is likely to exceed the budget for Cost of the Work. If at any time the Architect's Work is rejected by the Owner, the Architect must proceed when requested by the Owner, to revise the design Work or documents prepared for that phase to the Owner's satisfaction. These revisions shall be made without adjustment to the compensation provided hereunder, unless revisions are made to Work previously approved by the Owner under previous phases, in which case such revision services will be paid as a Change in Services. Should there be substantial revisions to the original program after the approval of the Schematic Design Documents, which changes substantially increase the scope of design services to be furnished hereunder, such revision services will be paid as a Change in Services. The Architect must so notify the Owner of all Changes in Services in writing and receive approval from Owner before proceeding with revisions necessitated by such changes. No payment, of any nature whatsoever, will be made to the Architect for additional Work or Changes in Services without such written approval by Owner.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 To the extent reasonably required for the timely and safe design and construction of the Project, the Owner may elect to furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Owner may, in its sole discretion, request that the Architect secure these services by contracting with a third party.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 Unless otherwise provided in this Agreement, the Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 Consistent and in accordance with the applicable standard of care owed by Architect, the Owner shall be entitled to rely on the accuracy and completeness of services and information provided by the Architect. The Owner shall provide timely written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

Init.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall timely notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

(Paragraph deleted)

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect, in consultation with the Owner, shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 undertake a good faith effort to obtain necessary and timely approval of Council for an increase in the budget for the Cost of the Work, as may be necessary, and then if approval is timely obtained, give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,

Init.

.5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.2, the Architect, without additional compensation, shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the documents which the Architect is responsible for preparing under this Agreement as necessary to comply with the Owner's budget for the Cost of the Work, and shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. The modification of such documents and the rebidding or renegotiating of the Project shall be the limit of the Architect's responsibility under Section 6.6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive, irrevocable, royalty-free, right and license to use the Architect's Instruments of Service for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. Upon completion of the Project, or upon termination of this Agreement for any reason prior to the completion of the Project, Owner shall be entitled to retain copies of all Instruments of Service and shall have an irrevocable, royalty-free, right and license to use all of the Instruments of Service for any and all purposes related to the Project in any manner the Owner deems fit, including Electronics Filing and Archiving for the purpose of record keeping at Owner designated areas; any future renovation, addition, or alteration to the Project; and any future maintenance or operations issue as it pertains to the Project. Architect or Architect's Consultants shall not be responsible for any modifications to the Work made by Owner or Owner's representatives using the Architect's Instruments of Service.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such use.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement within the period specified by applicable Tennessee law.

Init.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court whose jurisdiction includes Rutherford County, Tennessee
- Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 [Intentionally Omitted]

(Paragraphs deleted)

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments of undisputed amounts to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension

Init.

of services, in accordance herewith, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and shall negotiate with the Owner any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Owner and the Architect shall negotiate the amount of any compensation the Owner will pay the Architect for expenses incurred in the interruption and resumption of the Architect's services. The Owner and the Architect shall negotiate any adjustments to the Architect's fees for the remaining services and the time schedules for completion.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination and Reimbursable Expenses incurred and unpaid.

§ 9.7

(Paragraphs deleted)
[Intentionally Omitted]

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

§ 9.10 In the event of any termination under this Article, the Architect consents to the Owner's selection of another architect of the Owner's choice to assist the Owner in any way in completing the Project. Architect further agrees to cooperate and provide any information requested by Owner in connection with the completion of the Project and consents to and authorizes the making of any reasonable changes to the design of the Project by Owner and such other architect as Owner may desire. Any services provided by Architect that are requested by Owner after termination will be fairly compensated by Owner in accordance with Article 11.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

Init.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. The Architect shall immediately report to the Owner's project manager the presence, handling, removal or disposal of, or exposure of persons to and location of any hazardous material which it discovers.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. Notwithstanding the foregoing, the Owner may disclose any information specifically required by law.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Paragraphs deleted)

.3 Other

(Describe the method of compensation)

A Fixed Fee of \$171,000.00

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Init.

AIA Document B101 – 2017. Copyright © 1974, 1976, 1997, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks of The American Institute of Architects. This document was produced at 12:02:18 ET on 03/10/2023 under Order No.3104238041 which expires on 02/12/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1748200276)

19

Hourly Rates for services indicated in this Agreement.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Hourly Rates for services indicated in this Agreement.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

Hourly Rates for services indicated in this Agreement.

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	\$60,000.00	
Construction Documents Phase	\$70,000.00	
Bidding or Negotiation Phase	6,000.00	
Construction Phase	\$35,000.00	
<hr/>		
Total Basic Compensation	one hundred	100

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The Architect's rates and multiples for service as set forth in this Agreement shall remain in effect for the life of this Agreement unless unforeseen events which are not the fault of the Architect delay the Project completion. In such event, an equitable adjustment in the Architect's rates may be negotiated with the Owner.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00)
Architectural Services	
Principal Architect	\$200.00/hr
Staff Architect	\$150.00/hr
Intern Architect	\$125.00/hr
Field Representative	\$100.00/hr
Draftsman	\$100.00/hr
Administrative Personnel	\$65.00/hr

Init.

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

(Paragraphs deleted)

- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .13 Third party exploration test for investigations of existing roof substrates

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent (10 %) of the expenses incurred.

(Paragraphs deleted)

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of Zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

(Paragraph deleted)

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid () days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

Three percent per annum

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect

(Paragraphs deleted)

AIA Document B101 – 2017. Copyright © 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks of The American Institute of Architects. This document was produced at 12:02:18 ET on 03/10/2023 under Order No.3104238041 which expires on 02/12/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1748200276)

(Paragraphs deleted)

A Other documents:
(List other documents, if any, forming part of the Agreement.)

Johnson +Bailey Architects P.C. letter dated February 16, 2023
Johnson +Bailey Architects P.C. letter dated February 22, 2023
Attachment B – Federally Required Clauses for Projects using ARPA Grant Expenses, revised
February 22, 2023

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

Shane McFarland Mayor
(Printed name and title)

ARCHITECT (Signature)

James Richard Pettit President
(Printed name, title, and license number, if required)

APPROVED TO FORM

Adam Tucker, City Attorney

Init.

Additions and Deletions Report for AIA® Document B101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 12:02:18 ET on 03/10/2023.

PAGE 1

AGREEMENT made as of the 22nd day of February in the year 2023

...

City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

...

Johnson + Bailey Architects P.C.
100 East Vine Street
City Center, Suite 700
Murfreesboro, TN 37130

...

HVAC Renovations
Hobgood & Reeves Rogers Elementary Schools
Murfreesboro, TN
J + B No. 2302

PAGE 2

To be determined

...

As noted in Johnson + Bailey Architects P.C. letter dated February 22, 2023

PAGE 3

As noted in Johnson + Bailey Architects P.C. letter dated February 22, 2023

...

~~4- Other milestone dates: As noted in Johnson + Bailey Architects P.C. letter dated February 22, 2023~~

~~§ 4.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or
fast-track design and construction, multiple bid packages, or phased construction.)~~

~~§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)~~

~~§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204-2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.~~

~~§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)~~

~~§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)~~

~~§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)~~

~~1— Geotechnical Engineer~~

~~2— Civil Engineer~~

~~3— Other, if any:
(List any other consultants and contractors retained by the Owner.)~~

~~§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.7:
(List name, address, and other contact information.)~~

...

Lata Structural Engineers, LLC
8005 Church Street, East
Suite 216
Brentwood, TN 37027

...

Entech Engineering, Inc.
5301 Maryland Way, Suite 140

~~3~~ Electrical Engineer
Brentwood, TN 37027

...

None

...

None

...

~~§ 1.3.4 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.~~

PAGE 4

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9. Architect shall not cancel or modify an insurance coverage required by this Agreement without providing Owner with at least 30-days' prior written notice.

§ 2.5.1 Commercial General Liability with policy limits of not less than ~~(\$)~~ for each occurrence and ~~(\$)~~ One Million Dollars (\$ 1,000,000.00) for each occurrence and One Million Dollars (\$ 1,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 2.5.5 Employers' Liability with policy limits not less than One Hundred Thousand Dollars (\$ 100,000.00) each accident, One Hundred Thousand Dollars (\$ 100,000.00) each employee, and One Hundred Thousand Dollars (\$ 100,000.00) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ~~(\$)~~ per claim and ~~(\$)~~ One Million Dollars (\$ 1,000,000.00) per claim and One Million Dollars (\$ 1,000,000.00) in the aggregate.

PAGE 5

§ 2.5.9 Indemnification. The Architect agrees to indemnify, save and hold harmless the Owner, its officials, officers, and employees, from any and all claims of any nature, including all costs, expenses and attorneys' fees, which may in any manner arise out of or result from Architect's negligent acts or omissions or intentional misconduct in performing work under this Agreement, except to the extent that such claims arise from the negligent acts or omissions of the City or its employees and agents. Architect's obligation to indemnify, save and hold harmless the Owner shall not be limited to the amount of insurance actually secured under this Agreement, including any insurance above the minimum required, but shall extend to the full amount on any claims, loss or damage incurred or awarded, including costs, expenses and attorneys' fees.

§ 2.6 The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall exercise due professional care in endeavoring to comply with the requirements imposed by governmental authorities having jurisdiction over the Project, including, but not limited to, applicable ADA standards. The Architect shall use the standard care ordinarily utilized by other architects designing projects under the applicable standards and in identifying requirements imposed by governmental authorities. The Architect shall also identify to the Owner requirements that may be interpreted as conflicting with other requirements imposed by law.

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary civil, structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

...

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt review thoroughly the services and information for completeness and sufficiency, and provide timely written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

...

§ 3.1.7 The Architect shall assist the Owner in determining allowable construction time and amount of liquidated damages.

§ 3.1.8 In accordance with the standard of care, The Architect is responsible for the coordination of all drawings and design documents relating to Architect's design used on the Project, regardless of whether such drawings and documents are prepared or provided by Architect, by Architect's consultants, or by others. If preliminary or design development Work has been performed by others, Architect is nevertheless fully responsible for and accepts full responsibility for such earlier Work when Architect performs subsequent phases of the basic services called for under this Agreement, as fully as if the preliminary, schematic, and design development Work had been performed by the Architect itself. Architect is responsible for coordination and internal checking of all drawings and for the accuracy of

all dimensional and layout information contained therein, as fully as if each drawing were prepared by Architect. Architect is responsible for the completeness and accuracy of all drawings and specifications submitted by or through Architect and for their compliance with all applicable codes, ordinances, regulations, laws, and statutes.

PAGE 6

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

...

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. Owner's approval of the documents must be in writing to be binding against either party.

PAGE 7

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. Owner's approval of the documents must be in writing to be binding against either party.

...

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. Construction drawings, specifications, or other Construction Documents submitted by Architect must be complete and unambiguous and in compliance with all applicable codes, ordinances, statutes, regulations, and laws. By submitting the same, Architect certifies that Architect has informed the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time.

...

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, inform the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time, and take any action required under Section 6.5, and request the Owner's written approval. Owner's approval of the documents must be in writing to be binding against either party. The Architect will also ascertain that all elements of the construction documents specific to the Owner's requirements, including modifications to the General Conditions, are correctly contained within the construction documents prior to bidding.

...

- ~~1~~ facilitating the distribution of Bidding Documents to prospective bidders;
- ~~2~~ 2 organizing and conducting ~~organizing and constructing~~ a pre-bid conference for prospective bidders;
- ~~3~~ 2 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda;
- ~~3~~ 3 responding to request of substitutions; and,
- ~~4~~ 4 ~~organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner, analysis and recommendations of bids received.~~

PAGE 8

§ 3.6.1.4 The Architect shall be responsible for conducting progress meetings not less than monthly or as needed and for the preparation, distribution, and accuracy of minutes pertaining thereto to all parties as directed by the Owner.

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section ~~4.2.3, 4.3.3~~, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect ~~has and~~ Owner shall have the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or ~~otherwise with reasonable promptness timely so as not to affect the Contract Time or the Contract Sum.~~

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. ~~The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents. The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents; provided however, the Owner, with advice and assistance from the Architect, shall make final decisions on matters relating to aesthetic effect. Contract Time or the Contract Sum.~~

PAGE 9

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, ~~with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review in a timely manner so as not to affect the Contract Time or the Contract Sum.~~

PAGE 10

§ 3.6.5.1 The Architect may ~~order~~ authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. The Architect shall timely report to Owner, in writing, those minor changes in the Work authorized by Architect pursuant to this section. If the Architect and the Owner determine that the implementation of the requested change would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner who may authorize further investigation of such change.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. Additionally, the Architect shall review and, upon request by Owner, provide written documentation of the same of all change order requests and proposals with respect to the following criteria:

- 1 confirm proposed change is a material change to the Contract;
- 2 confirm appropriate credits are included for Work not completed;

- 3 verify that the proposed additional cost or credit is reasonable with respect to industry standards. Cost verifications may, as authorized by Owner, include independent estimates and/or consultations with contractors and vendors; and
- 4 confirm that the appropriate back up documentation is included and mathematically correct including mark ups and taxes pursuant to the requirements of the Contract Documents.

PAGE 11

§ 3.6.6.4 The Architect shall review, approve, and forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner and the Contractor to review the facility operations and performance.

...

§ 4.1.1.1	Programming	Architect and Owner
§ 4.1.1.2	Multiple preliminary designs	Architect's Basic Services
§ 4.1.1.3	Measured drawings	Not provided
§ 4.1.1.4	Existing facilities surveys	Not provided
§ 4.1.1.5	Site evaluation and planning	Not provided
§ 4.1.1.6	Building Information Model management responsibilities	Not provided
§ 4.1.1.7	Development of Building Information Models for post construction use	Not provided
§ 4.1.1.8	Civil engineering	Not provided
§ 4.1.1.9	Landscape design	Not provided
§ 4.1.1.10	Architectural interior design	Not provided
§ 4.1.1.11	Value analysis	Not provided
§ 4.1.1.12	Detailed cost estimating beyond that required in Section 6.3	Not provided
§ 4.1.1.13	On-site project representation	Not provided
§ 4.1.1.14	Conformed documents for construction	Not provided
§ 4.1.1.15	As-designed record drawings	Not provided
§ 4.1.1.16	As-constructed record drawings	Not provided
§ 4.1.1.17	Post-occupancy evaluation	Not provided
§ 4.1.1.18	Facility support services	Not provided
§ 4.1.1.19	Tenant-related services	Not provided
§ 4.1.1.20	Architect's coordination of the Owner's consultants	Not provided
§ 4.1.1.21	Telecommunications/data design	Not provided
§ 4.1.1.22	Security evaluation and planning	Not provided
§ 4.1.1.23	Commissioning	Not provided
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	Not provided
§ 4.1.1.25	Fast-track design services	Not provided
§ 4.1.1.26	Multiple bid packages	Not provided
§ 4.1.1.27	Historic preservation	Not provided

§ 4.1.1.28 Furniture, furnishings, and equipment design	<u>Not provided</u>
§ 4.1.1.29 Other services provided by specialty Consultants	<u>Not provided</u>
§ 4.1.1.30 Other Supplemental Services	<u>Not provided</u>
	<u>Not provided</u>

PAGE 12

The Architect is to perform all required Programming and Design Services, and to coordinate all work with the Owner's Consultants

PAGE 13

- ~~.6 — Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~
- ~~.7 — Preparation for, and attendance at, a public presentation, meeting or hearing;~~

...

- ~~.1 — Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;~~
- ~~.2 — Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;~~
- ~~.3 — Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;~~
- ~~.4 — Evaluating an extensive number of Claims as the Initial Decision Maker; or,~~

...

- .1 One (1) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Weekly () visits to the site by the Architect during construction
- .3 One (1) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One (1) inspections for any portion of the Work to determine final completion.

...

§ 4.2.5 If the services covered by this Agreement have not been completed within Twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

...

§ 5.2 The ~~Owner-Owner~~, with the Architect's assistance, shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

PAGE 14

§ 5.3.1 The Owner has the right to reject any portion of the Architect's Work on the Project, including but not limited to Schematic Design Documents, Design Development Documents, Construction Documents, or the Architect's provision of services during the construction of the Project, or any other design Work or documents on any reasonable basis, including, but not limited to aesthetics or because in the Owner's opinion, the construction cost of such design is

likely to exceed the budget for Cost of the Work. If at any time the Architect's Work is rejected by the Owner, the Architect must proceed when requested by the Owner, to revise the design Work or documents prepared for that phase to the Owner's satisfaction. These revisions shall be made without adjustment to the compensation provided hereunder, unless revisions are made to Work previously approved by the Owner under previous phases, in which case such revision services will be paid as a Change in Services. Should there be substantial revisions to the original program after the approval of the Schematic Design Documents, which changes substantially increase the scope of design services to be furnished hereunder, such revision services will be paid as a Change in Services. The Architect must so notify the Owner of all Changes in Services in writing and receive approval from Owner before proceeding with revisions necessitated by such changes. No payment, of any nature whatsoever, will be made to the Architect for additional Work or Changes in Services without such written approval by Owner.

§ 5.5 The Owner shall~~To the extent reasonably required for the timely and safe design and construction of the Project, the Owner may elect to furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Owner may, in its sole discretion, request that the Architect secure these services by contracting with a third party.~~

...

§ 5.8 The~~Unless otherwise provided in this Agreement, the Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.~~

...

§ 5.11 The Owner shall provide prompt~~Consistent and in accordance with the applicable standard of care owed by Architect, the Owner shall be entitled to rely on the accuracy and completeness of services and information provided by the Architect. The Owner shall provide timely~~ written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly~~timely~~ notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

PAGE 15

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

...

§ 6.3 In preparing estimates of the Cost of Work, the Architect~~Architect, in consultation with the Owner,~~ shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed

estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

...

- .1 undertake a good faith effort to obtain necessary and timely approval of Council for an increase in the budget for the Cost of the Work, as may be necessary, and then if approval is timely obtained, give written approval of an increase in the budget for the Cost of the Work;

PAGE 16

~~§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents 6.6.2, the Architect, without additional compensation, shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the documents which the Architect is responsible for preparing under this Agreement as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 1.1.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents Work, and shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. The modification of such documents and the rebidding or renegotiating of the Project shall be the limit of the Architect's responsibility under this Article 6, Section 6.6.~~

...

~~§ 7.3 The Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive nonexclusive, irrevocable, royalty-free, right and license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, obligations, including prompt payment of all sums due pursuant to Article 9 and Article 11, when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate. Upon completion of the Project, or upon termination of this Agreement for any reason prior to the completion of the Project, Owner shall be entitled to retain copies of all Instruments of Service and shall have an irrevocable, royalty-free, right and license to use all of the Instruments of Service for any and all purposes related to the Project in any manner the Owner deems fit, including Electronics Filing and Archiving for the purpose of record keeping at Owner designated areas; any future renovation, addition, or alteration to the Project; and any future maintenance or operations issue as it pertains to the Project. Architect or Architect's Consultants shall not be responsible for any modifications to the Work made by Owner or Owner's representatives using the Architect's Instruments of Service.~~

~~§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4. use.~~

...

~~§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement, whether in contract, tort, or~~

otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1, Tennessee law.

PAGE 17

[] Litigation in a court of competent jurisdiction whose jurisdiction includes Rutherford County, Tennessee

...

§ 8.3 Arbitration [Intentionally Omitted]

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

§ 8.3.4 Consolidation or Joinder

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

...

§ 9.1 If the Owner fails to make payments of undisputed amounts to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, in accordance herewith, the Architect shall have no liability to the Owner for delay or damage caused the

Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and shall negotiate with the Owner any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

~~§ 9.2 If the Owner suspends the Project for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated the Owner and the Architect shall negotiate the amount of any compensation the Owner will pay the Architect for expenses incurred in the interruption and resumption of the Architect's services. The Owner and the Architect shall negotiate any adjustments to the Architect's fees for the remaining services and the time schedules shall be equitably adjusted for completion.~~

PAGE 18

~~§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination. Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements, termination and Reimbursable Expenses incurred and unpaid.~~

~~§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:~~

~~(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)~~

~~.1— Termination Fee:~~

~~.2— Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:~~

~~Intentionally Omitted~~

...

~~§ 9.10 In the event of any termination under this Article, the Architect consents to the Owner's selection of another architect of the Owner's choice to assist the Owner in any way in completing the Project. Architect further agrees to cooperate and provide any information requested by Owner in connection with the completion of the Project and consents to and authorizes the making of any reasonable changes to the design of the Project by Owner and such other architect as Owner may desire. Any services provided by Architect that are requested by Owner after termination will be fairly compensated by Owner in accordance with Article 11.~~

PAGE 19

~~§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. The Architect shall immediately report to the Owner's project manager the presence, handling, removal or disposal of, or exposure of persons to and location of any hazardous material which it discovers.~~

...

~~§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. Notwithstanding the foregoing, the Owner may disclose any information specifically required by law.~~

...

~~1 Stipulated Sum
(Insert amount)~~

~~2 Percentage Basis
(Insert percentage value)~~

~~() % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.~~

...

A Fixed Fee of \$171,000.00

PAGE 20

Hourly Rates for services indicated in this Agreement.

...

Hourly Rates for services indicated in this Agreement.

...

Hourly Rates for services indicated in this Agreement.

...

Schematic Design Phase	<u>\$60,000.00</u>	percent-(%)
Design Development Phase		percent-(%)
Construction Documents Phase	<u>\$70,000.00</u>	percent-(%)
Procurement Bidding or Negotiation Phase	<u>6,000.00</u>	percent-(%)
Construction Phase	<u>\$35,000.00</u>	percent-(%)

...

Total Basic Compensation	one hundred	percent-(100	%)
--------------------------	-------------	-----------	-----	----

...

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. Architect's rates and multiples for service as set forth in this Agreement shall remain in effect for the life of this Agreement unless unforeseen events which are not the fault of the Architect delay the Project completion. In such event, an equitable adjustment in the Architect's rates may be negotiated with the Owner.

...

Architectural Services
Principal Architect
Staff Architect
Intern Architect
Field Representative
Draftsman

\$200.00/hr
\$150.00/hr
\$125.00/hr
\$100.00/hr
\$100.00/hr

- ~~.1~~ Transportation and authorized out-of-town travel and subsistence;
- ~~.2~~ Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- ~~.5~~ Postage, handling, and delivery;
- ...
- ~~.9~~ All taxes levied on professional services and on reimbursable expenses;
- ~~.10~~ Site office expenses;
- ~~.14~~ Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and
- ~~.12~~ Other similar Project-related expenditures. .13 Third party exploration test for investigations of existing roof substrates

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent (10 %) of the expenses incurred.

~~§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)~~

§ 11.10.1.1 An initial payment of Zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

~~§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~

~~%~~ Three percent per annum

- ~~.2~~ AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
~~(Insert the date of the E203-2013 incorporated into this agreement.)~~

- ~~.3~~ Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

AIA Document E204TM-2017, Sustainable Projects Exhibit, dated as indicated below.
(Insert the date of the E204-2017 incorporated into this agreement.)

Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits
and scopes of services identified as exhibits in Section 4.1.2.)

PAGE 22

Johnson +Bailey Architects P.C. letter dated February 16, 2023
Johnson +Bailey Architects P.C. letter dated February 22, 2023
Attachment B – Federally Required Clauses for Projects using ARPA Grant Expenses, revised
February 22, 2023

...

Shane McFarland, Mayor

James Richard Pettit, President

...

APPROVED TO FORM

Adam Tucker, City Attorney

Certification of Document's Authenticity
AIA® Document D401™ – 2003

I, Adam F. Tucker, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:02:18 ET on 03/10/2023 under Order No. 3104238041 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

ATTACHMENT B
FEDERALLY REQUIRED CLAUSES FOR PROJECTS USING ARPA GRANT EXPENSES

- o **CONFLICT OF INTEREST - 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.

- o **SUSPENSION & DEBARMENT** - Debarment and Suspension (Executive Orders 12549 and 12689)
 - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

 - a. The awarded Proposer shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by an Federal department or agency to be:
 1. Debarred from participation in any federally assisted Award;
 2. Suspended from participation in any federally assisted Award;
 3. Proposed for debarment from participation in any federally assisted Award;
 4. Declared ineligible to participate in any federally assisted Award;
 5. Voluntarily excluded from participation in any federally assisted Award; or
 6. Disqualified from participation in any federally assisted Award.

 - b. By signing submitting a Proposal, Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in

Attachment B

its lower tier covered transactions.

- **BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)** - Contractors that apply for bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- **CIVIL RIGHTS COMPLIANCE.** Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23. In order to carry out its enforcement responsibilities under Title VI of the Civil Rights Act, Treasury will collect and review information from non-Tribal recipients to ascertain their compliance with the applicable requirements before and after providing financial assistance. Treasury's implementing regulations, 31 CFR part 22, and the Department of Justice (DOJ) regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 CFR part 42, provide for the collection of data and information from recipients (see 28 CFR 42.406). Treasury may request that recipients submit data for post-award compliance reviews, including information such as a narrative describing their Title VI compliance status. This collection does not apply to Tribal governments.
- **CIVIL RIGHTS REQUIREMENTS.**
 - a. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 USC §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC § 12132, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.
 - b. **Equal Employment Opportunity.** Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, awarded Proposer shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment

Attachment B

Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC §2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the awarded Contract. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment; upgrading demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

c. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, Contractor shall refrain from discrimination against present and prospective employees for reason of age.

d. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

- o **2 CFR 200.321 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.**

The City of Murfreesboro in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 41 U.S.C. 2000d to 2000d-4 hereby notifies all proposers that it will affirmatively insure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises ("DBE's") will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, creed, color, sex, national origin, or handicap in consideration for an award.

- o **DOMESTIC PREFERENCES FOR PROCUREMENTS. (2 CFR § 200.322)**

(a) As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(b) For purposes of this clause:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Attachment B

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

- **BONDING REQUIREMENTS.** (2 CFR § 200.326)
For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (\$250,000), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:
 - (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - (b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
 - (c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

- **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148).** (all prime construction contracts in excess of \$2,000 awarded by non-Federal entities) Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once a week. A copy of the current prevailing wage determination issued by the Department of Labor can be found in the solicitation. Award of the contract or subcontract is conditioned upon the acceptance of the wage determination. The City will report all suspected or reported violations to the Federal awarding agency.

- **COPELAND "ANTI-KICKBACK" ACT.** Contractor must comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City will report all suspected or reported violations to the Federal awarding agency.

Attachment B

- **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708)**. Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- **CLEAN AIR ACT (42 U.S.C. 7401-7671q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED** - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- **PROCUREMENT OF RECOVERED MATERIALS (2 CFR § 200.323)**. Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (2 CFR § 200.216)**.

Attachment B

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

- o **RECORDKEEPING REQUIREMENTS.** The City must maintain records and financial documents for five years after all funds have been expended or returned to the Department of Treasury, as outlined in paragraph 4.c. of the Award Terms and Conditions. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

The City must agree to provide or make available such records to Treasury upon request, and to the Government Accountability Office ("GAO"), Treasury's Office of Inspector General ("OIG"), and their authorized representative in order to conduct audits or other investigations.

- o **SINGLE AUDIT REQUIREMENTS.** Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.⁷

Attachment B

Note that the Compliance Supplement provides information on the existing, important compliance requirements that the federal government expects to be considered as a part of such audit. The Compliance Supplement is routinely updated, and is made available in the Federal Register and on OMB's website: <https://www.whitehouse.gov/omb/office-federal-financial-management/> Recipients and subrecipients should consult the Federal Audit Clearinghouse to see examples of Single Audit submissions.

- **COMPLIANCE WITH APPLICABLE LAW & REGULATIONS.**

Recipient agrees to comply with the requirements of sections 602 and 603 of the Act, regulations adopted by Treasury pursuant to sections 602(f) and 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

Federal regulations applicable to this award include, without limitation, the following:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part 180 and Treasury's implementing regulations at 31 CFR Part 19.
- Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- New Restrictions on Lobbying, 31 C.F.R. Part 21.
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- Generally applicable federal environmental laws and regulations.
- Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:
 - Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis

Attachment B

- of race, color, or national origin under programs or activities receiving federal financial assistance;
 - The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- **HATCH ACT.** The City agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
 - **PUBLICATIONS.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to City of Murfreesboro by the U.S. Department of the Treasury."
 - **PROTECTIONS FOR WHISTLEBLOWERS.** The City shall inform its employees in writing of the rights and remedies provided under clause 16 of the Grant Agreement, in the predominant native language of the workforce. Specifically, clause 16 states:
 - In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
 - The list of persons and entities referenced in the paragraph above includes the following:
 - A member of Congress or a representative of a committee of Congress;
 - An Inspector General;
 - The Government Accountability Office;
 - A Treasury employee responsible for contract or grant oversight or management;

Attachment B

- An authorized official of the Department of Justice or other law enforcement agency;
 - A court or grand jury; or
 - A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
-
- **INCREASING SEAT BELT USE IN THE UNITED STATES.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), the City encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

 - **REDUCING TEXT MESSAGING WHILE DRIVING.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

COUNCIL COMMUNICATION

Meeting Date: 04/20/2023

Item Title: Old Fort Pkwy/Franklin Rd (SR-96) Resurfacing Contract with TDOT Amendment No. 1

Department: Transportation

Presented by: Jim Kerr, Transportation Director

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Old Fort Pkwy/Franklin Rd (SR-96) Resurfacing Contract Amendment No. 1 with TDOT.

Staff Recommendation

Approve Amendment No. 1 with TDOT for the resurfacing of SR-96.

Background Information

In October, Council approved a contract with TDOT for the resurfacing of SR-96 between the I-24 interchange and Carol Drive. This project includes additional improvements to convert the existing 5-lane to a 7-lane roadway. Since that time TDOT has completed the design and has received bids for the project.

The attached contract amendment with TDOT outlines the City's participation in this project, including signal and signage upgrades and pavement-marking improvements. The City's estimated cost based on the low bid is \$140,700. \$69,208 has been deposited, leaving a balance due of \$71,492. For project efficiency and considering potential construction overruns, expenditure authority is requested up to \$150,000, which will be funded by State Street Aid. The Legal Department has approved of and will sign of through TDOT's process.

Council Priorities Served

Responsible budgeting

Partnering with TDOT for the improvements of roadway infrastructure allows for local funds to be used for other community purposes.

Expand infrastructure

With continued growth in this area, it has been identified that adding additional lanes would increase capacity and improve traffic flow.

Fiscal Impact

The City's estimated participation amount, up to \$150,000, is funded through State Street Aid.

Attachments

1. SR 96 Resurfacing Contract Amendment No. 1 with TDOT
2. Form Contract with TDOT



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
PROGRAM DEVELOPMENT & ADMINISTRATION DIVISION
LOCAL PROGRAMS DEVELOPMENT OFFICE
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-5314

BUTCH ELEY
DEPUTY GOVERNOR &
COMMISSIONER OF TRANSPORTATION

BILL LEE
GOVERNOR

April 6, 2023

The Honorable Shane McFarland
Mayor, City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Re: Miscellaneous Safety Improvements and Resurfacing of SR-96 from Carol Drive to near I-24
Murfreesboro, Rutherford County
PIN: 131244.00
Federal Project Number: HSIP-96(67)
State Project Number: 75S096-F3-002 / 75S096-M8-002 / 75S096-L8-006
Agreement Number: 220246, Amendment 1

Dear Mayor McFarland:

I am attaching an amendment to the original contract for the development of the referenced project. The amendment adds a additional state project number and updates non-participating costs on Exhibit A. Please review the amendment and advise me if it requires any additional explanation. The estimated cost for your agency's share of the non-participating costs is \$140,700.00 of which you have already provided \$69,208.15, leaving a balance due of \$71,492.00.

If you find the amendment fully satisfactory, please execute it in accordance with all rules, regulations and laws. Adobe Sign will then forward the document for the signature of the attorney for your agency. Upon execution by your Agency, please return your non-participating deposit of \$71,492.00 to me. Once the amendment is fully executed Adobe Sign will email you a link to download the amendment for your records.

The deposit may be made either by check made payable to the State of Tennessee Department of Transportation, Attn.: Matt Burcham in the Local Programs Development Office at the address listed above, or via deposit into the Local Government Investment Pool (LGIP) account. To deposit funds into your LGIP account, please follow the attached instructions.

If you have any questions or need any additional information, please contact Ms. Maria Hunter at 615-532-3632 or maria.hunter@tn.gov.

Sincerely,

Lisa Dunn

Lisa Dunn
Transportation Manager 1

Attachment

Ecc: Matt Burcham
Lisa Dunn
Jay Norris
Shane Hester
Nathan Vatter
Mayor: Shane McFarland: smcfarland@murfreesborotn.gov
Responsible Charge: Jim Kerr: jkerr@murfreesborotn.gov
City Attorney: Adam Tucker: atucker@murfreesborotn.gov
E-file

Amendment Changing Federal Project Number and Replacing Exhibit A

Amendment Number: 1
Agreement Number: 220246
Project Identification Number: 131244.00
Federal Project Number: HSIP-96(67)
State Project Number: 75S096-F3-002 / 75S096-M8-002

THIS AGREEMENT AMENDMENT is made and entered into this _____ day of _____, 20__ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and THE CITY OF MURFREESBORO (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

"Miscellaneous Safety Improvements and Resurfacing of SR-96 from Carol Drive to near I-24"

1. State Project Number 75S096-L8-006 is hereby added to the contract header.
2. The language of Agreement #220246 dated October 6, 2022 Exhibit A is hereby deleted in its entirety and replaced with the attached Exhibit A for Amendment 1 .

All provisions of the original contract not expressly amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF MURFREESBORO

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

By: _____ By: _____
Shane McFarland **Date** **Howard H. Eley** **Date**
Mayor **Commissioner**

**APPROVED AS TO
FORM AND LEGALITY**

**APPROVED AS TO
FORM AND LEGALITY**

By: _____ By: _____
Adam Tucker **Date** **John Reinbold** **Date**
Attorney **General Counsel**

Daniel Pallme, Interim Director

EXHIBIT "A" for AMENDMENT 1

Agreement #: 220246

Project Identification #: 131244.00

Federal Project #: HSIP-96(67)

State Project #: 75S096-F3-002 / 75S096-M8-002 / 75S096-L8-006

Project Description: SR-96 From Carol Drive to near I-24; Mill & 411D with additional improvements including converting the existing 5 lane cross section to 7 lanes, narrowing the existing lanes and converting the existing shoulder to a through lane in both directions while maintaining the middle turn lane. Project will also include signal upgrades to accommodate the additional lanes.

Change in Cost: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

Type of Work: Resurface & Safety

Phase	Funding Source	Fed %	State %	Local %	Estimated Cost
CONSTRUCTION	NON-PART	0%	0%	100%	\$140,700.00
CONSTRUCTION	HSIP	0%	100%	0%	\$2,088,450.00

Ineligible Cost: One hundred percent (100%) of the actual cost will be paid from Agency funds if the use of said state or federal funds is ruled ineligible at any time by the Federal Highway Administration.

Legislative Authority: HRRR/HSIP/SIP: 23 U.S.C.A., Section 148

TDOT Engineering Services (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to ensure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction Inspection and Material and Testing Expenses (Quality Assurance Testing).

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

REGION 3
6601 CENTENNIAL BOULEVARD
BUILDING A, 3RD FLOOR
NASHVILLE, TENNESSEE 37243
(615) 350-4300

BUTCH ELEY
DEPUTY GOVERNOR &
COMMISSIONER OF TRANSPORTATION

BILL LEE
GOVERNOR

October 14, 2022

Mr. Jim Kerr
City of Murfreesboro, Transportation Director
111 West Vine St., P.O. Box 1139
Murfreesboro, TN 37133

RE: Pin 131244.00 – SR-96 Resurfacing from Carol Drive to near I-24

Dear Mr. Kerr,

Thank you for your letter dated September 26, 2022, requesting consideration to modify the existing 5 lane cross section within the subject resurfacing project to 7 lanes to accommodate an additional thru travel lane in each direction by utilizing the existing wide shoulders along SR-96. We also thank you for meeting with TDOT Region 3 Leadership on September 16, 2022, to preface this request and share the supporting traffic analysis.

As stated in your letter, TDOT has worked with the City of Murfreesboro to do this very thing in the past on similar projects such as SR-10 (Church St.) and SR-1 (Broad St.). We concur with your request and pledge to partner with the City through a local agency agreement to be executed by TDOT's Local Programs Office to make the requested modifications within the subject resurfacing project. Per this agreement, the City will be responsible for the development of the necessary signal and pavement marking modification plan sheets to accompany the TDOT resurfacing plans bid set and the additional construction costs associated with the requested modifications.

As always, we greatly appreciate the City's contributions and partnership with the Department. Should you have any additional questions, please do not hesitate to contact me.

Thank you,

A handwritten signature in black ink, appearing to read 'Shane M. Hester', is written over a white background.

Shane Hester, TDOT Region 3 Director of Project Development

SH:sh

cc: David Layhew, TDOT Region 3 Director & Assistant Chief Engineer
Mike Brown, TDOT Region 3 Director of Operations
Shay Deason, TDOT Region 3 Operations Engineer
Mark Woods, TDOT State Pavement Engineer
Joe Simon, TDOT Region 3 Pavement Coordinator
Brad Abel, TDOT Region Design Manager



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
PROGRAM DEVELOPMENT & ADMINISTRATION DIVISION
LOCAL PROGRAMS DEVELOPMENT OFFICE
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-5314

BUTCH ELEY
DEPUTY GOVERNOR &
COMMISSIONER OF TRANSPORTATION

BILL LEE
GOVERNOR

September 30, 2022

The Honorable Shane McFarland
Mayor, City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Re: Resurface and Miscellaneous Safety Improvements on SR-96 from Carol Drive to near I-24
Murfreesboro, Rutherford County
PIN:131244.00
Federal Project Number: HSIP-96(67)
State Project Number: 75S096-F3-002 / 75S096-M8-002
Contract Number: 220246

Dear Mayor McFarland:

I am attaching a contract providing for the development of the referenced project. Please review the contract and advise me if it requires any additional explanation. The estimated cost for your agency's share of the is \$69,208.15.

If you find the contract fully satisfactory, please execute it in accordance with all rules, regulations, and laws. AdobeSign will then forward the document for the signature of the attorney for your agency. Upon execution by your Agency, please return your non-participating deposit of \$69,208.15 to TDOT. Once the contract is fully executed AdobeSign will send you a link to download the contract for your files.

The deposit may be made either by check delivered to Matt Burcham in the Local Programs Development Office at the address listed above or via deposit into the Local Government Investment Pool (LGIP) account. To deposit funds into your LGIP account, please follow the attached instructions.

If you have any questions or need any additional information, please contact Ms. Maria Hunter at 615-532-3632 or maria.hunter@tn.gov.

Sincerely,

Lisa Dunn

Lisa Dunn
Transportation Manager 1

Attachment

C O N T R A C T

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between **THE TREASURY DEPARTMENT OF THE STATE OF TENNESSEE**, hereinafter referred to as the "Treasury", and _____, Tennessee, hereinafter referred to as the "Local Agency".

W I T N E S S E T H:

WHEREAS, the State of Tennessee, acting through the Department of Transportation, entered into a contract with the _____, hereinafter called "Local Agency", on the _____ day of _____, 20____ relative to providing for implementation of _____.

WHEREAS, said agreement provides that the Local Agency may deposit its pro rata share of the estimated cost of the project with the Treasury for temporary investment as an alternative to furnishing the Department with said share, and the Local Agency has elected to use said alternate; and

WHEREAS, the Local Agency has made application to participate in the Local Government Investment Pool which has been accepted by the Treasury and has deposited its pro rata share of the estimated cost of the project by immediate credit transfer and advised the Treasury thereof and identified the account to which said deposit should be credited.

NOW THEREFORE, in consideration of the premises, the Treasury and the Local Agency agree as follows:

The Local Agency hereby authorizes Treasury to transfer from its Local Government Investment Pool Account (LGIP Account) relative to the above- identified project, to the account of the Department of Transportation, such amounts as said Department may request from time to time by written instructions from its Finance Director, without liability.

The Local Agency understands that no funds in its LGIP account shall be subject to withdrawal until the project is completed and the actual pro rata share of cost is determined. On completion, any surplus will be returned to the Local Agency pursuant to written instructions of said Department with an accounting of transfers made.

The Treasury will credit interest to the account which will be added to the principal and will become part of the surplus, if any, for disposition by said Department at the completion of the project. LGIP account statements will be sent to the Local Agency and said Department monthly. There will be an administrative fee charged to the Local Agency for the LGIP account at the same rate as other LGIP accounts are charged.

It is understood by the parties that the Treasury shall be responsible for the investment of aforesaid sum in accordance with the terms and conditions of the administration of the pool.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized officials as of the date above written.

**STATE OF TENNESSEE
TREASURY DEPARTMENT**

By: _____

NAME OF OFFICIAL WHOSE
SIGNATURE APPEARS BELOW

(Type or Print)

TITLE: _____

ADDRESS: _____

TELEPHONE NO: _____

COUNTY OF: _____

SIGNATURE
OF OFFICIAL: _____

INSTRUCTIONS FOR DEPOSITING FUNDS
FOR INVESTMENT IN LOCAL GOVERNMENT INVESTMENT POOL

Enclosed herewith you will find one (1) copy of a contract relative to investing in the Local Government Investment Pool (LGIP) administered by the State Treasury Department. These are for your use in providing evidence that the Local Agency's pro-rata share of funds for the amount set forth in the project agreement relative to the project identified in the contract have been deposited for the use of the Department of Transportation. After completing the information necessary in the body of the contract you will need to have a total of four (4) original copies signed by an authorized official. Due to the sophistication of today's copiers, signatures in ink of a color other than black will clearly mark them as original signatures and prevent possible delays. Mail two (2) copies to, Assistant Director of Investment Department, P. O. Box 198785, Nashville, TN., 37219-8785, and one (1) copy to Jennifer Herstek, Finance Administrator, Tennessee Department of Transportation, 800 James K. Polk Building, Nashville, TN 37243-0329. The remaining copy is to be retained for your file until a fully executed copy is returned by the Treasury Department. Any questions you have should be directed to **Assistant Cash Manager for LGIP Administration at (615) 532-1163**.

Please note that due to the volume of deposits, the Treasury Department will not confirm to TDOT that your deposit has been made more than once a month. To prevent delays in project development, once you have made the deposit, call the person who signed the letter transmitting this document. Give that person the account number to which you have made your deposit, the amount of your deposit and the date on which you submitted it.

Agreement Number: 220246
Project Identification Number: 131244.00
Federal Project Number: HSIP-96(67)
State Project Number: 75S096-F3-002 / 75S096-M8-002
State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20__ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the CITY OF MURFREESBORO (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

"Resurface and Miscellaneous Safety Improvements on SR-96 from Carol Drive to near I-24"

A. PURPOSE OF AGREEMENT

A.1 Purpose:

- a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

- a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

	Responsible Party	Funding Provided by Agency or Project.
Environmental Clearance by:	Department	Project
Preliminary Engineering by:	Department	Project
Right-of-Way by:	N/A	N/A

Utility Coordination by:	N/A	N/A
Construction by:	Department	Project

- b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.
- c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

B.2 Completion Date:

- a) This Agreement shall be effective from the period beginning on the fully executed date, and ending N/A. The Agency shall provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase by N/A. If the Agency does not provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase by the aforesaid date, then the Department may terminate this Agreement. If the Agency does not complete the herein described phases of the Project within the time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. The Agency hereby acknowledges and affirms that the Department shall have no obligation for Agency services or expenditures that were not completed within this specified contract period.

B.3 Environmental Regulations:

- a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.

- b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.
- c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

- a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.
 - 1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.
- c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

- a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.
- b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.
- c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.
- d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

- a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

- c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.
- d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.
- e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

- a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

- a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.
- b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:
 - 1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.
 - 2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

B.9 Railroad

- a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

- a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

- b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.
- c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.
- b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.
- c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

- a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the Project and payment of the eligible

costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**

The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**

There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**

The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**

There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**

The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department.

Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

- a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the “State Comprehensive Travel Regulations,” as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency 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 Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

- a) The Agency 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 Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.
- b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

- a) Nothing in the Agreement shall require the Agency 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 the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be

made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

- a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

- a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

- a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

- a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

- a) 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.

- b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

- a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

- a) **DBE Policy:**
It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.
- b) **DBE Obligation:**
The Agency and its Contractors agree to ensure that Disadvantaged Business

Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

- a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, 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.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

- a) **Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

- 1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- 2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.
- 3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- 4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
- 5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.
- 6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.
- 8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;
- 2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and
- 4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

- a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. 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.
- b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual 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 Contractors 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 Agency shall post, in conspicuous places available to employees and applicants for employment for

Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

- a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

- a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

- a) The Agency warrants that 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 Agency in connection with any work contemplated or performed relative to this Agreement.
- b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of it's subcontracts, the following provision:
 - 1) "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 Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

- a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

- a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of

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

- b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards 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.

D.19 Records:

- a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency 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 Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.
- b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department 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 findings involving the records have been resolved.
- c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

- a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department'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.
- b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

- a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.
- b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.
- c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

- a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation

for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

- a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.
- b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.
- c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

- a) 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.

D.25 Agreement Format:

- a) All words used herein in the singular form shall extend to and include the 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.

D.26 Certification Regarding Third Party Contracts:

- a) The Agency 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.
- b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.
- c) The Agency 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 Department.
- d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

- a) 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.

D.28 State Liability:

- a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

- a) 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.

D.30 Required Approvals:

- a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

- a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc
- b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

- a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

- a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

- a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

- a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.
 - 1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

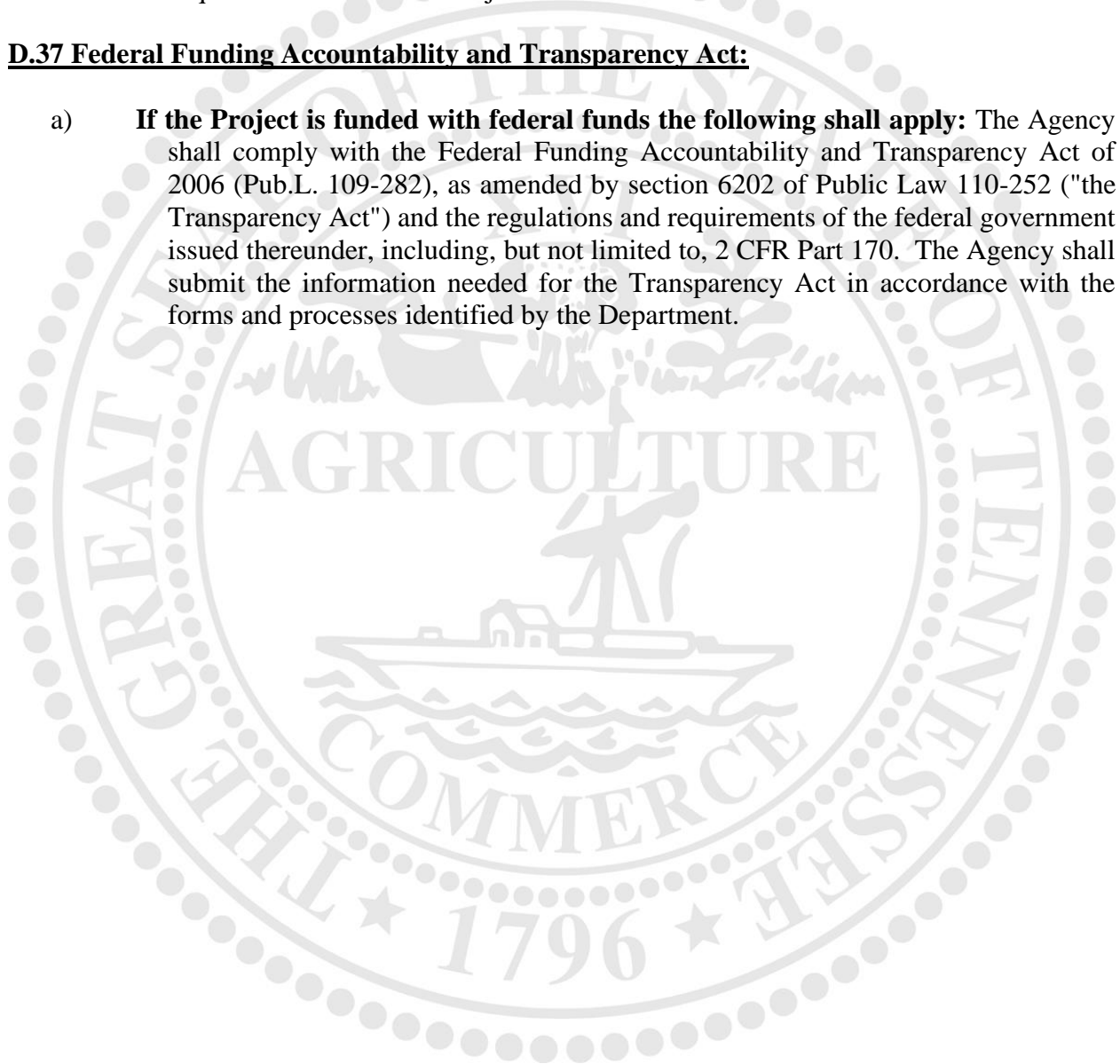
- a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount	=	Open to Public and Vehicular Traffic
\$1.00 - \$200,000	=	5 Years
>\$200,000 - \$500,000	=	10 Years
>\$500,000 - \$1,000,000	=	20 Years

- b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

- a) **If the Project is funded with federal funds the following shall apply:** The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.



IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF MURFREESBORO

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

Signature:

Email:

B

Signature:

Email:

**APPROVED AS TO
FORM AND LEGALITY**

**APPROVED AS TO
FORM AND LEGALITY**

Signature:

Email: atucker@murfreesborotn.gov

B

Signature:

Email:

B

Signature:

Email:

EXHIBIT "A"

AGREEMENT #: 220246

PROJECT IDENTIFICATION #: 131244.00

FEDERAL PROJECT #: HSIP-96(67)

STATE PROJECT #: 75S096-F3-002 / 75S096-M8-002

PROJECT DESCRIPTION: SR-96 From Carol Drive to near I-24: Mill & 411D with additional improvements including converting the existing 5 lane cross section to 7 lanes, narrowing the existing lanes and converting the existing shoulder to a through lane in both directions while maintaining the middle turn lane. Project will also include signal upgrades to accommodate the additional lanes.

CHANGE IN COST: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto

TYPE OF WORK: Resurface & Safety

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
CONSTRUCTION	HSIP	0%	100%	0%	\$2,088,450.00
CONSTRUCTION	NON-PART	0%	0%	100%	\$69,208.15

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds if the use of said state or federal funds is ruled ineligible at any time by the Federal Highway Administration.

LEGISLATIVE AUTHORITY: HRRR/HSIP/SIP: 23 U.S.C.A., Section 148

TDOT ENGINEERING SERVICES (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to ensure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction Inspection and Material and Testing Expenses (Quality Assurance Testing).

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.

No items.

