

**MURFREESBORO CITY COUNCIL**  
**Regular Meeting Agenda**  
**Council Chambers – 6:00 PM**  
**May 4, 2023**

**PRAYER**

Madelyn Scales Harris

**PLEDGE OF ALLEGIANCE**

**CEREMONIAL ITEMS**

Proclamation: Drinking Water Week

**Consent Agenda**

1. Transportation Department Title VI Program Plan (Administration/Transportation)
2. Contract for Management and Administrative Services for CDBG Program Activities FY24 (Community Development)
3. FY24 Annual Action Plan (Community Development)
4. Homeowner Rehabilitation - 1307 Stonewall Blvd (Community Development)
5. Grant Contract Amendments between Greater Nashville Regional Council and St. Clair Senior Center (Parks)
6. Use of RFCSP Method of Procurement for Transit Buses (Purchasing)
7. Purchase of Stormwater Concrete Piping for Drainage Improvement (Street)
8. Asphalt Purchases Report (Water Resources)

**New Business**

Ordinance

9. Ordinance 23-O-17 setting FY24 Water and Sewer Rate (Water Resources)  
First Reading: Ordinance 23-O-17

Resolution

10. Resolution 23-R-11 Unclaimed Property (Finance)

On Motion

11. Cleary Construction Airport Pavement Maintenance Contract (Airport)
12. FY 22 CIP Fund Reallocation for Manson/Fortress Project (Engineering)
13. Contract for Construction for Gateway Blvd Extension Project (Engineering)
14. Gateway Blvd Construction Administration Contract (Engineering)
15. Renewal of Managed Security Service (Info Tech)
16. Amended and Restated Agreement with WastAway for Qualified Biogas Facility (Solid Waste)
17. Geotechnical Services for Qualified Biogas Facility on Butler Dr. (Solid Waste)
18. SCADA Contract Amendment (Water Resources)

19. LJA Engineering Task Order Amendment Hobas Pipe Sewer Rehabilitation (Water Resources)
20. Construction Contract for Sewer Rehabilitation (Water Resources)
21. SSR Engineering Task Order Amendment Overall Creek Pump Station (Water Resources)

**Board & Commission Appointments**

22. Cable Television Commission (Administration)
23. Housing Authority (Administration)
24. Pension Committee (Administration)

**Licensing**

**Payment of Statements**

**Other Business**

**Adjourn**

## COUNCIL COMMUNICATION

**Meeting Date: 05/04/2023**

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**Item Title:** Transportation Department Title VI Program  
**Department:** Administration/Transportation  
**Presented by:** Karen Lampert, Grant Manager/Title VI Coordinator  
Russ Brashear, Assistant 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"/>

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**Summary**

Three-year Transportation Department Title VI Program.

**Staff Recommendation**

Approve the Transportation Department Title VI Program.

**Background Information**

Recipients of FTA financial assistance are mandated to carry out USDOT Title VI regulations and required to show proof of compliance for the necessary policy and procedures every three years. The Transportation Department Title VI Program includes all the required documentation as outlined in the FTA Circular's Title VI Program Checklist.

**Council Priorities Served**

*Responsible budgeting*

Maintains compliance with federal funding sources to ensure continued federal support.

**Attachments**

Transportation Department Title VI Program



City of Murfreesboro #6640

Transportation Department  
Title VI Program

2023

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Russ Brashear, Assistant Director Transportation

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## Introduction

As a recipient of financial aid through federal and state grant awards and appropriations, The City of Murfreesboro has a regulatory obligation to comply with Title VI guidelines as set forth through federal law, statues, and regulations.

The information contained in the Title VI Program is intended as a beginning reference point in the City's adherence and compliance of Title VI as governed by the various federal and state funding agencies, such as (but not limited to) the U.S. Department of Transportation Federal Transit Administration, Tennessee Department of Transportation, Tennessee Department of Environment and Conservation (TDEC), Housing and Urban Development (HUD), and Department of Transportation (Title 49 CFR Part 21). As such, these entities also provide additional resources and information that is relevant to the appropriate funding source and departmental application. (i.e. City of Murfreesboro Transportation Department following U.S. Department of Transportation Federal Transit Administration Guidance [FTA Circular 4702.1B: Title 6 Requirements and Guidelines for Federal Transit Administration Recipients \(dot.gov\)](#) )

Therefore, as a general means of assisting City of Murfreesboro staff in the administration, compliance, and management of the policies and responsibilities related to Title VI and associated activities, this Title VI program document contains a broad overview of applicable Title VI information and Language Assistance Plan. The direction, guidance and procedures in this document will help City employees to:

- a. Ensure that the level and quality of City services are provided in a nondiscriminatory manner;**
- b. Promote full and fair participation in applicable public decision-making without regard to race, color, or national origin;**
- c. Ensure meaningful access to City programs and activities by persons with limited English proficiency.**

## Title VI of the Civil Rights Act of 1964

***“No person in the United States shall, on the ground of race, color, or national origin be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Title VI of the Civil Rights Act of 1964; 42 U.S.C. § 200d, et seq.***

Section 162(a) of the Federal-Aid Highway Act of 1973 (section 324, Title 23 U.S.C.) added the requirement that there be no discrimination on the grounds of sex.

The Civil Rights Restoration Act of 1987 clarified the broad, institution-wide application of Title VI. Title VI covers all of the operations of covered entities without regard to whether specific portions of the covered program or activity are Federally funded.

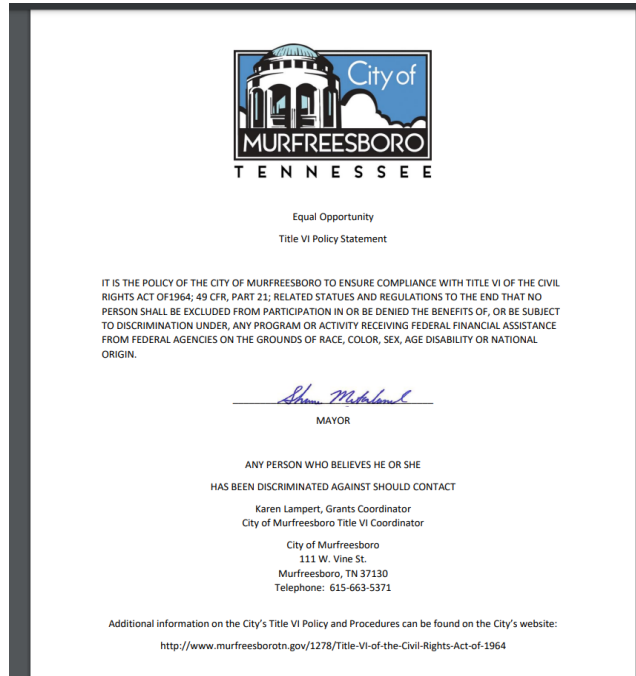
Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 2/11/1994. Executive Order 12898 requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin. If a program, policy, or activity will have a disproportionately high and adverse effect on minority or low-income populations, that program, policy, or activity may only be carried out if further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects are not practicable.

### **Title VI: Notice to the Public**

The City of Murfreesboro is required to publicly post a Title VI notice that indicates the City complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI. The following notice is posted for public view at City facilities with customer service activity, public transportation facilities, and on the City’s website.

Title VI Policy Statement:

**IT IS THE POLICY OF THE CITY OF MURFREESBORO TO ENSURE COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964; 49 CFR, PART 21; RELATED STATUTES AND REGULATIONS TO THE END THAT NO PERSON SHALL BE EXCLUDED FROM PARTICIPATION IN OR BE DENIED THE BENEFITS OF, OR BE SUBJECT TO DISCRIMINATION UNDER, ANY PROGRAM OR ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM FEDERAL AGENCIES ON THE GROUNDS OF RACE, COLOR, SEX, AGE DISABILITY OR NATIONAL ORIGIN.**



(sample of City's public notice)

**Transportation Department:** Additionally, in compliance with Federal Transit Authority, Office of Civil Rights, the Transportation Authority posts a Title VI Policy Statement in English and Spanish (See Appendix A) in the following locations Transit Vehicles, Transit Hub and Public Notice areas of Transit offices and online at

<https://www.murfreesborotn.gov/1278/Title-VI-of-the-Civil-Rights-Act-of-1964>

## Title VI: Complaint Procedures

The City of Murfreesboro is required to provide to the public instructions regarding how to file a Title VI discrimination complaint. The following Title VI complaint filing instructions are available online (<https://www.murfreesborotn.gov/1348/Title-VI-Policy-Complaint-Procedures>) and within the City of Murfreesboro's Title VI Policy.

### 2.1. Required Time to File Complaint

To allow time to file first with the City and then externally with an appropriate outside agency or court, as the complainant chooses, any complaint to the City should be filed promptly and must be filed not later than one hundred eighty (180) calendar days after the alleged discrimination occurred. If the complainant is not satisfied with the findings or the proposed remedial action, the complainant may still file externally within any applicable statute of limitations.

If a complaint is filed within the City and is filed externally during the same time, the external complaint supersedes the internal complaint filing. Accordingly, the City's complaint procedures will be suspended pending outcome of the external complaint.



## 2.2 Step 1- Informal meeting with department head

The complainant and/or the complainant's representative are encouraged to initiate the process by meeting with the city department head of the service or facility where the alleged discrimination took place. The complainant should provide the basis of the complaint (race, color, national origin) and the nature of the incident that led the complainant to feel that discrimination was a factor.

The department head shall immediately notify the Title VI Coordinator. The department head shall, within ten (10) workdays after receiving the complaint, reach a decision and communicate the decision to the complainant and the Title VI Coordinator.

Upon receipt of a complaint, the Title VI Coordinator will determine jurisdiction. Complaints against the City involving Federal Highway Administration funds will be forwarded to the appropriate State agency, the Tennessee Department of Transportation, for proper disposition pursuant to its procedures.

## 2.3 Step 2- Formal complaint to Title VI Coordinator

If the complaint is not resolved at Step 1, or if the complaint is not first brought to the department head, a written complaint shall be filed with the City's Title VI Coordinator.

The complainant should complete a Complaint Form, which contains the following information:

1. Name, address and telephone number of the complainant.
2. The location and name of the city department delivering the service;
3. The nature of the incident that led to the complainant to feel that discrimination was a factor;
4. The basis of the complaint (race, color or national origin);
5. Names, addresses and phone numbers of people who may have knowledge of the event;
6. The date or dates on which the alleged discriminatory event or events occurred.

The Coordinator shall notify the department of the formal complaint and initiate an investigation immediately. The department head shall provide assistance during this internal investigation as requested by the Coordinator.

The internal investigation shall be completed within twenty (20) workdays of receipt of the complaint, at which time the Coordinator will inform the complainant in writing of its disposition, including any findings of fact and any actions to be taken.

## 2.4 Disposition of Complaints

**Sustained Complaints** – If the complaint is substantiated, this policy and procedure prohibiting discrimination will be reviewed with the offender. Appropriate disciplinary action and/or training will be taken pursuant to the City's disciplinary procedures.

**Unsubstantiated Complaints** – If there is insufficient evidence to either prove or disprove the allegation(s), both parties to the complaint will be informed of the reason(s) for this disposition.

**Unfounded Complaint** – If it is determined that an act reported pursuant to this

policy/procedure did not in fact occur, a finding of “unfounded” shall be made.

Exonerated Complaints – If it is determined that an act reported pursuant to this policy/procedure did in fact occur, but was lawful and proper within the guidelines established herein, a finding of “exonerated” shall be made.

## 2.5 Review by appeal

If the complainant is not satisfied with the resolution, an appeal process is available. An appeal request for review of a determination of unlawful denial of access or accommodation to public transportation must be filed, in writing, within thirty (30) calendar days of the resolution of the complaint, with the Title VI Coordinator.

The written appeal must include the complainant’s name, address, and telephone contact number. A statement of reason(s) why the complainant believes the denial of the complaint was inappropriate is recommended.

The Title VI Coordinator will set a mutually agreed-upon time and place for the review process with the complainant–appellant and/or representatives and the City Manager or designee within thirty (30) days of the request. The complainant–appellant may submit documents or other information to be included with the record and considered in the review process. A record of the review will be kept by the City.

A complainant’s right to a prompt and equitable resolution of the complaint will not be impaired by the complainant’s pursuit of other remedies. Use of this complaint procedure is not a prerequisite to the pursuit of other remedies.

## 2.6 Complaint Log

The Coordinator will maintain a Title VI complaint log to show identifying information type, and status of each complaint filed, including those filed under Step 1 of this procedure. When any investigation is concluded, the Coordinator will keep a copy of the report on permanent file.

## **Title VI: Complaint Form**

The City of Murfreesboro makes its complaint form available online at <http://www.murfreesborotn.gov/1278/Title-VI-of-the-Civil-Rights-Act-of-1964> or a printed copy can be requested through a City Employee or the Title VI Coordinator. (Copy of form found in Appendix B)

## Transit Related Title VI Investigations, Complaints and Lawsuits 2020-2022

	<b>Date</b>	<b>Summary</b>	<b>Status</b>	<b>Action(s) Taken</b>
<b>Investigations</b>				
Weasoner, W.	July 21, 2021	Verbal complaint issued to Assistant Transportation Director indicating discrimination (no specific basis of race, color or national origin disclosed)	Unfounded Complaint	Complainant rescinded complaint. Investigation showed individual issued complaint after being asked to turn off music or to use earbud, per posted bus policies.
<b>Lawsuits</b>				
No active or pending lawsuits under Title VI for the City or Transportation Dept.				
<b>Complaints</b>				
Carter, A.	March 4, 2020	Complaint against Social Security Administration on basis of race and color	Resolved-no jurisdiction under City of Murfreesboro	Responded to complainant explaining jurisdiction and information to file to appropriate authorities.
Neisen, H.	October 10, 2021	Complaint against Rutherford County Courts on basis of National Origin Discrimination.	Resolved-no jurisdiction under City of Murfreesboro	Responded to complainant explaining jurisdiction and information to file to appropriate authorities.
Robinson, S.	May 11, 2022	Complaint against Murfreesboro Housing Authority- indicated Domestic Violence	Resolved-no jurisdiction under City of Murfreesboro	Responded to complainant explaining jurisdiction and information to file to appropriate authorities.

## Public Participation Plan

### MPO Membership

Since the 1960's, the federal government has required that urbanized areas over 50,000 in population maintain a continuing, comprehensive and cooperative planning process. In Tennessee, this program is administered through TDOT and is implemented by the [Metropolitan Planning Organization \(MPO\)](#).

On Dec. 16, 1992, the governing board of the Nashville Area MPO voted to expand its membership to cover Davidson, Rutherford, Sumner, Wilson and Williamson counties. Because the five-county area is classified as a maintenance zone by the Environmental Protection Agency (EPA), it qualifies for federal funds appropriated for reducing transportation-related emissions.

Murfreesboro has benefited from its membership in the Nashville area MPO in several ways including being the beneficiary of approximately \$51 million in federal transportation funds directed at 13 past, current, and future transportation-related projects. These are:

- Middle Tennessee Boulevard Widening -- Greenland Drive to Main Street
- Old Fort Park & Ride Facility
- Closed Circuit Television Installation (Phases One, Two and Three)
- Broad and Memorial separated grade crossings.
- U.S. 231 and I-24 Interchange Signalization and lane additions.
- Clark and Memorial Intersection Improvement.
- Bradyville and Minerva Intersection improvements.
- New Salem Highway and Bridge Avenue Intersection Improvement.
- Greenland Drive Widening - Middle Tennessee to Champion Way.
- Bradyville Pike Widening - S.E. Broad to Rutherford.
- Thompson Lane Widening - Broad St. to Memorial Blvd.
- Cherry Lane Extension - Memorial Blvd. to N.W. Broad St.
- SR 99 Widening - Old Fort Pkwy. to Veterans

The MPO's regional perspective gives its members the advantage of tackling problems common to all. Regional studies have included formulation of the Regional Long Range Transportation Plan, Intelligent Transportation Systems Strategic Plan, Incident Management Plan and Commuter Rail Studies.

Murfreesboro Transportation Director Jim Kerr and Assistant Transportation Director Russ Brashear currently serve on the MPO's technical coordinating committee and Murfreesboro Mayor Shane McFarland serves on the executive board.

## **Public Participation Plan (PPP) Update**

In accordance with 23 CFR 450.316, the Public Participation Plan (PPP) provides the general public and interested parties with an overview of opportunities to be engaged in the metropolitan/transportation planning process. This includes information about the strategies deployed to engage the public and stakeholders, and the specific timelines and requirements for public comment during the development and adoption of the regional transportation plans and programs.

[Greater Nashville Regional Council \(GNRC\)](#)

[Public Participation in Transportation Planning for the Nashville Metropolitan Area](#)

[THIRD DRAFT - March 26, 2019](#)

[MPO Membership & Public Participation Plan | Murfreesboro, TN - Official Website \(murfreesborotn.gov\)](#)

### **City Wide Efforts to Promoting Public Participation**

The City of Murfreesboro uses effective strategies, procedures and proactive outcomes when providing appropriate opportunities for the public to offer comments, feedback and participation in plans, programs and/or services that are of significance to the community.

The City of Murfreesboro engages in both comprehensive and targeted measures to encourage the participation of all its residents, including minorities and non-English speaking persons, as well as persons with mobility, visual or hearing impairments, in all stages of the process when seeking public participation.

Efforts by the City may include, but not limited to:

- Notification of citizen participation meetings will be provided through the advanced publication of notices in the local newspaper (i.e. Daily News Journal, Murfreesboro Post), on the government cable channel and on the local radio station (WGNS), as well as through City social media platforms and on City website.
- Notices will contain instructions for obtaining an interpreter for Non-English speaking persons or how to request special accommodations for individuals with special needs. Opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments will be considered upon request.
- All meetings will be held in locations that are ADA accessible and will be published in time for any other special needs to be met.
- Coordinate with appropriate and applicable community- and faith-based organizations, educational institutions, and other organizations that reach out specifically to members of affected minority and/or LEP communities.
- Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.

The City also maintains a Citizens Participation Plan as required by HUD guidelines in compliance with CDBG regulations and its associated Consolidated Plan as administered by the City of Murfreesboro's Community Development office. (Copies available upon request from the Community Development Office)

## **Transportation Department Public Participation Outreach Summary**

The City of Murfreesboro's Transportation Department engaged in the following Public Participation outreach activities for:

### **2020**

Due to the affects and restrictions of the COVID-19 Pandemic no formal outreach activities were conducted during this year. Communications about Transit Route issues are always posted on the City website, the Bus Hub, and affected route shelters.

### **2021**

Due to the affects and restrictions of the COVID-19 Pandemic LIMITED outreach activities were conducted during this year. Communications about Transit Route issues are always posted on the City website, the Transit Hub, and affected route shelters.

To assist the City's Transportation Department with outreach activities the Department initiated the use of a Business Diversity email simply called [BusinessDiversity@murfreesborotn.gov](mailto:BusinessDiversity@murfreesborotn.gov) for communications to be easily identified.

On June 16, 2021, a Zoom meeting was conducted by Russ Brashear, Asst. Transportation Director. The purpose of this meeting was to share information of potential and future DBE options with the City's Transportation Department. Over 20 DBE Firms were notified via email directly from the City's Business Diversity email. This meeting was announced on June 3, 2021 with two reminder emails. One DBE firm participated in the Zoom meeting.

Additionally, the city also announced on June 30, 2021 an in-person meeting for July 7, 2021. The in-person meeting announcement was posted on the City website along with a link to the TDOT Unified Certification Program where businesses can apply for DBE Certification.

### **2022**

No formal Outreach activities were conducted this year. Route and service announcements were posted on the City Website, at shelters and the Transit Hub.

Russ Brashear, Asst. Transportation Director attended the annual Metropolitan Nashville Airport Authority Business Diversity Development event in April.

**Publication notices can be found in Appendix C.**

## Language Assistance Plan

The City of Murfreesboro engages in a Language Assistance Plan to identify reasonable steps to provide language assistance to Limited English Proficiency (LEP) persons who are seeking access to City Services. This Plan, as required by Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," issued on August 11, 2000, outlines the City's responsibilities to ensure a person(s) who do not speak English as their primary language and who has limited ability to speak, read, write, or understand English is not subject to anti-discrimination practices pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations that ensure all individuals have meaningful access to the City's programs, activities and services.

**Executive Order 13166: Improving Access to Services For Persons With Limited English Proficiency, 8/11/2000. Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.**

Executive Order 13166 applies to all federal agencies and all programs and operations of entities that receive funding from the federal government, including state agencies, local agencies and governments, private and non-profit entities, and subrecipients.

It is the goal of the City of Murfreesboro to reduce the language barriers for LEP individuals seeking to utilize City of Murfreesboro services and to ensure that such services are accessible to all persons. To achieve this goal, the City of Murfreesboro will take ongoing, reasonable steps, consistent with the fundamental mission of the City of Murfreesboro, to ensure meaningful access by LEP persons to services provided by the City of Murfreesboro.

*A Limited English Proficiency person is one who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English.*

This plan details procedures on how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training, how to notify LEP persons that assistance is available, and information for future program updates.

*Discrimination is any negative action or attitude directed toward someone because of protected characteristics, like race or national origin.*

Murfreesboro City Schools, as a City entity that functions independently, is excluded from this plan. LEP and Anti-discrimination plans are addressed separately in Murfreesboro City Schools' respective policies and procedures.

## Four Factor Analysis

To determine the extent of the City of Murfreesboro’s obligation to provide LEP services, the City uses a four factor LEP analysis which considers the following: 1) the number or proportion of LEP persons eligible in the service area who may be served or likely to encounter a City of Murfreesboro program, activity, or service; 2) the frequency with which LEP individuals come in contact with said services; 3) the nature and importance of the program, activity or service provided by the City to the LEP population; and 4) the resources available to the City and overall costs to provide LEP assistance.

Where the Census shows more than 5% (>1,000) of the eligible population in the agency’s geographic service area speak a language other than English “less than very well,” a written Language Access Plan should be considered. The City of Murfreesboro has used the following analysis in identifying appropriate LEP populations and needs.

**1. The number or proportion of LEP persons eligible in the City of Murfreesboro service area who may be served or are likely to encounter a City of Murfreesboro program, activity, or service.**

2020 U.S. Census Data	All Households in Murfreesboro	Limited English-Speaking Households	Percent limited English-speaking Households
	52,252	1,184	<b>2.3%</b>
Spanish speaking households	3271	808	24.7%
Other Indo-European language	1024	14	1.4%
Asian and Pacific Island Language	1069	305	28.5%
Other languages	644	57	8.9%

Asian and Pacific Island Languages and Spanish are the most prevalent non-English language spoken in the City of Murfreesboro.

**2. The frequency with which LEP individuals come in contact with City of Murfreesboro programs, activities, or services:**

The City of Murfreesboro annually assess the frequency at which staff have or could possibly have contact with LEP persons. This assessment will be conducted by the Title VI Coordinator and will include department surveys to identify number of times phone translations services used, requests for translators at public meetings and anecdotal information on any additional inquiries or requests for services.

**3. The nature and importance of the program, activity, or service provided by City of Murfreesboro to LEP community:**

The City of Murfreesboro takes into consideration any social, service, professional and leadership organizations within the City’s service area that focuses on outreach or membership of LEP individuals to assist in identifying needs within LEP communities. This includes, but is not limited to, the Regional Transit



#### 4. The resources available to the City of Murfreesboro and overall costs:

The City of Murfreesboro will regularly assess its available resources that could be used for providing LEP assistance. This includes identifying how much a professional interpreter and translation service would cost on an as needed basis, which documents would be the most valuable to be translated if and when the population supports, taking an inventory of available organizations that the City of Murfreesboro could partner with for outreach and translation efforts, and what level of staff training is needed.

The required availability of specific language resources is based on Census data that reflects more than 5% (>1,000) of the eligible population in the agency’s geographic service area speak a language other than English “less than very well.”

City of Murfreesboro 2020 U.S. Census American Community Survey Data

<b>Population 5 years and over</b>	<b>Speak only English or speak English “very well.”</b>	<b>Speak English less than “very well”</b>
132,846	128,023 (96.4%)	4,823 (3.6%)
Citizens 18 years and older	102,587 (98.8%)	1,265 (1.2%)

Of the 10.3% of the total population 5 years and over who speak a language other than English, 6.1% speak Spanish, 1.9% speak Asian, 1.2% Other Indo-European Languages, and 1.1% other languages. (2020 U.S. Census American Community Survey S1601 Language Spoken at Home)

**Safe Harbor:** The Safe Harbor Provision stipulates that, if a recipient provides written translation of vital documents for each eligible LEP language group that constitutes five percent (5%) or 1,000 persons, whichever is less, of the total population of persons eligible to be served or likely to be affected or encountered, then such action will be considered strong evidence of compliance with the recipient’s written translation obligations. Translation of non-vital documents, if needed, can be provided orally. If there are fewer than 50 persons in a language group that reaches the five percent (5%) trigger, the recipient is not required to translate vital written materials but should provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost. These safe harbor provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable.

### Language Assistance Measures

The City of Murfreesboro employs the following measures to ensure appropriate access to resources to enable meaningful access to services by LEP persons.

#### Available Resources

- “I Speak Cards” and LEP resources to all City of Murfreesboro departments that interface with the

public. (Appendix D)

- <https://www.lep.gov/sites/lep/files/media/document/2020-02/crcl-i-speak-booklet.pdf>
- <https://prod.lep.gov/translation#toc-language-identification-and-i-speak-cards>
- AVAZA Telephone Interpretation Services – When an interpreter is needed, City of Murfreesboro staff has the additional option to contact an interpreter through a contracted telephone interpretation service provider. All departments are provided with information on the service provider and instructions on how to access the service. (See Sample in Appendix D)
- The City of Murfreesboro’s website prominently provides accessibility features and “Google Translate” access on all pages.
- Google Translate also provides City employees with limited translation and interpretation assistance via computers and smart phones. To be used judiciously due to reliability and accuracy.
- Access to translation of vital documents by a State certified translator to ensure meaningful access by LEP persons to services provided by the City of Murfreesboro.
- Some departmental resources may be different, based on Department needs and additional requirements imposed by Federal or State regulations that pertain to operations in that specific department.

The following departments have known language resources available for their services and public interactions:

- Transportation Department: Avaza “I Speak Cards” and translation line services. Information is posted in Murfreesboro buses and transportation center.
- Public Safety (Dispatch, MPD, MFRD): Voiance Translation Service. Language Line is used for non-emergency communications. Public Safety translation services are accessed through Dispatch.
- City Court has access to TN Court Certified Interpreters for court hearings and provides a written copy of court rules in English and Spanish.
- CityTV provides foreign language programming for City information in Japanese by Mari Yamamoto, Laotian by Chanto Sourinho and Spanish by Johanna Jijon.
- Murfreesboro Municipal Airport uses “I Speak Cards”, translation line services through Dispatch, internet-based translation websites, telephone conferencing interpretation services, and translation of major documents into Spanish by a State certified translator.

### City of Murfreesboro Staff Training

City of Murfreesboro staff will receive training on LEP resources and procedures through Title VI training, as conducted by each Department. Additional information will be provided during the City’s new hire orientation training conducted by HR. Information that is available to Departments as part of the City of Murfreesboro Title VI training materials includes:

- understanding the City’s Title VI policy and LEP responsibilities

- what language assistance services City of Murfreesboro offers
- use of interpreter and translation services
- documentation of language assistance requests
- how to handle a Title VI or LEP complaint

### LEP Outreach Techniques

The following are a few options that the City of Murfreesboro can incorporate when and/or if the need arises for LEP outreach:

Meeting notices, fliers, advertisements, and agendas will be printed in an alternative language, based on known LEP population in the area where staff know that they will be presenting a topic that could be of potential importance to an LEP person(s) or if staff will be hosting a meeting or a workshop in a geographic location with a known concentration of LEP persons.

When running a general public meeting notice, staff will insert the clause, based on the LEP population and when relevant, that translates into “A (insert alternative Language) translator will be available”. For example: “Un traductor del idioma español estará disponible” This means “A Spanish translator will be available”.

Key print materials, as selected and approved by Department and City leadership, will be translated, and made available at identified City locations and, as necessary, in communities when a specific and concentrated LEP population is acknowledged.

### Monitoring and Updating

The Language Assistance Plan is designed to be flexible and is one that can be easily updated. This plan will be reviewed annually, with a re-evaluation of whether there have been changes in the Murfreesboro LEP population demographics, types of Murfreesboro services offered, or other needs which indicate a need to update/expand the City of Murfreesboro language assistance. At a minimum, the City of Murfreesboro will follow the Title VI Program update schedule for the LEP Process. Major updates most likely coincide with the release of the most current Census data unless the City of Murfreesboro finds it necessary and crucial for an update before such time.

Each update will examine all program components such as:

- How many Limited English Proficiency (LEP) persons were encountered?
- Were their needs met?
- What is the current LEP population in City of Murfreesboro service area?
- Has there been a change in the types of languages where translation services are needed?

- Is there still a need for continued language assistance for previously identified City of Murfreesboro programs? Are there other programs that should be included?
- Have the City of Murfreesboro available resources, such as technology, staff, and financial costs changed?
- Has the City of Murfreesboro fulfilled the goals of the LEP Program?
- Were any complaints received?
- Review/contact with community agencies/groups who reach out to the Spanish speaking community

### Dissemination of the City of Murfreesboro Limited English Proficiency Program

The City of Murfreesboro includes the LEP program on the City’s website ([www.murfreesborotn.gov](http://www.murfreesborotn.gov)) together with its Title IV Policy and Complaint Procedures. In addition, the City’s Notice of Rights under Title VI to the public are posted on all City of Murfreesboro buses and at City facilities open to the public.

Any person, including social service, non-profit, and law enforcement agencies and other community partners with internet access will be able to access the program.

Copies of the Title VI plan will be provided, on request, to any person(s) requesting the document via phone, in person, by mail or email. Google Translate option on the City’s website ([www.murfreesborotn.gov](http://www.murfreesborotn.gov)) may provide additional access to City resources in other languages.

### **Non-elected Committees & Council Minority Participation**

The City of Murfreesboro maintains efforts to ensure all members of non-elected boards, councils and commissions are representative of members that reflect the diverse community of residents in Murfreesboro. To publicly engage residents' participation a listing of all City Boards and Commissions are posted at City Hall and on the City’s website. City of Murfreesboro encourages its residents to volunteer for service on a Board or Commission of interest to them by submitting a questionnaire. Questionnaires are available from the Office of the Mayor and the City’s website. Minorities, women and individuals with disabilities are strongly encouraged to apply. Unless otherwise noted, all members of City Boards and Commissions are appointed by the Mayor and confirmed by the City Council for staggered terms; serve without pay; may be reappointed without limit; serve until their successors are selected; and elect their own officers.

Transportation related Boards and Commission are the City Council and Planning Commission. City Council members are elected, and Planning Commission members are nominated by the Mayor and approved by the Council.

City Council members serve two staggered terms of four years. Murfreesboro city elections are held in August to coincide with the general election with terms of office commencing on the following September 1st.

Planning Commission members service three-year terms with the possibility for reappointment. Two of the Planning Commission members are City Council members with the remaining five members being appointed by the City Council.

Body	Caucasian American	Latino American	African American	Asian American	Native American
Population 2020 Census	71.1%	7.7%	19.1%	3.4%	0.2%
City Council	71%	0	29%	0	0
Planning Commission	86%	0	14%	0	0

### Subrecipient Compliance and Monitoring

The City of Murfreesboro, when engaging in subaward activities will ensure subrecipients have access to the City’s Title VI information, via the website, to provide them with:

- a. Sample notices to the public informing beneficiaries of their rights under Title VI regulations, procedures on how to file a Title VI complaint, and the recipient’s Title VI complaint form.
- b. Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient, and the City will identify when the City expects the subrecipient to notify the City of complaints received by the subrecipient.
- c. Demographic information on the race and English proficiency of residents served by the subrecipient. This information will assist the subrecipient in assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.
- d. Any other recipient-generated or obtained data that will assist subrecipients in complying with Title VI.

In accordance with 49 CFR 21.9(b), and to ensure that any subrecipients being engaged with federal and/or state funds are complying with the City’s Title VI regulations, the City will monitor their subrecipients for compliance with the regulations. In order to ensure the subrecipient is in compliance with Title VI requirements, the City shall undertake appropriate activities to review and collect appropriate documentation to ensure compliance.

### Contractors

Contractors and subcontractors are responsible for complying with the Title VI Program of the City with whom they are contracting. Contractors are not required to prepare or submit Title VI Programs, however the City is responsible for ensuring that contractors are following the Title VI Program and complying with Title VI.

**NOTE: City of Murfreesboro Transportation Department does NOT have any subrecipients.**

## Title VI Equity Analysis for Constructed Facilities

Based on information contained in FTA C 4702.1B Chapter IV, the City of Murfreesboro Transportation Department is not required to perform a Title VI Equity Analysis related to the impending construction of the Transit Facility. Murfreesboro Transit operates fewer than 50 vehicles and is a Small UZA with a population under 200,000.

## City Council Approval of the 2023 Transportation Department Title VI Program

See Appendix E for Agenda and City Recorder attestation to City Council approval.

## Transportation Department Service Standards and Policies

Title of Policy	Description of Policy	Policy
System-Wide Title VI Policy	Title VI policies that guide Murfreesboro Public Transit for service and fare changes. The overall Title VI policy that guides the Federal Transit Administration is: <i>"no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."</i>	<p><b>Murfreesboro Public Transit</b> ensures that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."</p> <p><b>Murfreesboro Public Transit</b> will utilize criteria or methods of delivering service which will not have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.</p> <p><b>Murfreesboro Public Transit</b> will take affirmative action to assure that no person is excluded from participation in, or denied the benefits of, the program or activity on the ground of race, color, or national origin.</p> <p><b>Murfreesboro Public Transit</b> assures that "no person or group of persons shall be discriminated against with regard to routing, scheduling, or quality of transportation service furnished as a part of the project on the basis of race, color, or national origin. Frequency of service, age and quality of vehicles assigned to routes, quality of Murfreesboro Public Transit buses service different routes, and location of routes may not be determined on the basis of race, color, or national origin."</p>
System-Wide Transit Amenities Service Policy	Policy to ensure equitable distribution of transit amenities across the system.	Installation of transit amenities along bus routes are based on the number of passenger boardings at stops and stations along those routes. Variances from this policy may be considered to support connectivity, safety, and riders with limited mobility.
Signage at Bus Stops Policy	Signage at Bus Stops Policy	All Murfreesboro Public Transit bus stops shall feature signs with readable and accurate information.

Benches at Bus Stop Policy	Policy for installation of benches at bus stops. The City is responsible for benches.	Murfreesboro Public Transit shall ensure that bus benches are placed properly, designed adequately, and serve the needs of customers sufficiently. Benches provide comfort for all types of passengers. All bench locations are accompanied by transit shelters.
Shelters and Awnings Policy	Policy for installation of shelters at bus stops and transit facilities	The placement and maintenance of shelters or other weather cover for passenger waiting areas where appropriate shall be encouraged. Murfreesboro Public Transit relies on service assessment data and other relevant information to locate and position bus shelters which can encourage ridership by protecting waiting patrons from adverse weather elements. Shelters also provide an appropriate location for posting important ridership information. Stops to have shelters must meet at least one of the following criteria: <ol style="list-style-type: none"> <li>1. 25 or more weekday average boardings</li> <li>2. Transfer point between two or more routes</li> <li>3. Adjacent to a ridership generator with a high percentage of riders with limited mobility.</li> </ol>
Lighting at Bus Stops Policy	Policy for installation of lighting at bus stops.	Stops, benches, and shelters shall have pedestrian-scale lighting whenever possible. While any lighting enhances the safety and security of transit stops, benches, and shelters, general streetlights have proved adequate in most locations where stops and shelters exist for the Murfreesboro Public Transit service since the hours of operation are 6:00 AM to 6:00 PM.
Bicycle Facilities Policy	Policy for installation of a good bicycle network and appropriate facilities	Bicycles shall be accommodated on all Murfreesboro Public Transit buses.
Pedestrian Infrastructure Policy	Policy to assist and support improvement to the pedestrian connection to transit.	As funding allows, Murfreesboro Public Transit will improve pedestrian infrastructure in locations where there is a direct and tangible benefit to customers accessing a transit stop or other transit facility.
Vehicle Assignment Service Policy	Policy to ensure equitable and fare vehicle assignments to routes.	Murfreesboro Public Transit bus assignments are made only on the basis of the need to rotate buses along every route. We do not take into account the operating characteristics of buses as our fleet of buses is uniform across the system in mileage, age, and mechanical ability. All new vehicles are low floor kneeling buses. The age of the vehicles is not a consideration as all vehicles are maintained as scheduled by the City's Fleet Services garage. In rare circumstances where older non-kneeling rolling stock is utilized, assignment is made based on the need for low floor accessibility along the route.
Fare Change Policy	System-wide fare policy.	Murfreesboro Public Transit has not experienced a fare change since its inception in 2007, but any fare increase will be analyzed and publicized to determine any adverse impact on protected classes or the ridership as a whole prior to being changed.

<p>Minority Disparate Impact Policy (applies to all fare changes)</p>	<p>Policy for measuring disparate impact (threshold) to determine whether minority riders are bearing a disproportionate impact of the change between the existing cost and the proposed cost.</p>	<p>Any system-wide fare change involving the number of fare media or types of fare media will not negate or impact any form or type of fare currently being accepted. Any changes will afford the ridership more options regarding the media being accepted to ride the bus. All Murfreesboro fares are uniform across the system regardless of distance or destination. All bus transfers are free of charge. Any fare increase will be analyzed, publicized, and citizens afforded the opportunity to comment to determine any adverse impact on protected classes or the ridership as a whole prior to being changed. Fare media and types of fare currency being used by disproportionate minority populations will not be impacted by any changes to the type of fares utilized.</p>														
<p>Low-Income Disproportionate Impact Policy (applies to all fare changes)</p> <p>Vehicle Load Standard</p>	<p>Policy for measuring (threshold) the burden of fare changes on low-income riders to determine when low-income are bearing a disproportionate burden of the change between the existing fare and the proposed fare.</p> <p>Standard expressed as the ratio of passengers to the total number for seats on a vehicle.</p>	<p>Any system-wide fare change involving the number of fare media or types of fare media will not negate or impact any form or type of fare currently being accepted. Any changes will afford the ridership more options regarding the media being accepted to ride the bus. All Murfreesboro fares are uniform across the system regardless of distance or destination. All bus transfers are free of charge. Any fare increase will be analyzed, publicized, and citizens afforded the opportunity to comment to determine any adverse impact on protected classes or the ridership as a whole prior to being changed. Fare media and types of fare currency being used by disproportionate minority populations will not be impacted by any changes to the type of fares utilized.</p> <table border="1" data-bbox="670 1045 1482 1129"> <thead> <tr> <th>Average Vehicle</th> <th>Load Service Type</th> <th>Factor Seated</th> <th>and Standing</th> <th>Vehicle Total</th> <th>Load Maximum</th> <th>Standard Factor Ratio</th> </tr> </thead> <tbody> <tr> <td>30' Bus</td> <td>Low Floor</td> <td>23</td> <td>14</td> <td>37</td> <td>1.60</td> <td></td> </tr> </tbody> </table>	Average Vehicle	Load Service Type	Factor Seated	and Standing	Vehicle Total	Load Maximum	Standard Factor Ratio	30' Bus	Low Floor	23	14	37	1.60	
Average Vehicle	Load Service Type	Factor Seated	and Standing	Vehicle Total	Load Maximum	Standard Factor Ratio										
30' Bus	Low Floor	23	14	37	1.60											
<p>On-Time Performance Standard</p>	<p>Standard that defines the measure of runs completed as scheduled. Must define what is considered to be "on-time."</p>	<p>100% of Murfreesboro Public Transit Vehicles strive to complete their scheduled runs no more than one minute early or no more than 5 minutes late. The agency has AVL and GPS equipment in all of its vehicles allowing OTP to be tracked and monitored, however the percentages are skewed by dwell time.</p>														
<p>Vehicle Headway Standard</p> <p>Service Availability Standard</p>	<p>Standard expresses the amount of time between two vehicles traveling in the same direction on a given line or combination of lines.</p> <p>The standard could distribute routes such that a specified percentage of all residents in the</p>	<p>Vehicle Headway Standard for Murfreesboro Public Transit Basic Service</p> <p><b>Weekday period of operation:</b>  AM Peak: 6:00AM-9:00AM; PM Peak: 3:00PM-6:00PM</p> <table border="1" data-bbox="670 1560 1482 1644"> <thead> <tr> <th>Service Weekday</th> <th>Headways</th> <th>Span: Basic</th> <th>Peak: 45 minutes</th> <th>Base: 45 minutes</th> </tr> </thead> <tbody> <tr> <td></td> <td>Basic Urban</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>Standard Service must be able to change and flow with City growth. Changes will be made in consideration of demand &amp; safety. Before changes are made, public outreach in the form of meetings will be held to seek input from the community. Adjustments will be made based on public input.</p>	Service Weekday	Headways	Span: Basic	Peak: 45 minutes	Base: 45 minutes		Basic Urban							
Service Weekday	Headways	Span: Basic	Peak: 45 minutes	Base: 45 minutes												
	Basic Urban															



service area are within a one-quarter mile walk of the bus service.	
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**This Section Not Applicable:** *TRANSIT PROVIDERS THAT OPERATE 50 OR MORE FIXED ROUTE VEHICLES IN PEAK SERVICE AND ARE LOCATED IN AN URBANIZED AREA (UZA) OF 200,000 OR MORE MUST SUBMIT:*

- City of Murfreesboro operates less than 40 fixed route vehicles and is an area of less than 200,000 people.

**Requirements of States (Chapter V)-** Not Applicable to City of Murfreesboro-not State entity.

**Requirements of MPO's (Chapter VI)-** Not Applicable to City of Murfreesboro-not an MPO.

Additional information on the City of Murfreesboro's **Civil Rights Policy and Procedures** can be found on the City's website:

<http://tn-murfreesboro2.civicplus.com/1277/Civil-Rights-Policy-Procedures>

Any questions or comments regarding this plan should be directed to the City of Murfreesboro's Title VI Coordinator:

City of Murfreesboro  
Title VI Coordinator – Karen Lampert  
111 W Vine Street, P.O. Box 1139  
Murfreesboro, TN 37133-1139  
Phone: 615-663-5371  
Email: klampert@murfreesborotn.gov

# APPENDIX ITEMS

# Appendix A

## Transportation Department Public Notice

## TITLE VI POLICY STATEMENT

It is the policy of the City of Murfreesboro to ensure compliance with **Title VI of the Civil Rights Act of 1964; 49 CFR, Part 21**; related statutes and regulations to the end that no person shall be excluded from participation in or be denied the benefits of, or be subject to discrimination under any program or activity receiving federal assistance from federal agencies on the grounds of race, color, or national origin. A **complaint form** can be downloaded and printed in order to file a discrimination complaint at <http://www.murfreesborotn.gov/1278/Title-VI-of-the-Civil-Rights-Act-of-1964>. Any person who believes they have been discriminated against should contact:

Jim Kerr, Transportation Director  
City of Murfreesboro  
111 West Vine St.  
Murfreesboro, TN 37130  
Telephone: 615-893-6441

OR

Federal Transit Administration  
Office of Civil Rights  
ATTN: Title VI Program Coordinator  
East Bldg., 5<sup>th</sup> Floor - TCR  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
Telephone: 888-446-4511

## TÍTULO VI DECLARACIÓN DE POLÍTICA

Es política de la Ciudad de Murfreesboro garantizar el cumplimiento del Título VI de la Ley de Derechos Civiles de 1964; 49 CFR, Parte 21; estatutos y reglamentos relacionados con el fin de que ninguna persona sea excluida de la participación o se le nieguen los beneficios de, o esté sujeto a discriminación bajo cualquier programa o actividad que reciba asistencia federal de agencias federales por motivos de raza, color u origen nacional. Se puede descargar e imprimir un formulario de queja para presentar una queja de discriminación en <http://www.murfreesborotn.gov/1278/Title-VI-of-the-Civil-Rights-Act-of-1964>. Cualquier persona que crea que ha sido discriminada debe comunicarse con:

Jim Kerr, Transportation Director  
City of Murfreesboro  
111 West Vine St.  
Murfreesboro, TN 37130  
Telephone: 615-893-6441

OR

Federal Transit Administration  
Office of Civil Rights  
ATTN: Title VI Program Coordinator  
East Bldg., 5<sup>th</sup> Floor - TCR  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
Telephone: 888-446-4511



# Appendix B

## Complaint Form

**CITY OF MURFREESBORO**

**COMPLAINT UNDER CIVIL RIGHTS ACT OF 1964**

TO: City of Murfreesboro Date: \_\_\_\_\_

I, hereby file an official complaint against \_\_\_\_\_

(Name of Person or Agency)

Located at: \_\_\_\_\_

Complainant's Name: \_\_\_\_\_

Complainant's Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Complainant's Phone No.: \_\_\_\_\_

Nature of Incident:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Basis of Complaint: ( ) Race ( ) Color ( ) National Origin

Date of alleged discrimination: \_\_\_\_\_

Signed: \_\_\_\_\_

**Section Below to be completed by the City of Murfreesboro**

Referred to \_\_\_\_\_ on \_\_\_\_\_ for investigation and  
(Title VI Coordinator) (Date)  
report.

\_\_\_\_\_  
Department Head

# Appendix C

## Public Participation Outreach Notices



### **Murfreesboro Transit Business Diversity Meeting at Patterson Park Community Center**

**July 7, 2021**

Murfreesboro Transit will hold a Business Diversity meeting on July 7, 2021 at Patterson Park Community Center from 3:00 p.m. to 4:30 p.m. The purpose of this meeting is to inform interested persons, small, and disadvantaged businesses of possible contracting opportunities with Murfreesboro Transit.

Types of items procured with Federal Transit Administration USC 5307 funding are: Bus Washing Services, Janitorial Supplies, Uniforms, signage, communication services, marketing, construction, design, architectural and engineering, etc.

All qualified DBE's must be registered with and approved by the State of Tennessee Department of Transportation Unified Certification Program. Information regarding this certification can be found at <https://www.tn.gov/tdot/civil-rights/small-business-development-program.html>

The meeting will be held on July 7, 2021 at Patterson Park Community Center from 3:00 pm to 4:30 pm. Patterson Park is located at 521 Mercury Blvd., Murfreesboro, TN 37130.

Please contact Russ Brashear, Assistant Transportation Director

Murfreesboro City Hall  
111 West Vine Street  
Murfreesboro, TN 37133  
(615) 893-6441 or  
[rbrashear@murfreesborotn.gov](mailto:rbrashear@murfreesborotn.gov)

# MNAA Business Taking Off 2022

APR 01 <sup>FRI</sup><sub>2022</sub> from 7:30 AM - 11:30 AM

**Russ Brashear**

rbrashear@murfreesborotn.gov

**Renaissance Hotel**

611 Commerce Street

Nashville, TN 37214

**Event Host**

Business Diversity Development

Office

bdd\_outreach@nashintl.com

We'll scan this when you check in!



EH7Q4EVJD

EH7Q4EVJD

## Michele Smithson

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**From:** Business Diversity  
**Sent:** Wednesday, July 7, 2021 10:47 AM  
**To:** Business Diversity  
**Subject:** FW: Murfreesboro Transit Business Diversity Information  
**Attachments:** DBE Meeting announcement on City Website - 2021.pdf

Good Morning Everyone,

This is a reminder of our Open House/Informational meeting this afternoon. Please see attached announcement.

*Business Diversity Office  
for Murfreesboro Transit*



City of Murfreesboro  
111 West Vine Street  
Murfreesboro, TN 37130  
629.201.6355

[BusinessDiversity@murfreesborotn.gov](mailto:BusinessDiversity@murfreesborotn.gov)  
[www.murfreesborotn.gov](http://www.murfreesborotn.gov)

---

**From:** Business Diversity <businessdiversity@murfreesborotn.gov>  
**Sent:** Wednesday, June 16, 2021 9:18 AM  
**Subject:** RE: Murfreesboro Transit Business Diversity Information

Good Morning Everyone, this is a reminder of our Business Diversity zoom information meeting this morning at 10:30a.m. We hope you are able to attend. Also, in addition to this morning zoom call we will an in person meeting on July 7<sup>th</sup>. Information on time and location are included in the attachment.

*Business Diversity Office  
for Murfreesboro Transit*



City of Murfreesboro  
111 West Vine Street  
Murfreesboro, TN 37130  
629.201.6355

[BusinessDiversity@murfreesborotn.gov](mailto:BusinessDiversity@murfreesborotn.gov)  
[www.murfreesborotn.gov](http://www.murfreesborotn.gov)

---

**From:** Russ Brashear  
**Sent:** Thursday, June 3, 2021 10:18 AM  
**Subject:** Murfreesboro Transit Business Diversity Information

You are invited and encouraged to attend a 30 minute informative Zoom meeting on possible contracting opportunities with Murfreesboro Transit.

When joining the Zoom Meeting please be sure to enter your name in order for the City to know who is interested. The zoom link is below.

Topic: Murfreesboro Transit Business Diversity Program  
Time: Jun 16, 2021 10:30 AM Central Time (US and Canada)

**Join Zoom Meeting**

<https://us02web.zoom.us/j/86408782209?pwd=NW0vY2lIdHI5NC82bmJxOXAyWG9NPQT09>

**Meeting ID: 864 0878 2209**  
**Passcode: jeJL64**

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In addition, on July 7, 2021 you are invited to an in-person meeting. See attachment for location and time. Similar information will be shared in this meeting, however it is a good opportunity to meet and put a face to a name.

*Russ Brashear*

Assistant Transportation Director



City of Murfreesboro  
111 West Vine Street  
Murfreesboro, TN 37130  
615.893.6441 #1643

**From:** Rennard Watkins  
**To:** Russ Brashear  
**Subject:** Re: [EXTERNAL]- DBE Goal  
**Date:** Tuesday, January 12, 2021 1:40:59 PM

---

Thank you for your response. I'll check in with you in a couple of months.

Best,

Rennard Watkins

901-406-7834

REW Group

On Tue, Jan 12, 2021 at 1:25 PM Russ Brashear <[rbrashear@murfreesborotn.gov](mailto:rbrashear@murfreesborotn.gov)> wrote:

Rennard,

Thank you for reaching out. I have seen your company name somewhere. Perhaps in TDOT's DBE listings. Sometime soon we will have a public meeting inviting DBE's to participate and see what kind of products and services we have a need for. We intended to have one of these outreach meetings last Spring, but of course we all know what happened since then.

We are a very small service so our purchases are not overly abundant. I will keep your information, but make sure to reach out to me in another 45-60 days. You can also periodically check our website to see if there is any information posted about doing business with us. [Disadvantaged Business Enterprise \(DBE\) | Murfreesboro, TN - Official Website](#)

Best Regards,

Russ Brashear

Asst. Transportation Director

City of Murfreesboro

**From:** Rennard Watkins <[rennard@therewgroup.net](mailto:rennard@therewgroup.net)>  
**Sent:** Tuesday, January 12, 2021 1:01 PM  
**To:** Russ Brashear <[rbrashear@murfreesborotn.gov](mailto:rbrashear@murfreesborotn.gov)>

**Subject:** [EXTERNAL]- DBE Goal

Russ,

Good afternoon, I am writing to introduce myself and my company REW Group. I am the company CEO, former MTSU Blue Raider, and we are based out of Franklin, TN. We are a DBE small business and we specialize in janitorial services but we are not limited to these capabilities.

I was looking through the county website and noticed the county has a DBE goal for the years 2019-21. I would like to know if you have any needs, supplies, or services that I could assist you with to help you meet your goals. If my company can't do it, I'll be glad to lead the charge in finding the right people who can. No job is too big or too small.

I'd be happy to schedule a time to sit with you to discuss your needs. I am attaching my capability statement for your review.

Best,

Rennard Watkins

901-406-7834

REW Group









# Appendix D

## “I Speak” and Language Line Information
















Do you speak English?	Point here and an interpreter will be assigned to you, at no cost.	English
¿Habla Español?	<b>Señale aquí y se le asignará un intérprete sin costo.</b>	Spanish
هل تتكلم العربية؟	أشر هنا والمترجم سيكون موجوداً مجاناً.	Arabic
ته كوردی دهئاخقی؟	ئیشارەت ڤیری بکه ته رجومان بو ته حازر دکەین ، به خورای.	Kurdish (Behdini)
ئايا كوردی قسه دهكەيت؟	ئیشارەت لیڤه بکه موته رجیمت بوئاماده دهكەین ، به خوڤرای.	Kurdish (Sorani)
آيا شما فارسی صحبت ميکنيد؟	تروصیەم جترم کیدیندکە راشا اجنیا بەرگا رایگان در اختیار شما قرار میگیرد.	Farsi
Bạn nói tiếng Việt phải không?	Chỉ vào đây và sẽ có người thông dịch viên giúp đỡ Bạn, Bạn không phải trả gì hết.	Vietnamese
Maku hadashaa afka somaaliga?	Halkaan farta ku-fiiq turjubaan lacag la-an ayaad heleysaa.	Somali
Da li govorite Bosanski?	Pokažite ovdje I prevodilac će vam biti obezbijedžen, besplatno.	Bosnian
Parlez-vous français?	Ici, un interpreteur sera assigné pour vous, sans avoir payé.	French
ທ່ານເວົ້າພາສາລາວແມ່ນບໍ່?	ກະຮຸນາບອກເຈົ້າໜ້າທີ່ຕາມນີ້ຈະມີນາຍພາສາມາແປໃຫ້ທ່ານໂດຍບໍ່ໄດ້ເສັງເງິນ.	Laotian
你會講中文嗎？	請點在這裡我們為你免費提供翻譯服務。	Chinese (Mandarin)
日本語を話せますか？	ここを指して下さい。無料の通訳者を指定します。	Japanese
Je-una azungumza kiswahili?	Nyosha kidola hapa na utatafsiriwa bila kulipa chochote.	Kiswahili
Voce fala Português?	Aperte aqui e um intérprete lhe será fornecido sem custo algum.	Portuguese
क्या आप हिंदी बोल सकते हैं ?	इशारा यहाँ पर किजिये, भाषांतर करनेवाले विनामुल्य मिल जायेंगे।	Hindi
한국어를 하십니까?	이곳을 지적해주시면 통역자가 무료로 호출됩니다.	Korean
Вы говорите по-русски?	Укажите сюда, и совершенно бесплатно Вам будет предоставлен переводчик.	Russian
አማርኛ ይናገሩሉ??	በጣትዎ ወደዚህ ያመልክቱ ያለምንም ክፍያ አስተርጓሚ ይመደብሉታል!	Amharic
Eske ou pale kreyòl	Pwen isit la e yon entèprèt ap vin ede'w gratis.	Haitian Creole
Jin kueni Thuok nuera?	Wane eme deri thuok nuera jek ke kuic du a thil kok.	Nuer
તમે ગુજરાતી બોલી શકો છો?	અહિંયા ઇશારો કરો, ભાષાંતર કરનાર વિનામુલ્યે મળી જશે.	Gujarati
Türkçe biliyormusunuz?	Burayı gösterirseniz, ücretsiz tercuman size yardım edecektir.	Turkish
คุณพูดภาษาไทยหรือเปล่า?	กรุณาบอกให้ทราบด้วยถ้าคุณต้องการคนแปล	Thai
Afaan Oromoo nidubata	Harkake asiti baasi gargasa Afaan hikaa malaqa duwa argaata.	Oromo


















## PACIFIC

	<b>Aklanon</b> Inuro mo ro atong hambac. Magtagaw kami et mag-Interprete.
	<b>Fijian</b> Kaiviti Dusia na nomu vosa. Ena qai kaciivi edua mi vakavaka dewa.
	<b>Ilokano</b> Inudom iti saom. Umayab kami iti interprete.
	<b>Indonesian</b> Bahasa Indonesia Tunjukkan bahasamu. Jurubahasa akan disediakan.
	<b>Malay</b> Bahasa Malaysia Tunjukkan yang mana bahasa anda. Seorang jurubahasa akan diberitahu.
	<b>Samoan</b> Gagana Samoa Tusi lou 'a'ao i lau gagana. O le a vala'auina se tasi e fa'amatala 'upu mo 'oe.
	<b>Tagalog</b> Pakituro mo nga ang iyong wika. Magpapaiaawag ako ng interprete.
	<b>Tongan</b> Tuhu kihe lea 'oku ke lea 'aki. 'E fetu'utaki kihe fakatonulea.

## EUROPE

	<b>Albanian</b> Shqip Tregoni me gisht gjuhën që flitni. Do të gjejmë një përkthyes për ju.
	<b>Armenian</b> Հայերեն Ձեզ ամեր յո՞ր սէլ յեզմն րը յսուտը արդար քարոզանալիք սը կարելի տաւոր.
	<b>Basque</b> Euzkera Zeure izkuntza atzamarragaz erakurzi. Euzkeratzail bateri deiutuko deutsagu.
	<b>Bulgarian</b> Български език Посочете Вашия език. Ние ще извикаме преводач за Вас.
	<b>Català</b> Assenyali amb el dit el seu idioma. Es traurà a un intèrpret.
	<b>Croatian</b> Hrvatski Molim Vas, pokazite nam Vaš jezik. Zvat ćemo tumača za Vas.
	<b>Czech</b> Česky Ukažte, který je váš jazyk. Zvolíme tlumočnicka.
	<b>Dansk</b> Peg på dit sprog. En tolk vil blive tilkaldt.
	<b>Dutch</b> Nederlands Wij zullen u een tolk geven.
	<b>Estonian</b> Eesti Keel Näidake oma emakeelele. Me muretseme teile tõlgi.
	<b>Finnish</b> Suomi Osoittakaa teidän kielenne. Tulkki kutsutaan autamaan teitä.
	<b>French</b> Français Montrez-nous quelle langue vous parlez. Nous vous fournirons un/e interprète.
	<b>German</b> Deutsch Zeigen Sie auf Ihre Sprache. Wir rufen einen Dolmetscher an.
	<b>Greek</b> Ελληνικά Δείξτε ποιά γλώσσα μιλάτε και θα κληθεί ένας διερμηνέας.
	<b>Hungarian</b> Magyar Válassza ki az ön által beszélt nyelvet. Kapcsoljuk a tolmácsot.

## EUROPE

	<b>Icelandic</b> Íslenska Bentu á þitt tungumál. Það verður hringt í túlk.
	<b>Italian</b> Italiano Faccia vedere qual è la sua lingua. Un interprete sarà chiamato.
	<b>Lithuanian</b> Lietuvių Kalba Parodyk tavo kalbama kalbą. Vertėjas bus pakviestas.
	<b>Macedonian</b> Македонски Посочете молим Ваš jezik. Ke vikame prevodilac Vas da doide.
	<b>Norwegian</b> Norsk Pek på ditt språk. En tolk vil bli tilkalt.
	<b>Polish</b> Polski Proszę wskazać na swój język ojczysty. Tłumacz zostanie poproszony do telefonu.
	<b>Portuguese</b> Português Aponite seu idioma. Providenciaremos um intérprete.
	<b>Romanian</b> Românește Indicați limba pe care o vorbiți. Veți fi pus în legătură cu un interpret.
	<b>Russian</b> Русский Язык Укажите, на каком языке Вы говорите. Сейчас Вам вызовут переводчица.
	<b>Serbian</b> Српски Molim Vas, pokazite nam Vaš jezik. Zvaćemo tumača za Vas.
	<b>Slovak</b> Slovensky Ukážte na vašu reč. Zvolíme tlumočnicka.
	<b>Spanish</b> Español Señale su idioma. Se llamará a un intérprete.
	<b>Swedish</b> Svenska Peka ut Ett språk. En tolk kommer att tillkallas.
	<b>Ukrainian</b> Українська Мова Покажіть, якою мовою ви говорите. Зараз викличуть вам перекладача.
	<b>Yiddish</b> ייִדיש פֿאַרזאָגן וואָס שפּראַך זענען זיך אַרבעטן אַן וואָר-אַרבעטער פֿאַר זיך.

**AVAZA**  
Language Services Corp.

## Language ID Chart

### AVAZA Over-The-Phone Interpreting Services

The Language ID Chart was developed to help you identify a foreign language and connect you to an AVAZA interpreter! Below is a list of the most widely spoken languages in the U.S. along with this translated statement:



**English (language)**  
Point to your language.  
An Interpreter will be called

#### How to use the AVAZA Language ID Chart:

- For face-to-face encounters, turn the front panel over to recognize your Access Code, Client ID, and OTP Telephone Number. If you don't have this information, contact your supervisor.
  - Point to the language list with the LEP to identify the language of need.
  - Use your OTP Telephone Number to call AVAZA or dial 800.482.8292. Follow the telephone prompts and be ready to provide your Access Code, Client ID, and Target Language.
- Note: If you cannot identify the language, please call us for assistance.

#### As an AVAZA customer, you have access to:

- Call Center interpreters 24/7
- Live bilingual agents
- Prompt connections
- Conference Calling

Language availability is based on demand and therefore subject to change. AVAZA does not guarantee connection time or language availability.

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Call: 615-532-3405  
Access Code: 37547  
Client ID: 900639



# Appendix E

## City Council Approval

# COUNCIL COMMUNICATION

Meeting Date: 5/4/2023

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**Item Title:** Contract for Management and Administrative Services for FY24  
CDBG Program Activities

**Department:** Community Development

**Presented by:** Robert Holtz, Director of Community Development

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Contract for management and administrative services by BluLynx to assist Community Development in CDBG plan and program activities for FY24.

**Staff Recommendation**

Approve Amended and Restated Agreement for Management and Administrative Services.

**Background Information**

In 2021, BluLynx was contracted to assist Community Development in management and administrative services for the CDBG Program and HOME Investment Partnerships Program. The services provided by the company have proved valuable to Community Development division. Therefore, it is proposed to extend the contract with BluLynx for an additional year through FY24.

**Council Priorities Served**

*Responsible budgeting*

Utilization of federal CDBG grants assists with community development and assistance in a cost-effective manner.

**Fiscal Impact**

Expense, \$90,275, is fully funded by CDBG, HOME Investment Partnerships Program, and CDBG-CV allocations.

**Attachments**

Amended and Restated Agreement for Management and Administrative Services

## **Amended and Restated Agreement for Management and Administrative Services**

This Third Amended and First Restated Agreement (the “First Restated Agreement”) is entered into and effective as of the \_\_\_\_\_ (the “Effective Date”), by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the “City”), and **BluLynx Solutions, LLC**, a Georgia Limited Liability Company (“Contractor”).

### RECITALS:

WHEREAS, the parties first entered into the Agreement for Management and Administrative Services (the “Agreement”) on February 25, 2021;

WHEREAS, the parties entered into the First Amendment on February 3, 2022, to extend the term of the Agreement and to provide for a price adjustment;

WHEREAS, the parties entered into the Second Amendment on September 2, 2022, to extend the term of the Agreement, provide for a price adjustment, and modify the scope of services in the Agreement;

WHEREAS, the parties desire to enter into a third amendment to extend the term of the Agreement, provide for a price adjustment, and modify the scope of services in the Agreement;

WHEREAS, Section 10 of the Agreement allows for modification of the Agreement upon the execution of a written amendment signed by both parties;

WHEREAS, the parties further desire to restate the Agreement in order to more clearly define the scope of services to be provided by Contractor pursuant to this First Restated Agreement, as well as the pertinent state and federal regulations governing this First Restated Agreement; and

WHEREAS, the parties desire that this First Restated Agreement replace and supersede the Agreement.

NOW THEREFORE, in consideration of the above recitals, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Contractor mutually agree as follows:

This First Restated Agreement, also called the “Agreement” herein, consists of the following documents:

- This document
- The City’s Request for Competitive Sealed Proposals, No. RFCSP-08-2021, issued January 12, 2021 (the “Solicitation”);
- Contractor’s Proposal, dated January 19, 2021 and Contractor’s BluLynx cost Proposal 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; and
- Lastly, Contractor's Proposal.

- 1. Duties and Responsibilities of Contractor.** Contractor shall provide those services listed in the Solicitation, including (without limitation) professional management and administrative services related to the implementation of the Community Development Block Grant (CDBG) program and other programs funded by the U.S. Department of Housing and Urban Development (HUD) and other agencies issuing funds for Community Development efforts. Such services will include planning, preparing and assistance with implementing a HUD Five-Year (2020-2025) Consolidated Plan and Annual Action Plan, updating the Citizen's Participation Plan, and an Analysis to Impediments. Services will also include researching, application assistance, reporting assistance, program monitoring, and staff training in the HUD IDIS system federal grant programs.
- 2. Term.** The term of this Agreement commences on the Effective Date and expires on June 30, 2024, unless extended by mutual agreement of Contractor and the City or earlier terminated as set forth herein Termination. Contractor's services may be terminated in whole or in part:
  - a. Upon 30-day prior notice, for the convenience of the City.
  - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
  - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
  - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
  - e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.
- 3. Compensation; Method of Payment.** Contractor will be compensated upon the completion of tasks as outlined in the Proposal and submission of an invoice to the City at its address for Notices, with a total contract price not to exceed Ninety Thousand Two Hundred Seven-Five and 00/100 Dollars (\$90,275.00)/ Payment for services delivered will be thirty (30) days from the date of the invoice.
- 4. Work Product.** Except as otherwise provided herein, all data, documents and materials produced by Contractor under this Agreement are the property of the City, which retains the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Any of the City's property, including but not limited to books, records and equipment, that is in Contractor's possession must be maintained in good condition and repair and returned to the City by Contractor at the end of this Agreement.

**5. Insurance.** Contractor shall maintain at least the following commercial insurance policies for the entire term of this Agreement in the amounts specified:

- a. Workers' compensation and employer's liability insurance – Workers' compensation in compliance with the applicable state and federal laws; employer's liability with a limit of \$1,000,000 per occurrence.
- b. Comprehensive general liability insurance – insurance including blanket contractual, broad form property damage, completed operations, and independent contractor's liability, all applicable to personal injury, bodily injury, and property damage to a limit of \$1,000,000 per occurrence and \$2,000,000 aggregate.
- c. Technology errors and omissions insurance with minimum coverage of \$500,000 per claim. Such insurance policy shall include, at a minimum, coverage for data breach, data loss, and expense reimbursement. In addition, Contractor shall notify the City if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.

Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, and (ii) 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."

The insurance required under the preceding paragraphs shall provide adequate protection for Contractor and any sub-contractors against damage claims that may arise from operations under this Agreement, whether such operations are by the insured or by anyone directly or indirectly employed by Contractor.

**6. Indemnification.**

- a. Contractor shall indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
- c. Copyright, Trademark, Service Mark, or Patent Infringement.
  - i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all

available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

- ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
  1. Procure for the City the right to continue using the products or services.
  2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
  3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
- iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

- 7. Notices.** Any Notice required, permitted, or contemplated under this Agreement shall be mailed via certified mail/delivery (which may include, without limitation, delivery by USPS, UPS, FedEx, or other major parcel carrier) or hand delivered to the following:

If to the City of Murfreesboro:

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

With a copy to:

Director of Community Development City of  
Murfreesboro  
P.O. Box 1139  
211 Bridge Ave.  
Murfreesboro, TN 37133



If to Contractor:

BluLynx Solutions  
ATTN: Kimberly  
Roberts  
8343 Roswell Rd, Suite 154  
Atlanta, GA 30350

With a copy to:

BluLynx Solution  
ATTN: Eryca Fambro  
8343 Roswell Rd, Suite 154  
Atlanta, GA 30350

- 8. Compliance with Laws.** Contractor agrees to comply with all applicable federal, state and local laws and regulations, including (without limitation) all laws and regulations listed and/or referenced in the Solicitation.
- 9. Maintenance of Records.** Contractor must maintain documentation relating to its performance of services for and 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 the greater of (i) a period of three (3) full years from the date of final payment or (ii) any period specified by applicable law 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. Contractor shall afford City agents or auditors reasonable facilities and access for the examination and audit of its records pertaining to its performance. Upon request by the City, Contractor shall produce and exhibit all such records as requested. Records shall be available within an office environment located not more than a 45 minutes' drive from the City's local office or the reasonable expenses incurred to access the records shall be borne by Contractor.
- 10. Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
- 11. Prior Documents Superseded; Integration of Agreement.** This Agreement (being the First Restated Agreement) replaces and supersedes the language of the Agreement dated February 25, 2021, as previously amended. However, for the sake of clarity, the parties intend that the Agreement dated February 25, 2021, as previously amended, integrate into and become a part of this First Restated Agreement so that the parties' covenants, warranties, rights, and responsibilities remain in effect from the original Effective Date of February 25, 2021, until the termination of this First Restated Agreement. Neither party intends this First Restated Agreement to work as a release or waiver of the Agreement dated February 25, 2021, as previously amended.
- 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, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.
- 16. Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
- 17. 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).
- 18. 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.
- 19. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352).** Contractors that apply or 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.
- 20. 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.

- 21. 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.
- 22. 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. CITY will report all suspected or reported violations to the Federal awarding agency.

**23. Non-Discrimination.**

- 23.1 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.
- 23.2 Contractor further acknowledges that the City is a federal government contractor, and that by virtue of this Contract, Contractor is a federal government subcontractor. Therefore, in accordance with federal law, Contractor specifically acknowledges and agrees as follows:
- a. **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin,**

and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.

- b. The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.
- c. The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

**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 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.

**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, pandemic, act of public enemy, 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 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.

**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. Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the parties enter into this Agreement as of the Effective Date first written.

**CITY OF MURFREESBORO**

**BLULYNX SOLUTIONS, LLC**

\_\_\_\_\_  
Shane McFarland, Mayor

DocuSigned by:  
**By:** Kimberly Roberts  
962E7CDA582346B...

Kimberly Roberts  
**Print:** \_\_\_\_\_

Date signed: \_\_\_\_\_

APPROVED AS TO FORM:

**Its:** Principal

DocuSigned by:  
Adam F. Tucker  
4A8D955617940A  
Adam Tucker, City Attorney

Date signed: 4/27/2023

## Blulynx Solutions Cost Proposal 2023

For the performance of the scope of services detailed below, should the City engage BluLynx to perform the services

### SCOPE OF SERVICES

The consultant's scope of services shall include the following activities. The Consultant shall, as authorized, undertake the necessary analyses, applications, and related activities to accomplish the following activities:

#### 1. Reporting

- Assist with annual, semi-annual, quarterly, and monthly reporting required by HUD, including Davis Bacon reporting, Section 3 reporting, and compliance, Cash on Hand, Beneficiary reporting, etc.
- Maintain monthly budgets, financial status reports, and expenditure tracking mechanisms.
- Prepare the City's Consolidated Annual Performance Evaluation Report (CAPER) outlining outcomes of the previous year's undertakings.
- Conduct all public hearings and public notice postings related to the CAPER

#### 2. Assist City in preparing an Annual Action Plan

- Undertake necessary grant planning activities related to HUD grant programs (CDBG, CDBG-CV, and HOME) to update City's Annual Action Plan, including application development, review, and project selection.
- Annual Action Plan to include additional CARES funding and new program objectives, and budgets for the completion of the final document for submission to IDIS.
- Conduct all public hearings and public notice postings related to the Annual Action Plan

#### 3. Policy & Procedure Development

- Assist in setting up CHDO, including ensuring compliance with CHDO qualifying criteria and organizational structure, as well as developing city policies and procedures.
- Assist in developing HOME program Affirmative Marketing Plan
- Develop HOME Policy Manual
- Develop CDBG – PSG Policy Manual

#### 4. Provide General Consulting and Technical Assistance Training

- Provide CDBG and HOME general consulting and advisory services throughout the term of the contract relative to management practices remotely and onsite.
- Assist the City in developing files, expenditure plans, financial status reports, and other tracking mechanisms to ensure grant compliance.
- Assist the City in developing a monitoring plan at the beginning of the program year to effectively match available resources with the needs and capacity of subrecipients.

#### 5. Training

- Provide CDBG and HOME programmatic training for City's CD staff and subrecipients to ensure full compliance with CDBG and HOME regulations, including Environmental Review, Davis Bacon, Project Service Area Determination, Income Verification, etc.
- Timeliness Training

**FEE SCHEDULE**

Blulynx proposes to provide the following itemized services to the City of Murfreesboro. Based on the scope of work as identified in this Proposal.

<b>TASK NO.</b>	<b>SERVICE DESCRIPTION</b>	<b>PERSON PERFORMING TASK</b>	<b>HOURLY RATE</b>	<b>NO. OF HOURS ON SPENT CDBG PROJECT</b>	<b>NO. OF HOURS ON SPENT HOME PROJECT</b>	<b>TOTAL COST</b>
1	Reporting – Monthly and Annual Reporting (CAPER)	Principal	\$115.00	80	30	\$12,650.00
2	Assist City in preparing the Annual Action Plan	Principal	\$115.00	195	50	\$28,175.00
3	Policy & Procedure Development	Principal	\$115.00	40	55	\$10,925.00
4	Provide General Consulting and Technical Assistance Training	Principal	\$115.00	245	45	\$33,350.00
5	Training	Principal	\$115.00	20	25	\$5,175.00
<b>TOTAL</b>				<b>595</b>	<b>205</b>	<b>\$90,275.00</b>



# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Community Development FY24 Annual Action Plan

**Department:** Community Development

**Presented by:** Robert Holtz, Director of Community Development

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

The Annual Action Plan represents local priorities and funding allocation and is presented to HUD to receive Community Development Block Grant (CDBG) program funds.

**Staff Recommendation**

Approve the FY24 Annual Action Plan.

**Background Information**

The City is required to develop an Annual Action Plan to serve as documentation of goals and objectives for its community developments projects. This plan supports utilization of CDBG funding for the FY24. The CDBG allocation for FY24 is \$938,239 and HOME allocation is \$526,316.

The City will submit its FY24 Annual Action Plan with list of projects funded with 2023 CDBG program to HUD before May 15. The draft plan is available on the Community Development website. Future funding authorizations will be presented to Council based on the Action Plan.

Public Meetings for the Action Plan were held on March 1, 2023 and March 28, 2023.

**Council Priorities Served**

*Responsible budgeting*

Utilization of federal CDBG grants assists with community development and assistance in a cost-effective manner.

**Fiscal Impact**

The grants, totaling \$1,464,555, fund the City's Community Development FY24 budget.

**Attachments**

FY24 Draft Annual Action Plan



# 2023-2024 ANNUAL ACTION PLAN

**City of Murfreesboro**  
Community Development Department  
McFadden Community Center  
211 Bridge Ave., Room 136  
Murfreesboro, TN 37129

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# Executive Summary

## AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

### 1. Introduction

As a recipient of federal grant funds, HUD's City of Murfreesboro is required to submit a Consolidated Plan and Annual Action Plan. It also serves as the application for funding for the Community Development Block Grant (CDBG) federal entitlement program that serves low-income individuals and families. As of Fiscal Year 2023, the City of Murfreesboro was awarded funding under the HOME Investment Partnerships Program (HOME) as a participating jurisdiction.

The City of Murfreesboro's Five-Year Consolidated Plan (Con Plan) is mandated by federal law and regulations promulgated by the U.S. Department of Housing and Urban Development (HUD) in order for the City to receive federal funding for affordable housing and community development initiatives benefitting primarily low- and moderate-income persons. The Annual Action Plan must be prepared and submitted to HUD 45 days before the beginning of the fiscal year or by May 15 of each fiscal year.

### 2. Summarize the objectives and outcomes identified in the Plan

Housing needs among residents in Murfreesboro were determined by analyzing housing problems by income level, tenure, and households with special needs for the Consolidated Plan. The Consolidated Plan identified households with one or more housing problems (overcrowding, lacking adequate kitchen or plumbing facilities), and households are experiencing cost burden (paying more than 30% of household income for housing costs) and severe cost burden (paying more than 50% of household income for housing costs). Primary needs highlighted during the Consolidated Plan Public Needs Hearing, Neighborhood Meetings, and stakeholder interviews included the following:

- **Public Service Needs:**
  - Additional need for permanent supportive housing programs
  - Lack of facilities and services for unsheltered homeless persons
  
- **Affordable Housing Needs:**
  - There is a need for additional emergency shelter & transitional housing beds
  - Limited finance resources of local agencies with rapid re-housing programs
  - Lack of low-income rental housing in Murfreesboro
  - Acquisition, Senior housing and Owner-Occupied Housing Rehabilitation among top housing needs
  
- **Other Needs:**
  - Fair Housing Education

These comments were incorporated into the City's most recent Consolidated Plan and will be addressed through projects undertaken in this Action Plan for activities funded with CDBG dollars.

**3. Evaluation of past performance - Evaluation of past performance that helped lead the grantee to choose its goals or projects.**

The CAPER presents the City’s progress in carrying out projects and activities according to the Program Year (PY) 2021 Annual Action Plan for the Community Development Block Grant (CDBG) funds received from the United States Department of Housing and Urban Development (HUD). The City of Murfreesboro successfully utilized CDBG funds by increasing affordable housing for low- and moderate-income persons. The City also allocated CDBG to local nonprofit organizations to provide essential social services for the homeless, LMI persons, and non-homeless special needs population.

The City of Murfreesboro received \$886,368.00 in CDBG funding for 2021. A total of \$197,229.40 in CDBG funds was expended in 2021. Below is a summary of the City’s 2021 expenditures and accomplishments:

GOALS	EXPENDITURES	ACCOMPLISHMENTS
Affordable Housing		
<i>Housing Rehabilitation</i>	\$87.71	1
<i>Homeownership Assistance</i>	\$42,680.57	2
Public Service Grants	\$107,645.47	<b>2,661</b>
Fair Housing	\$750.00	1
Public Facilities	\$16,380.00	99
Administration & Planning	\$29,685.65	1
<b>TOTAL</b>	<b>\$197,229.40</b>	<b>2,765</b>

**4. Summary of Citizen Participation Process and consultation process**

Summary from citizen participation section of plan.

The City held an initial Public Review Meeting to solicit comments on the draft 2023 Action Plan at **5:30 P.M. on Wednesday, March 1, 2023** at **Patterson Park Community Center** located at **521 Dr. Martin Luther King Jr Blvd, Murfreesboro, TN 37130**. Additionally, the City made copies of the 2023 Action Plan available for examination and comment by the public at the public hearing scheduled for a 30-day period commencing on **Tuesday, February 21, 2023** and ending on **Friday, March 31, 2023**. A second Public Review Meeting was held on **Tuesday, March 28, 2023** commencing a second 30-day public comment period which ends on **Friday, April 28, 2023**. This meeting will be at **Patterson Park Community Center** located at **521 Dr. Martin Luther King Jr Blvd, Murfreesboro, TN 37130**. The plan was available for review in hard copy at the City's

Community Development Department and on the City's Community Development website:  
<http://www.murfreesborotn.gov>.

**5. Summary of public comments**

Comments from the meeting have been included in the Plan.

**6. Summary of comments or views not accepted and the reasons for not accepting them**

All comments were accepted

**7. Summary**

In summary, the Annual Action Plan has been developed with community input and reflects the City's needs.

## PR-05 Lead & Responsible Agencies – 91.200(b)

### 1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
CDBG Administrator	Murfreesboro	Community Development Division
HOME Program	Murfreesboro	Community Development Division

**Table 1 – Responsible Agencies**

### Narrative

The City of Murfreesboro's Community Development Department is the lead agency for the development, administration, and review of the 2020 – 2024 Consolidated Plan and 2023 Annual Action Plan. The Division administers Community Development Block Grant (CDBG) funds received from the U.S. Department of Housing and Urban Development (HUD), and coordinates execution of projects related to the priorities and goals identified in the Consolidated Plan.

### Consolidated Plan Public Contact Information

Helen Glynn  
Assistant Community Development Director  
Community Development Department

McFadden Community Center  
211 Bridge Ave.  
Room 136  
Murfreesboro, TN 37129  
Phone: 615-890-4660  
Fax: 615-217-2260  
Email: hglynn@murfreesborotn.gov

## **AP-10 Consultation – 91.100, 91.200(b), 91.215(I)**

### **1. Introduction**

The City developed an outreach effort to maximize input from a large cross-section of stakeholders during the preparation of its 2020-2024 Consolidated Plan. This outreach effort included public meetings, neighborhood meetings, published meeting notices, and a web survey conducted in both English and Spanish. Consultation with the community and affected service providers is a fundamental component of the Consolidated Plan and Action Plan process. The City of Murfreesboro conducted significant consultation with citizens, municipal officials, nonprofit agencies, public housing agencies, governmental agencies, and the Continuum of Care in preparing this Plan.

The stakeholder outreach component involved surveying local broadband and hazard mitigation agencies. Additionally, 312 stakeholders completed Needs Assessment surveys inquiring about the community and housing needs throughout the City. During the preparation of this Annual Action Plan, the City held two public meetings to review the draft priorities through its public participation process for the Plan. These meetings are summarized in the Citizen Participation section of this plan. Drafts of the plans have been posted on the City webpage. Notices of public meetings and hearings were published in the local newspaper.

### **Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(I))**

During the development of this Action Plan, the City sought to encourage a high level of public communication and agency consultation to demonstrate its commitment to identifying priority needs and engaging citizens, public agencies, and nonprofit organizations positively and collaboratively. A list of stakeholders and affordable housing providers was developed and included public agencies and private nonprofit organizations whose missions included providing affordable housing and human services to LMI households and persons. These stakeholders were invited to participate in needs assessment meetings held to develop the Action Plan. The list of stakeholders is included in the Citizen Participation Comments section.

Based on the public meetings and previous Consolidated Plan goals a set of priorities was established by the City for the next year.

### **Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.**

City of Murfreesboro staff participates with the Housing, Health & Human Services Alliance of Rutherford County (H3ARC) and area service providers to enhance the community's comprehensive Continuum of Care system to end homelessness. This dynamic partnership includes collaborative efforts of a variety of community groups, government agencies. The H3ARC serves as the Lead Agency and has been designated



of the CoC as the Collaborative Applicant to apply for the HUD CoC grant. The City enhances coordination of public, private, and nonprofit housing providers, human service agencies, and social service providers through the following actions:

- Continues to work with other jurisdictions and the Murfreesboro Housing Authority to prioritize housing needs, provide services, and maximize the use of federal, state, and local funds for affordable housing, community development, and related services.
- Continues to participate in coordinated efforts for shelter and services assisting homeless individuals and families.
- City staff participates in many of the committees that provide direction for 10-year plan to end homelessness.

**Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS.**

The City participated in the leadership and guidance of the H3ARC, the lead entity for the Continuum of Care (CoC). The Community Development Director or designee represents the Mayor on the H3ARC Executive Committee and chairs the Rating and Ranking Working Group. The working group is responsible for ranking CoC housing competition applications. The CoC participates in the City's outreach to eligible nonprofit agencies to offer funding through a competitive application process for ESG funding. With the City's representation within the CoC structure on the Executive Committee, at general meetings and in workgroups, the task of allocating funds is based on need in the jurisdiction, and the process is a result of joint efforts. H3ARC is the lead agency for HMIS and training and best practice for the use of HMIS is promoted within the membership. The H3ARC Service Providers Working Group is responsible for developing performance standards. The Rating and Ranking Working Group evaluates outcomes.

**2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities**

1	Agency/Group/Organization	The Family Center
	Agency/Group/Organization Type	Children Services
	What section of the Plan was addressed by Consultation?	Other – Non-Housing Community Development Needs
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting

2	Agency/Group/Organization	Boys & Girls Club of Rutherford County
	Agency/Group/Organization Type	Youth services
	What section of the Plan was addressed by Consultation?	Other – Non-Housing Community Development Needs
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting
3	Agency/Group/Organization	Doors of Hope
	Agency/Group/Organization Type	Services - Homeless
	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting
4	Agency/Group/Organization	The Journey Home
	Agency/Group/Organization Type	Housing/Homeless
	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting

Table 2 – Agencies, groups, organizations who participated

**Identify any Agency Types not consulted and provide rationale for not consulting**

All entities were considered for consultation.

**Other local/regional/state/federal planning efforts considered when preparing the Plan**

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	Housing, Health & Human Services Alliance of Rutherford County	Affordable housing, services, and economic development
10-Year Plan to Prevent Hunger and End Homelessness	Housing, Health & Human Services Alliance of Rutherford County	The Strategic Plan's goals to address homelessness align with Continuum of Care's goals and strategies.
Analysis of Impediments to Fair Housing Choice, 2020	City of Murfreesboro	Barriers to affordable housing opportunities from the Analysis of Impediments were included in this Action Plan.
Public Housing Plan	Murfreesboro Housing Authority	MHA's Five-Year Plan to ensure consistency with City's HUD Consolidated Plan

**Table 3 – Other local / regional / federal planning efforts**

**Describe cooperation and coordination with other public entities, including the State and any adjacent units of general local government, in the implementation of the Consolidated Plan (91.215(l))**

In accordance with 24 CFR 91.100(4), the City will notify adjacent units of local government of the non-housing community development needs included in its Consolidated Plan. The City will continue to interact with public entities at all levels to ensure coordination and cooperation in the implementation of the Consolidated Plan and thereby maximizing the benefits of the City's housing and community development activities for the residents being served.

**Narrative (optional):**

Combined, these agencies provide housing and supportive services to the community's special needs populations, including persons with disabilities, homeless families and individuals, chronic homeless persons, persons with HIV/AIDS, and the elderly. In addition to many of the agencies listed above many of the groups and agencies that were consulted provided information during the development of the plan.

## AP-12 Participation – 91.105, 91.200(c)

### 1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

City of Murfreesboro Community Development staff worked with the community in developing goals and objectives. The developed goals are a result of feedback from the community regarding issues to be resolved and projects in need of funding. The City has an adopted Citizen Participation Plan to ensure consistent outreach efforts. A community needs survey in English and Spanish was available to residents, housing service providers. A 30-day comment period was held from Tuesday, February 21, 2023 through Friday, March 31, 2023 for the public to review and provide comments on the Annual Action Plan.

The City held an initial Public Review Meeting to solicit comments on the draft 2023 Action Plan at **5:30 P.M. on Wednesday, March 1, 2023 at Patterson Park Community Center** located at **521 Dr. Martin Luther King Jr Blvd, Murfreesboro, TN 37130**. Additionally, the City made copies of the 2023 Action Plan available for examination and comment by the public at the public hearing scheduled for a 30-day period commencing on **Tuesday, February 21, 2023** and ending on **Friday, March 31, 2023**. A second Public Review Meeting was held on **Tuesday, March 28, 2023** commencing a second 30-day public comment period which ends on **Friday, April 28, 2023**. This meeting will be at **Patterson Park Community Center** located at **521 Dr. Martin Luther King Jr Blvd, Murfreesboro, TN 37130**. The plan was available for review in hard copy at the City's Community Development Department and on the City's Community Development website: <http://www.murfreesborotn.gov>.

### Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/ attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	2 Public Hearings	Non-targeted/ broad community			None	n/a
2	Newspaper Ad	Non-targeted/ broad community	The public was notified of the public meetings via a newspaper ad	The City did not receive any comments based solely on the newspaper ad.	All comments were accepted	n/a

Table 4 – Citizen Participation Outreach

## Expected Resources

### AP-15 Expected Resources – 91.220(c)(1,2)

#### Introduction

The City of Murfreesboro is a CDBG entitlement city and a HOME Participating Jurisdiction. The City is not a direct Emergency Solutions Grant recipient, nor does it receive HOPWA funding.

#### Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	\$938,239	\$100,000	\$0	\$1,038,239	\$1,038,239	Community Development Block Grant 2023-2024 program year allocation; Estimated Program Income and Prior Year Resources.
HOME	public - federal	Affordable Housing; Administration	\$526,316	\$0	\$0	\$526,316	\$526,316	HOME funds will leverage other federal, local, and private funds. Subrecipient or developers supply 25% match of HOME funds.

**Table 5 - Expected Resources – Priority Table**

**Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied.**

The in-kind value of office space, utilities and administrative support from the City's general fund help leverage CDBG funds. The Murfreesboro Parks & Recreation provides meeting spaces in its facilities for public hearings and other meetings sponsored by the Community Development Department as an in-kind contribution. Both federal mandates and local policy requires some level of leveraging in most of the entitlement programs offered by the City. As an example, the City's Affordable Housing Assistance Program for first-time home buyers requires a 1% contribution from the purchaser. Public Services grant subrecipients are required to provide a dollar-for-dollar match for CDBG funds. Matching funds can come from agency funds, in-kind contributions of goods and services, volunteer hours and/or value of donated buildings or fair value of rental/lease.

The HOME program requires a 25% match of the total HOME funds expended for project costs. This match requirement will be met by requiring subrecipients to provide 25% match on projects, through sponsorships from local businesses, waived City fees, donated land or improvements, volunteer hours, donated materials, or other eligible methods outlined in the HOME regulations.

**If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan.**

The City does not anticipate using any publicly owned land or property located in Murfreesboro to address the needs identified in this plan.

**Discussion**

The City of Murfreesboro receives CDBG funding directly from U.S. Department of Housing and Urban Development (HUD). The City receives a share of the state's Emergency Solutions Grant (ESG) allocation through the City Set-Aside program from Tennessee Housing Development Agency (THDA).

The City does not receive HUD funding from the HOME Partnerships Investment Program (HOME). The Housing Opportunity for Persons with AIDS (HOPWA) grantee for the Nashville-Davidson-Murfreesboro-Franklin MSA is Metropolitan Housing and Development Agency (MDHA). The City consults with MDHA regarding HOPWA allocations. The City is not a direct recipient of any funds covered in §91.2(b).

The City is the Collaborative Applicant for Continuum of Care TN-510 (Murfreesboro and Rutherford County). HUD announced the 2021 awards to TN-510 agencies totaling \$753,322 in its Continuum of Care (CoC) housing competition.

Public housing is the responsibility of Murfreesboro Housing Authority. A copy of MHA's most recent 5-Year and Annual Plan is available for review at its main office: 415 North Maple Street, Murfreesboro.

## Annual Goals and Objectives

### AP-20 Annual Goals and Objectives

#### Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	CDBG Administration & Planning	2023	2024	Community Development	Citywide	Provide Administration & Planning	\$187,647.80	Other: Planning & Administration
2	Fair Housing	2023	2024	Community Development	Citywide	Affirmatively Furthering Fair Housing Choice	\$3,500.00	Affirmatively Furthering Fair Housing Activities
3	Provide Public Services	2023	2024	Community Development	Citywide	Public Services	\$128,500.00	Number of low-income persons served
4	Public Facilities/Infrastructure	2023	2024	Community Development	Citywide	Public Facilities	\$352,091.20	Number of low-income persons served in area
5	Rehabilitation	2023	2024	Community Development	Citywide	Housing Affordability	\$270,000.00	Housing units rehabbed
6	HOME Administration & Planning	2023	2024	Community Development	Citywide	Provide Administration & Planning	\$52,631.60	Other: Planning & Administration
7	CHDO 15% Set-Aside	2023	2024	Community Development	Citywide	Affordable Housing	\$78,947.40	Affordable Housing Activities
8	CHDO Operating 5% Set-Aside	2023	2024	Community Development	Citywide	Affordable Housing	\$26,315.80	CHDO Operating
9	Affordable Housing Activities: New Construction and DPA	2023	2024	Community Development	Citywide	Affordable Housing	\$368,421.20	New Construction (\$330,921.20; DPA \$37,500)
<b>TOTAL</b>							<b>\$1,464,555.00</b>	

Table 6 – Goals Summary

## Goal Descriptions

<b>Goal Name:</b> Planning and administration
<b>Goal Descriptions:</b> Administrative and planning costs to operate the CDBG & HOME program successfully
<b>Goal Name:</b> Affirmatively Furthering Fair Housing Choice
<b>Goal Description:</b> Support targeted fair housing activities such as fair housing education, complaint handling services, and enforcement.
<b>Goal Name:</b> Provide public services
<b>Goal Description:</b> Provision of public services for projects that provide supportive services to low and moderate-income households and persons
<b>Goal Name:</b> Public Facility/Improvements
<b>Goal Description:</b> Facility renovations in low- and moderate-income areas
<b>Goal Name:</b> Owner-Occupied Housing Rehabilitation
<b>Goal Description:</b> Support housing rehabilitation for low income households
<b>Goal Name:</b> Affordable Housing & CHDO 15% Set-Aside and 5% Operating [Affordable Housing New Construction, Down Payment Assistance for Low income household, of Affordable Housing and CHDO operating]



# Projects

## AP-35 Projects – 91.220(d)

### Introduction

The City has planned the following projects for the upcoming year and identified in the table below with additional details provided in Section AP-38.

### Projects

Sort Order	Goal Name
1	CDBG Administration & Planning
2	Fair Housing
3	Provide Public Services
4	Public Facilities/Infrastructure
5	Rehabilitation
6	HOME Administration & Planning
7	CHDO 15% Set-Aside
8	CHDO Operating 5% Set-Aside
9	Affordable Housing Activities: New Construction and DPA

Table 7 - Project Information

### Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The City has pursued a variety of strategies to impact the identified needs of the community, the primary obstacle to meeting the underserved needs is the lack of sufficient financial resources. Annually several project proposals may be unfunded or receive only partial funding due to lack of available resources.

## AP-38 Project Summary

### Project Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	CDBG Administration & Planning	2023	2024	Community Development	Citywide	Provide Administration & Planning	\$187,647.80	Other: Planning & Administration
2	Fair Housing	2023	2024	Community Development	Citywide	Affirmatively Furthering Fair Housing Choice	\$3,500.00	Affirmatively Furthering Fair Housing Activities
3	Provide Public Services	2023	2024	Community Development	Citywide	Public Services	\$128,500.00	Number of low-income persons served
4	Public Facilities/Infrastructure	2023	2024	Community Development	Citywide	Public Facilities	\$352,091.20	Number of low-income persons served in area
5	Rehabilitation	2023	2024	Community Development	Citywide	Housing Affordability	\$270,000.00	Housing units rehabbed
6	HOME Administration & Planning	2023	2024	Community Development	Citywide	Provide Administration & Planning	\$52,631.60	Other: Planning & Administration
7	CHDO 15% Set-Aside	2023	2024	Community Development	Citywide	Affordable Housing	\$78,947.40	Affordable Housing Activities
8	CHDO Operating 5% Set-Aside	2023	2024	Community Development	Citywide	Affordable Housing	\$26,315.80	CHDO Operating
9	Affordable Housing Activities: New Construction and DPA	2023	2024	Community Development	Citywide	Affordable Housing	\$368,421.20	New Construction (\$330,921.20; DPA \$37,500)
<b>TOTAL</b>							<b>\$1,464,555.00</b>	

## AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed.

Murfreesboro is an urban area that relies on widely accepted data such as American Community Survey (ACS), HUD low and moderate-income summary data, and Federal Financial Institutions Examinations Council (FFIEC) data to determine areas throughout the community with concentrations of low and moderate-income communities. Program resources are allocated city-wide based on low-mod areas, which often coincide with areas of minority concentration. Over the next five years, the City intends to utilize CDBG funds in areas where 51% or more of residents have low or moderate household incomes).

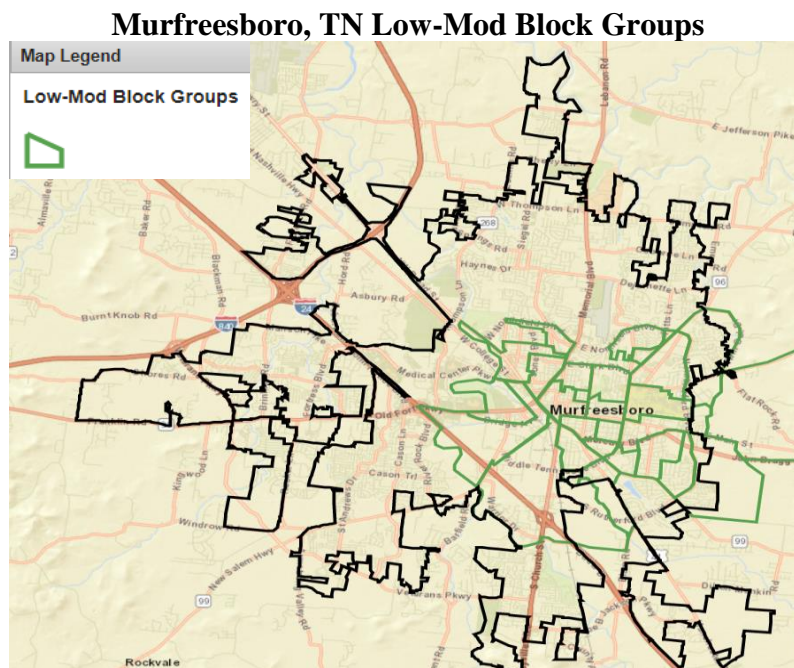
### Geographic Distribution

Target Area	Percentage of Funds
Citywide	80%

Table 8 - Geographic Distribution

### Rationale for the priorities for allocating investments geographically

The City will allocate resources to the low- and moderate-income block groups within the City. The areas outlined in green on the map will generally be prioritized for allocation of resources, however, individual low- and moderate-income persons residing anywhere in the City may be eligible beneficiaries of CDBG funds.



Source: HUD Con Plan Mapping Tool. <https://egis.hud.gov/cpdmaps/>

## Affordable Housing

### AP-55 Affordable Housing – 91.220(g)

#### Introduction

The City of Murfreesboro with its nonprofit partners will provide affordable rental and homeowner housing, including assistance to people with disabilities and homeless individuals and families. The special needs population will be served through grants to local service providers. The homeless population will be served through assistance grants to local service providers. To address these needs, the City will use CDBG and THDA ESG funds to support the rehabilitation of existing units and providing homeless services.

One Year Goals for the Number of Households to be Supported	
Homeless	50
Non-Homeless	1,500
Special-Needs	
Total	2,000

**Table 9 - One Year Goals for Affordable Housing by Support Requirement**

One Year Goals for the Number of Households Supported Through	
Rental Assistance	
The Production of New Units	2
Rehab of Existing Units	5
Acquisition of Existing Units	5
Total	12

**Table 10 - One Year Goals for Affordable Housing by Support Type**

## **AP-60 Public Housing – 91.220(h)**

### **Introduction**

The MHA is an independent authority established under state law, is separate from the general control of the City and is not required by a Section 504 Voluntary Compliance Agreement to increase the number of accessible units.

### **Actions planned during the next year to address the needs to public housing**

The MHA has been approved for the RAD conversion of Parkside and Mercury Court properties. The is taking the first step in a multi-phase, multi-year process. That step is to create a master plan for the redevelopment of Oakland Court, a 76-home public housing neighborhood on approximately 20 acres between North Academy and Maney Avenues. The multi-year plan will replace 76 homes at Oakland Court with new homes and increase the total number of homes to 150 almost doubling the number of homes available there to qualified families. Upon completion of Oakland Court, the MHA will relocate the residents of Mercury Court residents to Oakland Court.

### **Actions to encourage public housing residents to become more involved in management and participate in homeownership**

The MHA undertakes a variety of initiatives to increase resident involvement which include established programs that represent all residents living in Housing Authority developments. The MHA coordinates programs, activities, and services offered to residents, including:

- Family Self Sufficiency Program - designed to assist residents with achieving self-sufficiency. This effort is accomplished through goal setting, intervention, advocacy and community collaboration. When entering the program, the residents meet with a Family Self Sufficiency (FSS) Program Coordinator to discuss their needs and to set goals. Residents can receive assistance with seeking employment, job training, and educational opportunities.
- Resident Advisory Board (RAB) which meets regularly to obtain input from residents regarding capital needs and the overall PHA Annual Action Plan for the Housing Authority.

### **If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance**

The MHA is not designated as troubled and is considered a high performer with a score of 93. PHAs scoring 59 (on a scale of 100) or lower are designated as "troubled." PHAs scoring 90 or higher are designated as "high performing," and those with scores of 60-89 are "standard" or "substandard."

## **AP-65 Homeless and Other Special Needs Activities – 91.220(i)**

### **Introduction**

Murfreesboro's 2020-2024 Consolidated Plan identifies increasing housing options for the homeless and at risk of homelessness as a strategic priority. Long-term objectives include supporting emergency housing and supportive services and the implementation of a coordinated entry system.

The 2023 ESG allocation from the state agency will fund emergency shelter, rapid re-housing, and homeless prevention services that are projected to assist homeless and at-risk of homeless beneficiaries. The identified projects target homeless individuals and families who lack the resources to regain stable housing independently. Programs are designed to connect clients with the services necessary to ensure they move from emergency shelter to transitional or permanent housing.

### **Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including**

The City of Murfreesboro will utilize Emergency Solutions Grant funding provided through the State of Tennessee for Emergency Shelter, Homelessness Prevention, Rapid Re-Housing, HMIS administration, and ESG program administration. Funding for these programs are projected to benefit homeless persons and those at risk of homelessness. Projects selected for funding are designed to help shorten the client's homelessness, improve their ability to secure stable housing, and prevent recurrent homeless episodes.

### **Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs**

The City participates in and supports local efforts of the Housing, Health, and Human Services Alliance of Rutherford County (H<sup>3</sup>ARC) and other local agencies in its initiatives and projects. Murfreesboro will also continue to support organizations that assess the needs of the homeless to create a more robust social service system to address unmet needs.

Over the following Action Plan period, the City will collaborate with various local nonprofits organizations to expand services for the homeless and at-risk of homelessness population. Additionally, H<sup>3</sup>ARC collaborates with nonprofit organizations to analyze current needs to identify funding gaps and other gaps in services. The Homeless Point in Time Count, organized by the H<sup>3</sup>ARC, annually assesses the characteristics of the homeless population in the City. This data allows the Continuum and the City to track the changing needs of the homeless. The City will continue to support the efforts of the Continuum of Care in the preparation of the Point in Time Count to address the specific needs of homeless persons.

### **Addressing the emergency shelter and transitional housing needs of homeless persons**

The City supports efforts to decrease or end homelessness in Murfreesboro and supports the local Continuum of Care initiatives. The City of Murfreesboro does not receive a direct ESG allocation. It, therefore, relies on the allocation received by the agencies applying to the Continuum of Care to address these needs. These agencies are awarded funding for essential services and operations to emergency

shelters and transitional housing facilities. These facilities provide shelter and services to citizens of Murfreesboro to include homeless families, single men and women, and survivors of domestic violence. The City supports increasing housing options and self-sufficiency for the homeless and near-homeless by providing support for emergency housing and supportive services for homeless families and individuals, developing transitional housing, and preventing persons released from institutions from entering homelessness.

**Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again**

The City will continue to oversee activities for homeless individuals and families. The City has identified rapid re-housing as a priority during this Action Plan period. Obtaining permanent housing for homeless individuals and families will shorten the length of time spent in emergency and transitional shelters.

The City of Murfreesboro encourages collaboration with organizations to transition as many people as possible into permanent housing as quickly as possible. Some families or individuals may require only limited assistance for a short time, such as emergency food and shelter -- until a first paycheck is received or a medical emergency has passed. Others, however, will require more comprehensive and long-term assistance, such as transitional housing with supportive services and job training. Due to limited resources, agencies need to eliminate duplication of effort by local agencies, both in intake and assessment procedures and subsequent housing and supportive services.

**Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.**

The City of Murfreesboro will continue to support homelessness programs in 2020-2025 to assist families and individuals in avoiding becoming homeless. These programs seek to prevent homelessness by providing up to a year of short-term rental assistance, rental security deposits and last month's rent, and costs such as rental application fees and utilities.

## AP-75 Barriers to affordable housing – 91.220(j)

### Introduction:

Rutherford County imposed a development fee on all new residential construction, the proceeds of which are used primarily for school construction. The Rutherford County Commission has expressed no interest in rescinding this fee since the cause for it has not gone away. The City also imposes a storm water fee on all new development to help pay for its federally mandated storm water program. Both hurt the cost of new construction that affects the supply of affordable housing.

Community Development Department staff was used as a resource for housing issues, particularly those affecting the supply of affordable housing. Much of their input was incorporated into the Housing chapter of the report.

### **Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment**

The City of Murfreesboro does have some infill and redevelopment within the City's core. New housing units at a higher density are replacing many substandard housing units. Additionally, the residential units are being rehabilitated by private owners upgrading housing stock in the City core. The City also has two redevelopment projects that will provide additional residential units in midrise buildings which are replacing single story commercial and institutional building that are no longer being used.

While there is no single approach that meets all needs, a combination of planning, regulatory, and financing mechanisms can influence what is constructed. However, given the provisions that Tennessee state law places on cities and especially counties, few, if any, mechanisms currently available to entirely prevent haphazard growth patterns, particularly within the City's UGB.

Ultimately, growth management and utility extension policies should be based on the community's stated goals and objectives about the kind of community within which residents want to live. The long-term pattern of growth should be managed to balance market demands with economic development objectives. Indeed, future growth should be coordinated with infrastructure and public service investments such that the pattern and timing of development occur in a fiscally responsible manner.

During this Action Plan period, Murfreesboro will consider infill development opportunities closer to the city center. The new development has typically occurred at the City's outskirts on more significant swaths of undeveloped land (e.g., south of State Highway 99). These areas are less costly to serve and hence, more efficient as they are already serviced by roads, water, and sewer lines, public safety, solid waste collection, and existing parks and schools. The City should also consider opportunities that focus on redeveloping underutilized properties or obsolete building sites. This may involve the construction of individual lots or small undeveloped parcels in established neighborhoods and commercial districts.



## AP-85 Other Actions – 91.220(k)

### Introduction:

The Strategic Plan addresses the issue of meeting underserved needs through a variety of initiatives. Several of these initiatives are proposed for funding in this Annual Plan. The Community Development Department staff will host various workshops for subrecipients to provide an overview of program guidelines and expectations. We will utilize these workshops as an opportunity to network, share successes and lessons learned, and discuss best practices for utilizing HUD funding. Technical assistance will also be provided to subrecipients as needed.

### Actions planned to address obstacles to meeting underserved needs

Murfreesboro will collaborate with community leaders, stakeholders, and local nonprofit agencies to help remove obstacles to meet the needs of the underserved population and improve service delivery. The City will coordinate the work of nonprofit agencies to provide social services, disseminate news and information, and spearhead community-wide solutions to local needs. The City will also review and analyze the work of its various departments and divisions to find opportunities for collaboration between similar programs. Program staff will also ensure that all fair housing education materials are current and compliant with the Affirmatively Furthering Fair Housing Final Rule.

### Actions planned to foster and maintain affordable housing

Murfreesboro will actively work to address the need for more decent and affordable housing by prioritizing the investment of funds into all its housing programs. In the interest of preserving affordable housing, the City will continue to support the use of CDBG program funds for activities such as down-payment assistance and rehabilitation. To promote fair housing choice, the City will encourage and support fair housing rights for all and provide program funds to conduct outreach and education regarding the Fair Housing Law act of 1968.

### Actions planned to reduce lead-based paint hazards

All applicants for both the Housing Rehabilitation Program and the Affordable Housing Program receive a copy of the booklet *The Lead-Safe Certified Guide to Renovate Right*. A pdf. version of this booklet is available on the City's website through a link from the Community Development page.

Before approving any Affordable Housing Program loans on pre-1978 homes, a lead-based paint visual inspection is conducted. If paint disturbance is noted, a full lead assessment and risk analysis are conducted. When the owner-occupant of a pre-1978 house applies for the Housing Rehabilitation Program, the Community Development Department orders a lead assessment and risk analysis at no cost to the applicant.

### **Actions planned to reduce the number of poverty-level families**

Education and employment are critical factors in breaking the cycle of poverty. To that end, the City is committed to funding programs over the five years that will promote literacy, financial literacy, and self-sufficiency and help prepare residents for employment opportunities.

The City works with the Murfreesboro Housing Authority and the Tennessee Housing Development Agency to encourage Section 8 to homeownership participants. A provision in the policies of the City's Affordable Housing Assistance Program makes half of the financing provided to very-low-income first-time homebuyers a grant and half a no-interest loan due on sale.

The City includes Section 3 language in its notifications to housing rehabilitation contractors and the housing rehabilitation contracts. Successful bidders are supplied with contact information for the Murfreesboro Housing Authority Section 3 coordinator and other agencies able to supply low-income workers.

### **Actions planned to develop institutional structure**

Murfreesboro is a direct recipient of Emergency Solutions Grant (ESG) Program funds from the Tennessee Housing Development Agency. Through this funding source, Murfreesboro allocates funding for Emergency Shelter, Rapid Re-Housing, Homelessness Prevention, and data entry into the Homelessness Management Information System. Coldest Nights, a collaborative program of The Journey Home, The Salvation Army, and First Baptist Church of Murfreesboro, offers shelter to men who would otherwise be sleeping in unsheltered conditions on nights with temperatures forecast to be below 30°. Because most of the persons making use of the program fit the definition of chronically homeless, the program provides a point of contact for service providers to reach out to this population. Murfreesboro City Schools and Rutherford County Schools have programs to connect homeless families with children and unaccompanied youth to service providers.

### **Actions planned to enhance coordination between public and private housing and social service agencies**

The City will work to foster collaboration through the dissemination of services, news, and information across social service organizations, subcontractors, and public and private entities. The City will accomplish this through subrecipient meetings that bring together affordable housing developers and social service agencies. The City will encourage community-based solutions and regional partnerships and continue to support and participate in the CoC, whose membership includes affordable housing and social service agencies.

## Program Specific Requirements

### AP-90 Program Specific Requirements – 91.220(I)(1,2,4)

Introduction:

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220(I)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	\$100,000
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan.	0
5. The amount of income from float-funded activities	0
<b>Total Program Income</b>	<b>\$100,000</b>

#### Other CDBG Requirements

Other CDBG Requirements	
1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities <b>Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.</b>	80

**HOME Investment Partnership Program (HOME)**  
**Reference 24 CFR 91.220(l)(2)**

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:

City of Murfreesboro will utilize investment of HOME program funds as designated in CFR part 92.205(b). The City will provide HOME Program funds new construction and down-payment assistance loans to low and moderate-income homebuyers. The loans will be provided as “soft-second” mortgages, secured with a lien on the approved property.

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

The HOME rule at §92.254(a)(5) establishes the resale and recapture requirements HOME grantees must use for all homebuyer activities. These provisions are imposed for the duration of the period of affordability on all HOME-assisted homebuyer projects through a written agreement with the homebuyer, and enforced via lien, deed restrictions, or covenants running with the land. The resale or recapture provisions are triggered by any transfer of title, either voluntary or involuntary, during the established HOME period of affordability.

When undertaking HOME-assisted homebuyer activities, including projects funded with HOME program income, the City will establish resale or recapture provisions that comply with HOME statutory and regulatory requirements and set forth the provisions in its Consolidated Plan. HUD must determine that the provisions are appropriate. The written resale/recapture provisions that the City submits in its Annual Action Plan must clearly describe the terms of the resale/recapture provisions, the specific circumstances under which these provisions will be used, and how the City will enforce the provisions.

Note: City of Murfreesboro’s complete Resale and Recapture provisions are included as an appendix. Below is a summary of applicable portions of the provisions.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

The City’s resale and recapture provisions ensure the affordability of units acquired with home funds in several ways.

The HOME rule at §92.254(a)(4) establishes the period of affordability for all homebuyer housing. The City’s calculation for the period of affordability is based upon the amount of HOME assistance in each unit and the applicable period of affordability under resale or recapture provisions.

a. **Period of Affordability Under Resale Provisions**

Under resale, §92.254(a) (5) (i) the HOME rule states that the period of affordability is based on the total amount of HOME funds invested in the housing. In other words, the total HOME funds expended for the unit determines the applicable affordability period. Any HOME program income used to assist the project is included when determining the period of affordability under a resale provision.

b. Period of Affordability Under Recapture Provisions

For HOME-assisted homebuyer units under the recapture option, the period of affordability is based upon the HOME-funded direct subsidy provided to the homebuyer that enabled the homebuyer to purchase the unit. Any HOME program income used to provide direct assistance to the homebuyer is included when determining the period of affordability.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

The City does not anticipate refinancing any existing debt with its HOME funds during this Consolidated Plan period.

# MURFREESBORO COMMUNITY DEVELOPMENT DEPARTMENT

## CONTRACT FOR REHABILITATION

### CDBG

GRANTEE: City of Murfreesboro, Tennessee, acting through its Community Development Department, hereinafter referred to as "CITY."

THIS CONTRACT FOR REHABILITATION, hereinafter referred to as "CONTRACT," made this day of by and between MR. THOMAS B. REEVES, hereinafter referred to as "OWNER," whether one or more, and MIDDLE TENNESSEE PLUMBING, A TENNESSEE SOLE PROPRIETORSHIP, hereinafter referred to as "CONTRACTOR."

The OWNER hereby employs the CONTRACTOR to do all the work and provide all materials, tools and machinery, supervision, etc., necessary for the rehabilitation of the property known as, 1307 Stonewall Boulevard, Murfreesboro, TN, for the total sum of --- TEN THOUSAND, SEVEN HUNDRED DOLLARS ----- (\$10,700.00) all in accordance with this CONTRACT.

This CONTRACT consists of all terms, provisions and conditions stated herein, all terms, provisions and conditions contained in the listed Exhibits, together with all terms, provisions and conditions contained in those documents which are specifically incorporated herein by reference.

<u>Exhibit</u>	<u>Title</u>
A	EEO Standards
B	Change Orders
C	Warranty and Warranty Procedure
D	Grievance Procedure
E	CONTRACTOR'S Quote

#### SECTION I            **General Conditions**

1. After execution by the OWNER and CONTRACTOR, this CONTRACT will become effective only after approval by CITY as indicated by the signature of its authorized representative below.
2. The OWNER shall issue a written Proceed Order within ten **(10 days)** from the date of approval of this CONTRACT by CITY.
3. The CONTRACTOR must commence work within fifteen **(15)** days after issuance of the Proceed Order. At the option of the OWNER, this contract may be canceled by failure of the CONTRACTOR to begin work on the date specified.
4. The CONTRACTOR must complete the work within sixty **(60)** days after issuance of the Proceed Order in accordance with this CONTRACT, and in good and workmanlike manner. Failure to so complete the work may result in liquidated damages being assessed by the CITY at a rate of **one per cent (1%) per day** for each day over the time provided for such completion of the work. The assessed damages

will be calculated and deducted from the final payment made to the CONTRACTOR and will be credited to the loan balance of the OWNER.

5. In the event the CONTRACTOR fails to properly construct the improvements required by the plan incorporated herein and approved by the CITY, CONTRACTOR shall continue to be responsible to properly construct those improvements, notwithstanding the CITY and / or OWNER over-looked such failures or defects prior to acceptance of the work.

## **SECTION II            General Requirements**

1. The work to be performed under this CONTRACT is on a project assisted under the Community Development Block Grant program, which provides Federal financial assistance from the Department of Housing and Urban Development and subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
2. The parties to this CONTRACT will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 75, and all applicable rules and orders of the Department issued thereunder prior to the execution of this CONTRACT. The parties to this CONTRACT certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
3. The CONTRACTOR will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contact or understanding, if any, a notice advising said labor organization or workers' representative of CONTRACTOR'S commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The CONTRACTOR will include this Section 3 clause in every subcontract for work in connection with project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 75. The CONTRACTOR will not let any subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 75 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 75, and all applicable rules and orders of the Department issued hereunder prior to the execution of this CONTRACT, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors or subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 75.

6. The CONTRACTOR shall comply with the provisions of the Copeland Anti-Kickback Act (18 U.S.C.A. § 874, 40 U.S.C.A. § 3145), which prohibits the taking of kickbacks from employees on public works, and the Anti-Kickback Act of 1986 (41 U.S.C.A. §§ 8701 to 8707), which prohibits subcontractor kickbacks, and any amendments or modifications of these Acts, shall cause appropriate provisions to be inserted in subcontracts to insure compliance with these acts by all subcontractors subject to the Acts, and shall be responsible for the submission of statements required by subcontractors under the Acts, except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances and exemptions from the requirements of the Acts.
7. The CONTRACTOR will not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, national origin or disability. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their age, race, color, religion, sex, national origin or disability. 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. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CITY setting forth the provisions of this non-discrimination clause.

### **SECTION III            General Statement of Work**

A. In addition to all requirements contained in CONTRACTOR'S Bid, in performing work pursuant to this CONTRACT, the CONTRACTOR shall:

1. Be responsible for adjacent property which is or may be affected or endangered by any work done under this contract, taking whatever steps are necessary for the protection of the adjacent property and for notifying the OWNER thereof of such hazard.
2. Not assign or sublet this contract without the written consent of the OWNER. Any request for consent to an assignment shall be addressed to the OWNER, c/o the CITY.
3. Indemnify and hold harmless and defend the OWNER, the CITY, and State of Tennessee, their agents, servants or employees, from and against any and all claims for injuries or damages to persons or property of whatsoever kind of character, whether real or asserted, arising out of this CONTRACT or the work to be performed hereunder. The CONTRACTOR hereby assumes all liability and responsibility for injuries, claims or suits for damages, to persons or property of whatsoever kind of character, whether real or asserted, occurring during the time the work is being performed and arising out of the performance of same.
4. Not commence work under this CONTRACT until all insurance required under this program has been secured and such insurance has been approved by the CITY.
5. All materials and equipment that have been removed and replaced as part of the work hereunder shall belong and be removed by CONTRACTOR.
6. Maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the CONTRACT and such other records as may be deemed necessary by the CITY to assure proper accounting for all funds. These records will be available for audit purposes to the CITY or the State of Tennessee or any authorized representative



and will be retained for three years after CONTRACT completion unless permission to destroy them is granted by the CITY. The CITY, State of Tennessee, and any authorized representative shall have access to any other books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this CONTRACT for the purpose of making audit, examination, excerpts, and transcriptions.

B. During the course of performance of work pursuant to this CONTRACT, the OWNER shall:

1. Not permit any changes or additions to the CONTRACT, work write-up, or plans without approval of the CITY. If any changes or additions are approved, a Change Order must be signed by the OWNER and the CONTRACTOR and approved by the CITY as provided in **Exhibit B**, and no work on such changes or additions shall be initiated until such Change Order is signed.
2. Cooperate with the CONTRACTOR to facilitate the performance of the work, including the removal and replacement of rugs, coverings, and furniture as necessary.
3. Allow inspection by the CITY (and/or HUD) of the property whenever the CITY and/or HUD determines that such inspection is necessary.
4. Permit the CONTRACTOR to use, at no cost, existing utilities such as light, heat, power, and water necessary to carry out and complete the work.
5. Have the option, in the event of any breach of this CONTRACT and with the CITY approval, to engage the services of another contractor to complete the work and to deduct the cost of such completion from any amount due the CONTRACTOR hereunder.
6. Allow payment in full to the CONTRACTOR, from the Community Development Department funds, subject to the CITY'S acceptance of the work as satisfactorily completed in accordance with this CONTRACT.
7. During the course of performance of work pursuant to the CONTRACT and for the duration of OWNER'S compliance period, maintain homeowner's insurance in an amount equal to the value of the residence following completion of the rehabilitation work pursuant to this CONTRACT. Such insurance shall name the CITY as an additional insured. Proof of such insurance shall be provided to the CITY by a certificate of insurance or endorsement as necessary. OWNER must notify CITY if the insurance policy is renewed, canceled or altered in any manner and provide written documentation of such alteration.

#### **SECTION IV            Warranty and Warranty Procedure**

CONTRACTOR warrants all work performed pursuant to this CONTRACT for a period of one year from the date the homeowner signs the *Certificate of Completion and Final Inspection*. Warranty work shall be requested and performed in accord with the Warranty Procedure contained in **Exhibit C** hereto.

#### **SECTION V            Grievance Procedure**

Any dispute between or among the CONTRACTOR, OWNER and / or CITY shall be resolved in accord with the Grievance Procedure contained in **Exhibit D** hereto.

## **SECTION VI            Payment**

Progress Payment - No more than one progress payment will be made on a rehabilitation project, and that only after at least sixty percent (60%) of the project is deemed complete. The payment will be no more than fifty-five percent (55%) of the CONTRACT amount, as modified by Change Orders, if any. Progress payment will be made only after the City's representative has completed an inspection and all work performed to date has been accepted by the OWNER.

### Final Payment -

- A. FINAL INSPECTION - Upon completion of the rehabilitation work, a final inspection is held by the CITY. Any uncompleted work or work that is unsatisfactory is noted on a final "punch list" and sent to the CONTRACTOR in writing. When these items are completed to the satisfaction of the OWNER and the CITY'S inspector, the contract is complete.
- B. CERTIFICATION - After the CITY determines that the rehabilitation work has been fully and satisfactorily completed, it will prepare a *Certificate of Completion and Final Inspection*.
- B. OWNER STATEMENT OF ACCEPTANCE - The OWNER'S signature of the *Certificate of Completion and Final Inspection* indicates acceptance the rehabilitation work as meeting the terms and conditions of the contract. If the OWNER refuses to sign the final acceptance, the CITY may authorize full payment for those items which are undisputed and acceptable to all parties.

## **SECTION VII            Conflict of Interest, Kickback**

No elected or appointed Federal, State and local official, member of the Murfreesboro City Council, nor any other public official or employee who exercises any functions or responsibilities in conjunction with the administration of Murfreesboro Housing Rehabilitation Program shall have any interest, direct or indirect, in the proceeds or benefits of the rehabilitation grant program.

No member of the Murfreesboro City Council or any City of Murfreesboro employee shall receive kickbacks or discounts from either CONTRACTORS or OWNERS in return for special favors in regard to housing rehabilitation.

## **SECTION VIII            Entire Agreement; Change Orders**

This instrument constitutes the entire agreement between the parties and no written or oral agreement of any kind exists to change these provisions. Specifically, no "side" or "additional" contracts are to exist between the OWNER and CONTRACTOR until this contract is completed unless it is a written Change Order, signed by both parties and approved by the Grantee, in accord with **Exhibit B**.

IN WITNESS WHEREOF, the parties have by their duly authorized representatives set out their signatures.

Date

\_\_\_\_\_  
BY: *[Signature]*  
MIDDLE TENNESSEE PLUMBING  
CONTRACTOR 4/4/23

*[Signature]*  
THOMAS B. REEVES,  
OWNER

Date: \_\_\_\_\_

Witnessed by: *[Signature]*

APPROVED BY CITY:

\_\_\_\_\_  
Name: Shane McFarland  
Title: Mayor

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

*[Signature]*  
Name: Adam Tucker  
Title: City Attorney

4/27/2023  
Date

## EXHIBIT A

### EEO STANDARDS

1. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).

(1) As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" includes the federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
  - (i) Black persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - (iii) Asian and Pacific Island (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Whenever the CONTRACTOR, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

(3) If the CONTRACTOR is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. CONTRACTORS must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each CONTRACTOR or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other CONTRACTORS or subcontractors toward a goal in an approved Plan does not excuse any covered CONTRACTOR's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

(4) The CONTRACTOR shall implement the specific affirmative action standards provided in paragraphs (7a) through (p) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training or minority and female utilization the CONTRACTOR should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction CONTRACTORS performing contract in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed.

Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The CONTRACTOR is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

- (5) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the CONTRACTOR has a collective bargaining agreement, to refer either minorities or women shall excuse the CONTRACTOR'S obligations under these specifications. Executive Order 11246, or the regulations promulgated pursuant thereto.
- (6) In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the CONTRACTOR during the training period, and the CONTRACTOR must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- (7) The CONTRACTOR shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the CONTRACTOR'S compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The CONTRACTOR shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the CONTRACTOR'S employees are assigned to work. The CONTRACTOR, where possible, will assign two or more women to each Construction project. The CONTRACTOR shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the CONTRACTOR'S obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the CONTRACTOR or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the CONTRACTOR by the union or, if referred, not employed by the

CONTRACTOR, this shall be documented in the file with the reason therefore, along with whatever additional actions the CONTRACTOR may have taken.

- d. Provide immediate written notification to the Director when the union or unions with which the CONTRACTOR has a collective bargaining agreement has not referred to the CONTRACTOR a minority person or woman sent by the CONTRACTOR, or when the CONTRACTOR has other information that the union referral process has impeded the CONTRACTOR'S efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the CONTRACTOR'S employment needs, especially those programs funded or approved by the Department of Labor. The CONTRACTOR shall provide notice of these programs to the sources compiled under (7b) above.
- f. Disseminate the CONTRACTOR'S EEO policy notice of the policy to unions and training programs and request their cooperation in assisting the CONTRACTOR in meeting its EEO obligations: by including it in any policy manual and collective bargaining agreement publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year: and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the CONTRACTOR'S EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the CONTRACTOR'S EEO policy with other CONTRACTORS and subcontractors with whom the CONTRACTOR does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the CONTRACTOR'S recruitment area and employment needs. Not later than one month prior to the date of the acceptance of applications or apprenticeship or other training by any recruitment source, the CONTRACTOR shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of CONTRACTOR'S work force.

- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications work assignments and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the CONTRACTOR'S obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction CONTRACTORS and suppliers, including circulation of solicitations to minority and female CONTRACTOR associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to an performance under the CONTRACTOR'S EEO policies and affirmative action obligations.
- (8) CONTRACTORS are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligation (7)a through p. The efforts of a CONTRACTOR association, joint CONTRACTOR-union, CONTRACTOR-community, or other similar group of which the CONTRACTOR is a member and participant, may be asserted as fulfilling any one or more of its obligations under (7)a through p of these Specifications provided that the CONTRACTOR actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the CONTRACTOR'S minority and female work force participation, makes good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the CONTRACTOR. The obligation shall not be a defense for the CONTRACTOR'S non-compliance.
- (9) A single goal for minorities and a separate single goal for women have been established. The CONTRACTOR, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the CONTRACTOR may be in violation of the Executive Order if a particular group is employed in a substantial disparate manner (for example, even though the CONTRACTOR has achieved its goals for women generally the CONTRACTOR may be in violation of the Executive Order if a specific minority group of women is underutilized).
- (10) The CONTRACTOR shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- (11) The CONTRACTOR shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

- (12) The CONTRACTOR shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended.
- (13) The CONTRACTOR, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph (7) of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the CONTRACTOR fails to comply with the requirements of the Executive Order, the implementing regulation, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- (14) The CONTRACTOR shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number where assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, CONTRACTOR shall not be required to maintain separate records.
- (15) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).



## **EXHIBIT B**

### **CHANGE ORDERS**

Situations which did not show up during the work write-up are not uncommon in the housing rehabilitation process, and they can change the scope of work, especially if the new problem must be resolved to correct the underlying code deficiency. In such a case, a change order may be initiated.

- A. Conditions necessitating a change order must meet the guidelines in Section 3 and Section 6 of the Housing Rehabilitation Program Policies and Procedures, all of which are incorporated herein by reference.
- B. Change orders must be submitted in writing to the Community Development Department. The City inspector assigned to the project, the homeowner, the contractor and the Community Development Director must sign off on the change order.
- C. Because a change order may alter the City's financial commitment to the project, all change orders should be approved by the Murfreesboro Mayor and Council. Change orders shall be submitted to the Mayor and Council for approval in a timely manner. If waiting until the next scheduled meeting of the Council will unreasonably delay the rehabilitation project, the Community Development Director may recommend to the City Manager approval of the change order. If the City Manager approves the change order, which must be less than \$10,000 in amount, it will take effect immediately and will be reported to the Mayor and Council at its next meeting.
- D. A change order that would cause the cost of the project to exceed the \$25,000 cap must be approved by the Mayor and Council before work on the change order may proceed.

## EXHIBIT C

### WARRANTY WORK

All rehabilitation work done by the Contractor shall be warranted for one year from the date the homeowner signs the *Certificate of Completion and Final Inspection* indicating acceptance of the rehabilitation work as meeting the terms and conditions of the contract.

Should the homeowner notify the Community Development Department of a warranty claim, the department will:

1. Review rehabilitation project documents to determine if the complaint might be related to the work done;
2. Conduct an on-site inspection accompanied by the contractor or a designee to investigate the request for warranty work;
3. If an on-site inspection determines the requested repair is under warranty, the contractor will have 10 working days to resolve the warranty issue. Another inspection by the City will determine if the terms of the warranty have been satisfied.
4. If the complaint is not resolved within 10 days, a second notice will be issued to the contractor giving an additional five working days to resolve the warranty issue. If the complaint remains unaddressed or resolved unsatisfactorily, the contractor may be ruled ineligible for further participation in the Murfreesboro Housing Rehabilitation Program;
5. A contractor ruled ineligible will be notified by certified mail. The contractor may appeal the ruling within 15 working days of receiving notification. The appeal must be in writing, addressed to the Community Development Director, City of Murfreesboro, P.O. Box 1139, Murfreesboro, TN 37133;
6. When an appeal is received, the Community Development Director will investigate and either restore the contractor's eligibility for program participation or sustain the earlier decision. The director reserves the right to report a contractor who fails to honor his contractual obligations to THDA and the U.S. Department of Housing and Urban Development with a recommendation for disbarment;
7. Before the Community Development Department will consider restoring eligibility, a contractor will be required to reimburse the City for any expense incurred to have another contractor satisfy the ineligible contractor's warranty work.

## **EXHIBIT D**

### **GRIEVANCE PROCEDURE**

Disputes between the homeowner, the City of Murfreesboro and contractor may arise from time to time during the rehabilitation project. In those instances where a mutually satisfactory agreement cannot be reached between the parties, the Grievance Procedure will be followed. The Grievance Procedure will be made a part of the contract between the homeowner and the contractor.

If there is a dispute:

- A. The grievance by the homeowner or contractor is to be filed with the Community Development Director in writing.
- B. The Community Development Director will meet with the homeowner and contractor and attempt to negotiate a solution.

If these steps are unsuccessful, all claims or disputes between the owners and contractor arising out of or related to the work shall be decided by arbitration in accordance with the construction industry arbitration rules of the American Arbitration Association then obtaining, unless the parties mutually agree otherwise.

If the arbitrator's award is in a sum which is less than that which was offered in settlement by the contractor, the arbitrator may award costs and attorney's fees in favor of the contractor. If the award of the arbitrator is in a sum greater than that which was offered in settlement by the owners, the arbitrator may award costs and attorney's fees in favor of the owner.

The contract and the rehabilitation specifications, along with the housing code compliance inspection, provide the basic documentation by which the relative merits of any dispute will be judged.

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Housing Rehabilitation – 1307 Stonewall Blvd  
**Department:** Community Development  
**Presented by:** Robert Holtz, Director of Community Development  
**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

Rehabilitation of residence through the Community Development Housing Rehabilitation program.

## Staff Recommendation

Approve contract with Middle Tennessee Plumbing for the rehabilitation activity.

## Background Information

A residence at 1307 Stonewall Blvd has a failed septic system and must be connected to city sewer. Proposed is replace of cast iron sewer lines and galvanized water lines under the house to the city sewer. The homeowner qualifies for federal assistance under the City's CDBG rehabilitation program. Middle Tennessee Plumbing was the lowest responsible bidder for the work at \$10,700.

## Council Priorities Served

*Responsible budgeting.*

Utilizing CDBG funds assists the City in addressing exterior and interior deficiencies in the communities housing stock and maintain funds for other budgetary requirements.

## Fiscal Impact

The expense, \$10,700, is fully funded by Community Development Block Grant.

## Attachments:

Contract for Rehabilitation with Middle Tennessee Plumbing

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Grant Contract Amendments between Greater Nashville Regional Council and St. Clair Senior Center

**Department:** Parks and Recreation

**Presented by:** Nate Williams, Director

**Requested Council Action:**

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

**Summary**

Grant Contract Amendments with Greater Nashville Regional Council (GNRC) and St. Clair Senior Center (Senior Center).

**Staff Recommendation**

Approve Amendments.

**Background Information**

Council approved the original GNRC grant contract in July 2022 of \$40,485 for services that promote lifelong learning, health and well-being, socialization, and volunteer opportunities.

The proposed Amendment 23-1 increases the grant amount to \$44,273. GNRC requires acceptance by Council for the grant. This amendment imposes no additional fiscal impact to the City. Amendment 23-2 alters the original grant to reference properly the database currently used by the state.

**Council Priorities Served**

*Responsible budgeting*

Utilizing state and federal grant funds maximizes the amount of money allocated to the Senior Center for vital senior programs.

**Fiscal Impact**

The GNRC grant monies awarded to the Senior Center for FY23 will increase by \$3,788.

**Attachments**

1. Amendment 23-1 for 2022 GNRC Grant Contract
2. Amendment 23-2 for 2022 GNRC Grant Contract
3. 2022 GNRC Grant Contract



## CONTRACT AMENDMENT COVER SHEET

<b>Agency Tracking #</b> StClairSC-G	<b>Edison ID</b>	<b>Contract #</b> 2326-30	<b>Amendment #</b> 23-1	
<b>Grantee Legal Entity Name</b> City of Murfreesboro - St. Clair Street Senior Center			<b>CFDA #</b> 93.044 (IIIB), 93.043 (IIID), 93.052 (III-E)	
<b>Amendment Purpose &amp; Effect(s)</b> Addition of ARP funds				
<b>Amendment Changes Contract End Date:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO		<b>End Date:</b> 6/30/2023		
<b>TOTAL Contract Amount INCREASE or DECREASE per this Amendment</b> (zero if N/A):			<b>\$3,787.50</b>	
<b>Funding —</b>				
<b>FY</b>	<b>State/Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2023	\$44,272.50			\$44,272.50
				\$ 0.00
				\$ 0.00
				\$ 0.00
<b>TOTAL:</b>	<b>\$44,272.50</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$44,272.50</b>

**AMENDMENT 23-1 BETWEEN  
THE GREATER NASHVILLE REGIONAL COUNCIL AND  
CITY OF MURFREESBORO - ST. CLAIR STREET SENIOR CENTER  
TO CONTRACT 2326-30**

This Amendment is made and entered by and between the Greater Nashville Regional Council ("Agency") and City of Murfreesboro - St. Clair Street Senior Center ("Grantee") where the parties entered into a contract with an Effective Date of July 1, 2022 for the provision of senior center services and evidence-based programming ("Contract"); and

Section D.2 of the July 1, 2022 contract allows written amendments to the Contract.

The Contract is amended as follows:

1. Section C.1. is amended by deleting the original C.1. and substituting the revised C.1., below.

C.1. Maximum Liability. In no event shall the maximum liability of the Agency under this Grant Contract exceed Forty-Four Thousand, Two Hundred Seventy-Two Dollars And Fifty Cents (\$44,272.50) ("Maximum Liability") for FY 2023. The Grant Budget for FY 2023, attached and incorporated hereto as Attachment B, shall constitute the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

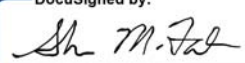
2. Attachment B (Grant Budget) is amended by deleting the original Attachment B and substituting the revised Attachment B, attached and incorporated herein.

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


Amendment Effective Date. The revisions set forth herein shall be effective November 1, 2022 ("Effective Date"). All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

**AGREED:**

**CITY OF MURFREESBORO - ST. CLAIR STREET SENIOR CENTER:**

DocuSigned by:  
  
AZFBA4BF7CD74E7  
SHANE MCFARLAND, MAYOR  
12/8/2022  
DATE

**GREATER NASHVILLE REGIONAL COUNCIL:**

  
MICHAEL SKIPPER, EXECUTIVE DIRECTOR  
1/13/2023  
DATE





**ATTACHMENT B****GRANT BUDGET LINE-ITEM DETAIL:**  
Senior Center Services

<b>PROFESSIONAL FEE, GRANT &amp; AWARD</b>	<b>GRANT CONTRACT AMOUNT</b> (Grantee Participation Not Included)
Contracted Services	\$761.17
<b>TOTAL</b>	<b>\$ 761.17</b>

<b>OTHER NON-PERSONNEL</b>	<b>GRANT CONTRACT AMOUNT</b> (Grantee Participation Not Included)
Special Events	\$2,337.95
<b>TOTAL</b>	<b>\$2,337.95</b>

<b>SOURCE OF FUNDS</b>	<b>ALN</b>	<b>GRANT CONTRACT AMOUNT</b> (Grantee Participation Not Included)
<b>Federal Funds</b>		
Title III-B Community Support Services	93.044	\$29,897.00
Title III-C-1 Congregate Meals Service	93.045	\$ 0.00
Title III-C-2 Home Delivered Meals Service	93.045	\$ 0.00
Title III-D Disease Prevention and Health Promotion Services	93.043	\$2,000.00
Title III-E National Family Caregiver Support Program	93.052	\$ 0.00
Title VII Long-Term Care Ombudsman Program	93.042	\$ 0.00
Title VII Elder Abuse Prevention Program	93.041	\$ 0.00
Nutrition Services Incentive Program (NSIP)	93.053	\$ 0.00
<b>State Funds</b>		
State Senior Centers Operations		\$8,588.00
State Home delivered Meals		\$ 0.00
State Homemaker		\$ 0.00
State Caregiver		\$ 0.00
State Guardianship		\$ 0.00
State HCBS/Options for Community Living Program		\$ 0.00
<b>TOTAL</b>		<b>\$40,485.00</b>

## ATTACHMENT B

<b>GRANT BUDGET</b>				
Senior Center Services - ARP				
The grant budget line-item amounts below shall be applicable only to expense incurred during the following Applicable Period: BEGIN: July 1, 2022 END: June 30, 2023				
<b>POLICY 03 Object Line-item Reference</b>	<b>EXPENSE OBJECT LINE-ITEM CATEGORY</b>	<b>GRANT CONTRACT</b>	<b>GRANTEE PARTICIPATION</b>	<b>TOTAL PROJECT</b>
1. 2	Salaries, Benefits & Taxes	\$3,787.50	\$ 0.00	\$3,787.50
4, 15	Professional Fee, Grant & Award	\$ 0.00	\$ 0.00	\$ 0.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	\$ 0.00	\$ 0.00	\$ 0.00
11. 12	Travel, Conferences & Meetings	\$ 0.00	\$ 0.00	\$ 0.00
13	Interest	\$ 0.00	\$ 0.00	\$ 0.00
14	Insurance	\$ 0.00	\$ 0.00	\$ 0.00
16	Specific Assistance To Individuals	\$ 0.00	\$ 0.00	\$ 0.00
17	Depreciation	\$ 0.00	\$ 0.00	\$ 0.00
18	Other Non-Personnel	\$ 0.00	\$ 0.00	\$ 0.00
20	Capital Purchase	\$ 0.00	\$ 0.00	\$ 0.00
22	Indirect Cost	\$ 0.00	\$ 0.00	\$ 0.00
24	In-Kind Expense	\$ 0.00	\$ 0.00	\$ 0.00
25	<b>GRAND TOTAL</b>	<b>\$3,787.50</b>	<b>\$ 0.00</b>	<b>\$3,787.50</b>

<sup>1</sup> Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A.* (posted on the Internet at: <https://www.tn.gov/finance/looking-for/policies.html>).

<sup>2</sup> Applicable detail follows this page if line-item is funded.

**ATTACHMENT B****GRANT BUDGET LINE-ITEM DETAIL:**  
Senior Center Services - ARP

<b>SOURCE OF FUNDS</b>	<b>ALN</b>	<b>GRANT CONTRACT AMOUNT</b> (Grantee Participation Not Included)
<b>Federal Funds</b>		
Title III-B Community Support Services	93.044	\$ 0.00
Title III-C-1 Congregate Meals Service	93.045	\$ 0.00
Title III-C-2 Home Delivered Meals Service	93.045	\$ 0.00
Title III-D Disease Prevention and Health Promotion Services	93.043	\$ 0.00
Title III-E National Family Caregiver Support Program	93.052	\$ 0.00
Title VII Long-Term Care Ombudsman Program	93.042	\$ 0.00
Title VII Elder Abuse Prevention Program	93.041	\$ 0.00
Nutrition Services Incentive Program (NSIP)	93.053	\$ 0.00
<b>State Funds</b>		
State Senior Centers Operations		\$3,787.50
State Home delivered Meals		\$ 0.00
State Homemaker		\$ 0.00
State Caregiver		\$ 0.00
State Guardianship		\$ 0.00
State HCBS/Options for Community Living Program		\$ 0.00
<b>TOTAL</b>		<b>\$3,787.50</b>



## CONTRACT AMENDMENT COVER SHEET

<b>Agency Tracking #</b> StClairSC-G	<b>Edison ID</b>	<b>Contract #</b> 2326-30	<b>Amendment #</b> 23-2	
<b>Grantee Legal Entity Name</b> City of Murfreesboro - St. Clair Street Senior Center				
<b>Grantee Entity Type</b> Government				
<b>Amendment Purpose &amp; Effect(s)</b> Remove reference to previous database				
<b>Amendment Changes Contract End Date:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<b>End Date:</b> 6/30/2023		
<b>TOTAL Contract Amount INCREASE or DECREASE <u>per this Amendment</u></b> (zero if N/A):			<b>\$ 0.00</b>	
<b>Funding —</b>				
<b>FY</b>	<b>State/Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2023	\$44,272.50			\$44,272.50
				\$ 0.00
				\$ 0.00
				\$ 0.00
				\$ 0.00
<b>TOTAL:</b>	<b>\$44,272.50</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$44,272.50</b>

**AMENDMENT 23-2 BETWEEN  
THE GREATER NASHVILLE REGIONAL COUNCIL AND  
CITY OF MURFREESBORO - ST. CLAIR STREET SENIOR CENTER  
TO CONTRACT 2326-30**

This Amendment is by and between the Greater Nashville Regional Council, a Tennessee governmental entity ("Agency"), and City of Murfreesboro - St. Clair Street Senior Center ("Grantee"). Reference is made to Contract 2326-30 with an Effective Date of July 1, 2022 for the provision of senior center services and evidence-based programming ("Contract"). In order to more fully accomplish the objectives of the Contract, the parties enter into this Amendment.

Grantee Entity Type: Government  
Grantee FEIN: 62-6000374

Section D.2 of the July 1, 2022 contract allows written amendments to the Contract.

The Contract was previously amended by Amendment 23-1, with an Effective Date of November 1, 2022.

The Contract is amended as follows:

1. Each reference to "WellSky Aging and Disability Database" is stricken and replaced with "State Unit on Aging-approved database."

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

Amendment Effective Date. The revisions set forth herein shall be effective March 28, 2023 ("Effective Date"). All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

**AGREED:**

**CITY OF MURFREESBORO - ST. CLAIR STREET SENIOR CENTER:**

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**SHANE MCFARLAND, MAYOR**

**DATE**

**GREATER NASHVILLE REGIONAL COUNCIL:**

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**MICHAEL SKIPPER, EXECUTIVE DIRECTOR**

**DATE**

Approved to form:

DocuSigned by:

*Adam Tucker*

43A2025E54F9401

Adam F. Tucker, City Attorney



## GOVERNMENTAL GRANT CONTRACT

(cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)

<b>Begin Date</b> 7/1/2022	<b>End Date</b> 6/30/2023	<b>Agency Tracking #</b> StClairSC-G 2326-30	<b>Edison ID</b>
<b>Grantee Legal Entity Name</b> City of Murfreesboro - St. Clair Street Senior Center			<b>Edison Vendor ID</b>
<b>Subrecipient or Recipient</b> <input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Recipient		<b>CFDA #</b> 93.044 (III-B), 93.043 (III-D)	
		<b>Grantee's fiscal year end</b> June 30	
<b>Service Caption</b> (one line only) For the provision of senior center services and evidence-based programming.			
<b>Funding —</b>			
<b>FY</b>	<b>State/Federal</b>	<b>Interdepartmental</b>	<b>Other</b>
2023	\$40,485.00		
<b>TOTAL:</b>	<b>\$40,485.00</b>		
			<b>\$40,485.00</b>
<b>Grantee Selection Process Summary</b>			
<input checked="" type="checkbox"/> Competitive Selection		RFP was issued and proposals evaluated and scored to determine selection	
<input type="checkbox"/> Non-competitive Selection			
<b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.		<i>CPO USE - GG</i>	
<b>Speed Chart</b> (optional)	<b>Account Code</b> (optional)		

**GRANT CONTRACT  
BETWEEN  
GREATER NASHVILLE REGIONAL COUNCIL  
AND  
CITY OF MURFREESBORO - ST. CLAIR STREET SENIOR CENTER**

This grant contract ("Grant Contract"), by and between the Greater Nashville Regional Council ("Agency") and City of Murfreesboro - St. Clair Street Senior Center ("Grantee"), is for the provision of senior center services and evidence-based programming, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee FEIN 62-6000374

**A. SCOPE OF SERVICES AND DELIVERABLES:**

- A.1. The Grantee shall provide all services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.
- A.2. The Scope to be provided under this Grant Contract is included in Attachment A. The Scope is fully incorporated into and made part of this Grant Contract.
- A.3. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Grantee's duties, responsibilities, and performance hereunder, these items shall govern in order of precedence below.
  - a. this Grant Contract document with any attachments or exhibits (excluding the items listed at subsections b. and c., below);
  - b. the Agency grant proposal solicitation as may be amended, if any;
  - c. the Grantee's proposal (incorporated by reference) to elaborate supplementary scope of services specifications.
- A.4. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as Attachment D, is incorporated in this Grant Contract.

**B. TERM OF CONTRACT:**

- B.1. Term. This Grant Contract shall be effective for the period beginning on July 1, 2022, ("Effective Date") and ending on June 30, 2023 ("Term"). The Agency shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.
- B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The Agency reserves the right at its sole option to exercise up to three consecutive renewal options under the same terms and conditions, with each renewal option period not to exceed twelve (12) months. In no event, however, shall the maximum term, including all renewals or extensions, exceed a total of sixty (60) months.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the Agency under this Grant Contract exceed Forty Thousand, Four Hundred And Eighty-Five Dollars (\$40,485.00) for FY 2023 ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment B for FY 2023 is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-

items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

- C.2. Compensation Firm. The Maximum Liability of the Agency is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the Term and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the Agency no more often than monthly, with all necessary supporting documentation, and present such to:

AgingFinance@gnrc.org

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
  - (1) Invoice/Reference Number (assigned by the Grantee).
  - (2) Invoice Date.
  - (3) Invoice Period (to which the reimbursement request is applicable).
  - (4) Grant Contract Number (assigned by the Agency).
  - (5) Grantor: Greater Nashville Regional Council
  - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
  - (7) Grantee Name.
  - (8) Grantee FEIN Referenced in Preamble of this Grant Contract.
  - (9) Grantee Remittance Address.
  - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
  - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
    - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
    - ii. The amount reimbursed by Grant Budget line-item to date.
    - iii. The total amount reimbursed under the Grant Contract to date.
    - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.
  - (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
  - (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.



- (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the Agency is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- (4) An invoice under this Grant Contract shall be presented to the Agency within sixty (60) days after the end of the calendar month in which the subject costs were incurred or services were rendered by the Grantee. An invoice submitted more than sixty (60) days after such date will NOT be paid. The Agency will not deem such Grantee costs to be allowable and reimbursable by the Agency unless, at the sole discretion of the Agency, the failure to submit a timely invoice is warranted. The Grantee shall submit a special, written request for reimbursement with any such untimely invoice. The request must detail the reason the invoice is untimely as well as the Grantee's plan for submitting future invoices as required, and it must be signed by a Grantee agent that would be authorized to sign this Grant Contract.

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount by up to twenty percent (20%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. The net result of any changes to Grant Budget line-item amounts shall not result in funding for a line-item that was previously funded at zero dollars (\$0.00). Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.

C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within eight (8) days of the Grant Contract end date, in form and substance acceptable to the Agency.

- a. If total disbursements by the Agency pursuant to this Grant Contract exceed the amounts permitted by Section C of this Grant Contract, the Grantee shall refund the difference to the Agency. The Grantee shall submit said refund with the final grant disbursement reconciliation report.
- b. The Agency shall not be responsible for the payment of any invoice submitted to the Agency after the grant disbursement reconciliation report. The Agency will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the Agency, and such invoices will NOT be paid.
- c. The Grantee's failure to provide a final grant disbursement reconciliation report to the Agency as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the Agency pursuant to this Grant Contract.
- d. The Grantee must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- e. If the Grant Budget specifies a Grantee Match Requirement, then the final grant disbursement reconciliation report shall detail all Grantee expenditures recorded to meet said requirement.
  - i. No Grantee expenditure shall be recorded and reported toward meeting a Grantee Match Requirement of more than one grant contract with the state of Tennessee.

- ii. The final grant disbursement reconciliation report shall specifically detail the exact amount of any Grantee failure to meet a Match Requirement, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the Grant Budget column "Grant Contract," shall be reduced by the amount that the Grantee failed to contribute to the Total Project as budgeted.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the Agency a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the Agency, and subject to the availability of funds the Agency agrees to remit any underpayment to the Grantee.
- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the Agency shall not prejudice the Agency's right to object to or question any reimbursement, invoice, or related matter. A payment by the Agency shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the Agency, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.12. Agency's Right to Set Off. The Agency reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the Agency under which the Grantee has a right to receive payment from the Agency.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the Agency under this Grant Contract until the Agency has received the following, properly completed documentation.
  - a. The Grantee shall complete, sign, and return to the Agency an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the Agency. By doing so, the Grantee acknowledges and agrees that, once this form is received by the Agency, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
  - b. The Grantee shall complete, sign, and return to the Agency the Agency-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The Agency is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The Agency may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the Agency. The Agency shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Agency be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the Agency is liable shall be determined by the Agency. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the Agency's exercise of its right to terminate for convenience.
- D.4. Termination for Cause. Each obligation of the Grantee under this Grant Contract is material, and time is of the essence. If the Grantee fails to perform its obligations under this Grant Contract in a timely or proper manner, or if the Grantee violates any terms of this Grant Contract ("Breach Condition"), the Agency shall have the right to terminate the Grant Contract without notice and to withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Grantee shall not be relieved of liability to the Agency for damages sustained by virtue of any Breach Condition and the Agency may seek other remedies allowed at law or in equity for breach of this Grant Contract.
- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the Agency. If such subcontracts are approved by the Agency, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee, or Agency, as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.
- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into

of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first-class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The Agency:

Michael Skipper, Executive Director  
cc: Sara Fowler, Director of Aging and Disability Services  
Greater Nashville Regional Council  
220 Athens Way, Ste 200, Nashville, TN 37228  
mskipper@gnrc.org  
cc: sfowler@gnrc.org  
Telephone # 615-862-8828  
FAX # 615-246-2688

The Grantee:

Mark Owens, Facility Superintendent  
City of Murfreesboro - St. Clair Street Senior Center  
325 St. Clair Street, Murfreesboro, TN 37133  
mowens@murfreesborotn.gov  
Telephone # 615-848-2550 ext 2501  
FAX # 615-907-2259

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

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

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Agency reserves the right to terminate this Grant Contract upon written notice to the Grantee. The Agency's right to terminate this Grant Contract due to lack of funds is not a

breach of this Grant Contract by the Agency. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the Agency any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- D.10. Nondiscrimination. The Grantee agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.11. HIPAA Compliance. The Agency and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Grantee warrants to the Agency that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.
  - b. The Grantee warrants that it will cooperate with the Agency, including cooperation and coordination with Agency privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
  - c. The Agency and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the Agency and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document. The Business Associate Agreement between the parties to this Grant Contract attached to this Grant Contract as Attachment C, is deemed a part of this Grant Contract and is incorporated therein, and upon the parties signing this Grant Contract, the parties shall also be bound by the attached Business Associate Agreement as fully as if signed as a separate document.
- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a Grant Contract with the State of Tennessee, Commission on Aging and Disability." All notices by the Grantee in relation to this Grant Contract shall be approved by the Tennessee Commission on Aging and Disability.
- D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the Agency, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the Agency as requested.
- D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year,

the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Agency. Annual and final report documents to be completed by the Grantee shall appear on the Agency's website or as an attachment to the Grant Contract.

- D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.

If the Grantee is subject to an audit under this provision, then the Grantee shall complete Attachment E.

When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.326 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the Agency before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.

- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

- D.23. Limitation of Agency's Liability. The Agency shall have no liability except as specifically provided in this Grant Contract. In no event will the Agency be liable to the Grantee or any other party for

any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The Agency's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.

- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the Agency of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the Agency within one (1) day of the inception of the delay) that a Force Majeure Event has occurred and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the Agency may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the Agency any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.
- D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.
- D.26. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: [http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any



rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.

- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the Agency if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.35. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the Agency or acquired by the Grantee on behalf of the Agency that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the

Agency or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Grant Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.

E.2. Personally Identifiable Information. While performing its obligations under this Grant Contract, Grantee may have access to Personally Identifiable Information held by the Agency ("PII"). For the purposes of this Grant Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Grantee agrees it shall not do or omit to do anything which would cause the Agency to be in breach of any Privacy Laws. Grantee shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Grantee and in accordance with this Grant Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Grantee shall immediately notify Agency: (1) of any disclosure or use of any PII by Grantee or any of its employees, agents and representatives in breach of this Grant Contract; and (2) of any disclosure of any PII to Grantee or its employees, agents and representatives where the purpose of such disclosure is not known to Grantee or its employees, agents and representatives. The Agency reserves the right to review Grantee's policies and procedures used to maintain the security and confidentiality of PII and Grantee shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the Agency to enable the Agency to verify or ensure that Grantee is in full compliance with its obligations under this Grant Contract in relation to PII. Upon termination or expiration of the Grant Contract or at the Agency's direction at any time in its sole discretion, whichever is earlier, Grantee shall immediately return to the Agency any and all PII which it has received under this Grant Contract and shall destroy all records of such PII.

The Grantee shall report to the Agency any instances of unauthorized access to or potential disclosure of PII in the custody or control of Grantee ("Unauthorized Disclosure") that come to the Grantee's attention. Any such report shall be made by the Grantee within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Grantee. Grantee shall take all necessary measures to halt any further Unauthorized Disclosures. The Grantee, at the sole discretion of the Agency, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Grantee shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this Agency under this Grant Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Grant Contract.

E.3. Federal Funding Accountability and Transparency Act (FFATA). This Grant Contract requires the Grantee to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Grantee is responsible for ensuring that all applicable FFATA

requirements, including but not limited to those below, are met and that the Grantee provides information to the Agency as required.

The Grantee shall comply with the following:

a. Reporting of Total Compensation of the Grantee's Executives.

- (1) The Grantee shall report the names and total compensation of each of its five most highly compensated executives for the Grantee's preceding completed fiscal year, if in the Grantee's preceding fiscal year it received:
  - i. 80 percent or more of the Grantee's annual gross revenues from Federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and sub awards); and
  - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and sub awards); and
  - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Grantee's preceding fiscal year and includes the following (for more information see 17 CFR § 229.402(c)(2)):
  - i. Salary and bonus.
  - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
  - v. Above-market earnings on deferred compensation which is not tax qualified.
  - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

b. The Grantee must report executive total compensation described above to the Agency by the end of the month during which this Grant Contract is established.

- c. If this Grant Contract is amended to extend its term, the Grantee must submit an executive total compensation report to the Agency by the end of the month in which the amendment to this Grant Contract becomes effective.
- d. The Grantee will obtain a Unique Entity Identifier (SAM) and maintain its number for the term of this Grant Contract. More information about obtaining a Unique Entity Identifier can be found at: <https://www.gsa.gov>.

The Grantee's failure to comply with the above requirements is a material breach of this Grant Contract for which the Agency may terminate this Grant Contract for cause. The Agency will not be obligated to pay any outstanding invoice received from the Grantee unless and until the Grantee is in full compliance with the above requirements.

E.4. Equal Opportunity. As a condition for receipt of grant funds, the Grantee agrees to comply with 41 C.F. R. § 60-1.4 as that section is amended from time to time during the term.

E.5. Equal Employment Opportunity. During the performance of this Grant Contract, the Grantee agrees as follows:

- a. The Grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Grantee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: 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. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- b. The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Grantee will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Grantee's legal duty to furnish information.
- d. The Grantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Grantee's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- e. The Grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Grantee's non-compliance with the nondiscrimination clauses of this Grant Contract or with any of such rules, regulations, or orders, this Grant Contract may be canceled, terminated or suspended in whole or in part and the Grantee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Grantee will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Grantee will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Grantee may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.


The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or

suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.


- E.6. Prohibited Advertising. The Grantee shall not refer to this Grant Contract or the Grantee's relationship with the Agency under this Grant Contract in commercial advertising in such a manner as to state or imply that the Grantee or the Grantee's goods or services are endorsed. The obligations set forth in this Section shall survive the termination of this Grant Contract.
- E.7. Transfer of Grantee's Obligations. The Grantee shall not transfer or restructure its operations related to this Grant Contract without the prior written approval of the State. The Grantee shall immediately notify the State in writing of a proposed transfer or restructuring of its operations related to this Grant Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving a proposed transfer or restructuring.
- E.8. Clean Air Act and Federal Water Pollution Control Act. As a condition for receipt of funds, the Grantee agrees to comply with the Clean Air Act, 42 U.S.C. § 7401 *et seq.* and the Federal Water Pollution Control Act, 33 U.S.C § 1251 *et seq.*, as those sections are amended from time to time during the term. Violations must be reported to the Administration for Community Living and the Region 4 Office of the Environmental Protection Agency.

**AGREED:**

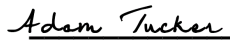
**CITY OF MURFREESBORO - ST. CLAIR STREET SENIOR CENTER:**

DocuSigned by:  
  
 42F6A9B7C077E7  
 SHANE MCFARLAND, MAYOR  
 7/22/2022  
 DATE

**GREATER NASHVILLE REGIONAL COUNCIL:**

  
 MICHAEL SKIPPER, EXECUTIVE DIRECTOR  
 07/28/2022  
 DATE

**Approved to Form:**

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

**ATTACHMENT A****Senior Center Scope of Services**

1. The Grantee will operate a senior center with the purpose to facilitate the social, emotional, and physical well-being of adults aged 60 and over as a part of a comprehensive and coordinated system of community-based services and activities.
2. City of Murfreesboro - St. Clair Street Senior Center (Grantee) will comply with the administrative, program, and fiscal requirements contained in the Tennessee Commission on Aging and Disability, Program and Policy Manual, Chapter 6 as well as any relevant federal and state laws, regulations, and rules.
3. If the Grantee is chartered a not-for-profit corporation, the Grantee will have a governing entity that is responsible for the overall operation and fiscal integrity of the organization with a written set of bylaws that defines the governing entity and establishes its organizational structure. The governing entity is a group of individuals responsible for the administration and fiscal integrity of the Grantee and the Grantee's policy and procedures, programs, and services. The bylaws will include the roles and responsibilities of the governing entity, Grantee director, staff, participants, and fiscal integrity and responsibilities. Grantees chartered by the State of Tennessee will maintain current registration with the Secretary of State and maintain 501(c)3 status. A Grantee which is part of a city or county government will operate in accordance with policy and procedures of the city or county government. Governmental agencies will be created by statute, resolution, or ordinance.
4. If the Grantee is a part of city or county government, the city or county government will have policy and procedures that address the administrative and fiscal policies that govern the operation and management of the Grantee.
  - a. Title VI Civil Rights Policy of Non-discrimination regardless of race, sex, national origin, religion, or presence of disability
  - b. Fiscal Policies and Procedures: The written fiscal policies and procedures will include procedures for:
    - i. Developing and approving the budget
    - ii. Handling cash and providing receipts
    - iii. Check writing and disbursements
    - iv. Purchasing
    - v. Petty cash disbursement and replenishment
    - vi. Bank reconciliation
    - vii. Program income
    - viii. Voluntary Contribution
  - c. A facility that is accessible and barrier-free for people with disabilities
5. The Grantee will post the following:
  - a. Participant Grievance Procedure
  - b. Title VI Civil Rights Notice
  - c. Public Accountability Poster (800# TN Comptroller's Office)
  - d. Emergency telephone numbers
  - e. Location of First Aid Kits, extinguishers, and other supplies
  - f. Monthly Calendar of Events
6. The Grantee will retain records for five years plus the current year.
7. The Grantee will submit an annual report to the Agency by August 1 of each year.
8. The Grantee will administer a Satisfaction Survey and the results will be submitted to the Agency annually.
9. The Grantee will provide one or more of these services. These services are: health education, education/training, health screening, physical fitness/exercise, recreation, and telephone reassurance.

10. The center is required to have a GNRC State Health Insurance Assistance Program (SHIP) representative present SHIP information to center participants twice per fiscal year. Wherever practicable, one event should be scheduled to take place within the first six months of the contract year (July - December), with the second event to take place within the last six months of the contract year (January – June).
11. The Grantee will submit financial reports to the Agency monthly by the 8<sup>th</sup> day of the month following the month being reported. In addition, the Grantee will submit Invoices for Reimbursement (IFRs) quarterly by the 8<sup>th</sup> day of the month following the end of the quarter.
12. The Grantee will collect participant information using the questions on the Participant Registration Form (PRF) and will maintain service delivery program information. Together, participant information and service delivery program information are referred to as "Data." The Grantee will do one of the following:
  - a. Enter Data into the WellSky Aging and Disability Database and submit verification reports to the Agency by 11:59 p.m. on the 10<sup>th</sup> of the following month; or
  - b. Enter Data into MySeniorCenter with appropriate assignments and submit verification reports to the Agency by 11:59 p.m. on the 4<sup>th</sup> of the following month.
13. If Grantee does not enter its information appropriately, as described in #12, Grantee will have a one-time grace period of five days that begins without the necessity of notice from GNRC. During the grace period, the Grantee must enter the required data in the database and submit to GNRC a compliance plan detailing the corrective action the Grantee will undertake to ensure that there are no additional failures to make timely and accurate reports. If the Grantee does not comply during the grace period, then the Grantee's non-compliance will be treated as if it a second event of non-compliance, and the liquidated damages described below will apply.

Time is of the essence with respect to the Grantee's obligations under this Grant Contract, and it is a material term of this Grant Contract that the Grantee timely fulfill its programming and reporting obligations. The Grantee understands that its failure to follow these requirements would damage GNRC and jeopardize GNRC's ability to continue conducting its operations but that it is difficult to calculate the exact dollar figure of the damage. Therefore, the parties agree that following liquidated damages provisions are not penalties and should apply to this contract:

- a. upon the second event of non-compliance with reporting obligations and for each subsequent event of non-compliance, Grantee will pay GNRC 5% of the amount it would otherwise be owed for providing services during the month for which the data was untimely.
- b. upon any failure to provide a contracted service during a month, Grantee will pay GNRC an amount equal to 25% of the total budgeted allocation.
- c. The liquidated damages may be withheld by GNRC from any payment to Grantee, and damages will be cumulative for subsequent offenses.

GNRC reserves all other rights to address Grantee non-compliance.

GNRC, in its sole reasonable discretion, will consider waiving damages for good faith, de minimus errors in data reporting such as typographical matters. The failure to enter and submit reports in the required categories or fields does not constitute a de minimus error.

14. The Grantee will strive to target services and programming to meet the needs of older persons with the greatest economic or social need. The following is an estimate for yearly service delivery and targeting:

	<b>Approximate # of Individuals Aged 60+ to be Served Yearly</b>	<b>Average Daily Attendance</b>
<b>Total Unduplicated Individuals</b>	3000	260
<b>Low Income</b>	245	2
<b>Low Income Minority</b>	75	0
<b>Rural</b>	105	1
<b>English Limitation</b>	5	0



15. The Agency has approved the following subcontractor(s) for delivery of this service:  
None

**ATTACHMENT A****Disease Prevention and Health Promotion (Title III-D) Scope of Services**

1. In using Title III-D funding, City of Murfreesboro - St. Clair Street Senior Center (Grantee) will arrange for the provision of disease prevention and health promotion evidence-based programs approved by any operating division of the federal Health and Human Services.
2. Prior to the implementation of any programs, the Grantee will submit to the Agency for approval the following information about the proposed evidence-based program(s):
  - a. Name of the program
  - b. Location where course will be held
  - c. verification that all trainers are certified to lead the sessions according to the requirements of the program.
  - d. Total number of sessions required to maintain fidelity
3. During the contracting year, the Grantee will collect and maintain the following information for each evidence-based program provided and will provide this information to the Agency at least yearly:
  - a. the name of the evidence-based program implemented;
  - b. the unduplicated number of participants completing the required number of sessions;
  - c. the number of unduplicated participants who did not complete the required number of sessions; and
  - d. identification of reasons for non-completion, if available.
4. For any evidence-based programs, the subcontractor will submit monthly reports to the Agency that include the following, as applicable:
  - a. names of trainers who lead classes/workshops;
  - b. names of new trainers;
  - c. the total number of participants; and
  - d. sign-in sheets for each session; and
  - e. for workshops with finite number of sessions:
    - i. the start and end dates of the workshops (if applicable)
    - ii. the number of participants in each workshop (if applicable).
5. The Grantee will collect the participant information described in #3 and will maintain service delivery program information. Together, participant information and service delivery program information are referred to as "Data." The Grantee will do one of the following:
  - a. Enter Data into the WellSky Aging and Disability Database and submit verification reports to the Agency by 11:59 p.m. on the 10<sup>th</sup> of the following month;
  - b. Enter Data into MySeniorCenter with appropriate assignments and submit verification reports to the Agency by 11:59 p.m. on the 4<sup>th</sup> of the following month; or
  - c. If the Grantee has received written permission from the Agency to submit data directly to Agency, all data and required documentation will be submitted monthly to the Agency via email by 11:59 p.m. on the 8<sup>th</sup> day of the following month.
6. The Grantee will submit financial reports to the Agency monthly by the 8th day of the month following the month being reported. In addition, the Grantee will submit Invoices for Reimbursement (IFRs) quarterly by the 8th day of the month following the end of the quarter.
7. If Grantee does not enter the information required appropriately, as described in #5, Grantee will have a one-time grace period of five days that begins without the necessity of notice from GNRC. During the grace period, the Grantee must enter the required data in the database and submit to GNRC a compliance plan detailing the corrective action the Grantee will undertake to ensure that there are no additional failures to make timely and accurate reports. If the Grantee does not comply during the grace period, then the Grantee's non-compliance will be treated as if it a second event of non-compliance, and the liquidated damages described below will apply.

Time is of the essence with respect to the Grantee's obligations under this Grant Contract, and it is a material term of this Grant Contract that the Grantee timely fulfill its programming and reporting

obligations. The Grantee understands that its failure to follow these requirements would damage GNRC and jeopardize GNRC's ability to continue conducting its operations but that it is difficult to calculate the exact dollar figure of the damage. Therefore, the parties agree that following liquidated damages provisions are not penalties and should apply to this contract:

- a. upon the second event of non-compliance with reporting obligations and for each subsequent event of non-compliance, Grantee will pay GNRC 5% of the amount it would otherwise be owed for providing services during the month for which the data was untimely.
- b. upon any failure to begin Evidence Based Programs on or before March 31, 2023, Grantee will forfeit the opportunity to receive payment for any such programs.
- c. The liquidated damages may be withheld by GNRC from any payment to Grantee, and damages will be cumulative for subsequent offenses.

GNRC reserves all other rights to address Grantee non-compliance.

GNRC, in its sole reasonable discretion, will consider waiving damages for good faith, de minimus errors in data reporting such as typographical matters. The failure to enter and submit reports in the required categories or fields does not constitute a de minimus error.

- 8. The Grantee will strive to target services and programming to meet the needs of older persons with the greatest economic or social need. The following is an estimate for yearly service delivery and targeting:

	<b>Approximate # of Individuals Aged 60+ to be Served Yearly</b>	<b>Average Daily Attendance</b>
<b>Total Unduplicated Individuals</b>	30	7
<b>Low Income</b>	4	0
<b>Low Income Minority</b>	2	0
<b>Rural</b>	2	0
<b>English Limitation</b>	1	0

- 9. The Agency has approved the following subcontractor(s) for delivery of this service:  
None



## ATTACHMENT B

## GRANT BUDGET LINE-ITEM DETAIL:

<b>PROFESSIONAL FEE, GRANT &amp; AWARD</b>	<b>GRANT CONTRACT AMOUNT</b> (Grantee Participation Not Included)
Contracted Services	\$761.17
<b>TOTAL</b>	<b>\$ 761.17</b>

<b>OTHER NON-PERSONNEL</b>	<b>GRANT CONTRACT AMOUNT</b> (Grantee Participation Not Included)
Special Events	\$2,337.95
<b>TOTAL</b>	<b>\$2,337.95</b>

<b>SOURCE OF FUNDS</b>	<b>ALN</b>	<b>GRANT CONTRACT AMOUNT</b> (Grantee Participation Not Included)
<b>Federal Funds</b>		
Title III-B Community Support Services	93.044	\$29,897.00
Title III-C-1 Congregate Meals Service	93.045	\$ 0.00
Title III-C-2 Home Delivered Meals Service	93.045	\$ 0.00
Title III-D Disease Prevention and Health Promotion Services	93.043	\$2,000.00
Title III-E National Family Caregiver Support Program	93.052	\$ 0.00
Title VII Long-Term Care Ombudsman Program	93.042	\$ 0.00
Title VII Elder Abuse Prevention Program	93.041	\$ 0.00
Nutrition Services Incentive Program (NSIP)	93.053	\$ 0.00
<b>State Funds</b>		
State Senior Centers Operations		\$8,588.00
State Home delivered Meals		\$ 0.00
State Homemaker		\$ 0.00
State Caregiver		\$ 0.00
State Guardianship		\$ 0.00
State HCBS/Options for Community Living Program		\$ 0.00
<b>TOTAL</b>		<b>\$40,485.00</b>

**ATTACHMENT C****HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)  
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (Agreement) is a part of and is incorporated into the Contract (as that term is defined below) between the Greater Nashville Regional Council (GNRC) and Mid-Cumberland Human Resource Agency (Grantee) in accordance with Section D.11 of the Contract. This Agreement shall have the same effective date as the date of the Contract. This Business Associate Agreement is entered into by and between the **Greater Nashville Regional Council** (hereinafter referred to as "GNRC") and **City of Murfreesboro - St. Clair Street Senior Center** (hereinafter referred to as "Business Associate").

In the course of executing the Contract, Business Associate may come into contact with, use, or disclose "protected health information" as that term is used in the Federal Health Insurance Portability and Accountability Act of 1996, as amended, hereinafter referred to as "HIPAA". In accordance with the federal privacy regulations set forth at 45 C.F.R. Part 160, Part 162 and Part 164, which require GNRC to have a written contract known as a Business Associate Agreement with persons or entities that help GNRC (as a covered entity under HIPAA) carry out its health care activities and functions, the Parties to the Contract wish to establish satisfactory assurances that will appropriately safeguard "protected health information" and comply with all relevant HIPAA rules and regulations. Therefore, the Parties to the Contract and this Agreement, GNRC and Business Associate, agree as follows:

**1. Definitions:**

Terms used, but not otherwise defined, in this Business Associate Agreement shall have the same meaning as those terms in 45 CFR §§ 160.103 and 164.501. Specially defined terms in this Agreement are as follows:

- (a) Agreement. "Agreement" shall mean the Business Associate Agreement between GNRC and the Business Associate contained in this Agreement between GNRC and the Business Associate.
- (a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to the Agreement, shall mean City of Murfreesboro - St. Clair Street Senior Center, whose principal address is 325 St. Clair Street, Murfreesboro, TN 37133.
- (b) Contract. "Contract" shall mean the Contract between GNRC and the Business Associate of which this Agreement is made a part.
- (c) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.13, and in reference to the party to this Agreement, shall mean GNRC, whose principal address is 220 Athens Way, Ste 200, Nashville, TN 37228.
- (d) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 in effect and as amended. The "HIPAA Privacy Rule" is at 45 CFR, part 160 and part 164, subparts A and E. The "HIPAA Security Rule" is at 45 CFR Parts 160 and 164. The "HIPAA Breach Notification Rule" is at 45 CFR Part 164, Subpart D.
- (e) Parties. "Parties" shall mean the parties to the Contract and Agreement, both Business Associate and Covered Entity. "Party" shall mean one of the two Parties.

**2. Obligations of Business Associate**

Business Associate Agrees to:

- (a) Not use or disclose protected health information other than as permitted or required by this Agreement or as required by law, and to fully comply with all the applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the HIPAA Rules
- (a) Use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by this Agreement, and to use appropriate procedural, physical, and electronic safeguards to prevent use or disclosure of protected health information other than as provided for by this Agreement. Said safeguards shall include, but are not limited to, requiring employees to agree to use or disclose protected health information only as permitted or required by this Agreement and taking related disciplinary actions for inappropriate use or disclosure as necessary.
- (b) Notify GNRC of any use or disclosure of protected health information not provided for by this Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410,24 and any security incident of which it becomes aware as soon as practicable, but not exceeding five (5) business days. Additionally, business associate shall notify GNRC in the same manner of any suspected or potential breach of its obligation to not disclose protected health information in violation of this Agreement and the HIPAA Rules. Any notification under this subsection shall include, to the extent possible, the identification of each individual whose protected health information has been or is reasonably believed by the business associate to have been accessed, acquired, used, or disclosed during the breach and shall include all available information that is required to be in the notification to the individual under 45 CFR 164.404(c).
- (c) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree by written contract to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;
- (d) Require its employees, agents, and sub-contractors to immediately report, to the business associate, any use or disclosure of protected health information in violation of this Agreement and to report to GNRC any use or disclosure of the protected health information not provided for by this Agreement.
- (e) If business associate receives protected health information from GNRC in a designated record set, then business associate agrees to provide access, at the request of GNRC, to protected health information in a designated record set, to GNRC or, as directed by GNRC, to an individual in order to meet the requirements under 45 CFR 164.524, provided that business associate shall have at least thirty (30) days from GNRC's notice to provide access to or deliver such information.
- (f) If business associate receives a request from an individual for a copy of the individual's protected health information, and the protected health information is in the sole possession of the business associate, business associate will provide the requested copies to the individual and notify GNRC of such action. If business associate receives a request for protected health information in the possession of GNRC or receives a request to exercise other individual rights as set forth in the privacy rule, business associate shall notify GNRC of such request and forward the request to GNRC. Business associate shall then assist GNRC in responding to the request.
- (g) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by GNRC pursuant to 45 CFR 164.526 or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;
- (h) Provide to GNRC or an individual, in time and manner designated by GNRC, information collected and maintained in accordance with this Contract, to permit GNRC to respond to a request by an individual for an accounting of disclosures of protected health information in

accordance with 45 CFR 164.528, provided that business associate shall have at least thirty (30) days from GNRC's notice to provide access to or deliver such information which shall include, at minimum, (a) date of the disclosure; (b) name of the third party to whom the protected health information was disclosed and, if known, the address of the third party; (c) brief description of the disclosed information; and (d) brief explanation of the purpose and basis for such disclosure.

- (i) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and
- (j) Make its internal practices, books, and records available to GNRC and the Secretary of the U.S. Department of Health and Human Services, or the Secretary's designee, for purposes of determining compliance with the HIPAA Rules.
- (k) Mitigate, to the extent practicable, any harmful effect that is known to the business associate of a use or disclosure of protected health information by the business associate in violation of the requirements of this Agreement.
- (l) Document disclosures of protected health information and information related to such disclosures as would be required for GNRC to respond to a request by an individual for an accounting of disclosure of protected health information in accordance with 45 CFR 164.528.
- (m) Limit any use, disclosure, or request for use or disclosure of protected health information to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the privacy rule and other HIPAA Rules.

### **3. Permitted Uses and Disclosures by Business Associate**

- (a) Business associate may only use or disclose protected health information as necessary to perform the services set forth in the Contract.
- (a) Business associate may use or disclose protected health information as required by law.
- (b) Except as otherwise limited herein, business associate may use or disclose protected health information to perform functions, activities, or services for or on behalf of GNRC as specified in the Contract, provided that such use or disclosure would not violate the privacy rule or other HIPAA Rules if done by GNRC.
- (c) Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.
- (d) Except for the specific uses and disclosures set forth herein, business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity.
- (e) Business associate may disclose protected health information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the disclosures are required by law, or business associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (f) Except as otherwise limited herein, business associate may use protected health information to provide Data Aggregation services to GNRC as permitted by 42 CFR 164.504(e)(2)(i)(B).



- (g) Limit any use, disclosure, or request for use or disclosure of protected health information to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the privacy rule.

#### **4. Term and Termination**

- (a) Term. This Agreement shall be effective as of the date described above and shall terminate when all of the protected health information provided by GNRC to business associate or created or received by business associate on behalf of GNRC, is destroyed or returned to GNRC, or, if it is infeasible to return or destroy protected health information, Section 6 herein shall apply.
- (a) Termination for Cause. The Contract authorizes and business associate acknowledges and agrees GNRC shall have the right to immediately terminate the Contract in the event business associate fails to comply with, or violates a material provision of, requirements of the HIPAA Rules or this Agreement. Upon GNRC's knowledge of a material breach by business associate, GNRC shall, whenever practicable, provide a reasonable opportunity for business associate to cure the breach or end the violation. If business associate has breached a material term of this Agreement and cure is not possible or if business associate does not cure a curable breach or end the violation within a reasonable time as specified by, and at the sole discretion of, GNRC, GNRC may immediately terminate the Contract.
- (b) Reporting. If neither cure nor termination is feasible, GNRC shall report the violation to the Secretary of the United States Department of Health and Human Services or the Secretary's designee.

#### **5. Obligations of GNRC.**

GNRC Agrees to:

- (a) Provide business associate with the notice of privacy practices that GNRC produces in accordance with 45 CFR 164.520, as well as any changes to such notice.
- (a) Provide business associate with any changes in, or revocation of, permission by an Individual to use or disclose protected health information, if such changes affect business associate's permitted or required uses.
- (b) Notify business associate of any restriction to the use or disclosure of protected health information that GNRC has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect business associate's use of protected health information.
- (c) Not request business associate to use or disclose protected health information in any manner that would not be permissible under the privacy rule if done by GNRC.

#### **6. Obligations of Business Associate Upon Termination.**

- (a) Except as provided in subsection (b) below, upon termination of the Contract, for any reason, business associate shall, at direction of the GNRC, return or destroy all protected health information received from GNRC, or created or received by business associate on behalf of GNRC. This provision shall apply to protected health information that is in the possession of sub-contractors or agents of business associate. Business associate shall retain no copies of the protected health information.
- (a) In the event that business associate determines that returning or destroying the protected health information is not feasible, business associate shall provide to GNRC notification of the conditions that make return or destruction unfeasible. Upon mutual agreement of the Parties that return or destruction of protected health information is unfeasible, business associate shall extend the protections of this Agreement to such protected health information and limit further uses and disclosures of such protected health information to those purposes

that make the return or destruction unfeasible, for so long as business associate maintains such protected health information.

- (b) In the event that business associate continues to maintain protected health information after termination of this Contract, business associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Agreement, for as long as business associate retains the protected health information;
- (d) The obligations of business associate under this Section shall survive the termination of this Agreement.

## 7. **Miscellaneous**

- (a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- (a) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law. Nevertheless, business associate and GNRC shall comply with any amendment to the Health Insurance Portability and Accountability Act, Public Law 104-191, and amendment to the HIPAA Rules upon the effective date of such amendment, regardless of whether this Agreement has been formally amended.
- (b) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.
- (c) Notices and Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by hand, by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth in Section E.2. (Communications and Contacts) of the Contract, or to such other party, facsimile number, or address as may be hereafter specified by written notice.
- (d) Effective Date of Notices. All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the date of hand delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the facsimile machine at the receiving location and receipt is verbally confirmed by the sender.
- (e) Strict Compliance. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect, or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.
- (f) Severability. With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee and of the United States of America.

## ATTACHMENT D

**Federal Award Identification Worksheet - OAA**

Subrecipient's (Agency's) name (must match registered name in DUNS)	Greater Nashville Regional Council
Subrecipient's (Agency's) Unique Entity Identifier (UEI)	D9NSAAP96ZL6
Federal Award Identification Number (FAIN)	2201TNOASS-01
Federal award date	1/7/2022
Subaward Period of Performance Start and End Date	7/1/2022-6/30/2023
Subaward Budget Period Start and End Date	7/1/2022-6/30/2023
CFDA number and name	93.044
Total amount of federal funds obligated to the subrecipient (Agency)	\$1,567,600
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$7,825,000
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	IIIB: Support Services
Name of federal awarding agency	Administration for Community Living
Name and contact information for the federal awarding official	Department of Health and Human Services Administration For Community Living One Massachusetts Avenue NW Washington, DC 20001-1401
Name of pass-through entity	Tennessee Commission on Aging and Disability
Name and contact information for the pass-through entity awarding official	James Dunn 500 Deaderick St Ste 828 Nashville TN 37243
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	3.9%

## ATTACHMENT D

**Federal Award Identification Worksheet - OAA**

Subrecipient's (Agency's) name (must match registered name in DUNS)	Greater Nashville Regional Council
Subrecipient's (Agency's) Unique Entity Identifier (UEI)	D9NSAAP96ZL6
Federal Award Identification Number (FAIN)	2201TNOAPH-01
Federal award date	1/7/2022
Subaward Period of Performance Start and End Date	7/1/2022-6/30/2023
Subaward Budget Period Start and End Date	7/1/2022-6/30/2023
Assistance Listing number (formerly known as the CFDA number) and Assistance Listing program title.	93.043
Total amount of federal funds obligated to the subrecipient (Agency)	\$99,900
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$498,700
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	IIID: Preventive Health
Name of federal awarding agency	Administration for Community Living
Name and contact information for the federal awarding official	Department of Health and Human Services Administration For Community Living One Massachusetts Avenue NW Washington, DC 20001-1401
Name of pass-through entity	Tennessee Commission on Aging and Disability
Name and contact information for the pass-through entity awarding official	James Dunn 500 Deaderick St Ste 828 Nashville TN 37243
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	3.9%

## ATTACHMENT D

**Federal Award Identification Worksheet - ARP**

Subrecipient's (Agency's) name (must match registered name in DUNS)	Greater Nashville Regional Council
Subrecipient's (Agency's) Unique Entity Identifier (UEI)	D9NSAAP96ZL6
Federal Award Identification Number (FAIN)	2101TNSSC6-00
Federal award date	5/3/2021
Subaward Period of Performance Start and End Date	4/1/2021-9/30/2024
Subaward Budget Period Start and End Date	7/1/2022-6/30/2023
CFDA number and name	93.044
Total amount of federal funds obligated to the subrecipient (Agency)	\$620,800
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$3,093,200
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	IIIB: Supportive Services
Name of federal awarding agency	Administration for Community Living
Name and contact information for the federal awarding official	Department of Health and Human Services Administration For Community Living One Massachusetts Avenue NW Washington, DC 20001-1401
Name of pass-through entity	Tennessee Commission on Aging and Disability
Name and contact information for the pass-through entity awarding official	James Dunn 500 Deaderick St Ste 828 Nashville TN 37243
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	3.9%

## ATTACHMENT D

**Federal Award Identification Worksheet – ARP**

Subrecipient's (Agency's) name (must match registered name in DUNS)	Greater Nashville Regional Council
Subrecipient's (Agency's) Unique Entity Identifier (UEI)	D9NSAAP96ZL6
Federal Award Identification Number (FAIN)	2101TNPHC6-00
Federal award date	5/3/2021
Subaward Period of Performance Start and End Date	4/1/2021-9/30/2024
Subaward Budget Period Start and End Date	7/1/2022-6/30/2023
CFDA number and name	93.043
Total amount of federal funds obligated to the subrecipient (Agency)	\$59,400
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$295,867
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	IIID: Preventive Health
Name of federal awarding agency	Administration for Community Living
Name and contact information for the federal awarding official	Department of Health and Human Services Administration For Community Living One Massachusetts Avenue NW Washington, DC 20001-1401
Name of pass-through entity	Tennessee Commission on Aging and Disability
Name and contact information for the pass-through entity awarding official	James Dunn 500 Deaderick St Ste 828 Nashville TN 37243
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	3.9%

**ATTACHMENT E**

**Parent Child Information**

Send completed documents as a PDF file to [cpo.auditnotice@tn.gov](mailto:cpo.auditnotice@tn.gov). ***The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year if the Grantee indicates it is subject to an audit on the "Notice of Audit Report" document.***

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's FEIN: 62-6000374

Is City of Murfreesboro - St. Clair Street Senior Center a parent?  Yes  No

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is City of Murfreesboro - St. Clair Street Senior Center a child?  Yes  No

If yes, complete the fields below.

Parent entity's name: \_\_\_\_\_

Parent entity's tax identification number: \_\_\_\_\_

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager  
3<sup>rd</sup> Floor, WRS Tennessee Tower  
312 Rosa L Parks Avenue  
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Parent entity's Edison Vendor ID number, if applicable: \_\_\_\_\_



# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Use of RFCSP Procurement for Transit Buses

**Department:** Purchasing

**Presented by:** Cathy Smith, Director

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Approval to use Request for Competitive Sealed Proposals (RFCSP) method of procuring transit vehicles for the Transportation Department.

**Staff Recommendation**

Approve the use of the RFCSP process for the procurement of transit buses.

**Background Information**

The Transportation Department has experienced delays in securing new transit vehicles through cooperative purchasing arrangements that traditionally have proven to be the most cost-effective means of procurement. The RFCSP method allows the City to consider factors in addition to pricing, such as delivery capacity and performance.

Council approval is required to use the RFCSP process for procurement pursuant to State statute and City Code.

**Council Priorities Served**

*Responsible budgeting*

By using this procurement method, the Purchasing Department can assist the Transportation Department in achieving a variety of bid proposals and allows staff to choose a qualified vendor that provides the flexibility of the required options as well as beneficial pricing.

**Fiscal Impact**

None. Approval of method only. Proposed final contracts will be submitted for Council approval at a later date.

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Purchase of Stormwater Concrete Piping for Drainage Improvements

**Department:** Street Department

**Presented by:** Raymond Hillis, Executive Director – Public Works

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Agreement for Stormwater concrete piping materials from Fortiline Inc. DBA Fortiline Waterworks.

**Staff Recommendation**

Approve the agreement with Fortiline Inc.

**Background Information**

Concrete pipe is critical to the City’s stormwater infrastructure. Unlike other piping materials, concrete pipe has high inherent strength and gains strength over time. This is in stark contrast to plastic or metal pipe materials, which have little inherent strength and rely on surrounding compacted soils.

The proposed agreement allows the city to purchase concrete pipe with additional assurance of availability. Current supply limitations have caused the deferment of projects. The proposed agreement also enhances availability and will allow timely maintenance of the City’s stormwater infrastructure. Fortiline has provided the lowest responsible bid to supply this material. Agreement provides for unit pricing that will be incorporated into project funding and accommodated within the Stormwater budget.

**Council Priorities Served**

*Expand infrastructure*

Continual improvement and maintenance of the City’s stormwater infrastructure benefits the community in managing stormwater disposition and compliance with the statute requirements imposed upon the City.

**Fiscal Impact**

None

**Attachments**

Agreement for Materials for Stormwater Piping for Drainage Improvements

## Agreement for Materials for Stormwater Piping for Drainage Improvements

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 **Fortiline Inc. DBA Fortiline Waterworks**, a Corporation of the State of South Carolina (“Contractor”).

This Agreement consists of the following documents:

- This document
- ITB-52-2023 – Stormwater Piping Materials for Drainage Improvements issued 03/21/2023 (the “Solicitation”);
- Contractor’s Proposal, dated 04/04/2023 (“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; and
- Lastly, Contractor’s Proposal.

### 1. **Duties and Responsibilities of Contractor.**

Contractor shall provide and City shall purchase the materials based on Contractor’s Proposal and the specifications set forth in “ITB-52-2023 – Stormwater Piping Materials for Drainage Improvements.”

### 2. **Term.**

The term of this Agreement commences on the Effective Date and expires in one year, unless extended by mutual agreement of Contractor and the City or earlier terminated as set forth herein Termination. Contractor’s services may be terminated in whole or in part:

- a. Upon 30-day prior notice, for the convenience of the City.
- b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination
- c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
- d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.

- e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

**3. Payment and Delivery.**

- a. The price for the goods and other items to be provided under this Agreement is set forth in the Contractor's Proposal as:

Description	Quantity	Unit of Measure	Unit Cost	Total
23" X 14" Reinforced Concrete Elliptical Pipe Dimensions ASTM C-507	1	per 8 ft.	\$385.04	\$385.04
30" X 19" Reinforced Concrete Elliptical Pipe Dimensions ASTM C-507	1	per 8 ft.	\$604.48	\$604.48
38" X 24" Reinforced Concrete Elliptical Pipe Dimensions ASTM C-507	1	per 8 ft.	\$722.48	\$722.48
45" X 29" Reinforced Concrete Elliptical Pipe Dimensions ASTM C-507	1	per 8 ft.	\$1,029.36	\$1,029.36
12" Class III – Reinforced Concrete Pipe	1	per 8 ft.	\$303.76	\$303.76
15" Class III – Reinforced Concrete Pipe	1	per 8 ft.	\$170.08	\$170.08
18" Class III – Reinforced Concrete Pipe	1	per 8 ft.	\$199.68	\$199.68
24" Class III – Reinforced Concrete Pipe	1	per 8 ft.	\$301.12	\$301.12
30" Class III – Reinforced Concrete Pipe	1	per 8 ft.	\$424.40	\$424.40
36" Class III – Reinforced Concrete Pipe	1	per 8 ft.	\$587.84	\$587.84

- b. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after performance or delivery of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete. All invoices should be submitted to [accountspayable@murfreesborotn.gov](mailto:accountspayable@murfreesborotn.gov), with a copy to the City's Contact person in 3.c.
- c. All items must be available for delivery within 30 days from execution of this contract. Delivery shall be done Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. Forty-eight (48) hours advance notice should be given prior to delivery. The materials shall be delivered to Raymond Hillis, City of Murfreesboro Street Department, 620 W. Main Street, Murfreesboro, TN 37130, [rhillis@murfreesborotn.gov](mailto:rhillis@murfreesborotn.gov).
- d. 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.
- 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. The City may return, for full credit and at no expense to the City, any items(s) received which fail to meet the specifications as stated in the ITB.
- f. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services

provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

4. **Warranty.** Contractor shall provide all warranties as described in the ITB and Contractor's Proposal.
5. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
6. **Insurance.** During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000, as well as automotive and workers' compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."
7. **Indemnification.**
  - a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
  - b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
  - c. Copyright, Trademark, Service Mark, or Patent Infringement.
    - i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any

time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

- II. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
  - a. Procure for the City the right to continue using the products or services.
  - b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
  - c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
- III. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

- 8. Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:

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

If to Contractor:

Attn: Michael Hester  
Fortiline Inc. DBA Fortiline Waterworks  
1317 Elm Hill Pike  
Nashville, TN 37210

- 9. Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
- 10. Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
- 11. Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a

manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.

12. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
13. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.
15. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
16. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written

consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.

- 17. **Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.
- 18. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
- 19. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
- 20. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
- 21. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
- 22. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of \_\_\_\_\_, 2023 (the "Effective Date").

**City of Murfreesboro, Tennessee**

By: \_\_\_\_\_  
Shane McFarland, Mayor

**Fortiline Inc. DBA Fortiline Waterworks**

DocuSigned by:

*Michael Hester*

421953A8C9D4488

Michael Hester, Sales Representative

Approved as to form:

DocuSigned by:

*Adam F. Tucker*

42A2035E51F9491

Adam F. Tucker, City Attorney



# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Asphalt Purchases Report  
**Department:** Water Resources  
**Presented by:** Darren Gore, Assistant City Manager  
**Requested Council Action:**

Ordinance   
Resolution   
Motion   
Direction   
Information

---

## Summary

Report of asphalt purchases.

## Staff Recommendation

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

## Background Information

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

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

## Council Priorities Served

### *Responsible budgeting*

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

### *Maintain public safety*

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

## Fiscal Impacts

The overall costs, \$150,000 to \$175,000 per year, are funded by MWRD's operating budget.

## Attachments

Asphalt Purchases Report

## MWRD - OPERATIONS & MAINTENANCE

### Asphalt Quotes FY 2022

	Wire Grass Const Co.		Hawkins		Vulcan		Notes
	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	
Jul	\$65.00	\$75.00	\$69.00	\$78.50	\$73.54	\$86.22	
Aug	\$65.00	\$75.00	\$69.00	\$78.50	\$73.57	\$86.26	
Sep	\$65.00	\$75.00	\$69.00	\$78.50	\$73.17	\$85.73	
Oct	\$65.00	\$75.00	\$80.51	\$87.91	\$71.98	\$84.09	
Nov	\$65.00	\$75.00	\$80.29	\$87.62	\$70.86	\$82.65	
Dec	\$65.00	\$75.00	\$78.60	\$85.76	\$70.02	\$81.53	
Jan	\$80.00	\$90.00	\$77.80	\$84.78	\$0.00	\$0.00	Vulcan Plant closed till March
Feb	\$79.85	\$88.62	\$77.80	\$84.78			Vulcan Plant closed till March
Mar	\$73.91	\$86.62	\$73.91	\$85.42	\$72.00	\$83.50	Murfreesboro Plant Closed till April
Apr	\$73.91	\$86.62	\$73.91	\$85.42	\$72.00	\$83.50	Murfreesboro Plant Closed till April
May							
Jun							

## MWRD OPERATIONS & MAINTENANCE

### Asphalt Purchases FY 2022

<i>Invoice Date</i>	<i>Approval</i>	<i>Vendor</i>	<i>Type</i>	<i>Rate</i>	<i>Qty</i>	<i>Total</i>	<i>FY Total</i>
7/20	DH	Vulcan	307-BM	\$58.39	18.60	\$1,086.05	\$1,086.05
7/20	DH	Vulcan	307-BM	\$58.39	18.38	\$1,073.21	\$2,159.26
7/20	DH	Vulcan	307-BM	\$58.39	18.56	1,083.72	\$3,242.98
7/20	DH	Vulcan	307-BM	\$58.39	18.27	1,066.79	\$4,309.77
7/26	DH	Hawkins	411- E	\$66.50	18.70	1,243.55	\$10,074.44
7/26	DH	Hawkins	307-BM	\$59.00	13.60	802.40	\$10,876.84
8/10	DH	Vulcan	411-E	\$67.35	13.66	920.00	\$11,796.84
8/17	DH	Vulcan	307-BM	\$58.51	10.72	627.23	#REF!
10/15	DH	Hawkins	411-E	\$66.50	16.48	1,095.92	\$16,493.88
10/20	DH	Hawkins	307-BM	\$62.75	16.69	1,047.30	\$17,541.18
11/30	DH	Hawkins	307-BM	\$60.00	22.34	1,340.40	\$18,881.58
11/30	DH	Hawkins	307-BM	\$60.00	19.28	1,156.80	\$20,038.38
11/30	DH	Hawkins	307-BM	\$60.00	17.25	1,035.00	\$21,073.38
11/30	DH	Hawkins	307-BM	\$60.00	20.26	1,215.60	\$22,288.98
11/30	DH	Hawkins	307-BM	\$60.00	19.00	1,140.00	\$23,428.98
11/30	DH	Hawkins	411-E	\$67.50	17.31	1,168.43	\$24,597.41
11/30	DH	Hawkins	307-BM	\$65.00	22.37	1,454.05	\$26,051.46
11/30	DH	Hawkins	307-BM	\$65.00	19.89	1,292.85	\$27,344.31
11/30	DH	Hawkins	307-BM	\$65.00	22.86	1,485.90	\$28,830.21
11/30	DH	Hawkins	307-BM	\$65.00	17.69	1,149.85	\$29,980.06
11/30	DH	Hawkins	307-BM	\$65.00	3.06	198.90	\$30,178.96
12/13	DH	Hawkins	307-BM	\$60.50	21.02	1,271.71	\$31,450.67
12/13	DH	Hawkins	411-E	\$68.25	14.47	987.58	\$32,438.25
12/18	DH	Hawkins	411-E	\$68.25	17.62	1,202.57	\$33,640.82
12/18	DH	Hawkins	411-E	\$68.25	3.54	241.61	\$33,882.43
12/28	DH	Hawkins	307-BM	\$60.50	18.00	1,089.00	\$34,971.43
12/28	DH	Hawkins	307-BM	\$60.50	13.77	833.09	\$35,804.52
12/29	DH	Hawkins	307-BM	\$60.50	15.84	958.32	\$36,762.84
1/31	DH	Hawkins	411-E	\$68.25	11.80	805.35	\$39,868.19
2/18	DH	Hawkins	307-BM	\$60.75	11.91	723.53	\$40,591.72
2/18	DH	Hawkins	307-BM	\$58.00	20.29	1,176.82	\$41,768.54
5/23	DH	Hawkins	411-D	\$82.50	4.01	86.51	\$41,855.05



# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

**Item Title:** Ordinance setting FY24 Water and Sewer Rate

**Department:** Water Resources

**Presented by:** Darren Gore

**Requested Council Action:**

- Ordinance
- Resolution
- Motion
- Direction
- Information

**Summary**

Based on MWRD’s biannual cost of service study (COSS) for FY21 along with its FY26 proforma, MWRD a water and sewer rate adjustment in the FY24 budget to maintain cost recovery is required.

**Recommendation**

Adopt first reading of Ordinance 23-O-17 adjusting minimum monthly water and sewer charges for small meters and decreasing the sewer commodity (\$/1000 gal) charge.

**Background Information**

Jackson Thornton Utilities Consultants completed MWRD’s FY21 COSS and a pro forma through FY26. The proposed rate adjustments are based on the COSS and pro forma. The average increase to the residential customer is nominal, less than one dollar per month. This nominal adjustment result in a combined overall recovery that decreases from 118.5% to 112.3%

Table 1: MWRD Water/Sewer Rate Design FY22-FY26

Fiscal Year	FY22 Past Rate	FY23 Current Rate	FY24 Proposed Rate	FY25 PF	FY26 PF
Avg Water/Sewer Bill	\$67.69	\$68.69	<b>\$69.36</b>	\$70.14	\$70.91
Monthly \$ Increase		\$1.00	<b>\$0.67</b>	\$0.78	\$0.77
% Increase		1.5%	<b>1.0%</b>	1.1%	1.1%
Combined Overall Recovery		118.5%	116.3%	114.3%	112.3%

**Council Priorities Served**

*Responsible budgeting*

Establishing costs for service in the City’s water and sewer enterprise funds is a fiduciarily responsible and minimizes rate adjustments over time to afford customers the ability to budget appropriately for future water and sewer bills.

**Fiscal Impact**

Water fund revenues are estimated to increase by \$325,448 and water commodity revenue decrease by \$87,000.

Sewer Revenue are estimated to increase by \$237,915; however and sewer commodity rate revenue by \$115,000.

**Attachments**

1. FY24 Water and Sewer Rate Design Report
2. Ordinance 23-O-17

## **FY24 Water and Sewer Rate Design Report**

The Murfreesboro Water Resources Department was provided a cost-of-service study (COSS) from Jackson Thornton Utilities Consultants for FY2021. Jackson Thornton has also provided staff a pro forma for FY2026. The following table proposes the water and sewer rate design to support the FY24 budget and FY26 pro forma.

**Table 1: MWRD Water/Sewer Rate Design**

Fiscal Year	2022 Rate	2023 Current Rate	2024 Proposed Rate	2025 PF	2026 PF
<b>Sewer</b>					
Residential Min. Monthly Charge	\$10.22	\$10.22	<b>\$10.72</b>	\$11.72	\$12.72
Commodity Charge (\$/kgal)	\$5.67	\$5.67	<b>\$5.50</b>	\$5.25	\$5.00
Sewer Over/Under Recovery (Less Add'l Fees)		128.7%	126.0%	123.1%	120.1%
Sewer Over/Under Recovery (if No Rate Change)		128.7%	127.6%	126.6%	125.6%
Avg Sewer Bill @ 4,900 gal/month		\$38.00	\$37.67	\$37.45	\$37.22
<b>Water</b>					
Residential Min. Monthly Charge	\$8.72	\$9.72	<b>\$10.72</b>	\$11.72	\$12.72
Commodity Charge (\$/kgal)	\$3.66	\$3.66	<b>\$3.66</b>	\$3.66	\$3.66
Water Over/Under Recovery (Less Add'l Fees)		102.1%	100.7%	100.3%	99.9%
Water Over/Under Recovery (if No Rate Change)		101.8%	98.4%	96.1%	93.9%
Avg Water Bill @ 5,730 gal/month		\$30.69	\$31.69	\$32.69	\$33.69
Combined Recovery		FY21 COSS			
<b>Avg Combined Water/Sewer Bill</b>		<b>\$67.69</b>	<b>\$69.36</b>	\$70.14	\$70.91
% Increase		1.48%	<b>0.97%</b>	1.12%	1.10%
Combined Recovery		118.5%	116.3%	114.3%	112.3%
Combined Recovery (if No Rate Change)		118.4%	116.4%	114.9%	113.4%

Table 1 shows MWRD's rates from FY22, current FY23, proposed FY24 and future FY25-FY26. The table also shows the anticipated over/under recovery based on the rate design adjustments. The major item to note is the reduction of the sanitary sewer commodity fee from current \$5.67 per thousand gallons to \$5.50 per thousand gallons.

A proposed rate design for meter sizes 5/8" to 2" below by adjusting the minimum annually as tabulated below is estimated to recover 100.7% for FY24. Making the adjustments through FY26 in the table above estimates the water rate recovery at 99.9%.

**Table 2: Proposed Minimum Monthly Water Charge Adjustments**

<b>Meter Size (INCH)</b>	<b>FY23 Total minimum</b>	<b>FY24 Proposed minimum</b>	<b>Difference</b>	<b># of Accounts</b>	<b>Added Revenue</b>
5/8"	\$9.72	\$10.72	\$1.00	25,498	\$305,976
1"	\$21.54	\$22.37	\$0.83	554	\$5,518
1-1/2"	\$45.08	\$46.39	\$1.31	331	\$5,203
2"	\$70.77	\$72.49	\$1.72	424	\$8,751
3"	\$164.40	\$164.40	\$0.00	74	\$0.00
4"	\$328.80	\$328.80	\$0.00	23	\$0.00
> 6"	\$685.00	\$685.00	\$0.00	12	\$0.00
			<b>Total</b>	<b>26,916</b>	<b>\$325,449</b>

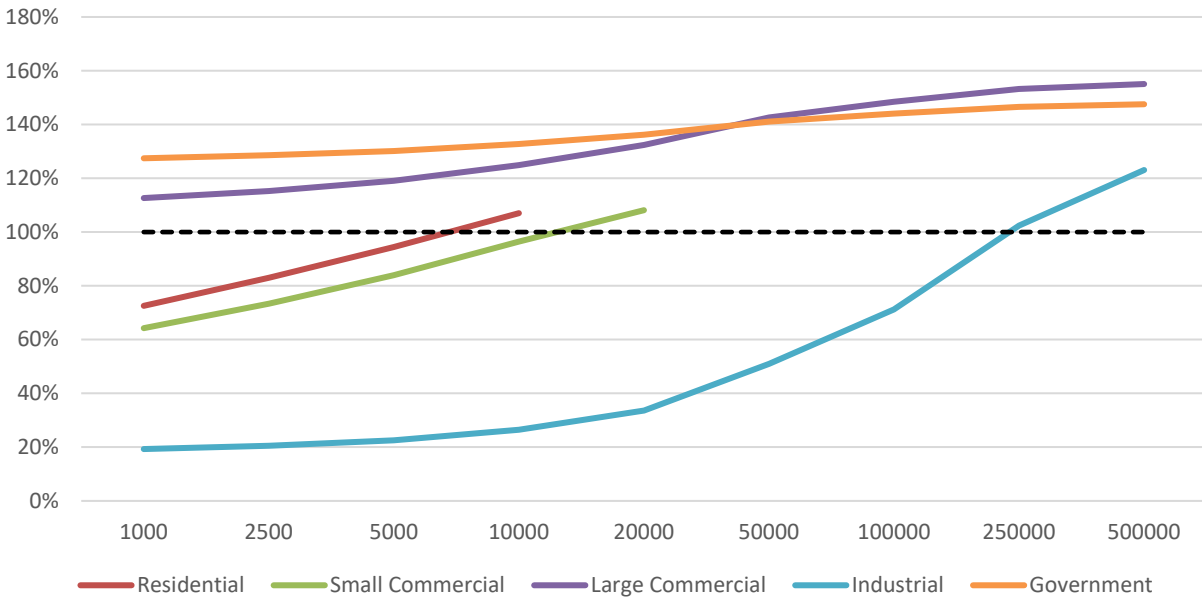
**Table 3: Proposed Minimum Monthly Sewer Charge Adjustments**

<b>Meter Size (INCH)</b>	<b>FY23 Total minimum</b>	<b>FY24 Proposed minimum</b>	<b>Difference</b>	<b># of Accounts</b>	<b>Added Revenue</b>
5/8"	\$10.22	\$10.72	\$0.50	47,853	\$237,915
1"	\$27.98	\$27.98	\$0.00	261	\$0.00
1-1/2"	\$61.90	\$61.90	\$0.00	158	\$0.00
2"	\$100.06	\$100.06	\$0.00	96	\$0.00
3"	\$252.70	\$252.70	\$0.00	8	\$0.00
4"	\$507.10	\$507.10	\$0.00	1	\$0.00
> 6"	\$1,058.30	\$1,058.30	\$0.00	2	\$0.00
			<b>Total</b>	<b>48,379</b>	<b>\$237,915</b>

The proposed sewer rate for FY24 only involves 5/8" meter sizes. The proposed rate adjustment is to take the current minimum monthly fee from \$10.22 to \$10.72. A proposed commodity rate for sanitary sewer is from \$5.67 per thousand gallons to \$5.50 per thousand gallons. Adjusting the commodity rate for sanitary sewer to a lower rate would lower monthly bills for all customer classes with 1-inch meters and larger.



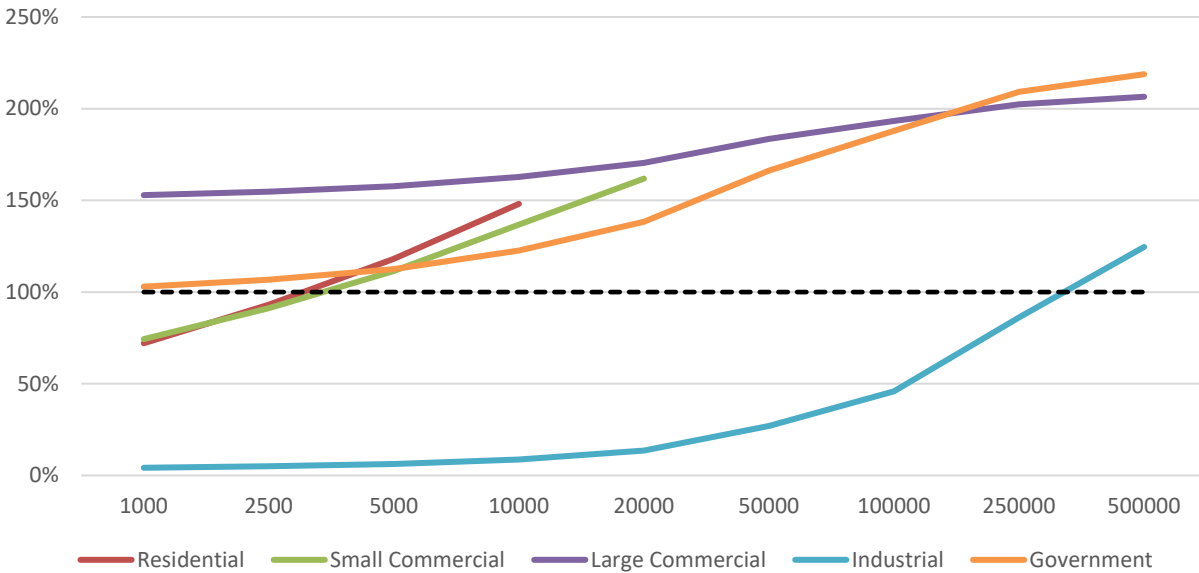
**Chart 1: % Recovery for Water by Customer Class**



**Table 4: Water Consumption and Billing Amounts (Averages & Needed for 100% Cost Recovery)**

	Residential	Small Commercial	Large Commercial	Industrial	Government
Water gal/month for 100% Recovery (FY21 COSS Rate Design)	7,220	13,047	0	238,375	0
Avg. gal/month (FY21 COSS)	5,733	7,007	57,080	585,740	74,284
Monthly Water Bill to cover 100% (FY21 COSS)	\$33.44	\$43.10	\$185.76	\$1,743.44	\$246.51
Prop Avg. Monthly Bill (FY24)	\$32.39	\$38.77	\$267.31	\$2,213.84	\$352.38
Avg. Recovery	97%	90%	144%	127%	143%

**Chart 2: % Recovery for Sewer by Customer Class**



**Table 5: Sewer Consumption and Billing Amounts (Averages & Needed for 100% Cost Recovery)**

	Residential	Small Commercial	Large Commercial	Industrial	Government
Sewer gal/month for 100% Recovery (FY21 COSS Rate Design)	3,181	3,584	0	340,023	0
Avg. gal/month (FY21 COSS)	4,902	6,856	56,112	397,582	62,624
Monthly Sewer Bill to cover 100% (FY21 COSS)	\$32.56	\$43.15	\$258.36	\$1,993.01	\$265.32
Prop Avg. Monthly Bill (FY24)	\$38.21	\$52.95	\$478.70	\$2,225.03	\$460.54
Avg. Recovery	117%	123%	185%	112%	174%

The combined monthly residential water and sewer bill is \$69.36. This falls between a 2- and 3-person family household and is well under the affordability indexes illustrated in Chart 5 below (purple dots). The proposed FY24 rate design, when plotted against the combined recovery curves in Chart 5 below, demonstrates how the minimum fee is raised and the commodity fee slope is reduced.

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

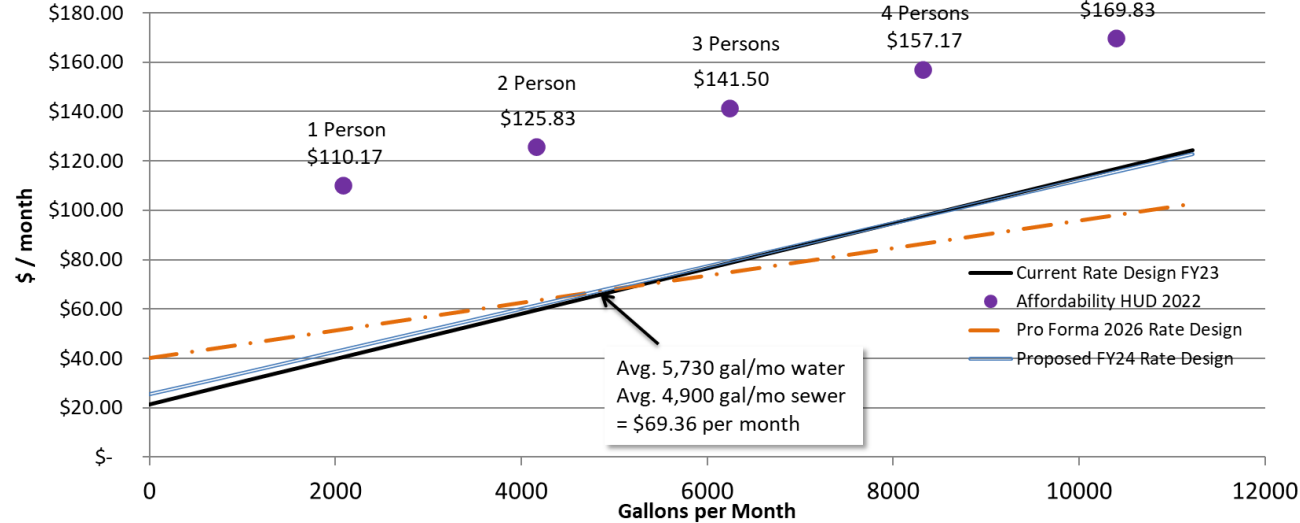


Chart 5 also demonstrates that MWRD’s current rate design meets the affordability index for 1-person through 5-person homes. The good news is that the pro forma for FY26 also meets the current 2022 HUD affordability indexes. Note however that the cost of service for FY21 and pro forma for FY26 do show the need to increase the minimum monthly fees rather substantially and flatten out the commodity charges.

The affordability limits above represent 4% of a very low-income earner (50% of median income) in Murfreesboro. The table below illustrates 2022 HUD housing limits. Median family income of 4 is established at \$94,300 per year, so 50% of median for a family of four is established as \$47,150 per year.

**Table 6: HUD Very Low Income (50% Median) for 1-5 person households**

	1 person	2 persons	3 persons	4 persons	5 persons
50% Median Family Income	\$33,050	\$37,750	\$42,450	\$47,150	\$50,950
4% annual	\$1,322	\$1,510	\$1,698	\$1,886	\$2,038
4% monthly	\$110.17	\$125.83	\$141.50	\$157.17	\$169.83

Staff is not recommending any changes to the system development charges (a.k.a., connection fees) for residential or nonresidential uses.

**ORDINANCE 23-O-17** amending Chapter 33, Water and Sewers, Section 33-1 of the Murfreesboro City Code, dealing with water resources rates and charges.

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

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

**WHEREAS**, the Water and Sewer Board studied and decided to recommend these charges to the City Council on April 25, 2023.

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

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

**MINIMUM MONTHLY WATER CHARGES**

<b>Meter Size</b>	<b>Charge*</b>	<b>Allowance, gallons</b>
<b>5/8 inch</b>	<b>\$10.72</b>	-
<b>1 inch</b>	<b>22.37</b>	-
<b>1 1/2 inch</b>	<b>46.39</b>	-
<b>2 inch</b>	<b>72.49</b>	-
<b>3 inch</b>	<b>164.40</b>	-
<b>4 inch</b>	<b>328.80</b>	-
<b>6 inch</b>	<b>685.00</b>	-

\*Tax not included

**SECTION 2.** Section 33-1, Water and Sewer Rates and Charges, of the Murfreesboro City Code is hereby amended at subsection (G) by substituting in lieu thereof the following:

- (1) Sewer customers served metered water by a public utility and sewer treated through Murfreesboro's centralized treatment facility. The sewer rate shall be \$5.50 per 1,000 gallons of metered water consumption (\$0.0055 per gallon) over the stated allowance per meter size. The minimum monthly bills applicable to all customers shall be based upon the following table:

**MINIMUM MONTHLY WATER CHARGES**

<b>Meter Size</b>	<b>Charge*</b>	<b>Allowance, gallons</b>
<b>5/8 inch</b>	<b>\$10.72</b>	-
<b>1 inch</b>	<b>27.98</b>	-
<b>1 1/2 inch</b>	<b>61.90</b>	-
<b>2 inch</b>	<b>100.06</b>	-
<b>3 inch</b>	<b>252.70</b>	-

<b>4 inch</b>	<b>507.10</b>	-
<b>6 inch</b>	<b>1058.30</b>	-

And deleting:

\*Not including O&M charge.

In addition to the sanitary sewer service charge, each customer shall be charged an operation and maintenance fee equal to \$0.90 per 100 cubic feet of metered water usage

SECTION 3. That this Ordinance shall take effect for bills printed on or after July 1, 2023 on its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

\_\_\_\_\_  
Shane McFarland, Mayor

1<sup>st</sup> reading \_\_\_\_\_

2<sup>nd</sup> reading \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Brown  
City Recorder

DocuSigned by:  
*Adam F. Tucker*  
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\_\_\_\_\_  
Adam Tucker  
City Attorney

SEAL

## COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Resolution 23-R-11 – Unclaimed Property Request

**Department:** Finance

**Presented by:** Jennifer Brown

**Requested Council Action:**

Ordinance

Resolution

Motion

Direction

Information

---

### Summary

Annual request to State to return unclaimed property remitted by the City.

### Staff Recommendation

Approve Resolution 23-R-11.

### Background Information

The City remits unclaimed property to the State on an annual basis. Upon request, the State returns unclaimed property to the City after the required holding period has been met and the property remains unclaimed, provided the City agrees to accept liability for future claims of these funds and to report to the State, on an annual basis, of any claims made.

### Council Priorities Served

*Responsible budgeting*

Funds held by the City are available for investment earnings in the City's General Fund.

### Fiscal Impact

Funds are returned to the City and the liability for future claims is generally low. To date we have not had a claim for funds after return from the State.

### Attachment

Resolution 23-R-11

**RESOLUTION 23-R-11** requesting unclaimed balance of accounts remitted to State Treasurer under Unclaimed Property Act.

**WHEREAS**, Tennessee Code Annotated Section 66-29-102 and Section 66-29-123, provide that a municipality or county in Tennessee may request payment for the unclaimed balance of funds reported and remitted by or on behalf of the local government and its agencies if it exceeds \$100, less a proportionate share of the cost of administering the program; and,

**WHEREAS**, the City of Murfreesboro and/or its agencies have remitted accounts to the State of Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act for the report year ending December 31, 2022; and,

**WHEREAS**, the City of Murfreesboro agrees to meet all of the requirements of Tennessee Code Annotated Section 66-29-101 et seq. and to accept liability for future claims against accounts represented in funds paid to it and to submit an annual report of claims received on these accounts to the State Treasurer by September 1 each year; and,

**WHEREAS**, it is agreed that the City of Murfreesboro will retain a sufficient amount to ensure prompt payment of allowed claims without deduction for administrative costs or service charge and that the balance of funds will be deposited in the City’s General Fund.

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

**SECTION 1.** The City of Murfreesboro requests the State Treasurer to pay the unclaimed balance of funds remitted for the 2022 report year to it in accordance with the provisions of Tennessee Code Annotated Section 66-29-121. A list of remittances made by or on behalf of the City and its agencies is attached.

**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*  
\_\_\_\_\_  
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Adam F. Tucker  
City Attorney

04/26/23

EXHIBIT A

**REMITTANCES FILED BY OR ON BEHALF  
OF LOCAL GOVERNMENT AND ITS AGENCIES**

Name of County/Municipality City of Murfreesboro

Mailing Address P. O. Box 1139  
Murfreesboro TN 37133-1139

Name of Holder or Agency Submitting Report and Remittance	Holder Identification Number	Amount of Remittance (If Available)	Date of Remittance (If Available)	Federal employer tax ID #
City of Murfreesboro	15830	21512.77	10/26/2022	62-6000374

I certify that any agencies included in this request are chartered under this local government.

615-893-5210  
Phone Number

\_\_\_\_\_  
(Signature)

Jennifer Brown  
Printed Name

Finance Director  
(Title)

Date \_\_\_\_\_

This report and accompanying Resolution may be filed with the Unclaimed Property office of the State Treasury Department at any point between the actual remittance of unclaimed accounts and the June 1 eighteenth months following.



I, Jennifer Brown, hereby certify that this is a true and exact copy of the foregoing Resolution which was approved and adopted at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2023, the original of which is on file in the office of the City Recorder of the City of Murfreesboro, Tennessee. I further certify that the City Council, which includes the Mayor, consists of seven (7) members, and that \_\_\_\_ members voted in favor of the Resolution.

WITNESS my official signature and the seal of said Municipality this \_\_\_\_ day of \_\_\_\_\_, 2023.

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JENNIFER BROWN, CITY RECORDER

(SEAL)

# COUNCIL COMMUNICATION

Meeting Date: 5/04/2023

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**Item Title:** Cleary Construction Airport Pavement Maintenance Contract

**Department:** Airport

**Presented by:** Ryan Hulsey, Airport Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Contract with Cleary Construction, Inc. to complete various airside pavement maintenance tasks at the Murfreesboro Municipal Airport.

**Staff Recommendation**

Approve a contract with Cleary Construction, Inc. to complete various airside pavement maintenance tasks at the Murfreesboro Municipal Airport.

**Background Information**

Various paved airside surfaces have been identified by staff and the engineering firm, Barge Design Solutions, as requiring maintenance. The repairs to be conducted during this project runway crack repair, seal coat; threshold displacement; and new runway markings. Taxiway A will be milled, paved, and striped. A majority of the apron area will receive a seal coat. At the departure end of Runway 36 a Stopway is being installed providing a paved surface for aircraft should they overrun the shortened runway.

The local portion of the project funding will be transferred from a previous airport project that is cancelled. Therefore, approval of a CIP project transfer is requested, moving funds from the terminated Airport Taxiway E Project to the Airport Pavement Maintenance and Stopway Project.

This project is being conducted in coordination with the FAA, Tennessee Aeronautics Division, and is recommended by the Murfreesboro Airport Commission.

**Council Priorities Served**

*Improve economic development*

Maintaining City Facilities in a safe and effective manner while ensuring Economic Growth and Development are priorities and protect the City's investments.

**Operational Impact**

The Airport will close the runway for an expected period of 30 days. Commercial Operators and customers have been informed about this project. Should there be any issue with a delay in receiving electrical components, Staff and the engineers have been developing various solutions to ensure the airport will open and returned to operation on time. Barge Design Solutions is coordinating with the FAA regarding the non-

precision instrument approach which will be redesigned in a period of 18-24 months.

**Fiscal Impact**

The total cost of the project is \$2,660,073.

Pavement repair work is 90% federally funded (\$1,644,497), 5% state funded (\$91,361), and the local share (\$965,900) is funded by the FY19, FY21, and FY22 CIP budgets upon approval of the requested CIP transfer.

**Attachments**

1. Construction, Inc. Contract
2. Barge Design Solution Letter of Recommendation of Bid Award
3. CIP Request for Fund Transfer

**SECTION B**  
**CONTRACT DOCUMENTS**

AGREEMENT

AIRFIELD PAVEMENT REHABILITATION AND THRESHOLD RELOCATION  
MURFREESBORO MUNICIPAL AIRPORT  
TAD PROJECT NO. XX-XXX-XXXX-XX

THIS AGREEMENT, made and executed at THE CITY OF MURFREESBORO this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the THE CITY OF MURFREESBORO, situated in the State of Tennessee, hereinafter called the "OWNER" and a corporation doing business as Cleary Construction Inc with principal office at 2006 Edmonton Rd Tompkinsville KY 42267 hereinafter called the "CONTRACTOR".

WITNESSETH, that OWNER and CONTRACTOR for and in consideration of the mutual covenants hereinafter set forth, agree as follows:

1. WORK

1.1 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

1.1.1 The furnishing of all necessary materials, labor, superintendence, tools, and appliances for the construction, testing and placing in operation:

TAD XX-XXX-XXXX-XX. AIRFIELD PAVEMENT REHABILITATION AND THRESHOLD RELOCATION

2. ENGINEER

2.1 BARGE DESIGN SOLUTIONS, INC., hereinafter called the ENGINEER, will assume duties and responsibilities and will have the rights and authority assigned to the ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

3. CONTRACT TIME AND LIQUIDATED DAMAGES

3.1 Contract Time

3.1.1 The rehabilitation and construction work designated in the Project Drawings shall be completed and ready for acceptance in accordance with Section 80 of the General Provisions within the timeframe below after the date when contract time commences to run.

a. Base Bid: **FORTY-FIVE (45) calendar days** (Runway & Taxiway closure shall be limited to **21** calendar days)

~~b. Additive Alternate No. 1: **SIXTY (60) calendar days** - Not Awarded~~

c. Additive Alternate No. 2: **THIRTY (30) calendar days** (Runway closure shall be concurrent with Base Bid and add **9** calendar days of closure)

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Project Work is not completed within the time

specified in Paragraph 3.1.1 above, plus any extensions thereof allowed in accordance with Section 80 of the General provisions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Base Bid Work and Project Work are not Complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER **one thousand dollars (\$1000.00)** for each **calendar day** that expires after the time specified in Paragraph 3.1 for Completion, until the Project Work or any designated portion thereof is complete. Base Bid liquidated damages will be measured for each calendar day of additional runway & taxiway closure beyond the limit of **TWENTY-ONE (21) calendar days**. Additive Alternate No. 1 liquidated damages will be measured for each calendar day beyond **SIXTY (60) calendar days**. If Additive Alternate No. 2 is awarded, then liquidated damages will be measured for each calendar day of additional runway & taxiway closure beyond the limit of **THIRTY (30) calendar days** from the Notice to Proceed of the Base Bid.

3.3 CONTRACTOR understands and hereby expressly agrees that in addition to liquidated damages specified in paragraph 3.2 above, the CONTRACTOR will pay to the OWNER the costs to OWNER for any inspector or inspectors necessarily employed by OWNER on the WORK and any sums paid by the OWNER to the ENGINEER for any observation of construction and project representative services performed by the ENGINEER for the number of days in excess of the number of days allowed for Completion of the Work, and for overtime work.

3.4 Subject to the applicable provisions of law, this Agreement shall be in full force and effect as a contract, from and after the date on which a fully executed and approved counterpart hereof is delivered to the CONTRACTOR and shall remain and continue in full force and effect until after the expiration of the guarantee period and the CONTRACTOR and his Sureties are finally released by the OWNER.

#### 4. CONTRACT PRICE

4.1 OWNER is to pay and the CONTRACTOR is to receive the Prices Bid in the BID herein contained or hereto annexed, as full compensation for furnishing all materials and labor in building, constructing and testing, and in all respects completing the herein described Work and appurtenances in the manner and under the conditions herein specified, and for fully complying with the terms and conditions of this Contract.

#### 5. PAYMENT PROCEDURES

5.1 Applications: CONTRACTOR shall submit Applications for Payment in accordance with Section 80 of the General provisions. Applications for Payment will be processed by ENGINEER as provided in the General provisions.

5.1.1 No Application shall be submitted and no payment will be made when the amount due the CONTRACTOR since the last Application for Payment is less than \$500.00. CONTRACTOR shall withhold his application until the next date set for filing of application that the amount due equals or exceeds \$500.00.

5.1.2 CONTRACTOR shall submit Applications for Payment for ENGINEER's review no later than the 25th of the month.

5.2 Progress Payments. OWNER will make progress payments on account of the Contract Price on the basis of the CONTRACTOR's Application for Payments as recommended by ENGINEER after OWNER receives the federal share of the Application for Payment currently being processed from the Federal Aviation Administration: this will generally be 30 days after the Application for Payment has been approved by OWNER.

5.2.1 Payments will be in an amount equal to: 95% of the Work completed, and 95% of materials and equipment not incorporated in the Work but delivered, suitably stored, and OWNER's title established, less in each case the aggregate of payments previously made.

5.3 Final Payment. Upon final completion and acceptance of the Work in accordance Section 90, Subsection 90.09 of the General Provisions, OWNER will pay the remainder of the Contract Price due the CONTRACTOR as recommended by ENGINEER, less any amounts payable by the CONTRACTOR to OWNER pursuant to paragraphs 3.2 and 3.3 of this agreement.

## 6. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

6.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, Locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.

6.2 CONTRACTOR has examined the site and locality and has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the General Provisions.

6.3 CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in Paragraph 6.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

6.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.

6.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

## 7. CONTRACT DOCUMENTS

The Contract Documents, prepared by Barge Design Solutions, Inc., which comprise the entire agreement between OWNER and CONTRACTOR are attached hereto and made a part hereof and consist of the following:

- 7.1 This Agreement
- 7.2 Performance and Payment Bonds
- 7.3 Certificate of OWNER's Attorney
- 7.4 General Provisions (Section 10 through 120, inclusive) and the Special Provisions.
- 7.5 Specifications as listed in the Table of Contents of the Project Manual.
- 7.6 Drawings, with each sheet bearing the following general title:

AIRFIELD PAVEMENT REHABILITATION AND THRESHOLD RELOCATION  
MURFREESBORO MUNICIPAL AIRPORT  
MURFREESBORO, TENNESSEE  
TAD XX-XXX-XXXX-XX

7.7 Addenda (numbers \_\_ to \_\_, inclusive).

7.8 CONTRACTOR's BID.

7.10 Documentation submitted by CONTRACTOR prior to NOTICE OF AWARD.

7.10 Any modification, including Change Orders and/or Supplemental Agreements, duly delivered after execution of Agreement.

7.11 Certificates of Insurance. There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be altered, amended or repealed in accordance with the methods and procedures of the General Provisions.

## 8. MISCELLANEOUS

8.1 Terms used in this Agreement which are defined in Section 10 of the General Provisions of the Construction Contract shall have the meanings indicated in the General Provisions.

8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4 The OWNER shall not be liable to the CONTRACTOR for any neglect, default, delay or interference of any other Contractor, nor shall any such neglect, default, delay, or interference of any other contract, or alteration which may be required in said Work, release the CONTRACTOR from the obligation to finish the said Work within the time aforesaid or from the damage to be paid in default thereof.

8.5 The words "Contract" and "Agreement" as used in the Contract Documents for this Project shall be considered as identically defined and shall have the same intent and meaning.

IN WITNESS WHEREOF, \_\_\_\_\_, by authority vested in him, has hereunto subscribed his name on behalf of the City of Murfreesboro and the said Darren Cleary, as Contractor, has caused this Contract to be executed by a duly authorized official the day and year first above written.

Cleary Construction Inc.  
Contractor

By Darren Cleary  
Darren Cleary, President





Title

This Contract is accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and is effective on the \_  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

City of Murfreesboro

Owner

By \_\_\_\_\_

\_\_\_\_\_  
Title

(ACKNOWLEDGMENT OF OWNER)

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_  
\_\_\_\_\_ to me known, who being by me duly sworn, did depose and say that he is  
the \_\_\_\_\_ of the \_\_\_\_\_  
\_\_\_\_\_ described in and which executed the foregoing instrument; that by virtue of the authority conferred on  
him by law he subscribed his name to the foregoing instrument and that he executed the same for the purpose  
therein mentioned.

(SEAL)

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_, 20\_\_\_\_.

(ACKNOWLEDGMENT OF CLERK)

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_  
\_\_\_\_\_ to me known, who being by me duly sworn, did depose and say that he is  
the \_\_\_\_\_ of the \_\_\_\_\_  
described in and which executed the foregoing instrument; that he knows the seal of said \_\_\_\_\_  
\_\_\_\_\_; that he is the official custodian of such seal; that one of the impressions appearing on  
said instrument is a true and correct impression of such seal; and that he affixed it thereto and attested the same  
over his signature by virtue of the authority in him vested.

(SEAL)

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_, 20\_\_\_\_

(ACKNOWLEDGMENT OF CONTRACTOR, IF A CORPORATION)

STATE OF Kentucky }  
COUNTY OF Monroe } ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_  
Darren Cleary to me known, who, being by me duly sworn, did depose and  
say that he resides at Tompkinsville KY (Monroe)  
that he is the President of Cleary Construction Inc  
the corporation described in and which executed the foregoing instrument; that he knows the seal of said  
corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the  
directors of said corporation, and that he signed his name thereto by like order.

(SEAL)

Mary Jo Spurlock  
(Notary Public)

My Commission Expires: April 4, 2026

MARY JO SPURLOCK  
NOTARY PUBLIC  
STATE AT LARGE  
KENTUCKY

KY NP #  
47489

**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS, that

Cleary Construction, Inc.  
(Name of Contractor)  
2006 Edmonton Road, Tompkinsville, KY 42167  
(Address of Contractor)

a Corporation, hereinafter called Principal, and

Westfield Insurance Company  
(Name of Surety)

One Park Circle, Westfield Center, OH 44251-5001  
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

**THE CITY OF MURFREESBORO, TENNESSEE**  
(Name of Owner)

**111 WEST VINE STREET, MURFREESBORO, TENNESSEE 37130**  
(Address of Owner)

hereinafter called OWNER, in the penal sum Two Million Six Hundred Sixty Thousand Seventy-Two and 50/100 Dollars, (\$ 2,660,072.50 ) in lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the above named Principal entered into a certain contract with the said OWNER, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

**TAD# XX-XXX-XXXX-XX: AIRFIELD PAVEMENT REHABILITATION AND THRESHOLD RELOCATION**

NOW THEREFORE, if the said Principal and all subcontractors to whom any portion of the Work provided for in said Contract is sublet and all assignees of said Principal and of such subcontractors shall promptly make payment for all said labor performed, services rendered, and materials or machinery furnished in the prosecution of the Work provided for in said Contract, or in any amendment or extension of or addition to said Contract, then the above obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, however, that this BOND is subject to the following conditions and limitations.

(a) All persons who have performed labor, rendered services, or furnished materials or machinery as aforesaid shall have a direct right of action against the Surety and Principal on this BOND, which right of action shall be asserted in proceedings instituted in the State in which such labor was performed, services rendered or materials furnished (or where labor has been performed, services rendered or materials furnished under said Contract in more than one State, then in any such State). Insofar as permitted by the laws of such State, such right of action shall be asserted in proceedings instituted in the name of the OWNER to the use and benefit of the person instituting such action and all other persons having claims hereunder and any other person having a claim hereunder shall have the right to be made a party to such proceedings (but not later than one year after the complete performance of said Contract and final settlement thereof) and to have such claim adjudicated in such action and judgment rendered thereon.

(b) The Surety shall not be liable hereunder for any damages or compensation recoverable under any Workman's Compensation or Employer's Liability Statute.

(c) In no event shall the Surety be liable for a greater sum than the penalty of this BOND or be subject to any suit, action, or proceedings thereon that is instituted later than one year after the complete performance of said Contract and final settlement thereof.

(d) As used herein: The term "person" refers to any person, firm, or corporation who has furnished materials or machinery to be used on or incorporated in the Work or the prosecution thereof provided for said Contract or in any amendment or extension of or addition to said Contract and/or to any person engaged in the prosecution of the Work provided for in said Contract or in any agent, servant, or employee of the Principal or of any subcontractor and also anyone so engaged who performs the work of a laborer or mechanic regardless of any contractual relationship between the Principal or any subcontractor or any assignee of said Principal or of said subcontractor and such laborer or mechanic, but shall not include office employees not regularly stationed at the site of the Work.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to Work to be performed thereunder or the Specifications accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS THEREOF, this instrument is executed in 6 counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

Shirley Cleary  
(Principal Secretary)  
Shirley Cleary

(SEAL)

Mary Jo Spellicy  
(Witness as to Principal)

2006 Edmonton Rd  
(Address)

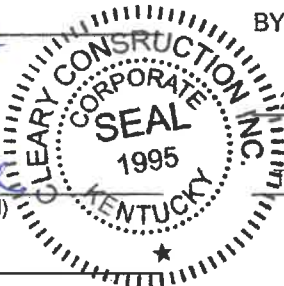
Tompkinsville KY 42167

Cleary Construction, Inc.  
(Principal)

BY Dan Cleary, President

2006 Edmonton Road  
(Address)

Tompkinsville, KY 42167



ATTEST:

See POA  
(Surety Secretary)

(SEAL)

Beth Chapman  
(Witness as to Surety)

6640 Carothers Pkwy, Suite 160  
(Address)

Franklin, TN 37067

Westfield Insurance Company  
(Surety)

BY Gregory Lee Bennett  
Gregory Lee Bennett (Attorney-in-Fact)

One Park Circle  
(Address)

Westfield Center, OH 44251-5001



1. Date of BOND must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute BOND.
2. Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.
3. Authorization of the Surety Agent to execute the BOND and financial statement shall be attached to each copy of the Surety Bond. Bond must be signed or countersigned by Surety's proper Tennessee resident agent. Date of Power-of-Attorney shall be same date as BOND.

(ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION)

STATE OF Kentucky ~~TENNESSEE~~ }  
COUNTY OF Monroe } SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared Darren Cleary to me known, who, being by me duly sworn, did depose and say that he resides at 347Todey Ridge Rd Tompkins Co Ky 42167; that he is the President of Cleary Construction Inc. the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that is was so affixed by order of the directors of said corporation, and that he signed his name thereto by like order.

(SEAL)

Mary Jo Spurlock  
(Notary Public)

My Commission Expires: April 6, 2020.

KV NP 47489  
MARY JO SPURLOCK  
NOTARY PUBLIC  
STATE AT LARGE  
KENTUCKY

(ACKNOWLEDGMENT BY SURETY COMPANY)

STATE OF TENNESSEE }  
COUNTY OF Williamson } SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came Gregory Lee Bennett to me personally known as Attorney-In-Fact of the corporation described in and which executed the within instrument, who being by me duly sworn, did depose and say that, that he is the Attorney-In-Fact of the said corporation; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

(SEAL)

Amelia L Cain  
(Notary Public)

My Commission Expires: July 21st, 2026.





General  
Power  
of Attorney

CERTIFIED COPY

POWER NO. 4110812 08

**Westfield Insurance Co.  
Westfield National Insurance Co.  
Ohio Farmers Insurance Co.**  
Westfield Center, Ohio

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint  
**JAMES L. NOE, III, ANDREW C. BENNETT, CRAIG M. WHITLOW, PAMELA D. PUSKARICH, ALISON LYONS, CHARLEY MYERS, JAMES MYERS, RHYAN JUSTIN ATWOOD, JOSHUA SETH CHAPMAN, AMELIA L. CAIN, GREGORY LEE BENNETT, J. CARLTON SMITH, LISA K. WILSON, JOINTLY OR SEVERALLY**

of FRANKLIN and State of TN its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship in any penal limit.

**LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.**

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be it Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be it Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereto affixed this 13th day of FEBRUARY A.D., 2023 .

Corporate  
Seals  
Affixed



WESTFIELD INSURANCE COMPANY  
WESTFIELD NATIONAL INSURANCE COMPANY  
OHIO FARMERS INSURANCE COMPANY

By: **Gary W. Stumper, National Surety Leader and Senior Executive**

State of Ohio  
County of Medina ss.:

On this 13th day of FEBRUARY A.D., 2023 , before me personally came Gary W. Stumper to me known, who, being by me duly sworn, did depose and say, that he resides in Medina, OH; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial  
Seal  
Affixed



**David A. Kotnik, Attorney at Law, Notary Public**  
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio  
County of Medina ss.:

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this \_\_\_\_\_ day of \_\_\_\_\_ A.D.,

  
**Frank A. Carrino Secretary**  
Frank A. Carrino, Secretary

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

Cleary Construction, Inc.  
(Name of Contractor)

2006 Edmonton Road, Tompkinsville, KY 42167  
(Address of Contractor)

a Corporation, hereinafter called Principal, and

Westfield Insurance Company  
(Name of Surety)

One Park Circle, Westfield Center, OH 44251-5001  
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

**THE CITY OF MURFREESBORO, TENNESSEE**  
(Name of Owner)

**111 WEST VINE STREET, MURFREESBORO, TENNESSEE 37130**

(Address of Owner)

hereinafter called OWNER, in the penal sum Two Million Six Hundred Sixty Thousand Seventy-Two and 50/100Dollars, (\$ 2,660,072.50 ) in lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the above named Principal entered into a certain contract with the said OWNER, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of which is hereto attached and made a part of this BOND the same as if fully set forth herein for the construction of:

**TAD# XX-XXX-XXXX-XX: AIRFIELD PAVEMENT REHABILITATION AND THRESHOLD RELOCATION**

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and agreements of said Contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in any wise affect its obligation

on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in 5 counterparts, each of which shall be deemed an original, this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Cleary Construction, Inc.  
(Name of Principal)

BY Daren Cleary  
(Signature)

Daren Cleary  
(Type or Print Name)  
President  
(Title)

2006 Edmonton Road  
(Address)  
Tompkinsville, KY 42167



ATTEST:

Shirley Cleary  
(Signature of Principal Secretary)

Mary Jo Spurlock  
(Signature of Witness as to Principal)  
Mary Jo Spurlock  
(Type or Print Name of Witness)

2006 Edmonton Rd  
(Address of Witness)  
Tompkinsville KY 42167

Westfield Insurance Company  
(Name of Surety)

BY Gregory Lee Bennett  
(Attorney-in-Fact)

Gregory Lee Bennett  
(Type or Print Name)  
One Park Circle  
(Address)

Westfield Center, OH 44251-5001

(SEAL)

ATTEST:

See POA  
(Surety Secretary)

Seth Chapman  
Witness as to Surety)

Seth Chapman  
(Type or Print Name of Witness)

6640 Carothers Pkwy, Suite 160  
(Address)  
Franklin, TN 37067

1. Date of BOND must be same date as Contract. If CONTRACTOR is Partnership, all partners should execute Bond.
2. Surety companies executing BONDS must appear in the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.
3. Authorization of the Surety Agent to execute the BOND and financial statement shall be attached to each copy of the Surety Bond. Bond must be signed or countersigned by Surety's proper Tennessee resident agent. Date of Power-of-Attorney shall be same date as BOND.

(ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION)

STATE OF Kentucky }  
COUNTY OF Monroe } SS.

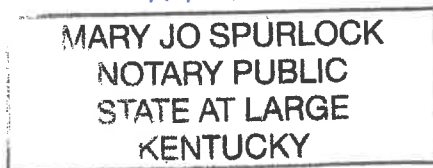
On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared Darren Cream to me known, who, being by me duly sworn, did depose and say that he resides at 347 Tosley Ridge Rd Tompkinsville KY 42167; that he is the President of Cleary Construction Inc. the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that is was so affixed by order of the directors of said corporation, and that he signed his name thereto by like order.

(SEAL)

Mary Jo Spurlock  
(Notary Public)

My Commission Expires: April 6, 2026

KY NP 47489



(ACKNOWLEDGMENT BY SURETY COMPANY)

STATE OF Tennessee }  
COUNTY OF Williamson } SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me personally came \_\_\_\_\_  
Gregory Lee Bennett to me personally known as Attorney-In-Fact of the corporation  
described in and which executed the within instrument, who being by me duly sworn, did depose and say  
that he resides at 1023 Old Lascassas Rd, Murfreesboro, TN 37130, that  
he is the Attorney-In-Fact of the said corporation; that he knows the seal of said  
corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by  
order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

(SEAL)

Amelia L Cain  
(Notary Public)

My Commission Expires: July 21st, 2026.



General  
Power  
of Attorney

CERTIFIED COPY

POWER NO. 4110812 08

**Westfield Insurance Co.**  
**Westfield National Insurance Co.**  
**Ohio Farmers Insurance Co.**  
Westfield Center, Ohio

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint

**JAMES L. NOE, III, ANDREW C. BENNETT, CRAIG M. WHITLOW, PAMELA D. PUSKARICH, ALISON LYONS, CHARLEY MYERS, JAMES MYERS, RHYAN JUSTIN ATWOOD, JOSHUA SETH CHAPMAN, AMELIA L. CAIN, GREGORY LEE BENNETT, J. CARLTON SMITH, LISA K. WILSON, JOINTLY OR SEVERALLY**

of FRANKLIN and State of TN its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship in any penal limit.

**LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.**

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be it Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be it Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereto affixed this 13th day of FEBRUARY A.D., 2023.

Corporate  
Seals  
Affixed



WESTFIELD INSURANCE COMPANY  
WESTFIELD NATIONAL INSURANCE COMPANY  
OHIO FARMERS INSURANCE COMPANY

By: Gary W. Stumper, National Surety Leader and Senior Executive

State of Ohio  
County of Medina ss.:

On this 13th day of FEBRUARY A.D., 2023, before me personally came Gary W. Stumper to me known, who, being by me duly sworn, did depose and say, that he resides in Medina, OH; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial  
Seal  
Affixed



David A. Kotnik, Attorney at Law, Notary Public  
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio  
County of Medina ss.:

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this day of A.D.,

  
Frank A. Carrino, Secretary

CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, \_\_\_\_\_, the duly authorized and acting legal representative of \_\_\_\_\_, do hereby certify as follows:

I have examined the foregoing Contract(s), Surety Bonds, insurance certificates and the manner of execution thereof, and I am of the opinion the contracts are satisfactory and that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_





**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

\*Blanket Waiver of Subrogation Applies\*

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

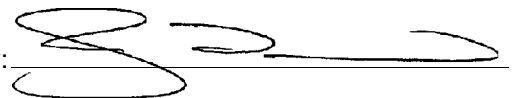
Date Prepared: October 24, 2022

Carrier: Bridgefield Casualty Insurance Company

Effective Date of Endorsement: January 1, 2023

Policy Number: 196-42220

Countersigned by:

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and a small flourish at the end.

Insured: Cleary Construction, Inc.

**WC 00 03 13** (Ed. 4-84)

April 7, 2023

Mr. Chad L. Gherke  
Airport Director  
City of Murfreesboro  
1930 Memorial Boulevard  
Murfreesboro, TN 37129

RE: Airfield Pavement Rehabilitation and Threshold Relocation  
Murfreesboro Municipal Airport

Dear Mr. Gherke:

Bids for the above referenced project were received on March 21, 2023 at 10:00 A.M.. A bid tabulation has been enclosed for your reference. The low bidder was Cleary Construction, Inc. of Tompkinsville, KY with a base bid of \$ 1,827,219.50.

There were also three additive alternates for this project. Pending grant funding from Tennessee Aeronautics Division, Barge recommends awarding the Base Bid + Additive Alternate 1 for a total project amount of \$ \$3,703,323.50. In addition, we understand the city wishes to proceed with Alternate 2 in the amount of \$ 832,853 to be funded locally.

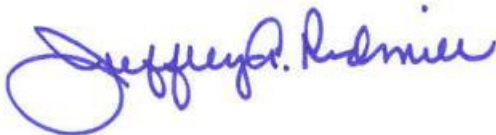
Barge Design Solutions has reviewed the bid and recommends award of the Project to Cleary Construction, Inc. pending funding availability from various sources.

If acceptable to the City of Murfreesboro, please forward a separate letter of award to Cleary Construction, Inc.

If you have any comments or questions, please feel free to contact me at (256) 203-8953.

Sincerely,

**Barge Design Solutions, Inc.**



Jeffrey A. Redmill, PE, PMP  
Senior Project Manager

c: Mr. Benson Hadley

Enclosures

Barge project # 3741900

AIRFIELD PAVEMENT REHABILITATION AND THRESHOLD RELOCATION  
MURFREESBORO, TENNESSEE  
TAD NO. XX-XXX-XXXX-XX  
BID TABULATION

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST		Actual Bid		Actual Bid		Actual Bid	
				UNIT PRICE	EXTENDED TOTAL	Vulcan Construction Materials, LLC		Wiregrass Construction Company, Inc.		Cleary Construction, Inc.	
				UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL
<b>BASE BID</b>											
PLANS	AIRFIELD BARRICADES	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 50,000.00	\$ 50,000.00	\$ 35,000.00	\$ 35,000.00	\$ 12,000.00	\$ 12,000.00
PLANS	TEMPORARY RUNWAY CLOSURE	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 85,000.00	\$ 85,000.00	\$ 30,000.00	\$ 30,000.00	\$ 8,800.00	\$ 8,800.00
C-100	CONTRACTOR QUALITY CONTROL PROGRAM (QCQP)	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 150,000.00	\$ 150,000.00	\$ 20,000.00	\$ 20,000.00	\$ 250,000.00	\$ 250,000.00
C-102-5.3	EROSION CONTROL - CONSTRUCTION ENTRANCE (INSTALLATION & REMOVAL)	1	EA	\$ 2,500.00	\$ 2,500.00	\$ 35,000.00	\$ 35,000.00	\$ 2,700.00	\$ 2,700.00	\$ 50,000.00	\$ 50,000.00
C-105	MOBILIZATION	1	LS	\$ 100,000.00	\$ 100,000.00	\$ 180,000.00	\$ 180,000.00	\$ 330,000.00	\$ 330,000.00	\$ 190,000.00	\$ 190,000.00
P-101-5.1	COLD MILLING	13,810	SY	\$ 5.00	\$ 69,050.00	\$ 7.00	\$ 96,670.00	\$ 10.00	\$ 138,100.00	\$ 7.65	\$ 105,646.50
P-152-4.1	UNCLASSIFIED EXCAVATION	100	CY	\$ 50.00	\$ 5,000.00	\$ 115.00	\$ 11,500.00	\$ 60.00	\$ 6,000.00	\$ 200.00	\$ 20,000.00
P-401-8.1	BITUMINOUS ASPHALT SURFACE COURSE - RUNWAY (GRADATION 2)	2,000	TONS	\$ 160.00	\$ 320,000.00	\$ 240.00	\$ 480,000.00	\$ 210.00	\$ 420,000.00	\$ 285.00	\$ 570,000.00
P-603-5.1	EMULSIFIED ASPHALT TACK COAT	1,380	GAL	\$ 6.00	\$ 8,280.00	\$ 6.00	\$ 8,280.00	\$ 8.00	\$ 11,040.00	\$ 7.10	\$ 9,798.00
P-605-5.1	CRACK REPAIR	20,000	LF	\$ 1.50	\$ 30,000.00	\$ 1.50	\$ 30,000.00	\$ 1.00	\$ 20,000.00	\$ 0.70	\$ 14,000.00
P-608-R-8.1	ASPHALT SURFACE TREATMENT	<b>52,800</b>	SY	\$ 1.90	\$ 100,320.00	\$ 3.90	\$ 205,920.00	\$ 6.00	\$ 316,800.00	\$ 3.70	\$ 195,360.00
<b>P-623-8.1</b>	<b>EMULSIFIED ASPHALT SEAL COAT</b>	<b>115,000</b>	<b>SY</b>	\$ 1.50	\$ 172,500.00	\$ 3.50	\$ 402,500.00	\$ 5.00	\$ 575,000.00	\$ 1.65	\$ 189,750.00
P-620-5.1	PAVEMENT MARKING REMOVAL	63,000	SF	\$ 1.50	\$ 94,500.00	\$ 0.90	\$ 56,700.00	\$ 1.00	\$ 63,000.00	\$ 0.60	\$ 37,800.00
P-620-5.2	TEMPORARY PAVEMENT MARKING, WHITE	35,160	SF	\$ 1.00	\$ 35,160.00	\$ 0.45	\$ 15,822.00	\$ 1.00	\$ 35,160.00	\$ 0.50	\$ 17,580.00
P-620-5.3	TEMPORARY PAVEMENT MARKING, YELLOW	8,000	SF	\$ 2.00	\$ 16,000.00	\$ 0.90	\$ 7,200.00	\$ 1.25	\$ 10,000.00	\$ 1.00	\$ 8,000.00
P-620-5.4	PERMANENT PAVEMENT MARKING, REFLECTIVE WHITE	35,160	SF	\$ 1.25	\$ 43,950.00	\$ 0.65	\$ 22,854.00	\$ 1.00	\$ 35,160.00	\$ 0.50	\$ 17,580.00
P-620-5.5	PERMANENT PAVEMENT MARKING, REFLECTIVE YELLOW	8,000	SF	\$ 2.50	\$ 20,000.00	\$ 1.00	\$ 8,000.00	\$ 1.25	\$ 10,000.00	\$ 1.00	\$ 8,000.00

P-620-5.6	PERMANENT PAVEMENT MARKING, BLACK	2,000	SF	\$ 3.00	\$ 6,000.00	\$ 1.70	\$ 3,400.00	\$ 1.50	\$ 3,000.00	\$ 1.20	\$ 2,400.00
T-904-5.1	SODDING	2,000	SY	\$ 10.00	\$ 20,000.00	\$ 5.80	\$ 11,600.00	\$ 17.00	\$ 34,000.00	\$ 11.50	\$ 23,000.00
T-905-5.1	TOPSOIL (OBTAINED ON SITE)	250	CY	\$ 10.00	\$ 2,500.00	\$ 115.00	\$ 28,750.00	\$ 60.00	\$ 15,000.00	\$ 24.00	\$ 6,000.00
L-108-5.1	NO. 8 AWG, 5 KV, L-824, TYPE C CABLE, INSTALLED IN TRENCH, DUCT BANK OR CONDUIT	600	LF	\$ 1.25	\$ 750.00	\$ 3.60	\$ 2,160.00	\$ 5.00	\$ 3,000.00	\$ 1.85	\$ 1,110.00
L-108-5.2	NO. 4 AWG, 600 V, THHN/THWN-2 CABLE, INSTALLED IN TRENCH, DUCT BANK OR CONDUIT	2,000	LF	\$ 1.50	\$ 3,000.00	\$ 5.10	\$ 10,200.00	\$ 7.00	\$ 14,000.00	\$ 4.00	\$ 8,000.00
L-108-5.3	NO. 6 AWG, SOLID, BARE COPPER COUNTERPOISE WIRE, INSTALLED ABOVE THE DUCT BANK OR CONDUIT, INCLUDING	1,500	LF	\$ 1.50	\$ 2,250.00	\$ 5.00	\$ 7,500.00	\$ 7.00	\$ 10,500.00	\$ 2.25	\$ 3,375.00
L-108-5.4	NO. 6 AWG, INSULATED, STRANDED EQUIPMENT GROUND, INSTALLED IN DUCT BANK OR CONDUIT	1,000	LF	\$ 1.00	\$ 1,000.00	\$ 3.30	\$ 3,300.00	\$ 5.00	\$ 5,000.00	\$ 2.00	\$ 2,000.00
L-110-5.1	NON-ENCASED, ELECTRICAL CONDUIT, 1-WAY, 2-INCH PVC	1,000	LF	\$ 8.00	\$ 8,000.00	\$ 27.00	\$ 27,000.00	\$ 36.00	\$ 36,000.00	\$ 15.00	\$ 15,000.00
L-110-5.2	NON-ENCASED ELECTRICAL CONDUIT, DIRECTIONAL BORE, 1-WAY, 2-INCH HDPE	130	LF	\$ 50.00	\$ 6,500.00	\$ 165.00	\$ 21,450.00	\$ 210.00	\$ 27,300.00	\$ 48.00	\$ 6,240.00
L-110-5.3	NON-ENCASED ELECTRICAL CONDUIT, DIRECTIONAL BORE, 1-WAY, 1-INCH HDPE	130	LF	\$ 15.00	\$ 1,950.00	\$ 145.00	\$ 18,850.00	\$ 189.00	\$ 24,570.00	\$ 36.00	\$ 4,680.00
L-125-5.1	RUNWAY THRESHOLD LIGHT, L-861E(L), BASE MOUNTED, MEDIUM INTENSITY (LED), COMPLETE IN PLACE	8	EA	\$ 1,700.00	\$ 13,600.00	\$ 3,200.00	\$ 25,600.00	\$ 4,500.00	\$ 36,000.00	\$ 1,900.00	\$ 15,200.00
L-125-5.2	RUNWAY THRESHOLD LIGHT, L-861E(L), BASE MOUNTED, MEDIUM INTENSITY (LED), NEW FIXTURE INSTALLED ON EXISTING STAKE OR BASE CAN	8	EA	\$ 800.00	\$ 6,400.00	\$ 1,500.00	\$ 12,000.00	\$ 2,000.00	\$ 16,000.00	\$ 1,700.00	\$ 13,600.00
L-125-5.3	RELOCATE EXISTING PRECISION APPROACH PATH INDICATOR, L-881(L), INSTALLED ON NEW CONCRETE PAD	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 7,000.00	\$ 7,000.00	\$ 10,000.00	\$ 10,000.00	\$ 12,000.00	\$ 12,000.00
L-125-5.4	RELOCATE EXISTING RUNWAY END IDENTIFICATION LIGHTS, L-849(L), INSTALLED ON NEW CONCRETE PAD	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 9,500.00	\$ 9,500.00	\$ 13,000.00	\$ 13,000.00	\$ 8,000.00	\$ 8,000.00
PLANS	REPLACE EXISTING RUNWAY EDGE LIGHT LENS WITH NEW LENS AS NOTED ON THE PLANS	2	EA	\$ 150.00	\$ 300.00	\$ 900.00	\$ 1,800.00	\$ 1,200.00	\$ 2,400.00	\$ 1,150.00	\$ 2,300.00

**TOTAL BASE BID \$ 1,129,510.00**

**\$ 2,035,556.00**

**\$ 2,307,730.00**

**\$ 1,827,219.50**

ADDITIVE ALTERNATE 1 - APRON RECONSTRUCTION											
PLANS	AIRFIELD BARRICADES	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 20,000.00	\$ 20,000.00	\$ 35,000.00	\$ 35,000.00	\$ 7,100.00	\$ 7,100.00
PLANS	SAWCUTTING	750	LF	\$ 2.00	\$ 1,500.00	\$ 7.50	\$ 5,625.00	\$ 15.00	\$ 11,250.00	\$ 5.20	\$ 3,900.00
C-100	CONTRACTOR QUALITY CONTROL PROGRAM (QCQP)	1	LS	\$ 35,000.00	\$ 35,000.00	\$ 175,000.00	\$ 175,000.00	\$ 20,000.00	\$ 20,000.00	\$ 260,000.00	\$ 260,000.00
C-102-5.1	EROSION CONTROL - SILT FENCE (INSTALLATION & REMOVAL)	1,000	LF	\$ 5.00	\$ 5,000.00	\$ 6.00	\$ 6,000.00	\$ 5.00	\$ 5,000.00	\$ 12.00	\$ 12,000.00
C-102-5.2	EROSION CONTROL - CHECK DAM (INSTALLATION & REMOVAL)	10	EA	\$ 500.00	\$ 5,000.00	\$ 590.00	\$ 5,900.00	\$ 900.00	\$ 9,000.00	\$ 730.00	\$ 7,300.00
C-102-5.3	EROSION CONTROL - CONSTRUCTION ENTRANCE (INSTALLATION & REMOVAL)	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 6,750.00	\$ 6,750.00	\$ 350.00	\$ 350.00	\$ 60,000.00	\$ 60,000.00
C-102-5.4	EROSION CONTROL - INLET PROTECTION (INSTALLATION & REMOVAL)	5	EA	\$ 350.00	\$ 1,750.00	\$ 325.00	\$ 1,625.00	\$ 2,700.00	\$ 13,500.00	\$ 740.00	\$ 3,700.00
C-105	MOBILIZATION	1	LS	\$ 100,000.00	\$ 100,000.00	\$ 160,000.00	\$ 160,000.00	\$ 70,000.00	\$ 70,000.00	\$ 135,000.00	\$ 135,000.00
P-152-4.1	UNCLASSIFIED EXCAVATION	350	CY	\$ 30.00	\$ 10,500.00	\$ 115.00	\$ 40,250.00	\$ 50.00	\$ 17,500.00	\$ 200.00	\$ 70,000.00
P-152-4.2	UNDERCUT EXCAVATION	1,000	CY	\$ 30.00	\$ 30,000.00	\$ 60.00	\$ 60,000.00	\$ 60.00	\$ 60,000.00	\$ 37.00	\$ 37,000.00
P-152-4.3	BORROW EXCAVATION	1,000	CY	\$ 30.00	\$ 30,000.00	\$ 220.00	\$ 220,000.00	\$ 100.00	\$ 100,000.00	\$ 48.00	\$ 48,000.00
P-207-5.1	IN-PLACE FULL DEPTH RECYCLED (FDR) ASPHALT AGGREGATE BASE COURSE	9,600	SY	\$ 17.50	\$ 168,000.00	\$ 45.00	\$ 432,000.00	\$ 20.00	\$ 192,000.00	\$ 20.85	\$ 200,160.00
P-207-5.2	MICROCRACKING	1	LS	\$ 3.00	\$ 3.00	\$ 7,000.00	\$ 7,000.00	\$ 3,375.00	\$ 3,375.00	\$ 4,500.00	\$ 4,500.00
P-401-8.1	BITUMINOUS ASPHALT SURFACE COURSE - RUNWAY (GRADATION 2)	890	TONS	\$ 165.00	\$ 146,850.00	\$ 240.00	\$ 213,600.00	\$ 300.00	\$ 267,000.00	\$ 285.00	\$ 253,650.00
P-401-8.2	BITUMINOUS ASPHALT BINDER COURSE - RUNWAY (GRADATION 1)	1,485	TONS	\$ 145.00	\$ 215,325.00	\$ 205.00	\$ 304,425.00	\$ 225.00	\$ 334,125.00	\$ 244.00	\$ 362,340.00
P-602-5.1	EMULSIFIED ASPHALT PRIME COAT	2,900	GAL	\$ 6.00	\$ 17,400.00	\$ 6.00	\$ 17,400.00	\$ 6.00	\$ 17,400.00	\$ 7.10	\$ 20,590.00
P-603-5.1	EMULSIFIED ASPHALT TACK COAT	960	GAL	\$ 5.00	\$ 4,800.00	\$ 6.00	\$ 5,760.00	\$ 6.00	\$ 5,760.00	\$ 7.10	\$ 6,816.00
<b>P-623-8.1</b>	<b>EMULSIFIED ASPHALT SEAL COAT</b>	9,600	SY	\$ 2.50	\$ 24,000.00	\$ 3.50	\$ 33,600.00	\$ 5.00	\$ 48,000.00	\$ 1.65	\$ 15,840.00
P-609-5.1	ASPHALT MATERIAL	8,160	GAL	\$ 6.00	\$ 48,960.00	\$ 6.00	\$ 48,960.00	\$ 10.00	\$ 81,600.00	\$ 8.30	\$ 67,728.00

P-609-5.2	CHIP SEAL COAT APPLICATION	360	TONS	\$ 75.00	\$ 27,000.00	\$ 55.00	\$ 19,800.00	\$ 120.00	\$ 43,200.00	\$ 103.00	\$ 37,080.00
P-620-5.3	TEMPORARY PAVEMENT MARKING, NON-REFLECTIVE YELLOW	750	SF	\$ 2.00	\$ 1,500.00	\$ 0.90	\$ 675.00	\$ 1.50	\$ 1,125.00	\$ 1.00	\$ 750.00
P-620-5.5	PERMANENT PAVEMENT MARKING, REFLECTIVE YELLOW	750	SF	\$ 2.50	\$ 1,875.00	\$ 1.00	\$ 750.00	\$ 1.50	\$ 1,125.00	\$ 1.00	\$ 750.00
D-701-5.1	18" REINFORCED CONCRETE PIPE, CLASS III	270	LF	\$ 130.00	\$ 35,100.00	\$ 145.00	\$ 39,150.00	\$ 80.00	\$ 21,600.00	\$ 192.00	\$ 51,840.00
D-702-5.1	SLOTTED DRAIN - COMPLETE (INCLUDING BACKFILL, CONCRETE, & GRATE)	130	LF	\$ 450.00	\$ 58,500.00	\$ 1,100.00	\$ 143,000.00	\$ 260.00	\$ 33,800.00	\$ 510.00	\$ 66,300.00
D-705-5.1	6" PERFORATED HDPE PIPE COMPLETE (INCLUDING EXCAVATION, POROUS BACKFILL AND FILTER FABRIC)	1,275	LF	\$ 35.00	\$ 44,625.00	\$ 75.00	\$ 95,625.00	\$ 25.00	\$ 31,875.00	\$ 42.00	\$ 53,550.00
D-705-5.2	6" SOLID HDPE PIPE COMPLETE (INCLUDING EXCAVATION, POROUS BACKFILL AND FILTER FABRIC)	115	LF	\$ 45.00	\$ 5,175.00	\$ 110.00	\$ 12,650.00	\$ 85.00	\$ 9,775.00	\$ 48.00	\$ 5,520.00
D-705-5.3	LATERAL OUTFALL	2	EA	\$ 750.00	\$ 1,500.00	\$ 3,500.00	\$ 7,000.00	\$ 2,500.00	\$ 5,000.00	\$ 1,600.00	\$ 3,200.00
D-751-5.1	CATCH BASIN WITH AIRCRAFT RATED GRATE INLET	1	EA	\$ 6,000.00	\$ 6,000.00	\$ 15,000.00	\$ 15,000.00	\$ 7,500.00	\$ 7,500.00	\$ 12,500.00	\$ 12,500.00
D-751-5.2	CATCH BASIN WITH GRATE INLET REPAIR	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 15,000.00	\$ 15,000.00	\$ 7,500.00	\$ 7,500.00	\$ 12,500.00	\$ 12,500.00
T-901-5.1	HYDRO-SEEDING	1	AC	\$ 3,500.00	\$ 3,500.00	\$ 3,700.00	\$ 3,700.00	\$ 7,000.00	\$ 7,000.00	\$ 8,500.00	\$ 8,500.00
T-904-5.1	SODDING	250	SY	\$ 8.50	\$ 2,125.00	\$ 5.80	\$ 1,450.00	\$ 60.00	\$ 15,000.00	\$ 17.00	\$ 4,250.00
T-905-5.1	TOPSOIL (OBTAINED ON SITE)	250	CY	\$ 10.00	\$ 2,500.00	\$ 115.00	\$ 28,750.00	\$ 60.00	\$ 15,000.00	\$ 24.00	\$ 6,000.00
PLANS	PORTLAND CEMENT CONCRETE COLLAR AROUND T-HANGARS (COMPLETE-IN-PLACE, INCLUDING PAVEMENT REMOVAL, EXCAVATION, AGGREGATE	1,110	LF	\$ 30.00	\$ 33,300.00	\$ 80.00	\$ 88,800.00	\$ 35.00	\$ 38,850.00	\$ 34.00	\$ 37,740.00

**TOTAL ADDITIVE ALTERNATE 1** \$ 1,081,788.00

\$ 2,235,245.00

\$ 1,529,210.00

\$ 1,876,104.00

ADDITIVE ALTERNATE 2 - 250' RUNWAY STOPWAY											
PLANS	AIRFIELD BARRICADES	1	LS	\$ 2,500.00	\$ 2,500.00	\$ 4,500.00	\$ 4,500.00	\$ 33,750.00	\$ 33,750.00	\$ 8,000.00	\$ 8,000.00
C-100	CONTRACTOR QUALITY CONTROL PROGRAM (QCQP)	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 85,000.00	\$ 85,000.00	\$ 20,000.00	\$ 20,000.00	\$ 140,000.00	\$ 140,000.00
C-102-5.1	EROSION CONTROL - SILT FENCE (INSTALLATION & REMOVAL)	1,000	LF	\$ 5.00	\$ 5,000.00	\$ 6.00	\$ 6,000.00	\$ 5.00	\$ 5,000.00	\$ 12.00	\$ 12,000.00
C-102-5.2	EROSION CONTROL - CHECK DAM (INSTALLATION & REMOVAL)	10	EA	\$ 500.00	\$ 5,000.00	\$ 590.00	\$ 5,900.00	\$ 900.00	\$ 9,000.00	\$ 735.00	\$ 7,350.00
C-102-5.3	EROSION CONTROL - CONSTRUCTION ENTRANCE (INSTALLATION & REMOVAL)	1	EA	\$ 2,500.00	\$ 2,500.00	\$ 6,750.00	\$ 6,750.00	\$ 2,700.00	\$ 2,700.00	\$ 60,000.00	\$ 60,000.00
C-105	MOBILIZATION	1	LS	\$ 35,000.00	\$ 35,000.00	\$ 64,000.00	\$ 64,000.00	\$ 60,000.00	\$ 60,000.00	\$ 100,000.00	\$ 100,000.00
P-152-4.1	UNCLASSIFIED EXCAVATION	500	CY	\$ 30.00	\$ 15,000.00	\$ 115.00	\$ 57,500.00	\$ 50.00	\$ 25,000.00	\$ 105.00	\$ 52,500.00
P-152-4.2	UNDERCUT EXCAVATION	1,000	CY	\$ 30.00	\$ 30,000.00	\$ 60.00	\$ 60,000.00	\$ 60.00	\$ 60,000.00	\$ 37.00	\$ 37,000.00
P-152-4.3	BORROW EXCAVATION	1,000	CY	\$ 30.00	\$ 30,000.00	\$ 220.00	\$ 220,000.00	\$ 100.00	\$ 100,000.00	\$ 48.00	\$ 48,000.00
P-220-5.1	CEMENT TREATED SOIL BASE COURSE	2,800	SY	\$ 17.50	\$ 49,000.00	\$ 14.00	\$ 39,200.00	\$ 18.00	\$ 50,400.00	\$ 21.50	\$ 60,200.00
P-401-8.1	BITUMINOUS ASPHALT SURFACE COURSE - RUNWAY (GRADATION 2, 1.5" COMPACTED THICKNESS)	265	TONS	\$ 175.00	\$ 46,375.00	\$ 240.00	\$ 63,600.00	\$ 400.00	\$ 106,000.00	\$ 285.00	\$ 75,525.00
P-401-8.2	BITUMINOUS ASPHALT BINDER COURSE - RUNWAY (GRADATION 1, 2.5" COMPACTED THICKNESS)	435	TONS	\$ 145.00	\$ 63,075.00	\$ 205.00	\$ 89,175.00	\$ 300.00	\$ 130,500.00	\$ 244.00	\$ 106,140.00
P-602-5.1	EMULSIFIED ASPHALT PRIME COAT	840	GAL	\$ 6.00	\$ 5,040.00	\$ 6.00	\$ 5,040.00	\$ 6.00	\$ 5,040.00	\$ 7.10	\$ 5,964.00
P-603-5.1	EMULSIFIED ASPHALT TACK COAT	280	GAL	\$ 5.00	\$ 1,400.00	\$ 6.00	\$ 1,680.00	\$ 6.00	\$ 1,680.00	\$ 7.10	\$ 1,988.00
P-608-R-8.1	ASPHALT SURFACE TREATMENT	2,800	SY	\$ 2.50	\$ 7,000.00	\$ 3.90	\$ 10,920.00	\$ 5.00	\$ 14,000.00	\$ 3.85	\$ 10,780.00
P-609-5.1	ASPHALT MATERIAL	2,400	GAL	\$ 6.00	\$ 14,400.00	\$ 6.00	\$ 14,400.00	\$ 10.00	\$ 24,000.00	\$ 8.30	\$ 19,920.00
P-609-5.2	CHIP SEAL COAT APPLICATION	105	TONS	\$ 75.00	\$ 7,875.00	\$ 55.00	\$ 5,775.00	\$ 120.00	\$ 12,600.00	\$ 103.00	\$ 10,815.00
P-620-5.2	TEMPORARY PAVEMENT MARKING, NON-REFLECTIVE WHITE	1,000	SF	\$ 1.00	\$ 1,000.00	\$ 0.45	\$ 450.00	\$ 1.00	\$ 1,000.00	\$ 0.50	\$ 500.00
P-620-5.3	PERMANENT PAVEMENT MARKING, NON-REFLECTIVE YELLOW	800	SF	\$ 2.50	\$ 2,000.00	\$ 0.90	\$ 720.00	\$ 2.00	\$ 1,600.00	\$ 1.00	\$ 800.00
P-620-5.4	TEMPORARY PAVEMENT MARKING, REFLECTIVE WHITE	1,000	SF	\$ 1.25	\$ 1,250.00	\$ 0.65	\$ 650.00	\$ 1.00	\$ 1,000.00	\$ 0.50	\$ 500.00
P-620-5.5	PERMANENT PAVEMENT MARKING, REFLECTIVE YELLOW	800	SF	\$ 3.00	\$ 2,400.00	\$ 1.00	\$ 800.00	\$ 2.00	\$ 1,600.00	\$ 1.00	\$ 800.00
T-901-5.1	HYDRO-SEEDING	1	AC	\$ 3,500.00	\$ 3,500.00	\$ 3,700.00	\$ 3,700.00	\$ 7,000.00	\$ 7,000.00	\$ 8,400.00	\$ 8,400.00
T-904-5.1	SODDING	200	SY	\$ 10.00	\$ 2,000.00	\$ 6.00	\$ 1,200.00	\$ 17.00	\$ 3,400.00	\$ 17.00	\$ 3,400.00

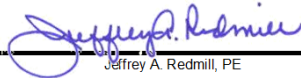
T-905-5.1	TOPSOIL (OBTAINED ON SITE)	100	CY	\$ 25.00	\$ 2,500.00	\$ 115.00	\$ 11,500.00	\$ 90.00	\$ 9,000.00	\$ 54.00	\$ 5,400.00
L-108-5.1	NO. 8 AWG, 5 KV, L-824, TYPE C CABLE, INSTALLED IN TRENCH, DUCT BANK OR CONDUIT	800	LF	\$ 1.25	\$ 1,000.00	\$ 3.60	\$ 2,880.00	\$ 5.00	\$ 4,000.00	\$ 1.85	\$ 1,480.00
L-108-5.3	NO. 6 AWG, SOLID, BARE COPPER COUNTERPOISE WIRE, INSTALLED ABOVE THE DUCT BANK OR CONDUIT, INCLUDING	720	LF	\$ 1.50	\$ 1,080.00	\$ 5.00	\$ 3,600.00	\$ 7.00	\$ 5,040.00	\$ 2.25	\$ 1,620.00
L-110-5.1	NON-ENCASED, ELECTRICAL CONDUIT, 1-WAY, 2-INCH PVC	670	LF	\$ 3.00	\$ 2,010.00	\$ 28.00	\$ 18,760.00	\$ 40.00	\$ 26,800.00	\$ 15.30	\$ 10,251.00
L-125-5.1	RUNWAY THRESHOLD LIGHT, L-861E(L), BASE MOUNTED, MEDIUM INTENSITY (LED), COMPLETE IN PLACE	10	EA	\$ 1,700.00	\$ 17,000.00	\$ 3,200.00	\$ 32,000.00	\$ 4,500.00	\$ 45,000.00	\$ 2,120.00	\$ 21,200.00
L-125-5.5	RUNWAY THRESHOLD LIGHT, L-850D(L), FLUSH MOUNTED, MEDIUM INTENSITY (LED), COMPLETE IN PLACE	6	EA	\$ 2,200.00	\$ 13,200.00	\$ 3,000.00	\$ 18,000.00	\$ 4,000.00	\$ 24,000.00	\$ 3,000.00	\$ 18,000.00
L-125-5.6	RUNWAY EDGE LIGHT, L-861(L), BASE MOUNTED, MEDIUM INTENSITY (LED), COMPLETE IN PLACE	2	EA	\$ 1,700.00	\$ 3,400.00	\$ 3,100.00	\$ 6,200.00	\$ 4,100.00	\$ 8,200.00	\$ 2,160.00	\$ 4,320.00

**TOTAL ADDITIVE ALTERNATE 2** \$ 381,505.00                      \$ 839,900.00                      \$ 797,310.00                      \$ 832,853.00

ADDITIVE ALTERNATE 3 - THERMOPLASTIC COAL TAR EMULSION SAND SLURRY (SUBSTITUTED FOR EMULSIFIED ASPHALT SEAL COAT)											
P-623-8.1	EMULSIFIED ASPHALT SEAL COAT	-115,000	SY	\$ 1.90	\$ (218,500.00)	\$ 3.50	\$ (402,500.00)	\$ 4.00	\$ (460,000.00)	\$ 1.65	\$ (189,750.00)
P-629-8.1	THERMOPLASTIC COAL TAR EMULSION SAND SLURRY	115,000	SY	\$ 5.00	\$ 575,000.00	\$ 5.00	\$ 575,000.00	\$ 7.00	\$ 805,000.00	\$ 5.22	\$ 600,300.00

**TOTAL ADDITIVE ALTERNATE 3** \$ 356,500.00                      \$ 172,500.00                      \$ 345,000.00                      \$ 410,550.00

I hereby state that, to the best of my knowledge, this is a true and correct tabulation of bids which were opened at Murfreesboro Municipal Airport on March at 10:00 A.M., March 21, 2023 local time for the captioned project.



Jeffrey A. Redmill, PE  
Senior Project Manager





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**CIP Funds Transfer Request**

Mr. Tindall:

Submitted for your approval is the following request to transfer CIP funds.

CIP Loan     2019 Loan

Transfer CIP funds from:

Transfer CIP funds to:

Airport Taxiway Echo                     \$     (258,899.71)

Airport Pavement Maintenance/Stopway     \$     258,899.71

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TOTAL TRANSFER                     \$     (258,899.71)

TOTAL TRANSFER                     \$     258,899.71

Explanation: It has been requested that funds be transferred from the Airport Taxiway Echo project to the Airport Pavement Maintenance/Stopway project. The Taxiway Echo project will not move forward and the funds transferred will will be used to cover the cost of the construction of a stopway at the Airport. This will be constructed during the Airport shutdown for pavement repairs and maintenance.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Budget Director Signature

4-17-23  
Date

[Signature]  
Reviewed by Finance

04/14/23  
Date

Approved    

[Signature]  
City Manager

Declined    

\_\_\_\_\_  
Date

Please send the original to Vicki Massey, Finance & Tax Dept., once all signatures have been obtained.

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** FY22 CIP Funds Reallocated for the Manson/Fortress Pike Intersection Improvements

**Department:** Engineering

**Presented by:** Chris Griffith, Executive Director

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Reallocate FY22 proceeds for the improvements to the Manson/Fortress intersection.

**Staff Recommendation**

Approve Manson/Fortress intersection project utilizing existing bond and loan proceeds.

**Background Information**

Currently, Fortress Blvd is eight lanes wide near the intersection Manson Pike and Fortress Blvd. This design is not optimal for movement of traffic and proves difficult for vehicles to access commercial properties between Manson Pike and Bill Smith Drive.

In January 2022, staff retained engineering services to perform a traffic access evaluation in the area. Recommendations to improve traffic flow include installing a divided median to manage turning movements and also creating a shared access easement to allow vehicles to exit onto Bill Smith Drive. An exhibit outlining these improvements is attached.

**Council Priorities Served**

*Responsible budgeting*

Appropriately maintaining infrastructure in a proactive manner to assure vehicular safety is an important budget responsibility.

**Fiscal Impact**

The estimated cost of the project is \$1,000,000, which will be funded from reallocated FY22 bond and loan proceeds available from deferred projects.

**Attachments**

1. CIP Transfer Form.
2. Roadway Exhibit of Proposed Improvements.



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**CIP Funds Transfer Request**

Mr. Tindall:

Submitted for your approval is the following request to transfer CIP funds.

CIP Loan 2022 Bond

Transfer CIP funds from:

Transfer CIP funds to:

Warrior Drive Extension \$ (1,000,000.00)

Manson Pike / Fortress \$ 1,000,000.00

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TOTAL TRANSFER \$ (1,000,000.00)

TOTAL TRANSFER \$ 1,000,000.00

Explanation: Funding is needed for a new road project, Manson Pike / Fortress. Funds are available from the  
Warrior Drive Extension project. It is requested that \$1,000,000 be transferred from Warrior Drive Extension to  
Manson Pike / Fortress.

  
Budget Director Signature

4-11-23  
Date

  
Reviewed by Finance

04/10/23  
Date

Approved

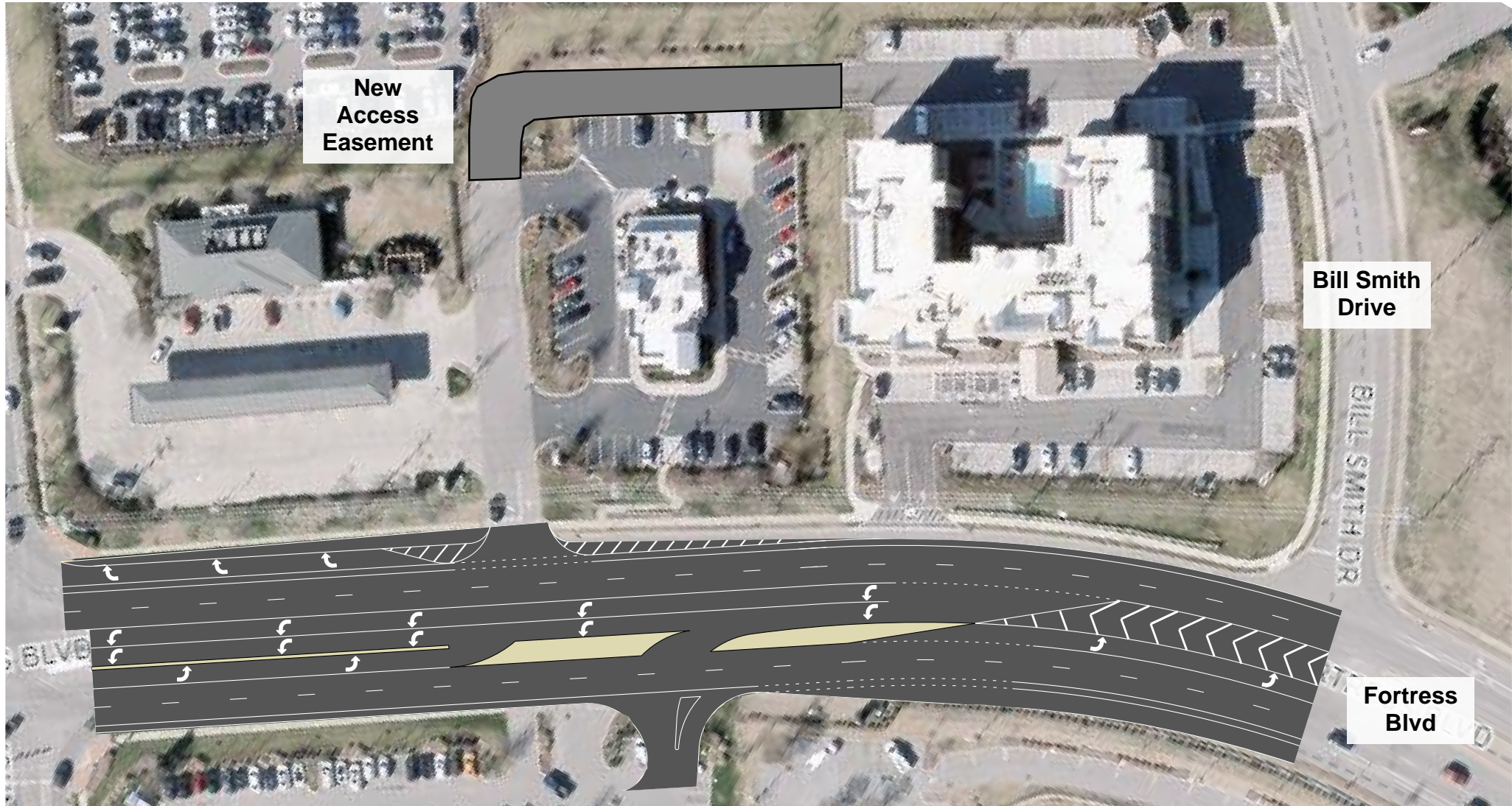
  
City Manager

Declined

\_\_\_\_\_  
Date

Please send the original to Vicki Massey, Finance & Tax Dept., once all signatures have been obtained.

# Manson/Fortress Improvement Project



New  
Access  
Easement

Bill Smith  
Drive

Fortress  
Blvd

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Construction Contract Gateway Blvd Extension

**Department:** Engineering

**Presented by:** Chris Griffith, Executive Director

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Agreement for construction of Gateway Blvd extension project.

**Staff Recommendation**

Approve construction agreement with Sessions Paving Company.

**Background Information**

This project includes building the extension of Gateway Blvd approximately .31 miles to the south to make a connection with Robert Rose Drive. This extension is a two-lane curb and gutter section with sidewalks on each side as outlined in the 2040 Transportation Plan. This project also incorporates a traffic signal at new intersection of Gateway Boulevard and Robert Rose Drive.

Sessions Paving Company is the lowest responsible bid in the amount of \$2,387,982. The Engineer’s estimate for the project was \$2,162,653. The increase in the bid is attributed to higher labor and material costs.

**Council Priorities Served**

*Expand Infrastructure*

Implementation of the 2040 Major Transportation Plan through the construction of new roadways.

**Fiscal Impact**

The construction costs, \$2,387,982, are within the total project budget and are funded by the FY19, FY21, and FY22 CIP Budgets.

**Attachments**

1. Agreement Between Owner and Contractor for Construction Contract.
2. Gateway Blvd Extension Overview.

**AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between CITY OF MURFREESBORO (“Owner”) and  
\_\_\_\_\_ (“Contractor”).

Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

1.01 *Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:*

The Project consists of roadway construction for the extension of Gateway Boulevard from Robert Rose Drive approximately 1600 linear feet north and connecting to an existing roundabout. Construction will consist of grading, drainage, curb and gutter, sidewalks, asphalt pavement, a concrete slab bridge, traffic signals, light poles, as well as other related roadway appurtenances.

**THE PROJECT**

*The Project, of which the Work under the Contract Documents is a part, is generally described as follows:*

The Project consists of roadway construction for the extension of Gateway Boulevard from Robert Rose Drive approximately 1600 linear feet north and connecting to an existing roundabout. Construction will consist of grading, drainage, curb and gutter, sidewalks, asphalt pavement, a concrete slab bridge, traffic signals, light poles, as well as other related roadway appurtenances.

**ARTICLE 2 – ENGINEER**

2.01 *The part of the Project that pertains to the Work has been designed by:*

Energy Land & Infrastructure, LLC  
745 S. Church St., Suite 801  
Murfreesboro, TN 37130

2.02 *The Owner has retained ELI, LLC (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.*

**ARTICLE 3 – CONTRACT TIMES**

3.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 Contract Times: Days

Number of days listed in Section A thru B are calendar days, not work days, and include projected rain days and holidays.

A. Milestone 1 is defined as completion of all improvements as shown on the roadway construction plans including but not limited to grading, base stone, storm drainage, curb and gutter, asphalt binder, utilities, water and sewer, sidewalks, striping, traffic signals, light poles, and traffic control items and other necessary appurtenances associated with this Milestone shall be substantially complete within **180 calendar days** after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions.

- B. All work will be substantially completed within **180 calendar days** after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **210 calendar days (and/or no later than \_\_\_\_\_, 2023)** after the date when the Contract Times commence to run.

### 3.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
  - 1. Substantial Completion: Contractor shall pay Owner **\$1000** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
  - 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$ 5000** for each day that expires after such time until the Work is completed and ready for final payment.

### 3.04 Special Damages

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

## ARTICLE 4 – CONTRACT PRICE

4.01 *Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:*

- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

## ARTICLE 5 – PAYMENT PROCEDURES

### 5.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

### 5.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 5<sup>th</sup> day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments

will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
  - a. 95% percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
  - b. 95% percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100% percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 100% percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

#### 5.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

### ARTICLE 6 – INTEREST

6.01 *All amounts not paid when due shall bear interest at the rate of three percent (3%) per annum.*

### ARTICLE 7 – CONTRACTOR'S REPRESENTATIONS

7.01 *In order to induce Owner to enter into this Contract, Contractor makes the following representations:*

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.



- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## ARTICLE 8 – CONTRACT DOCUMENTS

### 8.01 Contents

- A. The Contract Documents consist of the following:
  - 1. This Agreement;
  - 2. Performance bond (pages 33 to 35, inclusive).
  - 3. Payment bond (pages 36 to 39, inclusive).
  - 4. Other bonds.
    - a. Bid Bond (pages 31 to 32, inclusive).
  - 5. General Conditions (pages 49 to 122, inclusive).
  - 6. Supplementary Conditions Part A and Supplementary Conditions Part B. In the event of any conflict between the Agreement and Supplementary Conditions, the terms of this Agreement shall govern. If there is any conflict between the terms of the General Conditions and the terms of the Supplementary Conditions, the Supplementary Conditions shall govern. (pages 123 to 132, inclusive).
  - 7. Specifications as listed in the table of contents of the Project Manual, and as listed in the additional technical specifications, page 147.
  - 8. Drawings (not attached but incorporated by reference) consisting of a cover sheet and plan and profile sheets with each sheet bearing the following general title: Gateway Boulevard Extension **[or]** the Drawings listed on the attached sheet index.
  - 9. Addenda.
  - 10. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid (pages 20 to 30, inclusive).
  - 11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed.
    - b. Work Change Directives.
    - c. Change Orders.
- B. The documents listed in Paragraph 8.01.A are attached to this Agreement (except as expressly noted otherwise above).

- C. There are no Contract Documents other than those listed above in this Article 8.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## ARTICLE 9 – MISCELLANEOUS

- 9.01 *Terms.* Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.
- 9.02 *Assignment of Contract.* Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.03 *Successors and Assigns.* Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- 9.04 *Severability.* Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 9.05 *Contractor's Certifications.* Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
  - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.
- 9.06 *No-Damage-for-Delay.* Contractor shall not be entitled to any damages (including, without limitation, expenses, costs, fees, extended field overhead and general conditions, equipment costs, home office overhead, lost productivity and inefficiency damages, additional payroll and labor costs, etc.) for any delay to its Work. Contractor’s sole and exclusive remedy for a delay to its Work that is not caused by Contractor (or a person or entity performing a portion of Contractor’s scope of Work) shall be an extension of time to substantially complete and finally complete the Project; provided, however, that Owner granting Contractor an extension of time is not a condition precedent to this no-damage-for-delay provision. Contractor shall also not be entitled to any damages for disruption or interference to its Work or for having to accelerate or incur additional labor or payroll costs in order to make up or overcome a delay to its Work so that it can maintain the dates for Substantial Completion and Final Completion. Contractor agrees that in determining and agreeing to the Contract Price it considered this no damage-for-delay provision and understands that it is not entitled to any damages whatsoever for a delay to its Work.
- 9.07 *No Third Party Beneficiaries.* There are no intended third party beneficiaries to the Contract

- 9.08 *Indemnification.* Contractor shall defend, hold harmless and indemnify Owner and Engineer, and each of their respective officers, agents, engineers, attorneys and employees from any and all losses, liability, damages, costs, expenses (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs), claims, suits or actions whatsoever in nature, including intentional acts, resulting from or arising out of the activities of the Contractor or its subcontractors, agents, or employees under this Contract.
- 9.09 *Amendments.* The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written, properly signed instrument by the parties duly authorized representative. This requirement includes all change orders, which shall not arise under any other circumstances, including verbally, cumulatively, or by any course of conduct. Such waiver, alteration, modification, supplementation, or amendment, if made, shall be effective only in the specific instance and for the purpose given, and shall be valid and binding only if it is signed by all parties to this Agreement. The failure of Owner to enforce any provision of this Agreement shall not constitute a waiver by the Owner of that or any other provision.
- 9.10 *Choice of Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. All disputes will be resolved in accordance with Addendum B of the Supplementary Conditions. Provided, if any litigation arising under the Agreement must be brought in a federal forum, it shall be brought and maintained solely and exclusively in the United States District Court for the Middle District of Tennessee.
- 9.11 *Integration.* This Agreement, which includes all Contract Documents as identified herein, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, regarding this Agreement, except as specified or referenced herein. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.
- 9.12 *Counterparts.* This Agreement may be executed in counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on \_\_\_\_\_ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

CITY OF MURFREESBORO, TN

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

*(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*

Approved as to form

City Attorney

[Corporate Seal]

Address for giving notices:

Address for giving notices:

City of Murfreesboro

\_\_\_\_\_

111 West Vine Street

\_\_\_\_\_

Murfreesboro, TN 37130

\_\_\_\_\_

License No.: \_\_\_\_\_  
*(where applicable)*

*(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)*

*NOTE TO USER: Use in those states or other jurisdictions where applicable or required.*

Designated Representative:

Designated Representative:

Name: Chris Griffith, P.E.

Name: \_\_\_\_\_

Title: Executive Director, Public Infrastructure

Title: \_\_\_\_\_

Address: 111 West Vine Street

Address: \_\_\_\_\_

Murfreesboro, TN 37130

\_\_\_\_\_

Phone: 615-893-6441

Phone: \_\_\_\_\_

Facsimile: 615-849-2606

Facsimile: \_\_\_\_\_

## SIGNATURE SHEET

I, the undersigned, do hereby agree to all terms and conditions listed within this formal solicitation, and will supply all information as required in this solicitation.

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

EMAIL: \_\_\_\_\_

### ADDENDUM ACKNOWLEDGEMENT

The proposer shall acknowledge obtaining all addenda issued to this formal solicitation within your response in the City's eProcurement Portal. Failure to acknowledge all addenda may be cause for rejection of the response.

AUTHORIZED SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

(Print / type name as signed above): \_\_\_\_\_

DATE: \_\_\_\_\_

**\*\*\*SIGN AND SUBMIT WITH BID PACKAGE\*\*\***



# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Contract for Construction Administration for the Gateway Blvd Extension Project

**Department:** Engineering

**Presented by:** Chris Griffith, Executive Director

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Engineering services agreement for the construction of the Gateway Blvd Extension Project.

**Staff Recommendation**

Approval of the professional services contract with Energy Land & Infrastructure, LLC.

**Background Information**

Staff proposes to retain Energy Land & Infrastructure, LLC to perform construction administration services for the Gateway Blvd extension project. These services, which are retained on most large construction projects, assists the City with administrative duties associated with the construction of the project. The estimate for professional services for the Gateway Blvd extension project is \$63,120.

**Council Priorities Served**

*Expand Infrastructure*

Implementation of the 2040 Major Transportation Plan through the construction of new roadways.

**Fiscal Impact**

The construction costs including administrative services are within budget and funded in the FY19, FY21, and FY22 CIP Budgets.

**Attachments**

Professional Services Agreement – Gateway Blvd Extension CEI.



**ENERGY LAND & INFRASTRUCTURE**

April 4, 2023

Chris Griffith  
Executive Director of Public Works  
City of Murfreesboro  
111 W. Vine Street  
Murfreesboro TN, 37130

**Re: Professional Services Agreement  
Gateway Boulevard Extension CEI**

Dear Mr. Griffith,

Energy Land & Infrastructure, LLC (ELI) is pleased to present the attached Professional Services Agreement to provide Construction Engineering & Inspection (CEI) support services to City of Murfreesboro staff related to the Gateway Boulevard Extension Project in the City of Murfreesboro. ELI proposes to perform these professional services on an hourly basis with a not-to-exceed budget estimate of **\$63,120.00**.

We appreciate the opportunity to serve the City in this capacity. If you agree to its terms, please sign and return a copy of the attached "Standard Form of Agreement Between Owner and Engineer for Professional Services".

Warmest regards,

**ENERGY LAND & INFRASTRUCTURE, LLC**

Timothy L. Haggard, PE, PLS  
Associate Vice President

Attachments



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**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER FOR  
PROFESSIONAL SERVICES**

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WHEN  
“STUDY AND REPORT PHASE” ARE DELETED AND  
“RESIDENT PROJECT REPRESENTATION” IS PROVIDED BY OWNER

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THIS IS AN AGREEMENT made as of \_\_\_\_\_, between the CITY OF MURFREESBORO, TENNESSEE, (OWNER) and Energy Land & Infrastructure, LLC., (ENGINEER).

OWNER intends to secure professional services to provide supplemental Construction Engineering and Inspection (CEI) support services to City of Murfreesboro staff related to the Gateway Boulevard Extension Project for the City of Murfreesboro, TN (hereinafter called the Project).

OWNER and ENGINEER in consideration of their mutual covenants herein agree in respect of the performance of professional engineering services by ENGINEER and the payment for those services by OWNER as set forth below.

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**SECTION 1  
BASIC SERVICES OF ENGINEER**

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1.1 General

1.1.1 ENGINEER shall provide the OWNER professional Engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER’s professional Engineering representative for the Project, providing professional Engineering consultation and advice and furnishing customary civil engineering services incidental hereto.

1.2 Construction Phase

During the Construction Phase:

1.2.1 General Administration of Construction Contract. ENGINEER shall consult with and advise OWNER and act as OWNER’s representative as provided in the Standard General Conditions of the Construction Contract, C-700 (20013 ed.) of the Engineer’s Joint Contract Documents Committees said the Standard General Conditions document is amended by Owner. The extent and limitations of the duties, responsibilities and authority of ENGINEER are provided in Exhibit A, “Further Description of Basic Engineering Services and Related Matters” and except as ENGINEER may otherwise agree in writing, OWNER will issue instructions to Contractor(s)

through ENGINEER or inform ENGINEER of instructions issued to Contractor(s) and ENGINEER will have authority to act on behalf of OWNER to the extent provided in said Standard General Conditions, as modified in writing.

1.2.2 Visits to Site and Observation of Construction. In connection with observations of the work of Contractor(s) while it is in progress:

1.2.2.1 Engineer shall make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)’ work. Based on information obtained during such visits and on such observations, ENGINEER shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents, including adherence to construction schedule and milestones and ENGINEER shall keep OWNER informed of the progress of the work.

1.2.2.2. ENGINEER will be OWNER’s agent under OWNER’s supervision

1.2.2.3 The purpose of ENGINEER’s visits to and representation by the OWNER’s Resident Project Representative (and assistants, if any) at the site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by

ENGINEER during the Construction Phase, and in addition, by exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, ENGINEER shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct, or have control over Contractor(s)' work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes, or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, ENGINEER can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s) failure to furnish and perform their work in accordance with the Contract Documents.

1.2.3 Defective Work. During such visits and on the basis of such observations, ENGINEER may disapprove of or reject Contractor(s) work while it is in progress if ENGINEER believes that such work will not produce a complete Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.

1.2.4 Interpretations and Clarifications. ENGINEER shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare work directive changes and change orders as required.

1.2.5 Shop Drawings. ENGINEER shall review and approve (or take other appropriate action in respect of) Shop Drawings (as that term is defined in the aforesaid Standard General Conditions), samples, and other data which Contractor(s) are required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.

1.2.6 Substitutes. ENGINEER shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor(s), but subject to the provision of paragraph 2.2.2.

1.2.7 [reserved]

1.2.8 Disputes between OWNER and Contractor. ENGINEER shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. ENGINEER shall not be liable for the results of any such interpretations or decisions rendered in good faith.

1.2.9 Applications for Payment. Based on ENGINEER's onsite observations as an experienced and qualified design professional, and on review of applications for payment and the accompanying data and schedules:

1.2.9.1 ENGINEER shall coordinate and confirm the amounts owing to Contractor(s) and recommend in writing payments to Contractor(s) in such amounts. Such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated and complies with the construction milestones, and that, to the best of ENGINEER's knowledge, information and belief, the quality of such work is generally in accordance with Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation). In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents).

1.2.9.2 By recommending any payment, ENGINEER will not thereby be deemed to have represented that exhaustive, continuous, or detailed reviews or examinations have been made by ENGINEER to check the quality or quantity of Contractor(s)' work as it is furnished and performed beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. ENGINEER's review of Contractor(s)' work for the purposes of recommending payments will not impose on ENGINEER responsibility to supervise, direct, or control such work or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto or Contractor(s)' compliance with laws, rules, regulations, ordinances, codes, or orders applicable to

their furnishing and performing the work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or to determine that the title to any of the work, materials, or equipment has passed to OWNER free and clear of any lien, claims, security interest or encumbrances, or that there may not be other matters at issue between OWNER and CONTRACTOR that might affect the amount that should be paid.

1.2.9.3 If ENGINEER deems that CONTRACTOR has not progressed with the work to the point of compliance with established construction milestones, ENGINEER shall not recommend payment by OWNER, until such time as the appropriate milestone is met. In the event that construction milestones are not met repeatedly, the ENGINEER shall recommend to OWNER in writing the recommendation to notify CONTRACTOR's surety and apprise them of the delinquent progression of work. Upon OWNER's concurrence of recommendation, ENGINEER shall then notify the CONTRACTOR's surety in writing.

1.2.10 Contractor(s)' Completion Documents. ENGINEER shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by Contractor(s) in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests, and approvals the results certified indicate compliance with, the Contract Documents); and shall transmit them to OWNER with written comments.

1.2.11 Inspections. ENGINEER shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor(s) and may give written notice to OWNER and the Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph 1.2.9.2.

1.2.12 Limitations of Responsibilities. ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor(s)' or supplier(s)' agents or employees or any other persons (except ENGINEER's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s) work; however, nothing contained in

paragraphs 1.2.1 through 1.2.11 inclusive, shall be construed to release ENGINEER from liability for failure to properly perform duties and responsibilities assumed by ENGINEER in the Contract Documents.

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## SECTION 2 ADDITIONAL SERVICES OF ENGINEER

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### 2.1 Services Requiring Authorization in Advance

If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1 through 2.1.14, inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters;" these will be paid for by OWNER as indicated in Section 5.

2.1.1 Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3 Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond ENGINEER's control.

2.1.4 Providing renderings or models for OWNER's use.

2.1.5 Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.

(See Sections 8.3 and 8.5)

2.1.6 Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7 Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil design incidental thereto); and providing data or services of the type described in paragraph 3.4 when OWNER employs ENGINEER to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.8 [reserved]

2.1.9 Services during out-of-town travel required of ENGINEER other than visits to the site or OWNER's office as required by Section 1.

2.1.10 Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services called for in paragraph 6.2.2.5.

2.1.11 Providing any type of property surveys or related Engineering services needed for the transfer of interests in real property and field surveys for design purposes and Engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.12 Preparation of operating, maintenance, and staffing manuals to supplement Basic Services under paragraph 1.7.3.

2.1.13 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration, or other legal or administrative proceeding involving the Project

2.1.14 Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Article 3, and services not otherwise provided for in this Agreement.

2.2 Required Additional Services

When required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall furnish or obtain from others, as circumstances require during construction and without waiting for specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive (except to the extent otherwise provided in Exhibit A, "Further Description of Basic Engineering Services and Related Matter"). These services are not included as part of Basic Services. ENGINEER shall advise OWNER promptly after starting any such Additional Services which will be paid for by OWNER as indicated in Section 5.

2.2.1 Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation of Basic Services is not commensurate with the additional services rendered.

2.2.2 Services in making revision to Drawings and Specification occasioned by the acceptance of substitutions proposed by Contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3 Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of material, equipment, or energy shortages.

2.2.4 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, and (4) default by any Contractor.

2.2.5 Services (other than Basic Services during the Operational Phase) in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.

2.2.6 Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

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**SECTION 3  
OWNER'S RESPONSIBILITY**

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OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER.

3.1 City Engineer shall act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have primary authority to transmit instruction, receive information, and interpret and define OWNER's policies and decisions with respect to ENGINEER's services for the Project.

3.2 Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.

3.3 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

3.4 Furnish to ENGINEER, as required for performance of ENGINEER's Basic Services (except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters") the following:

3.4.1 Data prepared by or services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;

3.4.2 appropriate professional interpretations of all the foregoing;

3.4.3 environmental assessment and impact statements;

3.4.4 zoning, deed, and other land use restrictions; and

3.4.5 other special data or consultations not covered in Section 2; all of which ENGINEER may use and rely upon in performing services under this Agreement.

3.5 Provide engineering surveys to establish reference points for construction (except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters") to enable Contractor(s) to proceed with the layout of the work.

3.6 Arrange for access to and make all provisions for ENGINEER to enter upon public and private property

as required for ENGINEER to perform services under this Agreement.

3.7 Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER; obtain advice of an attorney, insurance counselor, and other consultants as OWNER deems appropriate for such examination; and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.

3.8 Facilitate approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

3.9 Provide such accounting, independent cost estimating, and insurance counseling services as may be required for the Project, such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code, or order applicable to their furnishing and performing the work.

3.10 If OWNER designates a person to represent OWNER at the site who is not ENGINEER or ENGINEER's agent or employee, the duties, responsibilities, and limitations of authority of such other person and the effect thereof on the duties and responsibilities of ENGINEER will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.

3.11 If more than one prime contract is to be awarded for construction, materials, equipment, and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

3.12 Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.7 through 3.11, inclusive, and other costs of the type referred to in paragraph 1.2.6) so that ENGINEER may make the necessary findings to support opinions of probable Total Project Costs.

3.13 Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and substantial completion inspections, and final payment inspections.

3.14 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services, or any defect or non-conformance in the work of any Contractor.

3.15 Furnish or direct ENGINEER to provide Additional Services as stipulated in paragraph 2.1 of this Agreement, or other services as required.

3.16 Bear all costs incident to compliance with the requirements of this Section 3.

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**SECTION 4  
PERIODS OF SERVICE**

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4.1 The provisions of this Section 4 and the various rates of compensation for ENGINEER's services provided elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Construction Phase. ENGINEER's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts, construction, and initial operation of the Project, including extra work and required extensions thereto. If in Exhibit A, "Further Description of Basic Engineering Services and Related Matters," specific periods of time for rendering services are set forth, or specific dates by which services are to be completed are provided, and if such dates are exceeded through no fault of ENGINEER, all rates, measure, and amount of compensation provided herein shall be subject to equitable adjustments.

4.2 The Construction Phase will commence with the execution of the first prime contract to be executed for the work of the Project or any part thereof and will terminate upon written recommendation by ENGINEER of final payment on the last prime contract to be completed. Construction Phase services may be rendered at different times in respect of separate prime contracts if the Project involves more than one prime contract.

4.3 The Operational Phase will commence during the Construction Phase and will terminate one year after the date of Substantial Completion of the last prime

contract for construction, materials, and equipment on which substantial completion is achieved.

4.4 If OWNER has requested significant modifications or changes in the general scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

4.5 If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if the Construction Phase has not commenced within 180 calendar days (plus such additional time as may be required to complete the services called for under paragraph 6.2.2.5) after completion of the Final Design Phase, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement.

4.6 If ENGINEER's services for design or during construction of the Project are delayed or suspended in whole or in part by OWNER for more than three months for reasons beyond ENGINEER's control, ENGINEER shall on written demand to OWNER (but without termination of this Agreement) be paid as provided in paragraph 5.3.2. If such delay or suspension extends for more than one year for reasons beyond ENGINEER's control, or if ENGINEER for any reason is required to render Construction Phase services in respect of any prime contract for construction, materials, or equipment more than one year after Substantial Completion is achieved under that contract, the various rates of compensation provided for elsewhere in this Agreement shall be subject to equitable adjustment.

4.7 In the event that the work designed or specified by ENGINEER is to be furnished or performed under more than one prime contract, or if ENGINEER's services are to be separately sequenced with the work of one or more prime contractors (such as in the case of fast-tracking), OWNER and ENGINEER shall, prior to commencement of the Final Design Phase, develop a schedule for performance of ENGINEER's services during the Final Design, Bidding or Negotiating, and Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate contracts. This schedule is to be prepared whether or not the work under such contract is to proceed concurrently and is to be included in Exhibit A, "Further Description of Basic Engineering Services and Related Matters," and the provisions of paragraphs 4.2. through 4.7, inclusive, will be modified accordingly.

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**SECTION 5  
PAYMENTS TO ENGINEER**

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**5.1 Methods of Payment for Services and Expense of ENGINEER**

5.1.1.1 As outlined in the Basic Services of Section 1, the following studies shall be conducted:

No studies are included under this contract. If studies are necessary, they may be added as additional services as described in 5.1.2 or negotiated separately.

5.1.1.1A One Prime Contract. If only one prime contract is awarded for construction, materials, and equipment for the Project, the ENGINEER shall perform their services on an hourly basis for an amount not to exceed **sixty-three thousand, one hundred and twenty dollars (\$63,120.00)**.

5.1.2 For Additional Services. OWNER shall pay ENGINEER for Additional Services rendered under Section 2 as follows:

5.1.2.1 General. For Additional Services of ENGINEER's principals and employees engaged directly on the Project and rendered pursuant to paragraph 2.1 or 2.2 (except services as a consultant or witness under paragraph 2.1.13) on the basis of ENGINEER's hourly rate schedule

5.1.2.2 Professional Associates and Consultants. For Services and Reimbursable Expenses of independent professional associates and consultant employed by ENGINEER to render Additional Services pursuant to paragraph 2.1 or 2.2, the amount billed to ENGINEER therefor times a factor of 1.15. (See Section 8.4.)

5.1.2.3 Serving as a Witness. For services rendered by ENGINEER's principals and employees as consultants or witnesses in any litigation, arbitration, or other legal or administrative proceeding in accordance with paragraph 2.1.13, at the rate of \$1,500.00 per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, arbitration, or proceeding will be on the basis provided in paragraph 5.1.2.1). Compensation for ENGINEER's independent professional associates and consultants will be on the basis provided in paragraph 5.1.2.2.

5.1.3 For Reimbursable Expenses. In addition to payments provided for in paragraphs 5.1.1 and 5.1.2, OWNER shall pay ENGINEER the actual costs of all Reimbursable Expenses incurred in connection with all Basic and Additional Services.

5.1.4 As used in this paragraph 5.1, the terms "Salary Costs" and "Reimbursable Expenses" have the meanings assigned to them in paragraph 5.4; and the term "Construction Cost" has the meaning assigned to it in paragraph 6.1.

**5.2 Time of Payments**

5.2.1 ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. The statements will be based upon hours worked on the Project at the hourly rates in Section 8.4. OWNER shall pay ENGINEER upon its statement with 30 days, provided the statement are in proper order and all supporting documentation has been provided to OWNER.

**5.3 Other Provisions Concerning Payments**

5.3.1 [Reserved].

5.3.2 In the event of termination by OWNER under paragraph 7.1 upon the progress of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase on the basis of Section 8.4 for services rendered by ENGINEER's principals and employees engaged directly on the Project during that phase to date of termination. In the event of any such termination, ENGINEER will also be reimbursed for the charges of independent professional associates and consultants employed by ENGINEER to render Basic Services, and for all unpaid Additional Services and unpaid Reimbursable Expenses.

5.3.3 Records of ENGINEER's Salary Costs pertinent to ENGINEER's compensation under this Agreement will be kept in accordance with generally accepted accounting principles. Copies will be made available to OWNER at cost on request prior to final payment for ENGINEER's services.

5.3.4 Whenever a factor is applied to Salary Costs in determining compensation payable to ENGINEER, that factor will be adjusted periodically and equitably to reflect changes in the various elements that comprise such factor. All such adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by ENGINEER and consistent with ENGINEER's overall compensation practices and procedures.

**5.4 Definitions**

5.4. Salary Costs used as a basis for payment mean the fees specified in Section 8.4

5.4.2 Reimbursable Expenses mean the actual, reasonable expenses, if authorized in advance by OWNER, incurred by ENGINEER or ENGINEER's independent professional associates or consultants, directly in connection with the Project, such as expenses for; transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Section 1.

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**SECTION 6  
CONSTRUCTION COST AND  
OPINIONS OF COST**

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6.1 Construction Cost

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by ENGINEER; but it will not include ENGINEER's compensation or expenses, the cost of land, rights-of-way, or compensation for or damages to properties unless this Agreement so specifies; nor will it include OWNER's legal, accounting, insurance counseling, or auditing services, or interest and/or financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to paragraph 3.7 through 3.11, inclusive. (Construction Cost is one of the items comprising Total Project Costs defined in paragraph 1.2.5. See Section 8.3.)

6.2 Opinions of Cost

6.2.1 Since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER's opinions of probable Total Project Costs and Construction Costs provided for herein are to be made on the basis of ENGINEER's experience and qualifications, and shall represent ENGINEER's best judgment as an experienced and qualified professional ENGINEER, familiar with the construction industry. ENGINEER cannot and does not guarantee that proposals, bids, or actual Total Project Costs or Construction Costs will not vary from opinions of probable cost prepared by

ENGINEER. If prior to the Bidding or Negotiating Phase, OWNER wishes greater assurance as to Total Project Costs or Construction Costs, OWNER shall employ an independent cost estimator as provided in paragraph 3.9.

6.2.2 If a Construction Cost limit is established by written agreement between OWNER and ENGINEER and specifically set forth in this Agreement as a condition thereto, the following will apply:

6.2.2.1 The acceptance by OWNER at any time during the Basic Services of a revised opinion of probable Total Project Costs or Construction Costs in excess of the then-established cost limit will constitute a corresponding revision in the Construction Cost limit to the extent indicated in such revised opinion.

6.2.2.2 Any Construction Cost limit so established will include a contingency of 10 percent unless another amount is agreed upon in writing.

6.2.2.3 ENGINEER will determine, with advice and consent of OWNER types of materials, equipment, and component systems are to be included in the Drawings and Specifications, and to make reasonable adjustments in the general scope, extent, and character of the Project to bring it within the cost limit.

6.2.2.4 If the Bidding or Negotiating Phase has not commenced within six months after completion of the Final Design Phase, the established Construction Cost limit will not be binding on ENGINEER; and OWNER shall consent to an adjustment in such cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or bids are sought.

6.2.2. If the lowest responsible proposal or bid exceeds the established Construction Cost limit OWNER shall (1) give written approval to increase such cost limit, (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's general scope, extent, or character to the extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of the condition numbered "3", ENGINEER shall modify the Contract Documents necessary to bring the Construction Cost within the cost limit. In lieu of other compensation for services in making such modifications, OWNER shall pay ENGINEER its fees and Reimbursable Expenses for such services. The providing of such service will be the limit of ENGINEER's responsibility in this regard; and, having done so, ENGINEER shall be entitled to



payment for services in accordance with this Agreement and will not be liable for damages attributable to the rejected bid.

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**SECTION 7  
GENERAL CONSIDERATION**

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**7.1 Termination**

The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. OWNER may terminate this Agreement as to all or any part of the Work for convenience at any time without cause upon five days written notice, which notice will direct the sequence and manner in which the termination will be implemented. Upon termination for convenience, OWNER will pay ENGINEER all fees and Reimbursable Expenses incurred to date of termination.

**7.2 Reuse of Documents**

All documents, including Drawings and Specifications, prepared or furnished by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement are instruments of service in respect of the Project; and ENGINEER shall retain an ownership and property interest therein, whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Project by OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purposes intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants; and OWNER shall by only to the extent allowed by law, indemnify and hold harmless ENGINEER from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

**7.3 Insurance**

7.3.1 ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury, including personal injury, sickness or disease, or death of any and all employees, or of any person other than such employees, and from claims or damages because of injury to or destruction of property, including loss of use resulting therefrom. ENGINEER shall carry, and shall provide proof of coverage, a minimum of \$1,000,000 in errors and omissions insurance. ENGINEER shall provide, upon request, all such certificates of insurance and endorsements indicating that OWNER is an additional insured for applicable coverage.

**7.4 Controlling Law**

This Agreement is to be governed by the laws of the State of Tennessee.

**7.5 Successors and Assigns**

7.5.2 Neither OWNER nor ENGINEER shall assign, sublet, or transfer any rights under or interest in (including without limitation monies that may become due or monies that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates and consultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.

7.5.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

**7.6 Dispute Resolution**

If and to the extent that OWNER and ENGINEER have agreed on a method and procedure for resolving disputes between them arising out of or relating to this Agreement, such dispute resolution method and procedure, if any, is set forth in Exhibit C, "Dispute Resolution." OWNER and ENGINEER agree to

negotiate in good faith for a period of thirty days from the date of notice of all disputes between them prior to exercising their rights under Exhibit C or other provisions of this Agreement or under law.

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**SECTION 8  
EXHIBITS AND SPECIAL PROVISIONS**

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8.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement

8.1.1 Exhibit A, "Further Description of Basic Engineering Services and Related Matters," and Appendix 1 to Exhibit A consisting of **two** pages.

8.1.2 Exhibit B, "Duties, Responsibilities, and Limitation of Authority of Project Manager," consisting of **three** pages.

8.1.3 Exhibit C, "Dispute Resolution," consisting of **three** pages.

8.2 This Agreement (consisting of pages 1 through 11 inclusive, and the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may be amended, supplemented, modified, or canceled only by a duly executed written instrument.

~~8.3 In the event an error is made in the plans, the ENGINEER will correct the error in the plans, and the ENGINEER's services rendered in connection with~~

~~correcting the error shall be considered as part of the Basic Services. However, if the cost to the OWNER for correcting the error includes tearing out or redoing any portion of the Project, the cost associated with the tearing out or redoing shall not be considered a part of the overall Project Cost for the purposes of calculating the ENGINEER's fee for Basic Services.~~

8.4 Notwithstanding any provision to the contrary, during the term of the Agreement the maximum billing rates shall be as follows:

Senior Principal Engineer	\$210/hour
Principal Engineer	\$195/hour
Senior Project Manager	\$185/hour
Project Manager	\$170/hour
Senior Engineer	\$155/hour
Project Engineer	\$140/hour
Staff Professional (EI)	\$120/hour
Environmental Professional	\$110/hour
Designer/CAD Technician	\$100/hour
Survey Manager (RLS)	\$160/hour
Survey Project Manager	\$130/hour
Survey Crew (2-person)	\$165/hour
Survey Crew (1-person)	\$125/hour
Technical/Clerical Support	\$75/hour

8.5 ENGINEER will obtain prior written approval before performing such work considered "Additional Services" and charging for same.

8.6 Notwithstanding any provision to the contrary, OWNER will not be invoiced for travel within Davidson, Williamson, and Rutherford Counties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.


OWNER:

ENGINEER:

**CITY OF MURFREESBORO**

**ENERGY LAND & INFRASTRUCTURE, LLC.**

By: \_\_\_\_\_

By:  \_\_\_\_\_

Title: \_\_\_\_\_

Title: Associate Vice President

Address for giving notice:

Engineering Department  
City of Murfreesboro  
P.O. Box 1139  
Murfreesboro, Tennessee 37133-1139

Address for giving notice:

745 South Church, Suite 801  
Murfreesboro, Tennessee 37130  
Phone: 615-383-6300

**APPROVED AS TO FORM:**

DocuSigned by:  
  
\_\_\_\_\_  
43A2035E51F9401  
Attorney for the City of Murfreesboro, Tennessee

## **EXHIBIT A**

### **FURTHER DESCRIPTION OF BASIC ENGINEERING SERVICES AND RELATED MATTERS**

1. This is an Exhibit attached to, made a part of, and incorporated by reference into the Agreement made on \_\_\_\_\_, between the City of Murfreesboro, Tennessee, (OWNER) and Energy Land & Infrastructure, LLC (ENGINEER), for providing professional engineering services. The Basic Services of ENGINEER and the responsibility of the OWNER as described in the Agreement are amended or supplemental as indicated below, and the time periods for the performance of certain services as indicated in Section 4 of the Agreement are as indicated below.

2. Section 1.2, Construction is modified as follows:

Construction Phase Services are included in the Basic Services but do not include the services of a Resident Project Representative. It shall be the responsibility of the ENGINEER to attend, chair, and keep minutes of preconstruction conference(s), and provide copies of minutes to all attendees, make site visits, attend, chair, and keep minutes of construction progress meetings (on a frequency approved by OWNER), review shop drawings, make interpretations and clarifications, assist the OWNER in payment to the CONTRACTOR, and to assist the OWNER in preparation of closeout documents. Other services are available as a part of the Agreement should the OWNER request such services in writing, in accordance with paragraph 5.1.2.1.

ENGINEER will provide twice weekly on-site inspections of erosion prevention and sediment control (EPSC) measures installed by the CONTRACTOR and provide comments and recommendations as needed or required for the Project.

3. Section 4, Periods of Service, Paragraph 4.2:

Basic Engineering Services shall be provided for a period not exceeding a maximum of eight (8) months based on an OWNER estimated 6-month construction period.

## **APPENDIX 1 TO EXHIBIT A**

The following tasks are excluded from the basic engineering services, but may be provided as additional services if requested by the City:

- A. Tree survey or landscape design.
- B. Traffic study.
- C. Signal design.
- D. Offsite road or offsite infrastructure improvements.
- E. Utility relocations, extensions, or evaluations.
- F. Flood study or drainage study.
- G. Electrical or lighting design (except for coordination as outlined above)
- H. Environmental permitting, environmental assessments, or mitigation.
- I. Public meetings or hearings. No public meetings or hearings are expected. Project meetings with City staff are included.
- J. Construction layout/staking.
- K. Construction administration/inspection

## **EXHIBIT B BETWEEN OWNER AND ENGINEER**

### **Duties, Responsibilities, and Limitations of Authority of Project Manager**

Paragraphs 1.2.2.1 and 1.2.2.2 and Exhibit A Paragraph 7 of the Agreement are amended and supplemented to include the following agreement of the parties:

#### *B6.01 Project Manager*

- A. ENGINEER shall furnish a Project Manager (“PM”) to assist ENGINEER in coordinating and reporting on the progress and quality of the Work to the Owner. The PM shall be the OWNER’s advisor inasmuch as the PM shall be the primary point of contact between OWNER and CONTRACTOR for the entire duration of the referenced construction operations. The PM is intended to supplement and support the OWNER’s existing staff. The PM as defined in this Exhibit B.
- B. Through such additional specialized services during the construction period, the PM shall endeavor to provide the following:
- Coordinate the programming, planning, design, and construction operations of the CONTRACTOR with the project schedule created by the contractor which is in accordance with the project milestones developed by the ENGINEER.
  - Maximize continued pro-active planning during construction to reduce problems during execution.
  - Provide coordination between the OWNER, ENGINEER, CONTRACTOR and third party utilities to ensure that facilities of these utility owners are managed per the project schedule.
  - Maintain cost and time parameters with regards to budgeted construction activities as defined within the Plans, Contract Documents, and project schedule.
  - Facilitate discussion between OWNER, ENGINEER and CONTRACTOR with regards to possible savings observed during construction activities as well as pro-actively initiate discussion between the referenced parties with regards to changes in scope during construction that may warrant adjustment of the Contract Price.
  - Continue to act as liaison between all permitting agencies and the OWNER, ENGINEER and CONTRACTOR, including but not limited to TN Department of Transportation, TN Department of Environment and Conservation and the U.S. Army Corps of Engineers.
  - Provide periodic reporting and progress meetings as needed to ensure that OWNER is aware of all progress associated with the construction activities.
  - Coordinate completion of warranty reviews, release of liens, and post construction evaluations with the OWNER and CONTRACTOR.

Project Manager, shall not supervise, direct, or have control over the Contractor’s Work nor shall Project Manager have authority over or responsibility for the means, methods, techniques,

sequences, or procedures selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility of construction for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

C. The duties and responsibilities of the Project Manager are limited to those of ENGINEER in the Agreement with the OWNER and in the Contract Documents, and are further limited and described as follows:

1. *General:* Project Manager ("PM") is OWNER's advisor at the Site, will act as directed by the OWNER, and will confer with OWNER regarding PM's actions. PM's dealings in matters pertaining to the Contractor's work in progress shall in general be with OWNER and Contractor. PM's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor.
2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with ENGINEER concerning acceptability.
3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project- related meetings, and prepare and circulate copies of minutes thereof.
4. *Liaison:*
  - a. Serve as ENGINEER's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of the Contract Documents.
  - b. Assist in obtaining from OWNER additional details or information, when required proper execution of the Work.
5. *Interpretation of Contract Documents:* Report to OWNER when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by ENGINEER.
6. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and approved Shop Drawings.
  - b. Advise ENGINEER and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which PM believes that the submittal has not been approved by ENGINEER.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report recommendations to ENGINEER. Transmit to Contractor in writing decisions as issued by ENGINEER.
8. *Reports:*
  - a. Furnish to ENGINEER periodic reports as required of progress of the Work and of Contractor's compliance with the progress and schedule of Shop Drawing and Sample submittals.

- b. Draft and recommend to ENGINEER proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
9. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
10. *Completion:*
  - a. Before ENGINEER issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
  - b. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public agencies having jurisdiction over the Work.
  - c. Participate in a final inspection in the company of ENGINEER, OWNER, and Contractor and prepare a final list of items to be completed or corrected.
  - d. Observe whether all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Project Manager shall not:

1. Exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.
2. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.
3. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.
4. Advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the activities or operations of OWNER or Contractor.
5. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
6. Authorize OWNER to occupy the Project in whole or in part.



**EXHIBIT C**  
**DISPUTE RESOLUTION**  
**DISPUTE RESOLUTION PROCEDURES**

**1. Disputes**

- 1.1 Each Dispute arising out of or related to this Agreement (including Disputes regarding any alleged breaches of this Agreement) must be initiated and decided under the provisions of this Exhibit.
- 1.2 ENGINEER and the OWNER will each designate in writing to the other Party, from time to time, a member of senior management who is authorized to attempt to expeditiously resolve any Dispute relating to the subject matter of this Agreement in an equitable manner.
- 1.3 A Party initiates a Dispute by delivery of written Notice to the members of management designated by the respective parties under Section 1.2 hereof.
- 1.4 The parties must:
  - a. Attempt to resolve all Disputes promptly, equitably and in a good faith manner, and
  - b. Provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such Dispute.
- 1.5 With respect to matters concerning Change Orders for modification of the GMP or Project Schedule, ENGINEER must first follow the provisions of any Claim procedure established by the ENGINEER Agreement before seeking relief under these Procedures.

**2. Arbitration**

- 2.1 Except as provided in Section 5 hereof, any Dispute that has not been resolved by negotiation will be decided by binding arbitration conducted in accordance with the Construction Industry Rules of the AAA; provided however, the matter will not be submitted to the AAA for administration.
  - a. The matter will be heard by an arbitrator who has 10 or more years of experience handling construction litigation matters in Rutherford, Davidson, or Williamson counties (the "Arbitrator").
  - b. The parties will agree upon the Arbitrator within five days of the Notice.
  - c. If the parties are unable to agree, each party will exchange within 10 days of the Notice a list of five attorneys qualified as set forth in Section 2.1(a). The OWNER will compare lists and a name that first appears on the OWNER's list that also appears on the ENGINEER's list will serve as the Arbitrator. If no name appears on both lists, the two attorneys first appearing on each list will select a third qualified attorney to serve as the Arbitrator.

- 2.2 The arbitrators do not have the authority to consider or award punitive damages as part of the arbitrators' award.
- 2.3 In connection with such arbitration, each Party is entitled to conduct not more than five depositions, and, no less than 90 days prior to the date of the arbitration hearing, each Party will deliver to the other Party copies of all documents in the delivering Party's possession that are relevant to the dispute.
- 2.4 The arbitration hearing must be held within 150 days of the appointment of the arbitrators.
- 2.5 At the arbitration hearing, each Party will argue its position to the arbitrators in support of one proposed resolution to the dispute (a "Proposed Resolution").
  - a. Each Party's Proposed Resolution must be fully dispositive of the dispute.
  - b. The arbitrators must select one of Proposed Resolution by majority consent and are not free to fashion any alternative resolutions.
  - c. The parties must submit their Proposed Resolution of the matter to the arbitrators and the other Party 15 days prior to the date set for commencement of the arbitration proceeding.
  - d. The decision of the arbitrators will be forwarded to the parties within 15 days after the conclusion of the arbitration hearing.
  - e. The decision of the arbitration panel is final and binding on the parties and may be entered in any court of competent jurisdiction for the purpose of securing an enforceable judgment.
  - f. All costs and expenses associated with the arbitration, including the reasonable legal fees and costs incurred by the prevailing Party, must be paid by the Party whose position was not selected by the arbitrators.

3. **Continuing Work** Unless otherwise agreed to in writing, ENGINEER must continue to perform and maintain progress of the Work during any Dispute resolution or arbitration proceedings, and the OWNER will continue to make payment to ENGINEER in accordance with the ENGINEER Agreement.

4. **Exceptions**

- 4.1 Neither the OWNER nor ENGINEER are required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defenses in any action that is commenced by a third-party who is not obligated by contract to arbitrate disputes with the OWNER and ENGINEER.
- 4.2 The OWNER or ENGINEER may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice (but only

to the extent the lien or stop notice the Party seeks to enforce is enforceable under Tennessee law), without the necessity of initiating or exhausting the procedures of this Exhibit.

- 4.3 This Exhibit does not apply to, and may not be construed to require arbitration of, any claims, actions or other process undertaken, filed, or issued by the OWNER for permitting, the excise of governmental police powers for the benefit of public health, safety, and welfare, or other actions taken in the OWNER's regulatory capacity.
- 4.4 In connection with any arbitration, the arbitrators do not have the authority to, and may not enforce, any provision of the Federal or Tennessee Rules of Civil Procedure.

## COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Renewal of Managed Security Service

**Department:** Information Technology

**Presented by:** Matt Jarratt, IT 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**

Renewal of managed security services for City and Water Resources.

**Staff Recommendation**

Approve contract for renewal of the City's managed security service.

**Background Information**

Technology security is critical to protect the City's infrastructure and operations. The proposed service provides 24-hour cyber-security monitoring that aids staff in the identification and remediation of security threats. The software also ensures that all IT infrastructure and policy is compliant with current best-practice standards. Pricing for this service is based off the National Cooperative Purchasing Alliance. The estimated expense, \$272,442, may fluctuate depending on the number of supported devices and the budgeted amount will be adjusted accordingly.

**Council Priorities Served**

*Responsible budgeting*

Security software is necessary to protect information critical to system protection and integrity, which protects the City's investments in its assets.

**Fiscal Impact**

Estimated expenditure, \$273,442, is funded from IT Budget with reimbursement from MWRD enterprise fund.

**Attachments**

Agreement with Waypoint Business Solutions

**CONTRACT BETWEEN  
CITY OF MURFREESBORO  
AND  
WAYPOINT BUSINESS SOLUTIONS, LLC  
FOR  
ADVANCED TECHNOLOGY SOLUTIONS AGGREGATOR**

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

- ***NCPA contract (NCPA 01-96), dated August 1, 2019, by and between Promark, an Ingram Micro Company and the National Cooperative Purchasing Alliance ("NCPA"), incorporating by reference the (attached hereto as Exhibit A);***
- ***Waypoint's Quote #AAAQ16245 and #AAAQ16244 dated April 5, 2023 (attached hereto as Exhibit B); and***
- ***This Agreement***

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

- 1. Any properly executed amendment or change order to this contract (most recent with first priority)***
- 2. This Agreement***
- 3. NCPA contract (NCPA 01-96), dated August 1, 2019, by and between Promark, an Ingram Micro Company and the National Cooperative Purchasing Alliance ("NCPA"), incorporating by reference the (attached hereto as Exhibit A)***
- 4. Waypoint's Quote #AAAQ16245 and #AAAQ16244 dated April 5, 2023***

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

- 1. Scope of Agreement.** This Agreement contains the entire Agreement and understanding with respect to the subject matter hereof and supersedes all prior discussions, agreements, proposals, negotiations, letters of intent or other correspondence. Neither of the Parties shall be bound by any conditions, definitions, warranties, understandings, or representations with respect to such subject matter other than as expressly provided in this Agreement or as agreed by the Parties in writing on or subsequent to the date of this Agreement.
  
- 2. Duties and Responsibilities of Waypoint.** Waypoint agrees to provide and City agrees to purchase the [REDACTED] equipment and services set forth on Waypoint's Quote #AAAQ16245 and #AAAQ16244 dated April 5, 2023 from NCPA contract (NCPA 01-96), dated August 1, 2019, by and between Promark, an Ingram Micro Company and the National Cooperative Purchasing Alliance ("NCPA"). Waypoint is an approved reseller for [REDACTED], through Promark, an Ingram Micro Company. Promark/Ingram is an authorized distribution partner/contract holder for [REDACTED]. Furthermore, the City may utilize this Contract to procure additional equipment and services from

Contractor per above referenced NCPA contract (NCPA 01-96) through the term of the contract July 31, 2024.

3. **Agreement for Services.** In undertaking the work set forth herein, Waypoint must comply with all applicable federal, state, and local laws and regulations, including acquiring and maintaining in good standing all permits, licenses and other entitlements necessary to its performance under this Agreement. Waypoint is solely responsible for any and all taxes imposed upon Waypoint and acknowledges it cannot claim exemption from taxes by virtue of any municipal exemption from taxation.
4. **Term.** The term of this contract shall be from the Effective Date to the termination date for the above referenced NCPA contract (NCPA 01-96) on July 31, 2024.
5. **Termination.** Waypoint's performance may be terminated in whole or in part:
  - a. Upon 30-day prior notice, for the convenience of the City.
  - b. For the convenience of Waypoint, provided that Waypoint notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
  - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
  - d. Should Waypoint fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Waypoint of any liability to the City for damages sustained by virtue of any breach by Waypoint.
  - e. Should the appropriation for Waypoint's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Waypoint.
6. **Independent Contractor.** In the performance of this Agreement, Waypoint, together with its staff, is acting as an independent contractor with respect to Waypoint's performance hereunder and neither Waypoint nor anyone used or employed by Waypoint shall be deemed for any purpose to be the employee, agent, servant or representative of City, and City shall have no direction or control of Waypoint, except in the results obtained.
7. **Payment.**
  - a. **Price.** The price for the goods and other items to be provided under the initial purchase under this Agreement are set forth in Waypoint's Quote #AAAQ16245 dated April 5, 2023, which reflects a purchase price of \$137,943.38 for goods and services provided, and Waypoint's Quote #AAAQ16244 dated April 5, 2023, which reflects a purchase price of \$135,499.03 for goods and services provided, for a Total purchase price of \$273,442.41. Any compensation due Waypoint under this agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Waypoint

after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase number. Final payment shall not be made until after performance is complete.

- b. **Delivery.** Deliveries of all items shall be made within 90 calendar days of order or as best provided by Contractor at 111 W. Vine St., Murfreesboro, TN 37130. Contact Person Matt Jarratt, (tel. 615-542-4085; email. [mjarratt@murfreesborotn.gov](mailto:mjarratt@murfreesborotn.gov)) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during normal working hours of the City, Monday through Friday. Deliveries of all items shall be made as stated in Waypoint's Quote #AAAQ16245 and #AAAQ16244. Should Waypoint fail to deliver items on or before its stated date, the City reserves the right to cancel the order or Agreement. Waypoint shall be responsible for making any and all claims against carriers for missing or damaged items.
- c. **Acceptance.** Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. Such inspection shall take place within 10 days. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in NCPA contract (NCPA 01-96), dated August 1, 2019, by and between Promark, an Ingram Micro Company and the National Cooperative Purchasing Alliance ("NCPA").
- d. **Purchase Order.** All deliveries made pursuant to the Agreement must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the purchase price.
- e. **Applicable Taxes.** City is exempt from State sales tax and will issue a tax exemption certificate to Waypoint as requested. City shall not be responsible for any taxes that are imposed on Waypoint. Furthermore, Waypoint understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.

**8. Insurance.**

- a. During the term of this Agreement, Waypoint must maintain the following liability insurance policies:
  - i. Commercial general liability insurance of at least \$1,000,000 per occurrence and \$2,000,000 aggregate;
  - ii. Automobile liability insurance of at least \$1,000,000 per occurrence;
  - iii. Professional (errors and omissions) liability insurance of at least \$1,000,000 per claim and \$1,000,000 aggregate; and
  - iv. Workers' compensation complying with statutory requirements and employer's liability

insurance with a limit of \$500,000 per occurrence.

- b. Waypoint will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon; and (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."

**9. Confidentiality.**

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

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

**10. Warranty.**

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

**11. Indemnification.**

- a. **City Indemnity Obligation.** Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Waypoint from any claims arising from any failure, regardless of any language in any attachment or other document that Waypoint may provide.



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

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

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

15. **General Provisions.**

- a. **Exclusive Remedies.** The remedies in this Agreement are exclusive.
- b. **Compliance with Laws.** Waypoint agrees to comply with any applicable federal, state and local laws and regulations.
- c. **Maintenance of Records.** Waypoint must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
- d. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
- e. **Relationship of the Parties.** Nothing herein may in any way be constructed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of the paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
- f. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
- g. **Employment.** Waypoint may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
- h. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Waypoint certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

- i. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
- j. **Entire Agreement/Assignment.** This Agreement: (i) is the complete and exclusive statement of the agreement between the parties, (ii) supersedes all proposals, oral or written, and all other communications between the parties relating to the subject of this Agreement; and (iii) may not be assigned, sublicensed, or otherwise transferred by either party without the prior written consent of the other party, but its terms and conditions shall extend to and bind any permitted successor or assign. If any provision of this Agreement is void or unenforceable, the remainder of this Agreement will remain in full force and will not be terminated.
- k. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Waypoint may provide. The exclusive jurisdiction for any legal proceedings shall be in the courts of the State of Tennessee, County of Rutherford, and the parties expressly submit to the jurisdiction of said courts.
- l. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
- m. **Survival of Proprietary Rights.** The proprietary rights and confidentiality obligations of the parties shall survive the expiration or earlier termination hereof.
- n. **Titles.** The section headings in this Agreement are for convenient reference only and shall be given no substantive or interpretive effect.
- o. **Notices.** Any and all notices between the parties under this Agreement shall be in writing and deemed received when mailed by registered mail, postage prepaid, first class, electronic mail (e-mail) to a partner, officer, or authorized representative, or delivered by courier to the following addresses:

Waypoint Business Solutions, LLC  
ATTN: Travis Pulliam  
118 Vintage Park Blvd, W414  
Houston, Texas 77070

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

or

or

Email: [tpulliam@waypointsolutions.com](mailto:tpulliam@waypointsolutions.com)

Email: [ctindall@murfreesborotn.gov](mailto:ctindall@murfreesborotn.gov) with  
copy to [mjarratt@murfreesborotn.gov](mailto:mjarratt@murfreesborotn.gov)

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

**[signatures to appear on following page]**

**IN WITNESS WHEREOF**, the parties enter into this agreement as of the Effective Date first listed above.

**City of Murfreesboro, Tennessee**

**Waypoint Business Solutions, LLC**

By: \_\_\_\_\_  
Shane McFarland, Mayor

DocuSigned by:  
By: Paul Nyma \_\_\_\_\_  
Paul Nyma, President

Approved as to form:

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



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

# QUOTE

**Number** AAAQ16244

**Date** Apr 27, 2023

## Bill To

**City of Murfreesboro**

Matt Jarratt  
111 W Vine St  
Murfreesboro, TN 37130

**Phone** 615.893.5210

**Email** mjarratt@murfreesborotn.gov

## Ship To

**City of Murfreesboro**

Matt Jarratt  
111 W Vine St  
Murfreesboro, TN 37130

**Phone** 615.893.5210

**Email** mjarratt@murfreesborotn.gov

## Account Manager



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

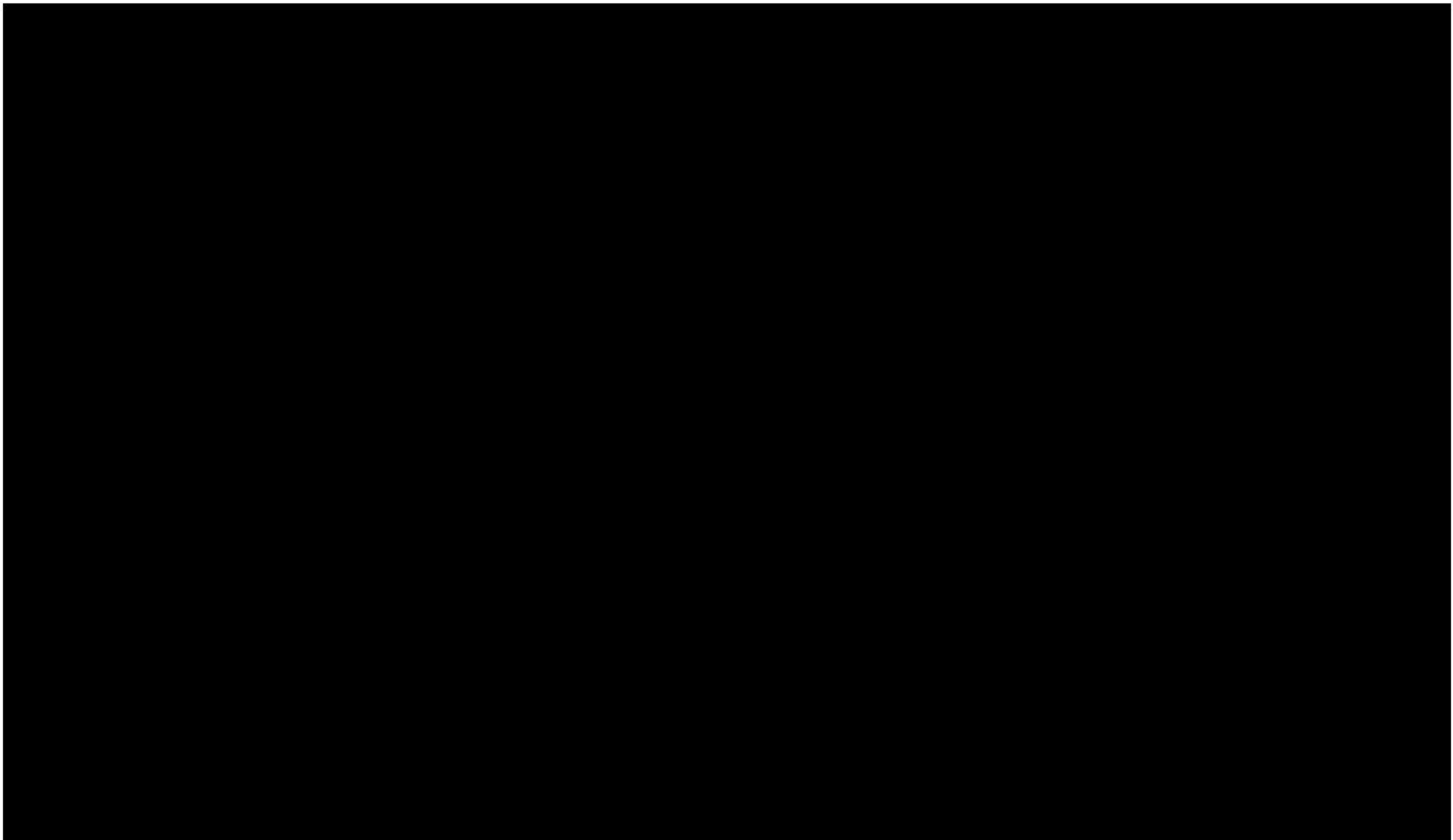
## Contract

NCPA  
01-96

### Notes:

Here is the quote you requested.

Line	Qty	Description	Unit Price	Ext. Price
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PRICES SUBJECT TO CHANGE - PRICES BASED UPON TOTAL PURCHASE - WE SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR WITH REGARD TO ANY LICENSED PRODUCTS. WE SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, BUSINESS, GOODWILL, DATA, INTERRUPTION OF BUSINESS, NOR FOR INCIDENTAL OR CONSEQUENTIAL MERCHANTABILITY OR FITNESS OF PURPOSE, DAMAGES RELATED TO THIS AGREEMENT. MINIMUM 15% RESTOCKING FEE WITH ORIGINAL PACKAGING.

Created on 04/27/23 11:09:51 by Waypoint Business Solutions, LLC

Line	Qty	Description	Unit Price	Ext. Price
			<b>SubTotal</b>	\$135,449.03
			<b>Tax</b>	\$0.00
			<b>Shipping</b>	\$0.00
			<b>Total</b>	<b>\$135,449.03</b>

Please contact me if I can be of further assistance.

PRICES SUBJECT TO CHANGE - PRICES BASED UPON TOTAL PURCHASE - WE SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR WITH REGARD TO ANY LICENSED PRODUCTS. WE SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, BUSINESS, GOODWILL, DATA, INTERRUPTION OF BUSINESS, NOR FOR INCIDENTAL OR CONSEQUENTIAL MERCHANTABILITY OR FITNESS OF PURPOSE, DAMAGES RELATED TO THIS AGREEMENT. MINIMUM 15% RESTOCKING FEE WITH ORIGINAL PACKAGING.

Created on 04/27/23 11:09:51 by Waypoint Business Solutions, LLC



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

# QUOTE

**Number** AAAQ16245

**Date** Apr 27, 2023

## Bill To

**City of Murfreesboro**

Matt Jarratt  
111 W Vine St  
Murfreesboro, TN 37130

**Phone** 615.893.5210

**Email** mjarratt@murfreesborotn.gov

## Ship To

**City of Murfreesboro**

Matt Jarratt  
111 W Vine St  
Murfreesboro, TN 37130

**Phone** 615.893.5210

**Email** mjarratt@murfreesborotn.gov

## Account Manager



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

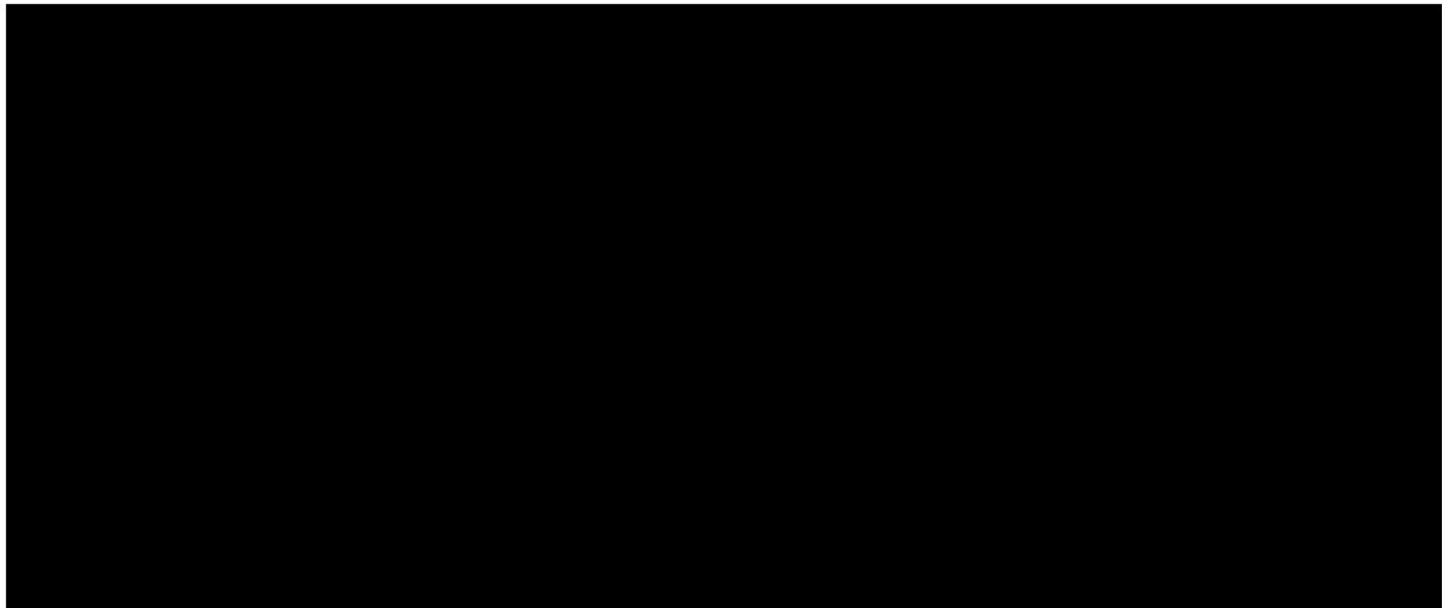
## Contract

NCPA  
01-96

### Notes:

Here is the quote you requested.

Line	Qty	Description	Unit Price	Ext. Price
------	-----	-------------	------------	------------



<b>SubTotal</b>	\$137,943.38
<b>Tax</b>	\$0.00
<b>Shipping</b>	\$0.00
<b>Total</b>	<b>\$137,943.38</b>

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Please contact me if I can be of further assistance.

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Created on 04/27/23 11:10:56 by Waypoint Business Solutions, LLC

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Amended and Restated Agreement with WastAway for Qualified Biogas Facility

**Department:** Solid Waste

**Presented by:** Darren Gore, Assistant City Manager

**Requested Council Action:**

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

**Summary**

Amended and Restated Agreement with WastAway for design services and allocation of design responsibilities between WastAway and the engineering firm, Griggs & Maloney (G&M), for the proposed Qualified Biogas Facility on Butler Dr.

**Recommendation**

Approve the amended and restated agreement with WastAway.

**Background Information**

In December 2022, the City entered into an agreement with WastAway to advance the development of a qualified biogas facility. That agreement required design contracts with G&M and WastAway. In January 2023, G&M's design contract was approved. The proposed amended agreement fulfills the design contract requirement for WastAway.

Design responsibilities and the associated costs under the proposed amended agreement are reflected in the attached table. The total design cost of \$2,500,000 remains the same. Exhibit B in the Amended and Restated Agreement provides a more refined scope of services to ensure that progress payments are commensurate with the design completion. Funding was secured through a reallocation of FY22 CIP bond proceeds. Approximately \$550,000 has been outlaid since December of 2022. Total project costs will be determined after the design phase.

**Council Priorities Served**

*Responsible budgeting*

Addressing the financial aspects of handling solid waste in the future is a significant requirement for responsibly budgeting for this service.

**Attachments**

1. Table of Allocated Design Responsibilities
2. Amended and Restated Project Agreement for design of a qualified biogas property on Butler Dr. with WastAway

### Table of Allocated Design Responsibilities

Scope of Service	Original Agreement		Amended and Restated Agreement	
	G&M	WastAway	G&M	WastAway
Project Start-up		\$375,000		\$375,000
Preliminary Master Plan		\$40,000	\$40,000	
Programming Support		\$34,000		\$34,000
Geotechnical Investigation		\$40,000	\$83,750	
Digestate Study		\$153,000		\$153,000
Material Management Analysis		\$120,000		\$76,250
Site Planning Submittal	\$35,000		\$35,000	
Permit Documentation	\$80,000		\$80,000	
Building and Site Engineering Design and Bidding	\$655,000		\$655,000	
Footer and Site Design for Digestors	\$100,000		\$100,000	
Process & Equipment Design for WastAway Facility		\$555,000		\$555,000
Process & Equipment Design for RNG Production		\$313,000		\$313,000
<b>SUBTOTALS</b>	<b>\$870,000</b>	<b>\$1,630,000</b>	<b>\$993,750</b>	<b>\$1,506,250</b>
<b>TOTAL</b>	<b>\$2,500,000</b>		<b>\$2,500,000</b>	

## AMENDED AND RESTATED PROJECT AGREEMENT

THIS AMENDED AND RESTATED PROJECT AGREEMENT (the “Agreement”) is entered into as of the \_\_\_th day of April, 2023, by and between the City of Murfreesboro, a Tennessee municipal corporation (the “City”), and WastAway, LLC, a Tennessee limited liability company (“WastAway”). The City and WastAway are sometimes referred to in this Agreement as a “Party” or, collectively, as the “Parties.”

### RECITALS

**WHEREAS**, the Parties intend to plan and design a qualified biogas property (the “Project”) to be built on real property owned by the City at 2120 Butler Drive, Murfreesboro, Tennessee 37127 (the “Property”), which necessarily incorporates a Materials Management Station (“MMS”) to be constructed in anticipation and as part of the Property in cooperation with Rutherford County under an Interlocal Agreement;

**WHEREAS**, the City, Rutherford County, and all of Middle Tennessee are increasingly facing a shortage of reasonably priced access to solid waste landfills, and in turn, this creates the possibility of more expensive residential and commercial trash removal in the foreseeable future;

**WHEREAS**, there are new technologies, including those owned and operated by WastAway, that are capable reducing landfill costs for cities by diverting certain solid waste away from landfills and toward the creation of commercially viable products;

**WHEREAS**, the City has concluded that it is in the best interests of the citizens of the City to pursue alternatives to landfilling all of the City’s solid waste, and believe that the Project will accomplish these goals for the City;

**WHEREAS**, the Parties agree that the Project will require three phases – design, construction (in phases that include the MMS), and long-term operations, and the parties further agree to proceed immediately with the design phase while continuing to work in good faith with each other to finalize all terms related to the construction and long-term operations phases of the Project;

**WHEREAS**, the Parties agree and acknowledges that the City is seeking to participate in certain federal programs related to the Project which are subject to critical time deadlines, and that any delay in performing under the terms of this Agreement may cause the City to potentially lose the opportunity to participate in those federal programs;

**WHEREAS**, to accomplish the Project, the Parties entered that certain Project Agreement with an effective date of December 7, 2022 (the “Original Project Agreement”), after such Original Project Agreement was approved by the City Council for the City on December 1, 2022;

**WHEREAS**, in furtherance of the Original Project Agreement, the City and Griggs & Maloney, Inc. (“Griggs & Maloney”) entered that certain Agreement Between Owner And Engineer For Professional Services effective on or about January 6, 2023 (the “G&M Agreement”), after such G&M Agreement was approved by the City Council for the City on January 5, 2023;

**WHEREAS**, the Parties have begun to perform the Original Project Agreement, including the payment of the required initial payment of \$375,000 by the City to WastAway;

**WHEREAS**, in beginning to perform the Original Project Agreement and the G&M Agreement, it has become clear to the Parties that it would be more efficient and effective to: (a) shift certain limited discrete task assignments and related payments from WastAway to G&M; (b) enter an agreement for WastAway to perform certain tasks related to the design the Project; (c) adjust certain timelines due to circumstances beyond the control of the parties; and (d) update and change certain reporting and communications requirements among the Parties;

**WHEREAS**, to accomplish these changes, the Parties wish to enter into this Agreement in place of the Original Project Agreement and to have the City separately amend the scope of the G&M Agreement;

**WHEREAS**, the Parties intend to make these changes without impacting the overall expected timeline or cost for the Project as set forth in the Original Project Agreement;

**WHEREAS**, the Parties have now agreed upon the terms and conditions to proceed with the Project under the terms of this Agreement, and further agreed that; and

**NOW, THEREFORE**, in consideration of the foregoing recitals and mutual promises and conditions set forth herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **AGREEMENT**

1. **Scope of Project**. Subject to the terms of this Agreement, the Parties agree to design, construct, and operate the Project at the Property.

2. **Effective Date**. Once this Agreement has been approved by the City Council and Mayor, the effective date of both the Original Project Agreement and this Agreement shall be considered to be December 7, 2022 (the “Effective Date”)

3. **Services to be Provided Under this Agreement**. In exchange for the payment described below, and in addition to WastAway’s performance of the obligations set forth in paragraphs 4 through 14 of the Agreement, WastAway hereby agrees to perform or have a subconsultant perform the services (“Services”) described in Exhibit A, which is fully incorporated herein by this reference. To the extent any work performed by WastAway under the terms of the Original Project Agreement is included in the Services under this Agreement, such work performed under the Original Project Agreement shall satisfy any obligation of WastAway to provide the same work under this Agreement.

4. **Payment**. As consideration for WastAway and any subconsultant(s) commencing performance of the Services, the City agrees to pay WastAway the amounts and upon the terms defined in Exhibit B, which is fully incorporated herein by this reference.

5. **Design Phase**. Subject to the terms of this Agreement, the City and WastAway agree to design the Project. The Parties agree to the following terms:

- a. Services: WastAway agrees to provide the Services.
- b. Term: All Services to be complete by August 31, 2023.
- c. Compensation: Subject to the terms of this Agreement, the total Project compensation for WastAway shall be \$1,430,000 as further described in Exhibit B, which is fully incorporated herein by this reference.
- d. Access to Property: WastAway shall be granted a limited non-exclusive license to access the Property. Such access shall be limited solely to what is necessary to provide the Services and only upon the prior consent of the City. WastAway may only conduct testing on the Property that is not invasive, intrusive, or destructive. Any invasive, intrusive, or destructive testing may only occur upon the prior written consent of the City.
- e. Subcontractors: It is anticipated that WastAway will further contract with other parties to provide a portion of the Services. WastAway may not engage any subcontractor in connection with such Services, including any consulting, design, engineering, or architecture firm, without the prior written consent of the City, which consent shall not be unreasonably withheld. When seeking such consent from the City, WastAway shall provide the City with a copy of its proposed contract with such subcontractor.
- f. Indemnification.
  - i. General. WastAway shall defend, indemnify, and hold harmless the City and its elected and appointed officials, officers, employees, agents, volunteers, and authorized representatives ("City Indemnified Parties") from any losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, and costs, including attorneys' fees of the City's inside and outside legal counsel, expert fees, costs of staff time, and investigation costs ("Claims") which arise out of or relate to any act or omission of WastAway or WastAway's officers, employees, agents and subcontractors of any tier hired by WastAway to perform the Services ("WastAway's Representatives"). This indemnification obligation shall include bodily and personal injury or death to any person; damage to any property, regardless of where located, including the property of the City; and any workers compensation Claim arising from or relating to the Services. WastAway may elect to defend any Claim with counsel of WastAway's choice, subject to written approval by the City and at WastAway's sole cost. It shall be understood that WastAway's insurer may have primary control over the selection of WastAway's counsel. City's approval of WastAway's counsel shall not be unreasonably withheld.
  - ii. Immigration Reform and Control Act. WastAway acknowledges that WastAway and WastAway's Representatives are aware of and understand the Immigration Reform and Control Act ("IRCA"). WastAway is and shall remain in compliance with the IRCA and shall ensure that any WastAway Representatives are and shall remain in compliance with the IRCA. In

addition, WastAway shall defend, indemnify and hold harmless the City and City Indemnified Parties from any Claims which arise out of or relate to any allegations that WastAway or WastAway Representatives are not authorized to work in the United States and/or any other allegations based upon alleged IRCA violations committed by WastAway or WastAway's Representatives. WastAway shall defend any Claim with counsel of WastAway's choice, subject to County's written approval, and at WastAway's sole cost.

- iii. Infringement Claim. If any Claim is asserted or action or proceeding brought against the City or City Indemnified Parties which alleges that all or any part of the Services in the form supplied by WastAway for the City's use infringes or misappropriates any United States or foreign patent or copyright, or any trade secret or other proprietary right, the City shall give WastAway prompt written notice. WastAway shall defend and indemnify the City and City Indemnified Parties from any Claims, including costs incurred by the City in order to avoid entry of any default judgment or other waiver of the City's rights. WastAway shall defend any Claim with counsel of WastAway's choice, subject to the City's written approval and at WastAway's sole cost. City's approval of WastAway's counsel shall not be unreasonably withheld. The City shall cooperate fully with and may monitor WastAway in the defense of any Claim and shall make employees available as WastAway may reasonably request with regard to the defense, subject to reimbursement by WastAway of all costs incurred by the City's cooperation in the defense.
- iv. Remedy of Infringement Claim. If the Services are, in WastAway's opinion, likely to become or do become the subject of a claim of infringement or misappropriation of a United States or foreign patent, copyright, trade secret or other proprietary right, or if a temporary restraining order or other injunctive relief is entered against the use of part or all of the Services, WastAway shall within 90 days:
  - A. Replace. Promptly replace the Services with compatible, functionally equivalent and non-infringing services;
  - B. Modify. Promptly modify the Services to make them non-infringing without materially impairing County's ability to use the Services as intended;
  - C. Procure Rights. Promptly procure the right of the City to continue using the Services; or
  - D. Refund. As a last resort, if none of these alternatives is reasonably available to WastAway, and the City is enjoined or otherwise precluded legally from using the Services, WastAway shall, within 120 days of the judgment or other court action, promptly refund to

the City all fees and costs paid for the Services and this Agreement shall terminate. All licensed products will be disposed of as ordered by the governing court at the sole cost of WastAway or as determined by the City if the court does not so direct.

- v. No Indemnification for Failure to Obtain Federal Incentives, Credits, Grants, or Loans. Notwithstanding the foregoing or anything else in this Agreement, WastAway shall have no liability for and shall not indemnify the City with respect to the City's ability to qualify for any federal program. WastAway shall have no liability and shall provide no indemnity for the City's failure to obtain desired grants, credits, incentives, or loans relating to the Project.
- vi. Modification of Services. This indemnification does not extend to modifications or additions to the Services made by the City or any third party without the prior written consent of WastAway, or to any unauthorized use of the Services by the City.
- vii. Survival of Indemnification Obligations. Upon completion of this Agreement, the provisions of this Section 4.f shall survive.

g. Insurance. WastAway, in order to protect the City and City Indemnified Parties against Claims as a result of the performance of WastAway's obligations, as required in this Agreement shall secure and maintain the insurance set forth in this Section 5.g. WastAway shall not perform any Services until WastAway has obtained all insurance required under this Section 5.g, and the required certificates of insurance and all required endorsements have been filed with the City's authorized insurance representative ("Authorized Insurance Representative"). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of these insurance requirements. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, WastAway shall supply proof that the designated person is an authorized representative and is authorized to bind the named underwriter(s) and their company to the stated coverage, limits and termination provisions. WastAway shall promptly deliver to Authorized Insurance Representative a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the Term. The certificates and endorsements shall be delivered to Authorized Insurance Representative prior to the expiration date of any policy and bear a notation evidencing payment of the premium if so requested. WastAway shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any Claim by WastAway or the City as an additional insured.

- i. Workers' Compensation and Employer's Liability Insurance Requirement. If WastAway has employees who *may* perform any Services under this Agreement, WastAway shall submit written proof that WastAway is insured against liability for workers' compensation in accordance with Tennessee state law. WastAway shall require any WastAway Representatives to provide workers' compensation for any of



the WastAway Representative's employees, unless the employees are covered by the insurance carried by WastAway. If any class of employees engaged in Services is not covered as required and provided in Title 50, chapter 6, Parts 1 or 9, WastAway shall provide and/or require each WastAway Representative to provide adequate insurance for the coverage of employees not otherwise covered. WastAway shall also maintain employer's liability insurance with limits of \$1,000,000 for bodily injury or disease.

ii. Liability Insurance Requirements.

A. Types of Liability Insurance. WastAway shall maintain in full force and effect, during the Term, the following types of liability insurance:

1. Commercial General Liability Insurance, including Contractual Liability Insurance (specifically covering the Indemnification provisions of this Agreement), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of WastAway's performance of Services. The Commercial General Liability insurance shall contain no exclusions or limitations for WastAway Representatives working on the behalf of the named insured. WastAway shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by Applicable Law following termination of this Agreement. The amount of the insurance coverage required by this Agreement shall be the policy limits, which shall be no less than \$1 million for each occurrence and an annual aggregate limit of at least \$2 million.
2. Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any owned, leased, hired and non-owned vehicles used in the performance of the Services with insurance coverage equal to the policy limits, which shall be no less than \$1 million for each occurrence and an annual aggregate limit of at least \$2 million.
3. Errors and Omissions Insurance for liability arising out of or related to the performance of the Services, with insurance coverage equal to the policy limits, which shall be no less than \$1 million for each occurrence and an annual aggregate limit of at least \$2 million.

4. Umbrella Liability Insurance with limits of not less than \$10,000,000 on a form acceptable to the City; umbrella coverage must not be limited to excess coverage that merely follows form of underlying coverage.

B. Endorsements. The commercial general liability, automobile liability, and umbrella liability insurance policies required in this Section 5.g. shall include an endorsement naming the City and City Indemnified Parties as additional insureds for liability arising out of this Agreement and any related operations. The endorsements shall be provided in a form consistent with Tennessee law, subject to City's approval, which shall not be unreasonably withheld.

C. Claims-Made Insurance. If any of the insurance coverages required under this Agreement is written on a claims-made basis. WastAway, at WastAway's option, shall either (i) maintain the coverage for at least five years following the termination of this Agreement with coverage extending back to the Effective Date; (ii) purchase an extended reporting period of not less than five years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

iii. Insurance Companies. All Insurance shall be issued by a company or companies admitted to do business in Tennessee and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A:VII Any exception to these requirements must be approved in writing by the City Attorney.

iv. Self-Insurance. If WastAway is, or becomes during the Term, self-insured or a member of a self-insurance pool, WastAway shall provide coverage equivalent to the required insurance coverages and endorsements. The City will not accept the coverages unless the City Attorney determines, in the City Attorney's sole discretion and by written acceptance, that the coverages proposed to be provided by WastAway are equivalent to the required coverages. Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to the City and must be approved in writing by the City Attorney.

v. Primary Insurance; Waiver of Subrogation; Separation of Insureds. All insurance carried by WastAway shall be primary to and not contributing to any insurance or self-insurance maintained by the City. An endorsement shall be provided on all policies. except errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the City. All policies shall also include a separation of insureds provision, providing that the insurance applies as if each named insured, including the City and City Indemnified Parties as named additional insured, were the only named insured, and that the insurance applies separately to each insured, including

each named additional insured, against whom a claim is made or a lawsuit filed.

- vi. Insurance Does Not Replace Indemnification. Maintenance of the insurance coverages in the minimum specified amounts shall not be construed to relieve WastAway for any liability, whether within, outside, or in excess of the coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking other actions as are available to it under this Agreement or under Applicable Law.
- vii. Failure to Maintain Insurance. Failure by WastAway to maintain all insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by WastAway. The City, at its sole option, may terminate this Agreement and obtain damages from WastAway resulting from the breach. Alternatively, the City may purchase the required insurance coverage, and without further notice to WastAway, the City shall deduct from sums due to WastAway any premiums and associated costs advanced or paid by the City for the insurance. If the balance of monies owed to WastAway under this Agreement is insufficient to reimburse the City for the premiums and any associated costs, WastAway shall reimburse the City for the premiums and pay for all costs associated with the purchase of the insurance. Any failure by the City to take this alternative action shall not relieve WastAway of its obligation to obtain and maintain the insurance coverages required by this Agreement.
- viii. Cancellation of Insurance. The Insurance coverages required to be maintained by WastAway shall be maintained until the completion of all of the Services except as otherwise stated in this Agreement. Each insurance policy supplied by WastAway shall not be terminated, suspended, voided, canceled, non-renewed, or reduced in coverage or in limits except after 10-days' prior written notice to WastAway in the case of non-payment of premiums, or 30-days' prior written notice in all other cases. This notice requirement does not waive these insurance requirements. WastAway shall immediately obtain replacement coverage for any insurance policy that is terminated, suspended, voided, canceled, reduced in coverage, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
- ix. Insurance Requirements under Future Construction and Operations Agreements. The parties anticipate that they will ultimately enter into construction and operations agreements with respect to the Project and that any such future agreement may require WastAway to maintain insurance coverage greater than or in addition to the coverages set forth herein, including, but not limited, to environmental/pollution liability insurance.

6. Construction Phase. The Parties agree to negotiate in good faith on the terms for the construction of all improvements and infrastructure related to the Project. The Parties agree

that such negotiated terms shall limit the net costs related to the construction of improvements and infrastructure related to the Project to no greater than \$59,000,000 (excluding land costs and costs for offsite water, sewer, electric and gas to the site) and require the Project to become operational no later than July 1, 2025. The Parties agree that any required definitive agreements related to such construction shall be negotiated and executed with all necessary legislative approvals completed no later than one year after the Effective Date of the Original Project Agreement.

7. Long-Term Operations Phase. The Parties agree to negotiate in good faith on the terms for the long-term operation of the Project after construction is complete. Parties agree that any required definitive agreements related to such long-term operation of the Project shall be negotiated and executed with all necessary legislative approvals complete no later than one year after the Effective Date of the Original Project Agreement.

8. WastAway Representations.

a. Expertise: WastAway has the expertise, support staff, and facilities necessary to perform all aspects of the services described in and contemplated by this Agreement.

b. No Adverse Interests: WastAway does not have any actual or potential interests adverse to the City, nor does WastAway represent a person or entity with an interest adverse to the City related to the subject of the Agreement.

c. Timeliness: The Parties shall diligently perform all aspects of the obligations described in the Agreement in a timely and professional manner in accordance with the terms, covenants, and conditions in the Agreement. In particular, WastAway understands and acknowledges that the City is seeking to participate in certain federal programs which are subject to critical time deadlines, and that any delay in performing this Agreement may cause the City to potentially lose the opportunity to participate in those certain federal programs.

9. Default/Termination: Either party may terminate this Agreement upon written notice with a reasonable opportunity to cure if the other party fails to substantially perform in accordance with the terms and conditions of this Agreement. In addition, the City may terminate this Agreement upon written notice, without cause, at any time. In the event that the City terminates this Agreement, it shall compensate WastAway for the proportion of the work assigned to WastAway in Exhibit B that has been completed as of date of termination.

10. Ownership and Use of Documents.

a. Except as set forth in Section 10(b), all reports, documents, and other items generated or gathered in connection with the Project are and shall remain the property of the City, and shall be delivered to the City in a timely manner or upon termination of the Agreement, whichever occurs first.

b. Notwithstanding the terms of Section 10(a), the Parties agree and acknowledge that WastAway owns certain intellectual property rights to be used in the Project (the "Intellectual Property Rights"). WastAway shall continue to own the Intellectual Property Rights whether or not the Project is completed. The City does not assert and shall never assert any ownership interest in any of the Intellectual Property Rights. To the extent allowed by applicable

state and federal law including without limitation public records laws, the City agrees to not disclose any documents related to the Intellectual Property Rights to third parties.

11. Assignment: WastAway may not assign, transfer, or encumber the Agreement or any part of the Agreement without the prior written consent of the City, which consent may be denied by the City in its sole discretion for any or no reason.

12. Amendment. This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated, signed by the Parties and attached to this Agreement.

13. Waiver of Liability: WASTAWAY ACKNOWLEDGES AND AGREES THAT THE CITY SHALL NOT BE RESPONSIBLE OR LIABLE FOR DEATH OR INJURIES TO PERSONS OR DAMAGE TO OR THEFT OF PROPERTY ARISING FROM OR IN ANY WAY CONNECTED TO THE AGREEMENT OR THE USE OF OR ACCESS TO THE PROPERTY. THE CITY EXPRESSLY DISCLAIMS AND NEGATES ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE CONDITION, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY.

14. Miscellaneous

a. Audit, Inspection, and Retention of Records. WastAway shall maintain and make available to the City accurate books and records relative to all work under the Agreement and/or relative to the Project. WastAway shall permit the City to audit, examine, and make excerpts from its records and to conduct audits of all invoices, materials, records, or other data related to performance of this Agreement. WastAway shall maintain its data and records in an accessible location and condition for a period of not less than three years after the date of final payment under this Agreement or subsequent agreements, or until the conclusion of any audit, whichever is later.

b. Authority to Bind City. In the performance of its duties under the Agreement, WastAway has no authority to bind the City to any agreements or undertakings.

c. Choice of Law/Venue. The parties agree that the provisions of the Agreement shall be construed under the laws of the State of Tennessee. The parties agree that the venue for any action relating to the Agreement shall be in the state courts of Rutherford County, Tennessee.

d. Compliance with Applicable Law. WastAway shall observe and comply with all applicable state, local, and federal laws, ordinances, rules, and regulations now in effect or later enacted, including without limitation all applicable state and federal environmental laws.

e. Confidentiality. Neither Party shall, without the prior written consent of the other Party, communicate confidential or proprietary information to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that it protects its own confidential information; provided however, nothing herein shall limit the City's obligations under the public records and open meetings laws of the State of Tennessee. For purposes of this Agreement, the term "confidential or proprietary information" includes, but is not

limited to, information protected from disclosure by law as well as a Party's proprietary technology, trade secrets, private processes, and other technical information, whether obtained in connection with this Project or disclosed by WastAway to City officials and employees while visiting a WastAway facility either before or after the Effective Date of this Agreement. The rights and obligations of the parties under this section 14(e) shall survive any termination of this Agreement.

f. Enforcement of Remedies. No right or remedy conferred on or reserved to a party is exclusive of any other right or remedy under the law, equity, or statute, but each shall be cumulative of every other right or remedy now or in the future existing under the law, and may be concurrently enforced.

g. No Partnership. In the performance of this Agreement, WastAway shall be, and acknowledges that WastAway is, in fact and law, an independent contractor and not an agent or employee of the City. Subject to the terms of any agreements between the Parties, WastAway has and retains the right to exercise full supervision and control of the manner and methods of performing under this Agreement.

h. No Third-Party Beneficiary Rights. The Parties do not intend to confer, and this Agreement shall not be construed to confer, any rights or benefits to any person, firm, company, corporation or entity other than the Parties.

i. Severability. If any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement unless the purpose of this Agreement is thereby destroyed.

j. Waiver. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective and shall apply solely to the specific instance expressly stated.

k. Sole Agreement. The Agreement contains the entire agreement between the parties relating to the subject matter of this Agreement, the Property, and the Project. No inducements, representations, or promises have been made, other than those stated in the Agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect. For purposes of clarity, this Agreement supersedes the Original Project Agreement in all respects.

15. Notices. Any notice or other writing required or permitted to be given to a Party under this Agreement shall be given in writing and shall be (i) delivered by hand or (ii) delivered through or by UPS, Fedex, or other expedient mail or package service, addressed to the parties at the addresses set forth below. Any notice or demand that may be given hereunder shall be deemed complete: (a) upon documented delivery by UPS, Fedex, or other expedient mail or package delivery service, or (b) upon hand delivery to the appropriate address as herein provided. Any Party hereto may change said address by notice in writing to the other parties in the manner herein provided. The appropriate address for notice hereunder shall be the following:

If to City: City of Murfreesboro  
111 West Vine Street  
Murfreesboro, TN 37130  
Attn: Craig Tindall, City Manager  
Email: [ctindall@murfreesborotn.gov](mailto:ctindall@murfreesborotn.gov)

with copies to: City of Murfreesboro  
111 West Vine Street  
Murfreesboro, TN 37130  
Attn: Adam F. Tucker, City Attorney  
Email: [atucker@murfreesborotn.gov](mailto:atucker@murfreesborotn.gov)

- and -

Sherrard Roe Voigt & Harbison, PLC  
150 Third Avenue South, Suite 1100  
Nashville, TN 37201  
Attn: Bob Mendes  
Email: [bmendes@srvhlaw.com](mailto:bmendes@srvhlaw.com)

If to WastAway: WastAway, LLC  
195 Mt. View Industrial Drive  
Morrison, TN 37357

Good faith requirement. The Parties agree to negotiate in good faith regarding the further agreements described in this Agreement; provided however that while WastAway and the City may agree in the future to such further agreements related to the Project, any further agreements will be negotiated at the discretion of each Party in the future with no obligation to execute such further agreements.

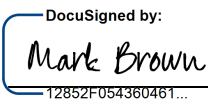
*[Remainder of page intentionally left blank. Signature page follows.]*

The Parties executed this Agreement as of the date first written above.

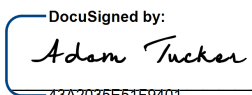
**CITY OF MURFREESBORO**

**WASTAWAY, LLC**

By: \_\_\_\_\_  
Shane McFarland, Mayor

By:  \_\_\_\_\_  
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Approved as to form:

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43A2035E51E9401...  
Adam F. Tucker, City Attorney



**EXHIBIT A**  
**to**  
**AMENDED AND RESTATED PROJECT AGREEMENT**

Capitalized terms not defined herein shall have the same meaning as set forth in the Amended and Restated Project Agreement to which this is an exhibit, or in Exhibit B thereto.

WastAway shall provide the Services related to planning and designing the Project to be built at the Property. The Services to be provided by WastAway shall include:

**1.0 Project Understanding**

Uncertainty in the continued operation of Republic Services' Middle Point Landfill has created a need for the City to develop alternative municipal solid waste ("MSW") solutions. In 2020, the City purchased the Property, which is a ±20-acre parcel on Butler Drive in Murfreesboro, for a Public Works South facility that can also accommodate a solid waste material management station.

The City has selected WastAway to plan and design the Qualified Biogas Property ("Project"). WastAway shall plan and design the Project such that the Project shall include the following:

1. Material Management Station ("MMS") – An area that receives MSW on a concrete tipping floor from incoming vehicles or containers and moves the MSW to an infeed conveyor/hopper or transfer truck for disposal. The MMS may be constructed prior to initiation of construction of the other components of the Project but is an anticipated necessary and instrumental part of Project such that the MMS and all other components compose the Project as a whole.
2. WastAway SE3® Manufacturing ("SE3M") section – A manufacturing process line that converts 70% of incoming MSW into a beneficial biomass fuel trademarked SE3.
3. Anaerobic Reactor Biogas Generation ("ARBG") section – A biological process utilizing SE3 as a feedstock for a microbiological colony generating biogas inside an anaerobic reactor.
4. Renewable Natural Gas Purification ("RNGP") section – a mechanical, vacuum, media scrubber or filtration process that removes impurities from biogas achieving pipeline quality RNG.
5. Adequate facility support spaces, all with the intent of diverting at least 90% of MSW from landfills as well as keeping the City's solid waste tipping fees as low as possible.

The technical and financial scope of the Project is still being studied and reviewed by the Parties and remains subject to final approval by the City at its sole discretion. The minimum

standards to be achieved by the design of the Project are described in Section 3.0 Design Standards, below (the “Design Standards”). Any change to the Design Standards must be approved in writing by the City.

## **2.0 Scope of Work**

WastAway shall provide adequate detail to provide design basis information that can be used to support production of detailed engineering design documents if the City elects to proceed with the Project. This shall include all buildings, structures, equipment, and processes necessary to house the components described in Section 1.0. The Services shall further include the following:

A. Renewable Natural Gas and Digestate Study. WastAway shall produce a report to inform City’s decision concerning gas production and digestate uses and markets. At a minimum report shall include:

- Test results produced by University of Wisconsin Environmental Innovation and Innovation Center labs for biomethane potential, volatile solid destruction, and digestate composition;
- Test results by an accredited test lab for detailed ultimate and proximate analysis for fuel produced by drying and treating digestate;
- Biomethane potential and measured gas yields from 8 week pilot-scale continuous load study demonstrating actual gas production and digestate yields; and
- Verifiable letters of interest demonstrating a satisfactory and reliable market for fuel derived from digestate and/or direct SE3 sales.

B. Preliminary Process Design. WastAway shall develop, subject to the City’s approval, an initial process design based on the Design Standards. This shall include without limitation:

- Proposed equipment lists;
- Process flow diagrams;
- Process and instrumentation diagrams;
- Mass balance information; and
- Any recommendations about additional property acquisitions, if necessary

C. Preliminary Project Design. WastAway shall work with the City and the City’s subcontractor, Griggs & Maloney to develop a Project design based on the Design Standards. This will include without limitation:

- Preliminary site plan, including any necessary geotechnical exploration;
- General arrangement drawings; and
- Estimated utility requirements

D. Formal Project Proposal. Based on the preceding work, WastAway shall provide a final Project proposal to include without limitation:

- SE3M process and equipment submittals and proposal;
- ARBG & RNGP equipment submittals and proposal;
- With these proposals, WastAway shall include scope, pricing, lead times, and proposed construction schedules that are fully consistent with the terms of this Agreement; and
- WastAway shall ensure that the proposals in its formal Project proposal are consistent with the planning and design work for the Project by Griggs & Maloney.

E. Permitting. WastAway shall work with the City and the City's subcontractor, Griggs & Maloney, to support efforts to obtain permitting, to design the Project to meet TDEC requirements, and to make the required submittal to the Division of Solid and Hazardous Waste Management staff at the Nashville Environmental Field Office. These efforts shall include without limitation:

- A topographic map and scaled drawing of the operation
- A work sheet regarding storage capacity
- A completed application (Form CN-1035) which requires standard information such as the facility location, name and address, the type and description of activity at the facility and the characteristics of the waste being handled
- A narrative explaining how the facility will comply with applicable criteria given Permit-by Rule activity

F. Engineering Design. WastAway shall work with the City and the City's subcontractor, Griggs & Maloney, to support efforts to design a new solid waste processing facility built around WastAway's process, including civil, architectural, structural, electrical, mechanical, and plumbing design, and design deliverables of 30% (preliminary), 60%, and 90% prior to finalizing the contract documents. WastAway shall provide the City with plans and specifications and coordinate with the City's Legal Department and Purchasing Department for contract review prior to the project being released for bid without limitation:

- New estimated 400-500 ton per day tipping/receiving floor including new office, and access routes;

- 400-foot by 100-foot pre-engineered metal solid waste processing building (including tipping floor);
- WastAway equipment layout and detailed drawings;
- Layout and detailed drawings for all components described in Section 1.0;
- Utility extensions and connections;
- New inbound scale and outbound scales;
- Site grading, drainage, and access roads; and
- Striping, signage, and gates.

G. Periodic Reporting. WastAway shall meet with the City no less than bi-weekly to discuss the Project and the status of Services being provided under this Agreement (each meeting, a “Status Meeting”). At least 24 hours in advance of each Status Meeting, WastAway shall provide to the City a written progress report and timeline update in a format that is reasonably satisfactory to the City (each written report, a “Status Report”) and which shall include at least the following topics:

1. Project Schedule and Milestones
2. Analysis of results to date, design values
3. Preliminary Project Pro Forma (updated with latest info)
4. General process description
5. Process flow with flow rates (WastAway Process)
6. Waste Characterization - as received and entering AD
7. Theoretical yields RNG, SE3, other outputs
8. Testing Plans, results
9. Charts from BMP tests, etc.
10. SE3 Fuel Analysis
11. SE3 Utilization Plan
12. Compost analysis and evaluation
13. RNG production

14. RNG usage options, truck conversions
15. RNG Electric Option
16. RINS information
17. Building layout with General Arrangement
18. Block flow diagram
19. Energy Balance
20. Mass Balance
21. Equipment list and description
22. RNG construction, capital, footprint, operating parameters
23. P&ID
24. Water Balance and Treatment Plans
25. Odor control and Emissions Analysis
26. Utilities
27. Process Hazard Assessment
28. Haz-Ops review
29. Start-up and commissioning plan

### **3.0 Design Criteria**

A. Technical processing minimums: The Project design must be capable of meeting the following technical processing goals.

1. MMS waste transfer capacity of 400 tons per day (140,000 tons per year)
2. Waste processing and SE3 fuel output
  - Annual Tons processed: 140,000
  - Annual SE3 (tons manufactured): 98,000
  - Material Recovery Revenue from metals: \$740,000

3. Anaerobic reactor capacity of 98,000 tons SE3 feedstock producing annual RNG (MMBTU) manufactured: 320,000

B. Financial goals for construction

1. Construction costs: The Project must not exceed the following gross construction cost goals.

Uses	Cap Ex
Design Fee	\$2,500,000
Transfer Station	\$15,000,000
SE3 Production Plant	\$30,000,000
Anaerobic Reactor for RNG	\$20,000,000
<b>Total</b>	<b>\$67,500,000.00</b>

2. Financing Costs: Funding for the Project will be arranged by the City within its sole discretion and must conform to the City's Financial Policies. Financing may be arranged through revenue bonds which must be marketable under a regulated offering statement.
3. Federal tax credits: WastAway understands that the City seeks to reduce the net construction costs by qualifying for certain federal tax credits, rebates, and other incentives, including without limitation, benefits that may be available to the City, WastAway, or such other entity that may accept and utilize the incentives to the benefit of the Project under the Inflation Reduction Act (together, as the "Federal Programs"). The parties understand that qualifying for the Federal Programs is critical to funding the Project. The Federal Programs have time limitations as well as substantive requirements. Any planning and design for the Project must include the ability for the Project funding to benefit from the maximum allowable amount available under the Federal Programs or the Project may not be financially feasible.

C. Operating goals: The Project's revenue and expenses must meet the following minimum operating goals in the order listed:

1<sup>st</sup>: Project revenues fully supports the debt service and other requirements of the Project funding arrangement; then,

2<sup>nd</sup>: Project revenues covers all operating expenses, which include but are not limited to agreed-upon management fees and landfill disposal costs; then,

3<sup>rd</sup>: Project revenues provide a reasonable management fee for management of the Project as agreed in a separate contract; then,

4<sup>th</sup>: Project revenues generate additional income which shall accrue to the City.

**EXHIBIT B**  
**to**  
**AMENDED AND RESTATED PROJECT AGREEMENT**

Capitalized terms not defined herein shall have the same meaning as set forth in the Amended and Restated Project Agreement to which this is an exhibit, or in Exhibit A thereto.

The total compensation for WastAway under the Agreement shall be \$1,430,000 to be paid by the City subject to the following terms:

1. \$375,000 as an initial advance for Project start-up, plus an additional \$160,000 in progress payments paid on or before April 22, 2023. The Parties agree and acknowledge that the City has paid these amounts to WastAway under the terms of the Original Project Agreement, and because these amounts have been paid, these amounts are no longer due at the time of executing this Agreement.
2. The balance of \$895,000 paid as follows:
  - a. four (4) monthly installments of \$160,000, with the first installment being due on May 15, 2023, and each subsequent installment being due on the 15<sup>th</sup> day of the subsequent three (3) months, except as otherwise provided in paragraph 5 of Exhibit B below; and
  - b. a final installment of \$255,000 due one (1) month after the last of the four monthly installments described above was due.
3. If a required Status Meeting is not timely held or if a required Status Report is not timely submitted, the City in its sole discretion may suspend payments under this Agreement; provided however, the City may not suspend payments if the failure to hold a timely Status Meeting is due to an action or omission of the City.
4. Notwithstanding anything to the contrary in this Exhibit B, the City in its sole discretion may suspend the final installment payment described in paragraph 2(b) above if WastAway has not yet provided a final design report that includes all of the information required by the Agreement, including final information related to each of the categories required in each Status Report.
5. WastAway expressly acknowledges that, upon the Effective Date of this Agreement, the required Material Management and Recovery analysis, including identifying and quantifying the end-use or disposal method of digestate from anaerobic reactors, (the "Analysis") is not complete and remains subject to approval by the City in its sole discretion. If the Analysis, , has not been completed and provided to the City on or before June 16, 2023, the City may terminate this Agreement at its sole discretion in accordance with Paragraph 8—Default and Termination; in the alternative, the City may elect to suspend future payments under the agreement until such time as WastAway completes the Analysis and submits it to the City for review and approval. If, however, WastAway has



provided the Analysis to the City before June 16, 2023, but the City has neither approved the Analysis nor deemed it unsatisfactory, the City's obligation to make any installment payments after the June 15, 2023 payment and WastAway's obligation to perform the Services shall be suspended until such time as the City either approves the Analysis or deems it unsatisfactory. In the event the City approves the Analysis, the completion date or term of this Agreement shall be extended by the number of days that payment and performance were suspended.

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Geotechnical Services for Qualified Biogas Facility on Butler Dr.

**Department:** Solid Waste

**Presented by:** Darren Gore, Assistant City Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Consideration of Task Order No. 2 with Griggs and Maloney for geotechnical services for the proposed qualified biogas facility on Butler Dr.

**Recommendation**

Approve Task Order No. 2 with Griggs and Maloney.

**Background Information**

In January, the Griggs and Maloney’s master services design contract was approved by Council for the qualified biogas (WastAway) facility on Butler Dr. The proposed amended and restated agreement with WastAway places the geotechnical investigation services within Griggs & Maloney’s scope.

Based on the discovery of a significant geological formation (e.g., underground cave) on the site, additional effort was expended to determine the depth and breadth of the feature, as well as the structural remedies necessary to mitigate the geological conditions on the site with the proposed improvements, specifically the 50,000 square foot pre-engineered metal building housing the WastAway and renewable natural gas processing equipment.

**Council Priorities Served**

*Responsible budgeting*

Designing a facility to address the City’s future solid waste disposal and management requirements proactively positions the City to responsibly budget for the expenses associated with this service.

**Fiscal Impact**

The increased cost of these services is \$43,750, raising the total geotechnical expense to \$83,750. The increase is absorbed by reducing the Material Management Analysis in the same amount; therefore, the overall design fee of \$2,500,000 has not changed. Funding is secured through a reallocation of FY22 CIP bond proceeds.

**Attachments**

Griggs and Maloney Task Order No. 2 for the qualified biogas (WastAway) facility

**AGREEMENT BETWEEN OWNER AND ENGINEER  
FOR PROFESSIONAL SERVICES**

**PART 3 OF 4: TASK ORDER 2  
GEOTECHNICAL EXPLORATION**

For

**NEW QUALIFIED BIOGAS PROPERTY**



Prepared by

**GRIGGS & MALONEY**

**I N C O R P O R A T E D**

Engineering & Environmental Consulting

745 South Church St., Suite 205

P.O. Box 2968 (37133-2968)

Murfreesboro, Tennessee 37130

(615) 895-8221 • (615) 895-0632 FAX

## TASK ORDER NO. 2

This is Task Order No. 2,  
consisting of 4 pages.

In accordance with Paragraph 1.01, Main Agreement, of the Agreement Between Owner and Engineer for Professional Services—Task Order Edition dated \_\_\_\_\_, Owner and Engineer agree as follows:

### 1. TASK ORDER DATA

a.	Effective Date of Task Order:	
b.	Owner:	<b>City of Murfreesboro, Tennessee</b>
c.	Engineer:	<b>Griggs &amp; Maloney, Inc.</b>
d.	Specific Project (title)	<b>New Qualified Biogas Property</b>
e.	Specific Project (description):	<b>Geotechnical Exploration</b>
f.	Related Task Orders Supplemented by this Task Order:  Superseded by this Task Order:	<b>Task Order No. 1: Engineering Design and Bidding and Permit Documentation Preparation</b>

### 2. BASELINE INFORMATION

**Baseline Information.** Owner has furnished the following Specific Project information to Engineer as of the Effective Date of the Task Order.

*KDGI Master Plan*

*Project Agreement between City of Murfreesboro and WastAway*

*WastAway Phase I Study (To Be Delivered)*

Engineer's scope of services has been developed based on this information. As the Specific Project moves forward, some of the information may change or be refined, and additional information will become known, resulting in the possible need to change, refine, or supplement the scope of services.

Task Order.

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and American Society of Civil Engineers. All rights reserved.

Page 1 of 4

Specific Project Title:	Geotechnical Exploration
Type and Size of Facility:	Approximately 40,000 SF solid waste processing facility (400 tons per day)
Description of Improvements:	New Qualified Biogas Property
Expected Construction Start:	12/2024 (WastAway Aggressive Schedule) Update at each phase of project
Prior Studies, Reports, Plans:	WastAway Phase I Report, KDGI Public Works South Site Master Plan
Facility Location(s):	Butler Drive, Murfreesboro, Tennessee 37130
Current Specific Project Budget:	\$65,000,000.00
Funding Sources:	City Funds
Known Design Standards:	TDEC Solid Waste Regulations, IBC 2018, IFC 2018, City standards
Known Specific Project Limitations:	Space limitations at site based on current master planned activities
Specific Project Assumptions:	Processing facility limited to City use only. City is responsible for annexation and rezoning parcel(s) as required for proposed use.
Other Pertinent Information:	

### 3. SERVICES OF ENGINEER ("SCOPE")

- A. The specific Basic Services to be provided or furnished by Engineer under this Task Order are: Exhibit A to Task Order, "Engineer's Services for Task Order," as attached to this specific Task Order.
- B. The scope of this task includes Design Services described in Exhibit A for purposes of Engineer's compensation under this Task Order.
- C. Additional Services: Services not expressly set forth as Basic Services in Paragraph 3.A above, and necessary services listed as not requiring Owner's written authorization, or requiring additional effort in an immediate, expeditious, or accelerated manner as a result of unanticipated construction events or Specific Project conditions, are Additional Services, and will be compensated by the method indicated for Additional Services in this Task Order. All other Additional Services require mutual agreement and may be authorized by amending the Task Order as set forth in Paragraph 8.05.B.2 of the Main Agreement, with compensation for such other Additional Services as set forth in the amending instrument.

Task Order.

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**4. DELIVERABLES SCHEDULE**

- See Exhibit B, attached.

**5. ADDITIONS TO OWNER'S RESPONSIBILITIES**

- A. Owner shall have those responsibilities set forth in Article 2 of the Main Agreement, and the following supplemental responsibilities that are specific to this Task Order:

**6. TASK ORDER SCHEDULE**

It is anticipated that the design, approval, funding, and construction phase of this project will take thirty-nine (39) months. The task order schedule is within Exhibit B, attached.

**7. ENGINEER'S COMPENSATION**

- A. The terms of payment are set forth in Article 4 of the Main Agreement.
- B. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation
1. Geotechnical Exploration	\$83,750	<b>LUMP SUM</b>
<b>TOTAL COMPENSATION</b>	<b>\$83,750</b>	

- C. Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Subconsultants' charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

**8. ENGINEER'S PRIMARY SUBCONSULTANTS FOR TASK ORDER, AS OF THE EFFECTIVE DATE OF THE TASK ORDER:**

Name	Address
<b>TTL</b>	<b>5010 Linbar Dr #153 Nashville, TN 37211</b>

\* Griggs and Maloney may replace listed subconsultants at its discretion, upon review and approval by Owner (which approval shall not be unreasonably withheld).

**9. EXHIBITS AND ATTACHMENTS:**

- A. Exhibits to Task Order

Task Order.

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and American Society of Civil Engineers. All rights reserved.

Execution of this Task Order by Owner and Engineer makes it subject to the terms and conditions of the Main Agreement and its exhibits and appendices, which Main Agreement, exhibits, and appendices are incorporated by this reference.

OWNER:

ENGINEER:

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: Ryan W. Maloney, P.E.

Title: \_\_\_\_\_

Title: Principal

Engineer's License or Firm's  
Certificate No. (if required): \_\_\_\_\_  
State of: Tennessee

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: \_\_\_\_\_

Name: Ryan W. Maloney, P.E.

Title: \_\_\_\_\_

Title: Principal

Address: \_\_\_\_\_

Address: 745 S. Church St., Ste. 205  
Murfreesboro, TN 37130

E-Mail Address: \_\_\_\_\_

E-Mail Address: rmaloney@grigg sandmaloney.com

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form  
Name: Adam Tucker  
DocuSigned by:  
43A2035E51F9401...  
(typed or printed)  
Title: City Attorney  
(typed or printed)

Task Order.

**AGREEMENT BETWEEN OWNER AND ENGINEER  
FOR PROFESSIONAL SERVICES**

**PART 4 OF 4: EXHIBITS TO TASK ORDER 2  
GEOTECHNICAL EXPLORATION**

For

**NEW QUALIFIED BIOGAS PROPERTY**



Prepared by

**GRIGGS & MALONEY**  
I N C O R P O R A T E D

Engineering & Environmental Consulting

745 South Church St., Suite 205  
P.O. Box 2968 (37133-2968)  
Murfreesboro, Tennessee 37130  
(615) 895-8221 • (615) 895-0632 FAX



## **EXHIBITS TO TASK ORDER**

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**EXHIBIT A—ENGINEER’S SERVICES UNDER TASK ORDER**

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**Exhibit A Table of Contents**

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 1.02 Geotechnical Exploration .....1  
 Article 2— ADDITIONAL SERVICES .....3  
 2.01 Additional Services Not Requiring Owner’s Written Authorization .....3

Article 1 of the Main Agreement, Services of Engineer, is supplemented to include the following provisions:

**1. Background Data**

- a. Effective Date of Task Order: \_\_\_\_\_
- b. Owner: City of Murfreesboro
- c. Engineer: Griggs & Maloney, Inc.
- d. Specific Project (title): New Qualified Biogas Property
- e. Specific Project (description): The project includes the geotechnical exploration to support masterplanning, design, permitting and bidding for a new qualified biogas property that has an integral material management station capable of managing 400 tons per day to WastAway process equipment. The facility will have a tipping floor rated for 400 tons per day and approximately 30,000 sf of processing and storage space. In addition, new inbound and outbound scales, a new office, site improvements including utilities, grading, drainage, and concrete access roads.

Engineer shall provide Basic and Additional Services as set forth below.

**ARTICLE 1—BASIC SERVICES**

1.01 Management of Engineering Services

- A. See Main Agreement, Paragraph 1.03.

1.02 Geotechnical Exploration

- A. Geotechnical exploration will include site reconnaissance, staking, soil boring and test pits, laboratory analysis, and engineering analysis. The purpose of this exploration is to obtain subsurface data at the site and develop general earthwork recommendations for the proposed construction. G&M through its geotechnical partner, TTL, propose to drill approximately 40 soil test borings. The geotechnical scope of work is limited to parcels 126 046.00 and 126 046.01.

Drilling will be performed by truck-mounted drilling equipment using conventional auger drilling methods. The overburden soil will be drive-sampled in general accordance with ASTM D1586 "Penetration Test and Split-Barrel Sampling of Soils." Split-barrel samples will be

collected on approximate 2-½-foot intervals within the upper 10 feet. Below this depth, split-barrel samples will be obtained on 5-foot intervals. The borings will be checked for the presence of groundwater upon completion of hollow-stem auger drilling. Next-day or long-term observations for groundwater are not proposed. Each borehole will be backfilled with auger cuttings after making final groundwater observations.

If G&M encounters conditions that are unusual or possibly problematic for the project, modifications to the scope may be required. The exploration program may be adjusted with written authorization to address any specific needs dictated by the conditions encountered. After drilling, soil and rock samples will be returned to the laboratory and visually classified. Soils will be described using the Unified Soil Classification System (USCS) as a guide. Rock core, if obtained, will be photographed and described for lithology, grain size, joint or fracture spacing, and degree of weathering. We will also measure the percent Recovery and the Rock Quality Designation for each core run. Our geoprofessional will select soil samples for laboratory testing to measure the soil's fundamental engineering characteristics. Specifically, we expect that the laboratory testing program will include classification (Atterberg Limits or grain size analysis) and moisture content tests, but we do not plan to test every soil sample. Laboratory testing of rock core specimens is not planned.

Collected data will be reviewed and developed into geotechnical recommendations for final design and construction of the project. Our recommendations will be presented in a report in PDF format distributed via email. The report will include geotechnical drawings, boring logs, photographs of rock cores, and results of laboratory tests and it will address the following aspects of the project:

- Information regarding the site and subsurface conditions, including soil stratigraphy, changes in soil lithology and bedrock occurrences, as well as groundwater measurements shown on individual test records.
- Results of laboratory tests performed on selected samples.
- General comments and recommendations regarding geologic hazards, such as karst conditions.
- Recommendations for site preparation, including criteria for stripping, excavation, subgrade proof rolling, subgrade remedial measures, reuse of on-site materials as compacted fill, and criteria for compacted fill.
- Recommendations for design and construction of foundations for the planned structures.
- Recommendations for design and construction of below-grade walls.
- Recommendations for ground-supported concrete floor slabs.
- Recommendations for seismic design parameters according to the 2012 International Building Code using the N-value approach allowed by the code. Performing a sites-specific seismic study is not included.
- Recommended pavement section thicknesses based on provided or assumed pavement loadings and empirical correlation between material types and California Bearing Ratio (CSR) values.

Shear Wave Velocity Profile Measurement and Seismic Site Classification may result in a more favorable seismic site classification than is allowed by the 2012 International Building Code when using soil boring N-values or undrained shear strengths. We will measure the shear wave velocity profile using the multi-channel analysis of surface wave (MASW) method. In this method, a series of geophones are deployed along a linear array to acquire field data which are then processed to allow selection of a dispersion curve of measured Rayleigh wave phase velocity. A computer program is then used to interactively model the shear wave velocity profile to match the computed dispersion curve with the measured dispersion curve for the site. We will use the modeled shear wave velocity to determine the seismic site class based on the weighted average shear wave velocity over the top 100 feet of the site. Results will be incorporated into the geotechnical report for the project.

B. Air Track Probing for Open Voids

Field activities identified a karst window. Air track probes will be used to gather subsurface information in this area. The results of the air track probes revealed the presence of open voids in several of the probe holes. Also, the air track probes did not delineate the horizontal extent of anomalies within the bedrock unit. Since a building is planned in this area, there is concern that the presence of open voids in the bedrock could impact building design and construction for structure(s) planned in this area. Additional probe holes will be performed to further evaluate the horizontal extent of the anomalies. Field activities will include drilling additional probe holes in the area. Probe hole locations and depths will be determined by our personnel at the time of drilling. An air track drill rig will be remobilized once the building location is finalized.

## ARTICLE 2—ADDITIONAL SERVICES

### 2.01 Additional Services Not Requiring Owner’s Written Authorization

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Paragraph 7 of the governing Task Order.
1. Substantive design and other technical services in connection with Work Change Directives, Change Proposals, and Change Orders to reflect changes requested by Owner.
  2. Services essential to the orderly progress of the Bidding/Proposal and Construction Phases and not wholly quantifiable prior to those Phases or otherwise dependent on the actions of prospective individual bidders or contractors and including:
    - a. making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than “or equal” items;
    - b. services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Specific Project;

- c. evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract; and
  - d. providing to the Contractor or Owner additional or new information not previously prepared or developed by the Engineer for their use in applying for or obtaining required permits and licenses, in responding to agency comments on such applications, or in the administration of any such permits or licenses.
3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
5. Implement coordination of Engineer's services with other parts of the Specific Project that are not planned or designed by Engineer or its Subconsultants, unless Owner furnished to Engineer substantive information about such other parts of the Specific Project prior to the parties' entry into this Agreement, in the Baseline Information section of this Exhibit A, or otherwise in Exhibit A; if such substantive information has been so provided, coordination of Engineer's services will be part of Basic Services.
6. Implement the specific parts of an Underground Facilities Procedure that are assigned to Engineer, or above-ground utilities tasks that are assigned to Engineer as the Specific Project progresses (but not including the design-related services already assigned to Engineer as a Basic Service).
7. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
8. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
9. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
10. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.
11. To the extent the Specific Project is subject to Laws and Regulations governing public or government records disclosure or non-disclosure, Engineer will comply with provisions applicable to Engineer, and Owner will compensate Engineer as Additional Services for Engineer's costs to comply with any disclosure or non-disclosure obligations beyond those identified in the Basic Services.
12. Services directly attributable to changes in Engineer's Electronic Documents obligations after the effective date of the Agreement.

## **EXHIBIT B—TASK ORDER DELIVERABLES SCHEDULE**

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Paragraphs 2.04.E, 3.02.A, and Exhibit A of the Main Agreement are supplemented by the project schedule on the following page. Schedule revisions are anticipated at the completion of the 30% design phase.

**EXHIBIT C—RESERVED**

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**NOTICE OF ACCEPTABILITY OF WORK (EJCDC® C-626 2018)**

Owner:	Owner's Project No.:
Engineer:	Engineer's Project No.:
Contractor:	Contractor's Project No.:
Project:	
Contract Name:	
Notice Date:	Effective Date of the Construction Contract:

The Engineer hereby gives notice to the Owner and Contractor that Engineer recommends final payment to Contractor, and that the Work furnished and performed by Contractor under the Construction Contract is acceptable, expressly subject to the provisions of the Construction Contract's Contract Documents ("Contract Documents") and of the Agreement between Owner and Engineer for Professional Services dated \_\_\_\_\_ ("Owner-Engineer Agreement"). This Notice of Acceptability of Work (Notice) is made expressly subject to the following terms and conditions to which all who receive and rely on said Notice agree:

1. This Notice has been prepared with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice has been prepared to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's Work) under the Owner-Engineer Agreement, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Owner-Engineer Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents, or to otherwise comply with the Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

Engineer

By (signature): \_\_\_\_\_  
 Name (printed): \_\_\_\_\_  
 Title: \_\_\_\_\_



**EXHIBIT F—RESERVED**

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**EXHIBIT G—RESERVED**

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**EXHIBIT H—RESERVED**

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**EXHIBIT I—RESERVED**

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# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

---

**Item Title:** Supervisory Control and Data Acquisition (SCADA) contract amendment

**Department:** Water Resources

**Presented by:** Darren Gore, Assistant City Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Contract amendment with Waypoint Solutions for purchase of two SCADA servers.

**Staff Recommendation**

Approve the amended contract with Waypoint.

**Background Information**

In November 2022 City Council approved contract for purchase of two SCADA computer servers, one each for the Water and Wastewater plants. Council approved the costs for both systems; however, the original agreement only reflected the cost of one system.

The attached amendment corrects the total agreement amount that was previously approved by Council and adds the additional costs of the increased storage capacity. The amended agreement adjusts the contract amount to \$194,286 to reflect the second system price and other costs. It also includes \$6,500 for additional storage capacity.

**Council Priorities Served**

*Responsible budgeting*

Maintaining computer hardware ensures efficient and cost-effective functioning of water and wastewater plant processes.

**Fiscal Impact**

The total expense, \$194,286, is funded by MWRD's FY23 Capital Budget.

**Attachments**

1. Amended contract with Waypoint Business Solutions
2. Quote for additional hard drives from Waypoint Business Solutions

**FIRST AMENDMENT  
TO THE CONTRACT  
BETWEEN THE CITY OF MURFREESBORO  
AND  
WAYPOINT BUSINESS SOLUTIONS, LLC  
FOR SUPERVISORY CONTROL AND DATA ACQUISITION**

This First Amendment ("First Amendment") to the Agreement, entered into November 4, 2022 (the "Agreement"), is effective as of \_\_\_\_\_, by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee and Waypoint Business Solutions, LLC ("Waypoint"), a limited liability company of the State of Texas.

**RECITALS**

WHEREAS, on November 3, 2022, the Murfreesboro City Council approved the purchase of Supervisory Control and Data Acquisition Servers for a total of \$187,787.00; and,

WHEREAS, on November 4, 2022, the City entered into the Agreement with Waypoint for Supervisory Control and Data Acquisition Servers with a reflected purchase price of \$93,893.37; and,

WHEREAS, the City and Waypoint wish to correct a discrepancy in the initial purchase price reflected in the Agreement; and,

WHEREAS, the City further determined that additional storage capacity was needed; and,

NOW THEREFORE, the City and Waypoint mutually agree as follows:

1. **Correction:** The initial purchase price of the Agreement, listed in Section 1 of the Agreement, should reflect a total purchase price of \$187,786.74.
2. **Cost Adjustment:** The purchase price in Section 1 of the Agreement is hereby amended to include the additional storage required by the City for a cost of \$6,499.68 (Exhibit A to First Amendment), bringing the total contract amount to \$194,286.42.
3. **No Other Amendment or Modification:** Except as provided herein, the parties make no other modifications or amendments, and all other terms of the Agreement shall continue in full force and effect.

ENTERED into as of \_\_\_\_\_.

**CITY OF MURFREESBORO**

**Waypoint Business Solutions, LLC**

By: \_\_\_\_\_  
**Shane McFarland, Mayor**

DocuSigned by:  
By Paul Neyman  
**Paul Neyman, President**

**Approved as to form:**

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

AMENDMENT



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

# QUOTE

**Number** AAAQ15070

**Date** Nov 11, 2022

## Bill To

Murfreesboro Water Resources  
Jeff Broach  
300 NW Broad  
Murfreesboro, TN 37130  
USA

Phone 615-890-0862 x 3011  
Email jbroach@murfreesborotn.gov

## Ship To

Murfreesboro Water Resources  
Jeff Broach  
300 NW Broad  
Murfreesboro, TN 37130  
USA

Phone 615-890-0862 x 3011  
Email jbroach@murfreesborotn.gov

## Account Manager



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

## Contract

Wilson County Schools SPA  
51AHO

### Notes:

Here is the quote you requested.

Line	Qty	Description	Unit Price	Ext. Price
1	4	1.92TB SSD SAS ISE Read Intensive 12Gbps 512 2.5in Hot-plug AG Drive,3.5in HYB CARR	\$1,624.92	\$6,499.68
			<b>SubTotal</b>	\$6,499.68
			<b>Tax</b>	\$0.00
			<b>Shipping</b>	\$0.00
			<b>Total</b>	<b>\$6,499.68</b>

Please contact me if I can be of further assistance.

PRICES SUBJECT TO CHANGE - PRICES BASED UPON TOTAL PURCHASE - WE SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR WITH REGARD TO ANY LICENSED PRODUCTS. WE SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, BUSINESS, GOODWILL, DATA, INTERRUPTION OF BUSINESS, NOR FOR INCIDENTAL OR CONSEQUENTIAL MERCHANTABILITY OR FITNESS OF PURPOSE, DAMAGES RELATED TO THIS AGREEMENT. MINIMUM 15% RESTOCKING FEE WITH ORIGINAL PACKAGING.

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# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** LJA Engineering Task Order Amendment – Hobas Pipe Sewer Rehabilitation

**Department:** Water Resources

**Presented by:** Darren Gore

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Amendment of an engineering task order to redesign and rebid the Hobas Sewer rehabilitation project and assist in obtaining CSX permits and easements.

**Staff Recommendation**

Approve LJA’s engineering task order amendment.

**Background Information**

LJA originally designed a project to rehabilitate approximately 8,222 linear feet of the existing Hobas sewer pipes within the sewer system after having two pipe failures along our Southwest Sewer Interceptor and determining a number of other Hobas pipe segments were deflecting. In November 2022, a bid package was let but no bids were received.

At the request of staff, LJA has submitted an amendment to the Task Order for re-bidding the project as well as assisting in obtaining CSX approval and delineating access easements. The original estimated project costs for the work included \$392,500 for Engineering. The proposed amendment increases the engineering costs by \$28,550 and \$31,650 to assist with obtaining access easements.

**Council Priorities Served**

*Responsible Budgeting*

This sewer rehabilitation project is a proactive project that reinforces the integrity of large sewer interceptors to avoid future sewer failures which are extremely costly.

**Fiscal Impact**

The expense, \$60,260, is funded by MWRD’s working capital reserves.

**Attachments**

1. LJA Task Order Amendment
2. Project Map





1500 Medical Center Parkway, Suite 2-C, Murfreesboro, Tennessee 37129  
t 615.288.5310 LJA.com

March 8, 2023

**TASK ORDER – AMENDMENT NO. 1**

Ms. Valerie Smith, PE  
Assistant Director  
Murfreesboro Water Resource Department  
220 NW Broad Street  
Murfreesboro, Tennessee 37130

**RE: Engineering Services as Related to the  
Hobas Rehabilitation Project  
Murfreesboro Water Resource Department  
City of Murfreesboro, Tennessee  
LJA Project No. 2963-0006**

Dear Ms. Smith,

LJA Engineering, Inc. (“LJA”) is pleased to provide this contract amendment for additional engineering services associated with the Hobas Rehabilitation Project for the City of Murfreesboro. The amendment to this task order is made pursuant to the terms and conditions of the Professional Services Agreement (“PSA”) entered into on March 4, 2021, by and between LJA Engineering, Inc. and the City of Murfreesboro (“Client”).

**Background**

On November 15, 2022, a bid opening was conducted for the above project. A mandatory pre-bid conference was conducted prior to the bid opening to discuss project details and answer questions from prospective bidders. Because the rehabilitation methods are predominantly trenchless, it was anticipated that specialty contractors would be the predominate candidates as prime bidders. There were five (5) potential prime contractors that requested plans with four (4) of those attending the mandatory pre-bid conference; however, no bids were received.

LJA staff conducted post bid follow-up with each potential lining contractor to discuss the lack of participation. Generally, there were a number of components which resulted in lack of participation which included; timing of the bid, current backlog of participating contractors, and the level of difficulty of the project. In discussions with potential contractors and the Client, it was determined that a number of revisions to the project scope might result in more favorable participation results.

LJA staff and the Client have determined that providing the following additional documentation and associated agreements would provide more favorable bidding results.

- Obtain the required agreements and permitting from CSX for the line segments associated to the railroad and remove the uncertainty of related contractor costs and requirements.
- Provide predetermined access corridors and agreements with landowners to facilitate access during the project and remove the uncertainty of associated contractor costs.

March 8, 2023

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The following Scope of Services more specifically defines the work required and associated tasks related to the project.

## **Scope of Services**

### **1.0 Design, Advertise, Bidding Services**

- LJA staff will make the requested revisions of the design parameters and associated scope and assist the Client in facilitating CSX permitting and land access information to be included with the rebidding of the project along with other associated tasks which would include:
  - Coordinate with CSX to facilitate an agreement for the related segments and outline specific requirements and associated costs for the project.
  - Coordinate with the Client to determine expected access corridors, related land parcels, and potential agreements that would be necessary to perform the work.
  - Conduct two (2) preliminary design meetings with the Client and discuss final design revisions, access corridors, and associated information.
  - Produce draft corridor GIS maps for the Client to review, receive comments from the Client and incorporate related comments.
  - Produce a final set of GIS maps including all revisions that would be included as part of the bid package.
  - Revise and prepare a revised engineering opinion of probable costs.
  - Revise and prepare a final design package within the GIS along with an associated PDF copy of an 11x17 map book showing associated rehabilitation illustrated via GIS symbology which will be included with the electronic set of contract documents to prospective bidders.
  - Revise and prepare a final Master Spreadsheet to be included with the bid package including additional notes relating to access and CSX.
  - Revise the RPR application with the design information to be used for RPR services in the field during construction.
  - Revise bid documents and coordinate with potential bidders to receive necessary information as requested
  - Conduct a virtual pre-bid meeting to discuss project details
  - Receive and respond to Request for Information (RFIs) during the bidding process
  - Conduct a bid opening, prepare certified bid tabulation, perform a reference check of the potential low bidder and prepare a recommendation of award.
  - Prepare conformed contract documents and facilitate the execution of both the contractor and Client. A total of eight (8) hard bound project manuals will be produced (2-Client, 2-Contractor, 2-LJA, 2-Field sets for RPR [1 for Client,1 for LJA])

March 8, 2023

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## Compensation

We propose to provide the specific services described above to be billed as follows:

Task	Fee Type	Original Fee	Additional Fee	Total Revised
Task 1: Design, Advertise, & Bidding Services (Additional)	Lump Sum (LS)	\$ 139,500	\$ 28,550	\$ 168,050
Task 2: Construction Administration	Cost Plus Max Hourly	\$ 72,000	\$ -	\$ 72,000
Task 3: Resident Project Representation	Cost Plus Max Hourly	\$ 173,500	\$ -	\$ 173,500
Task 4: Surveying	Cost Plus Max Hourly	\$ 7,500	\$ -	\$ 7,500
Total Fee		\$ 392,500	\$ 28,550	\$ 421,050

Any work not authorized within three (3) months of the date of this agreement will be subject to renegotiations based on current rates.

## Schedule

LJA staff will proceed with the additional work as identified in Task 1 upon receipt of this executed agreement. It is anticipated that Task 1 will be completed approximately 30 days. LJA staff and the Client will mutually set the bidding and construction periods during the design process.

## Reimbursables and additional services

Included in the above fees are reimbursable expenses incurred on the project's behalf, including: mileage, printing, plotting, photocopies, reproduction, express mail, and/or courier services. Any regulatory agency review fees associated with plan reviews shall be the responsibility of the Client. Reimbursable expenses will be billed at cost plus ten percent (10%). LJA will bill monthly for all work performed and expenses incurred on the project's behalf. Unpaid invoices after thirty (30) days will accrue service charges at 1-1/2% per month and include any costs of collections and reasonable attorney's fees.

March 8, 2023

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**Authorization**

If this contract amendment meets with your approval, your signature below will be sufficient authorization for LJA to commence the stated work as indicated in the above Scope of Services.

We appreciate the opportunity to submit this Task Order and look forward to working with you on this project. If you have any questions, please contact me at 931.273.8999.

Sincerely,



Travis E. Wilson, PE  
Vice President

**MURFREESBORO WATER RESOURCE DEPARTMENT**

By: \_\_\_\_\_

Name: Mayor Shane McFarland

Title: Mayor

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

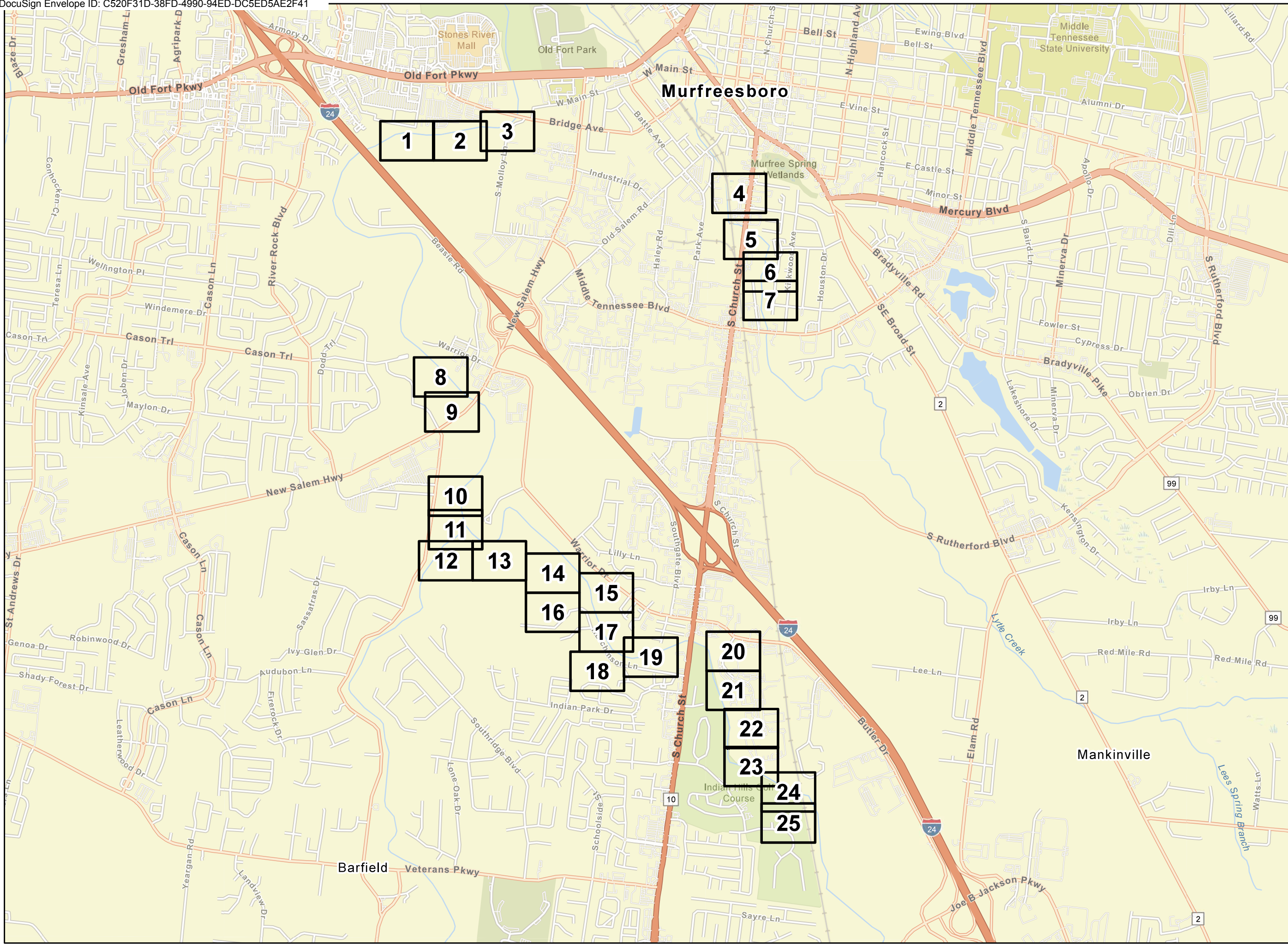
DocuSigned by:  
*Adam Tucker*  
By: \_\_\_\_\_  
43A2033E31F9401...

Name: Adam Tucker

Title: City Attorney

Date: 4/28/2023


**Accepted By:  
CITY OF MURFREESBORO**



# MWRD

## Murfreesboro HOBAS Rehabilitation Project Draft

Index Map

Legend  
 Mapbook Index



0 1,000 2,000 Feet

**REFERENCE:**  
 THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY. ALL FEATURE LOCATIONS DISPLAYED ARE APPROXIMATED. THEY ARE NOT BASED ON CIVIL SURVEY INFORMATION, UNLESS STATED OTHERWISE.

DATE:  
 3/9/2023

LJA PROJECT NO.  
 2963-0006



# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Construction Contract for Sewer Rehabilitation

**Department:** Water Resources

**Presented by:** Darren Gore

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Construction contract for sanitary sewer rehabilitation project involving approximately 6,803 linear feet of Hobas sewer interceptor pipe.

**Staff Recommendation**

Approve standard construction contract agreement with SBW Constructors subject to Legal Department final review of insurance and sureties.

**Background Information**

Staff determined last year that 8,222 linear feet of the existing Hobas sewer pipes within the City’s sanitary sewer system needed rehabilitating due to significant deflections occurring in the pipe. The investigation of the pipe was initiated after two segments of Hobas pipe collapsed requiring emergency repairs which were very costly. A total project costs is estimated to be \$12M and allocated in MWRD’s CIP. The project was let for bidding with response due November 2022. No bids were received.

Since that time staff has reduced the size of the project to 6,803 linear feet, worked to obtain temporary construction and access easements as well as defined the necessary requirements to work within CSX right-of-way. These activities are typically performed by the contractor but to attract bidders, staff completed this work.

In April the project was rebid and one contractor, SBW Constructors, was the only bidder. The bid was approximately \$1.1M over the engineer’s estimate; however, with material cost increases that estimate was dated. SBW has successfully completed four complex and challenging sewer rehabilitation projects with the city. This project engineer has recommended awarding the project to SBW and staff concurs.

**Council Priorities Served**

*Responsible budgeting*

This sewer rehabilitation project is a proactive project that reinforces the integrity of large sewer interceptors to avoid future sewer failures which are extremely costly.

**Fiscal Impact**

The expense for this phase of the project, \$9,945,158, is funded by MWRD working capital reserves. ARP funds will reimburse a portion of the project.

**Attachments**

EJCDC Construction Agreement for Hobas sewer rehabilitation project

**AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Murfreesboro, Tennessee (“Owner”) and  
SBW Contractors, Inc. (“Contractor”).

Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

**ARTICLE 2 – THE PROJECT**

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

The Project The Project consists of installing a Cured-In-Place Pipe (CIPP) liner into approximately 6,800 linear feet (LF) varying from 30-inch to 48-inch diameter HOBAS gravity sanitary. The scope of the project will include all necessary labor, tools, bypassing, and equipment required to complete the jobs according to the specifications.

The allotted time for construction on the base bid items is 330 calendar days for substantial completion, and 365 days for final completion.

**ARTICLE 3 – ENGINEER**

- 3.01 The Project has been designed by LJA Engineering, Inc.
- 3.02 The Owner has retained LJA Engineering, Inc. (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 4 – CONTRACT TIMES**

4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

- A. The Work will be substantially completed within 330 days for the Base Bid items after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 365 days after the date when the Contract Times commence to run for the Base Bid items.



#### 4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner \$500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
  2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500.00 for each day that expires after such time until the Work is completed and ready for final payment.
  3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

### **ARTICLE 5 – CONTRACT PRICE**

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item) as stated in the attached, Contractor's Bid Form.

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

### **ARTICLE 6 – PAYMENT PROCEDURES**

#### 6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

#### 6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 5<sup>th</sup> day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price

Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
  - a. 95 percent of Work completed (with the balance being retainage)
  - B. 100 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage) Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions.

#### 6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

### **ARTICLE 7 – INTEREST**

- 7.01 All amounts not paid when due shall bear interest at the rate of 3 percent per annum.

### **ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS**

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
  - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
  - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
  - D. Contractor has carefully studied any applicable: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings; and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
  - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on: (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of

construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## **ARTICLE 9 – CONTRACT DOCUMENTS**

### 9.01 *Contents*

- A. The Contract Documents consist of the following:
  - 1. This Agreement (C-520 pages 1 to \_\_\_\_, inclusive).
  - 2. Performance bond (C-610 pages \_\_ to \_\_\_\_, inclusive).
  - 3. Payment bond (C-615 pages \_\_ to \_\_\_\_, inclusive).
  - 4. Other bonds – N/A
    - a. \_\_\_\_ (pages \_\_ to \_\_\_\_, inclusive).
  - 5. General Conditions (C-700 pages \_\_ to \_\_\_\_, inclusive).
  - 6. Supplementary Conditions Part A and Supplementary Conditions Part B.
    - a. In the event of any conflict between the Agreement and Supplementary Conditions, the terms of this Agreement shall govern.
    - b. If there is any conflict between the terms of the General Conditions and the terms of the Supplementary Conditions, the Supplementary Conditions shall govern.
    - c. If there is any conflict between the terms of Supplementary Conditions Part A and Supplementary Conditions Part B, then Supplementary Conditions Part B shall control; provided, that to the greatest extent practicable, Supplementary Conditions Part A and Supplementary Conditions Part B are to be construed and interpreted in such a way as to complement one another and not create a direct conflict.
  - 7. Specifications as listed in the table of contents of the Project Manual.
  - 8. Electronic link containing an Mapbook, Master Spreadsheet and CCTV inspection videos (not attached but incorporated by reference).

9. Addenda (numbers \_\_\_ to \_\_\_, inclusive).
10. Exhibits to this Agreement (enumerated as follows):
  - a. Contractor's Bid (pages \_\_\_ to \_\_\_, inclusive).
11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
  - a. Notice to Proceed.
  - b. Work Change Directives.
  - c. Change Orders.
  - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## **ARTICLE 10 – MISCELLANEOUS**

### *10.01 Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### *10.02 Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### *10.03 Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

### *10.04 Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### 10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### 10.06 *No damage for Delay*

- A. Contractor shall not be entitled to any damages (including, without limitation, expenses, costs, fees, extended field overhead and general conditions, equipment costs, home office overhead, lost productivity and inefficiency damages, additional payroll and labor costs, etc.) for any delay to its Work. Contractor's sole and exclusive remedy for a delay to its Work that is not caused by Contractor (or a person or entity performing a portion of Contractor's scope of Work) shall be an extension of time to substantially complete and finally complete the Project; provided, however, that Owner granting Contractor an extension of time is not a condition precedent to this no-damage-for-delay provision. Contractor shall also not be entitled to any damages for disruption or interference to its Work or for having to accelerate or incur additional labor or payroll costs in order to make up or overcome a delay to its Work so that it can maintain the dates for Substantial Completion and Final Completion. Contractor agrees that in determining and agreeing to the Contract Price it considered this no damage-for-delay provision and understands that it is not entitled to any damages whatsoever for a delay to its Work.

#### 10.07 *[This section intentionally omitted.]*

#### 10.08 *Indemnification.*

- A. Contractor shall defend, hold harmless and indemnify Owner, its officers, agents, engineers, attorneys and employees from any and all losses, liability, damages, costs, expenses (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs), claims, suits or actions whatsoever in nature, including intentional acts, resulting from or arising out of the activities of the Contractor or its subcontractors, agents, or employees under this Contract.

#### 10.09 *Amendments*

- A. The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written, properly signed instrument by the parties duly authorized representative. This requirement includes all change orders, which

shall not arise under any other circumstances, including verbally, cumulatively, or by any course of conduct. Such waiver, alteration, modification, supplementation, or amendment, if made, shall be effective only in the specific instance and for the purpose given, and shall be valid and binding only if it is signed by all parties to this Agreement. The failure of Owner to enforce any provision of this Agreement shall not constitute a waiver by the Owner of that or any other provision.

10.10 *Choice of Law.*

- A. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. All disputes will be resolved in accordance with Addendum B of the Supplementary Conditions. Provided, if any litigation arising under the Agreement must be brought in a federal forum, it shall be brought and maintained solely and exclusively in the United States District Court for the Middle District of Tennessee.

10.11 *Integration.*

- A. This Agreement, which includes all Contract Documents as identified herein, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, regarding this Agreement, except as specified or referenced herein. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

10.12 *Counterparts.*

- A. This Agreement may be executed in counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

B. IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on \_\_\_\_\_ (which is the Effective Date of the Contract).

OWNER:  
CITY OF MURFREESBORO

CONTRACTOR:

\_\_\_\_\_  
Shane McFarland, Mayor

\_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Its: \_\_\_\_\_

*(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*

ATTEST:

ATTEST:

\_\_\_\_\_  
Jennifer Brown, City Recorder

By: \_\_\_\_\_

Print: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Adam Tucker, City Attorney

Address for giving notices:

Address for giving notices:

1725 South Church Street  
Murfreesboro, TN 37130

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

With a copy to:  
Attn: City Attorney  
111 West Vine Street  
Murfreesboro, TN 37130

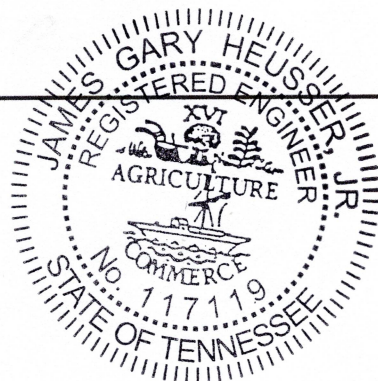
License No.: \_\_\_\_\_

*(where applicable)*

Murfreesboro 2022 HOBAS Sanitary Sewer Rehabilitation Project - Bid Results				SBW Contractors, Inc.	
Item No.	Description	Estimated Qty	Unit	Unit Price	Total Price
<b>1 HOBAS 48-Inch Gravity Sewer</b>					
a.	30 mm CIPP for Sanitary Sewer Mainline	308	LF	\$ 1,547.00	\$ 476,476.00
b.	33 mm CIPP for Sanitary Sewer Mainline	323	LF	\$ 1,838.00	\$ 593,674.00
c.	Pre-liner for Sanitary Sewer Mainline	630	LF	\$ 13.50	\$ 8,505.00
d.	Heavy Cleaning	630	LF	\$ 8.00	\$ 5,040.00
<b>2 HOBAS 36-Inch Gravity Sewer, upto 36 mm CIPP</b>					
a.	25.5 mm CIPP for Sanitary Sewer Mainline	862	LF	\$ 985.00	\$ 849,070.00
b.	27 mm CIPP for Sanitary Sewer Mainline	226	LF	\$ 1,718.00	\$ 388,268.00
c.	31.5 mm CIPP for Sanitary Sewer Mainline	995	LF	\$ 1,130.00	\$ 1,124,350.00
d.	33 mm CIPP for Sanitary Sewer Mainline	844	LF	\$ 1,180.00	\$ 995,920.00
e.	34.5 mm CIPP for Sanitary Sewer Mainline	641	LF	\$ 1,250.00	\$ 801,250.00
f.	36 mm CIPP for Sanitary Sewer Mainline	438	LF	\$ 1,100.00	\$ 481,800.00
g.	Pre-liner for Sanitary Sewer Mainline	1,000	LF	\$ 11.00	\$ 11,000.00
h.	Heavy Cleaning	1,000	LF	\$ 6.00	\$ 6,000.00
i.	Service Lateral Replacement - Open Cut up to 25-Linear Feet 6-foot to 12-foot Depth	2	EA	\$ 13,500.00	\$ 27,000.00
j.	Pre CCTV Inspection of Service Laterals (All Mainline Diameters)	2	EA	\$ 2,500.00	\$ 5,000.00
k.	Remove Intruding Lateral Tap or Gasket	2	EA	\$ 3,500.00	\$ 7,000.00
<b>3 HOBAS 30-Inch Gravity Sewer</b>					
a.	21 mm CIPP for Sanitary Sewer Mainline	307	LF	\$ 1,350.00	\$ 414,450.00
b.	27 mm CIPP for Sanitary Sewer Mainline	191	LF	\$ 1,460.00	\$ 278,860.00
c.	30 mm CIPP for Sanitary Sewer Mainline	191	LF	\$ 1,370.00	\$ 261,670.00
d.	Pre-liner for Sanitary Sewer Mainline	500	LF	\$ 10.00	\$ 5,000.00
e.	Heavy Cleaning	700	LF	\$ 5.00	\$ 3,500.00
<b>4 HOBAS Gravity Sewer Associated with CSX Railroad Existing Agreement</b>					
a.	36-Inch, 18 mm CIPP for Sanitary Sewer Mainline	385	LF	\$ 1,325.00	\$ 510,125.00
b.	36-Inch, 36 mm CIPP for Sanitary Sewer Mainline	245	LF	\$ 1,450.00	\$ 355,250.00
c.	30-Inch, 27 mm CIPP for Sanitary Sewer Mainline	377	LF	\$ 1,350.00	\$ 508,950.00
d.	30-inch, 28.5 mm CIPP for Sanitary Sewer Mainline	471	LF	\$ 1,500.00	\$ 706,500.00
<b>5 Mainline Grouting</b>					
a.	Grout Leaking Joint Sections of Sewer Mainline (48-inch Diameter Pipe)	50	Gal	\$ 1,200.00	\$ 60,000.00
b.	Grout Leaking Joint Sections of Sewer Mainline (36-inch Diameter Pipe)	50	Gal	\$ 1,200.00	\$ 60,000.00
c.	Grout Leaking Joint Sections of Sewer Mainline (30-inch Diameter Pipe)	100	Gal	\$ 1,200.00	\$ 120,000.00
<b>6 Cash Allowances</b>					
a.	CSX Support Services Allowance	60	EA	\$ 3,600.00	\$ 216,000.00
b.	Cured-In-Place Pipe Testing Laboratory Services	Allowance	LS	\$	\$ 12,000.00
c.	Sewage Debris Tipping Fee	Allowance	LS	\$	\$ 125,000.00
<b>7 Additional Work if Ordered by Owner</b>					
a.	Trips to Haul Sewage Debris offsite	50	EA	\$ 2,050.00	\$ 102,500.00
<b>8 Construction Contingency</b>					
a.	Construction Contingency			\$	\$ 425,000.00
				<b>Total Price \$</b>	<b>9,945,158.00</b>

I do certify that the above is a true and correct copy of the bids received:

*J. Gary Heusser, Jr.*  
J. Gary Heusser, Jr., P.E.  
4/20/2023  
LJA Engineering, Inc.  
Tennessee License No. 117119





# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** SSR Engineering Task Order Amendment – Overall Creek Pump Station

**Department:** Water Resources

**Presented by:** Darren Gore, Assistant City Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Amendment of engineering task order to add services associated with the Overall Creek Pump Station design and construction.

**Staff Recommendation**

Approve Smith Seckman and Reid’s engineering task order amendment.

**Background Information**

Several scope changes in the design of the Overall Creek Pump Stations have necessitated additional services from SSR. The main items associated with the increased services and costs are:

- Adding a new control panel configured to match the Southwest Regional pumping station
- Relocating a generator from the DeJarnette Lane pumping station to Overall Creek pumping station
- Redesign of the Overall Creek PS drywell
- Adding a bathroom to the pumping station
- Locating a CUD water main at the pump station site.

The original estimated costs for the work included \$864,070 for Engineering and \$5.0m for Construction. The additional funds requested are \$37,4980 for Engineering. Funding for this work is requested to come from the Department’s working capital reserves.

**Council Priorities Served**

*Expand Infrastructure*

The expansion of the Overall Creek pump station allows for a significant new number of sewer connections west of I-24, the fastest growing area.

**Fiscal Impact**

The additional expense, \$37,498 is funded by MWRD’s working capital reserves.

**Attachments**

SSR Task Order Amendment



## MEMORANDUM

**To:** Darren Gore  
**From:** Brent Fowler  
**Date:** April 5, 2023  
**Re:** Additional Engineering Services  
**Project Name:** Overall Creek Pump Station and Force Main Expansion  
**Project Number:** 1941018.0

Darren,

Per WWRF Staff request, this memorandum provides information regarding design revisions and changes to the scope of engineering services for the above-named project.

### Background

The Board previously approved an expansion to the Overall Creek Pump Station and installation of a new force main to increase capacity necessary to keep up with the expected growth in the Overall Creek PS drainage area. During the SSR design and construction project, Staff requested additional work and upgrades to the station to improve station functionality, operation, and maintenance. The additional work includes the following:

- field surveying to accurately locate the existing Overall Creek 14-inch and 18-inch force mains relative to existing easement boundaries
- field surveying to accurately locate the existing 48-inch CUD water main
- design of a flushing line to mix settled solids in the pump station wetwell
- design of new bathroom facilities in the pump station control building
- evaluation of the existing drywell structure strength to determine if vehicles can park above the drywell
- evaluation and redesign of the new drywell structure allow Vac truck traffic and parking above the drywell
- evaluation of alternative VFD and PLC manufacturers for the pumps and pump controller
- assistance provided to staff for bypass pumps selection
- design modifications and coordination to allow for owner provided fiber optics communications cable and panel
- develop solution for the bubbler and ultrasonic wetwell level control issues
- design of a backup control panel to mimic, as close as possible, the backup panel at Southwest Regional Pumping Station
- design to relocate the existing Overall Creek PS generator to DeJarnette Lane PS 14

### Recommendation

SSR recommends that SSR Task Order 1941018.0 be amended to include the above listed additional services, and SSR respectfully requests compensation for these services. The changes were requested by MWRD Staff and are necessary to improve the Overall Creek PS performance.

### Project Costs

The Board and Council approved Task Order 1941018.0 total fee is \$864,070.00. The fee for the above listed additional services total \$37,497.50 bring the total engineering services to \$901,567.50.



## MEMORANDUM

Page 2

If you need additional information, please contact us.

### Attachments

1. Amendment No. 1 to SSR Task Order 1941018.0.
2. SSR Additional Services Summary.

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Engineering Task Order 19-41-018.0**  
**Amendment No. 1**

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: December 23, 2019
- b. Owner: Murfreesboro Water Resources Department
- c. Engineer: Smith Seckman Reid, Inc.
- d. Project: Overall Creek Pump Station and Force Main Expansion

2. *Description of Modifications:*

- a. In addition to the scope described in Task Order 19-41-018.0, this modification includes:

Understanding of Modifications

The OWNER desires to make design changes and perform various evaluations which are additional services to the original project scope. These changes and evaluations are necessary to improve the pumping station performance and reduce operations and maintenance requirements.

ENGINEER's Scope of Services

ENGINEER's scope of service includes the following tasks:

- Surveying services to locate the existing force mains and the nearby CUD water main.
- Include bathroom facilities to the expanded pump station.
- Design of a flushing line to reduce settled solids in the wetwell.
- Investigate premature pump impeller wear at the pump station.
- Evaluation of the ability of the existing drywell structure to withstand traffic and parked vehicles on top of the structure.
- Evaluation and redesign of the new pump station drywell to allow Vac Truck access and parking above. Modify paving layout to include the area above the drywell.
- Evaluate alternative VFD and PLC manufacturers.
- Assist staff with bypass pump selection.
- Include a fiber optic cable communication line and panel to the control building.
- Investigate a solution for the bubbler and ultrasonic level control issues.
- Design of a backup control panel to match as closely as possible the backup panel at Southwest Regional Pumping Station.
- Design associated with relocating the existing Overall Creek PS generator to the DeJarnette Lane PS 14.
- In addition to the engineering design services, construction administration services be provided for the items listed above resulting in construction activities.

Deliverables

ENGINEER will deliver to the OWNER the following:

- Deliverables as indicated in the original task order to include modifications listed above.

Time of Completion

No change in the time of completion is anticipated as a result of this amendment.

Reimbursable Expenses

- Outside Plotting and Printing: Reimbursable at Cost
- Out of Town Travel: Reimbursable at Cost

Exclusions

- None

3. Agreement Summary (Reference only)

a. Original Agreement amount:	\$864,070.00
b. Net change for prior amendments:	\$0.00
c. This amendment amount:	\$37,497.50
d. Adjusted Agreement amount:	\$901,567.50

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is April 27, 2023.

OWNER:

City of Murfreesboro

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

ENGINEER:

Smith Seckman Reid

By:  \_\_\_\_\_

Title: Principal

Date Signed: 04/05/2023

APPROVED AS TO FORM:

DocuSigned by:

Adam Tucker

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City of Murfreesboro Legal Department

**Add Services Register**

<b>Project Title:</b>	Overall Creek PS and FM Expansion
<b>Client:</b>	Murfreesboro Water Resources Department
<b>Project Number:</b>	1941018.0
<b>Project Manager:</b>	Brent Fowler

**ENGINEERING ADD SERVICES REGISTER**

No.	Change Task Description	Add Service Task Hours and Rates (through June 2021)												Cost of Add Service	Date(s) Task Requested	Date(s) Task Authorized by MWRD	Date(s) Task Performed by SSR	Task Performed by Contractor (Yes/No)	
		PIC	SPM	SD II	SD II	ENG I	EI I	EI I	SD I	ENG III	SR ENG	EI II	Sub						
		ATJ	BDF	BRN	DWN	KDM	GKG	GG	LEE	DNS	HOLT	BAS							
1.	Surveying onsite coordination for potholing of existing FMs to confirm location inside easement after survey was complete.	\$ 205.00	\$ 180.00	\$ 140.00	\$ 140.00	\$ 120.00	\$ 90.00	\$ 90.00	\$ 120.00	\$ 160.00	\$ 180.00	\$ 100.00	\$ 1.00	\$ 640.00	~11/2020	Not authorized	~ 11/2020	N/A	
2.	Add bathroom to Controls Building.		4			4							\$ 3,000.00	\$ 4,200.00	2/13/2020	4/16/2020	~ 8/20/2020	No	
3.	Design of wet well flushing line.		2			3							\$ 720.00	\$ 720.00	2/13/2020	2/13/2020	4/16/2020	Removed from scope	
4.	Locate CUD water main.												\$ 2,567.50	\$ 2,567.50	10/29/2020	10/29/2020	10/7/2020	Yes	
5.	Pump impeller wear investigation and assistance		4			4							\$ 1,200.00	\$ 1,200.00	No request	Not authorized	3/13/2021	N/A	
6.	Evaluate existing drywell structural capacity for paving above.										4			\$ 360.00	\$ 360.00	2/26/2021	3/4/2021	3/11/2021	No
7.	Redesign of drywell for Vac Truck and paving above.		2		2					8	8			\$ 2,320.00	\$ 2,320.00	2/26/2021	3/4/2021	~4/1/2021	No
8.	Re-evaluate use of Mitsubishi and Eaton VFDs and Bedrock PLCs.		4									3		\$ 1,580.00	\$ 1,580.00	~3/9/2021	3/23/2021	~3/26/2021	N/A
9.	Assist Matt Powers with bypass pump selection.		4			2								\$ 960.00	\$ 960.00	2/24/2021	Not authorized	3/1/2021	Yes
10.	Replace valves in meter vault and one in drywell.													\$ -	\$ -	3/31/2020	4/1/2020	4/8/2020	Yes
11.	Add fiber communications to the site.		2									2	2	\$ 920.00	\$ 920.00	4/1/2021	4/1/2021	Ongoing	No
12.																			
13.																			
14.																			
SUBTOTAL (THROUGH JUNE 2021)		0	22	0	2	13	0	12	8	4	5	2	\$ 5,887.50	\$ 15,467.50					

**ENGINEERING ADD SERVICES REGISTER**

No.	Change Task Description	Add Service Task Hours and Rates (July 2021 through June 2022)												Cost of Add Service	Date(s) Task Requested	Date(s) Task Authorized by MWRD	Date(s) Task Performed by SSR	Task Performed by Contractor (Yes/No)	
		PIC	SPM	SD II	SD II	ENG I	EI I	EI I	SD I	ENG III	SR ENG	EI II	Sub						
		ATJ	BDF	BRN	DWN	KDM	GKG	GG	LEE	DNS	HOLT	BAS							
1.		\$ 210.00	\$ 190.00	\$ 150.00	\$ 150.00	\$ 125.00	\$ 105.00	\$ 105.00	\$ 120.00	\$ 170.00	\$ 190.00	\$ 110.00	\$ 1.00						
2.																			
3.																			
4.																			
5.																			
6.																			
7.																			
8.																			
9.																			
10.																			
11.																			
12.	Develop solution for bubbler and ultrasonic issues.		4											\$ 1,440.00	\$ 1,440.00	7/1/2021	Not authorized	~9/1/2021	No
13.																			
14.																			
SUBTOTAL (JULY 2021 THROUGH JUNE 2022)		0	4	0	0	0	0	0	0	0	4	0	\$ -	\$ 1,440.00					

ENGINEERING ADD SERVICES REGISTER																				
No.	Change Task Description	Add Service Task Hours and Rates (July 2022 through June 2023)											Cost of Add Service	Date(s) Task Requested	Date(s) Task Authorized by MWRD	Date(s) Task Performed by SSR	Task Performed by Contractor (Yes/No)			
		PIC ATJ	PIC BDF	SD II BRN	SD II DWN	ENG I KDM	ENG I GKG	EI I GG	SD I LEE	ENG III DNS	SR ENG DER'IVAN	EI II BAS						Sub		
		\$ 215.00	\$ 215.00	\$ 155.00	\$ 155.00	\$ 140.00	\$ 140.00	\$ 105.00	\$ 130.00	\$ 180.00	\$ 195.00	\$ 115.00						\$ 1.00		
1.																				
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9.																				
10.																				
11.	Add fiber communications to the site.		2										2			\$ 720.00	4/1/2021	4/1/2021	Ongoing	No
12.																				
13.	Add backup control panel to match SWRPS		16										24		\$ 950.00	\$ 8,150.00	11/22/2021	4/18/2022	Ongoing	No
14.	Relocate generator to DeJarnette Lane PS 14		8	8									8	16	\$ 5,000.00	\$ 11,720.00	3/17/2022	4/18/2022	Ongoing	No
	SUBTOTAL (JULY 2022 THROUGH JUNE 2023)	0	26	8	0	0	0	0	0	8	42	0			\$ 5,950.00	\$ 20,590.00				
	<b>TOTAL</b>	<b>0</b>	<b>52</b>	<b>8</b>	<b>2</b>	<b>13</b>	<b>0</b>	<b>12</b>	<b>8</b>	<b>12</b>	<b>51</b>	<b>2</b>			<b>\$ 11,837.50</b>	<b>\$ 37,497.50</b>				

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

---

**Item Title:** Cable Television Commission

**Department:** Administration

**Presented by:** Mayor McFarland

**Requested Council Action:**

Ordinance

Resolution

Motion

Direction

Information

---

**Summary**

Appointment to the Cable Television Commission.

**Background Information**

The purpose of the Cable Television Commission is to oversee the cable television franchise for the City and other cable television functions as designated by ordinance.

As established by M.C.C. §2-166—168, there are seven members appointed for 3-year terms.

**Attachments:**

Memo from Mayor McFarland

Meme from Alan Bozeman, Communications Director





*. . . creating a better quality of life.*

May 4, 2023

Members of City Council

**RE: Recommended Reappointments – Cable TV Commission**

---

**Board Reappointments**

As an item for the City Council agenda, I am recommending the reappointment of Nathan Brown and Dennis Oneal to the Cable Television Commission.

Sincerely,

A handwritten signature in blue ink that reads "Shane McFarland". The signature is fluid and cursive, with a long, sweeping underline.

Mayor Shane McFarland



# MEMO

**To:** Mayor Shane McFarland  
**From:** Alan Bozeman, Communications Director  
**Date:** April 12, 2023  
**Re:** Cable Television Commission Re-appointments

---

Dennis Oneal and Nathan Brown terms on the Murfreesboro Cable TV Commission expire on April 30, 2023.

Please submit to City Council for approval the re-appointment of Dennis Oneal and Nathan Brown to the Cable Television Commission for an additional 3-year term.

Both contribute greatly to the Commission, have good attendance and agreed to be re-appointed.

Your consideration in this matter is appreciated.

## Communications Department

111 West Vine Street \* Murfreesboro, Tennessee 37130 \* Phone 615-848-3245 \* Fax 615-849-2665  
[www.murfreesborotn.gov](http://www.murfreesborotn.gov)

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

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**Item Title:** Murfreesboro Housing Authority

**Department:** Administration

**Presented by:** Mayor McFarland

**Requested Council Action:**

Ordinance

Resolution

Motion

Direction

Information

---

**Summary**

Appointment to the Murfreesboro Housing Authority.

**Background Information**

The Housing Authority was created in 1950 and has contractual agreements with the U.S. Department of Housing and Urban Development, the State of Tennessee and the City to provide decent, safe and sanitary housing in good repair for eligible families and to utilize all available resources to maximize social and economic opportunities for its residents. The governing body consists of 5 Commissioners appointed for five-year terms.

There is one appointment submitted for consideration.

**Attachments:**

Memo from Mayor McFarland



*. . . creating a better quality of life.*

May 4, 2023

Members of City Council

**RE: Recommended Reappointment – Murfreesboro Housing Authority**

As an item for the City Council Agenda, I am recommending the reappointment of Michelle Thomas to the Murfreesboro Housing Authority.

Sincerely,

A handwritten signature in blue ink that reads "Shane McFarland". The signature is written in a cursive style.

Shane McFarland

Mayor

# COUNCIL COMMUNICATION

Meeting Date: 05/04/2023

---

**Item Title:** Pension Committee

**Department:** Administration

**Presented by:** Mayor McFarland

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Appointment to the Pension Committee.

**Background Information**

The Committee interprets and carries out the provision of the Pension Plan of the City of Murfreesboro, settling any disputes which may arise regarding the rights of participants in the Pension Plan. As established by City Code, § 10.01, there are seven appointed members with at least three of whom are participants in the Pension Plan, and members serve 3-year terms.

**Attachments**

Memo from Mayor McFarland



*. . . creating a better quality of life.*

May 4, 2023

Members of City Council

**RE: Recommended Appointments – Pension Committee**

---

As an item for the City Council agenda, I am recommending the following appointments to the Pension Committee.

**Reappointments**

Earl Hull term ending 6/1/2026

Greg Sample term ending 6/1/2026

Erin Tucker, Vice-Chair - (Participant) term ending 6/1/2026

**Appointment**

Jennifer Brown replacing Melissa Wright (term expires 6/1/2026)

Justin Burris replacing Charles Myatt (term expires 6/1/2026)

Sincerely,

A handwritten signature in blue ink that reads "Shane McFarland".

Shane McFarland  
Mayor

No items.

