

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

**PRAYER**

Mr. Shawn Wright

**PLEDGE OF ALLEGIANCE**

**Public Comment on Actionable Agenda Items**

**Consent Agenda**

1. Homeowner Rehabilitation 918 Netherland Drive (Community Development)
2. St. Clair Senior Center Grant with GNRC (Parks)
3. Main Street Banner Request (Street)
4. Asphalt Purchases Report (Water Resources)
5. J. Percy Priest Reservoir Water Supply Interlocal Agreement with CUD (Water Resources)

**New Business**

Land Use Matters

6. Scheduling Public Hearing for Zoning Ordinance Amendment (Planning)
7. Planning Commission Recommendations (Planning)

Ordinance

8. FY24 Budget Amendment (Administration)
  - a. First Reading: Ordinance 23-O-24
9. Code Amendment Regarding the Location of Sexually Oriented Entertainment (Administration)
  - a. First Reading: Ordinance 23-O-25

On Motion

10. 2140 N Thompson Lane Furniture Order (Administration)
11. Blackman Park Master Plan Task Order (Administration)
12. Cason Lane PreK Annex (Administration)
13. City Hall Renovations Professional Services (Administration)
14. Agreement for Patterson Park Site Survey and Parking Lot Design (Parks)
15. Agreement for Old Fort Park Tennis Court Project (Parks)
16. Agreement for Patterson Park Playground and Splash Pad Project (Parks)
17. ADS Professional Services Contract 1st Amendment (Water Resources)
18. Envirosight Inspection System (Water Resources)
19. Vac Truck Purchase (Water Resources)

**Board & Commission Appointments**

20. Board of Electrical Examiners (Administration)
21. Construction Board of Adjustments and Appeals (Administration)
22. Parks and Recreation Commission (Administration)
23. Library Board (Administration)

**Licensing**

24. Beer Permits (Finance)

**Payment of Statements****Other Business****Adjourn**



# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** Housing Rehabilitation – 918 Netherland Drive

**Department:** Community Development

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

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
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**Summary**

Rehabilitation through the Community Development Housing Rehabilitation program.

**Staff Recommendation**

Approve the expenditure of \$33,720 for the rehabilitation activity.

**Background Information**

A residence at 918 Netherland Drive requires repairs to maintain its habitability. New Creations Construction, LLC is the lowest responsible bidder to complete the necessary work for \$33,720. The Community Development Policy and Procedures Manual requires Council approval of rehabilitation projects over \$25,000.

**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, \$33,720, is fully funded by federal Community Development Block Grant.

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** St. Clair Senior Center Grant with GNRC

**Department:** Parks and Recreation

**Presented by:** Thomas Laird, Assistant Director

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Grant Contract with Greater Regional Nashville Council (GNRC) for funding to the St. Clair Senior Center.

**Staff Recommendation**

Approve Grant with GNRC.

**Background Information**

The contract will allow for state and federal funding through the Older Americans Act Funds for Title III-B Support Services, Title III-D Evidence Based Services and State Funding for Multipurpose Senior Centers. These grant funds of \$51,708 in FY24 will offset the Senior Center budget so staff may continue to provide services to seniors that promote lifelong learning, health and well-being, socialization, and volunteer opportunities. The City was awarded this GNRC grant in 2018, 2020, and 2022.

**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**

Grant funds of \$51,708 will be allocated to the St. Clair Senior Center for FY24.

**Attachment**

Contract with GNRC



## GOVERNMENTAL GRANT CONTRACT

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

<b>Begin Date</b> 7/1/2023	<b>End Date</b> 6/30/2024	<b>Agency Tracking #</b> StClairSC-G	<b>Contract #</b> 2426-30
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**Grantee Legal Entity Name**  
City of Murfreesboro - St. Clair Street Senior Center

<b>Subrecipient or Recipient</b> <input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Recipient	<b>Assistance Listing Number</b> 93.044 (III-B), 93.043 (III-D)
<b>Grantee's fiscal year end</b> <span style="float: right;"><b>June 30</b></span>	

**Service Caption** (one line only)  
For the provision of senior center services and evidence-based programming.

Funding —				
FY	State/Federal	Interdepartmental	Other	TOTAL Grant Contract Amount
2024	\$51,708.00			\$51,708.00
<b>TOTAL:</b>	<b>\$51,708.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$51,708.00</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	

**GRANT CONTRACT # 2426-30  
BETWEEN  
GREATER NASHVILLE REGIONAL COUNCIL  
AND  
CITY OF MURFREESBORO - ST. CLAIR STREET SENIOR CENTER**

This Grant Contract, by and between Greater Nashville Regional Council, a Tennessee governmental entity ("Agency" or "GNRC"), 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 Entity Type: Government  
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. This Grant Contract is a reimbursement grant for a maximum dollar amount based upon an approved budget. A reimbursement grant provides funding to the Grantee after expenses have been incurred. The Grantee is expected to have the capabilities to fund activities pursuant to this Grant Contract upfront and submit reimbursement requests the month following the expenditures for which reimbursement is requested. Grantees must follow state and federal guidance on allowable expenses and certain procedures to obtain the reimbursement pursuant to this Grant Contract. Reimbursements are provided after the Grantee submits sufficient documentation, as requested by the Agency, to verify expenses incurred. Requests for reimbursement shall be submitted by the Grantee no later than the 8th of each month and will reflect expenses incurred the prior month. The format for submissions shall be in the format specified by the Agency, as may be amended from time to time.
- A.3. In the event of conflict between or among this Grant Contract, State Unit on Aging (SUA) policy, and/or the Agency's Updated Area Plan, this Grant Contract controls.
- A.4. 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, if any, including any amendments;
  - c. the Grantee's response to the Agency's solicitation.
- A.5. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as Attachment B, is incorporated in this Grant Contract.
- A.6. Senior Center. 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. The Grantee will perform or cause to be performed each of the following:

- a. Comply with the administrative, program, and fiscal requirements contained in all applicable State Unit on Aging policies, procedures, and Program Instructions, as well as any relevant federal and state laws, regulations, and rules.
- b. If the Grantee is a chartered not-for-profit corporation, the Grantee must 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. If the Grantee fails to maintain 501(c)3 status for more than one year a waiver from the Executive Director of the State Unit on Aging is required to be eligible to receive funds the following grant year. A Grantee which is part of a city or county government must operate in accordance with policy and procedures of the city or county government. Governmental agencies must have been created by statute, resolution, or ordinance.
- c. Have, at minimum, the following policies and procedures that address the administrative and fiscal policies that govern the operation and management of the Grantee:
  - (1) Title VI Civil Rights Policy of Non-discrimination regardless of race, sex, national origin, religion, or presence of disability
  - (2) 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
  - (3) A facility that is accessible and barrier-free for people with disabilities
- d. Post the following:
  - (1) Participant Grievance Procedure
  - (2) Title VI Civil Rights Notice
  - (3) Public Accountability Poster (800# TN Comptroller's Office)
  - (4) Emergency telephone numbers
  - (5) Location of First Aid Kits, extinguishers, and other supplies
  - (6) Monthly Calendar of Events
- e. Retain records for five years plus the current year.
- f. Submit an annual report to the Agency by August 1 of each year.



- j. Administer a Satisfaction Survey and the results will be submitted to the Agency annually.
- k. Provide one or more of the following services: health education, education/training, health screening, physical fitness/exercise, recreation, and telephone reassurance.
- l. 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).
- m. Submit financial reports to the Agency monthly by the 8<sup>th</sup> day of the month following the month being reported and submit Invoices for Reimbursement (IFRs) quarterly by the 8<sup>th</sup> day of the month following the end of the quarter.
- n. 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 "Senior Center Data."
- o. Do one of the following:
  - (1) Enter Senior Center Data into the State Unit on Aging-approved database and submit verification reports to the Agency by 11:59 p.m. on the 10<sup>th</sup> of the following month; or
  - (2) Enter Senior Center 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.
- p. If Grantee does not provide Senior Center Data appropriately, 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:

- (1) 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.
- (2) 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.

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.

- q. 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

- A.7 Disease Prevention and Health Promotion. In using Title III-D funding, the 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. The Grantee will perform or cause to be performed each of the following:

- a. Submit to the Agency for approval the following information about the proposed evidence-based program(s) prior to the implementation of any programs:
  - (1) Name of the program
  - (2) Location where course will be held
  - (3) verification that all trainers are certified to lead the sessions according to the requirements of the program.
  - (4) Total number of sessions required to maintain fidelity
- b. Collect and maintain the following information for each evidence-based program provided and provide this information to the Agency at least quarterly:
  - (1) the name of the evidence-based program implemented;
  - (2) the unduplicated number of participants completing the required number of sessions;
  - (3) the number of unduplicated participants who did not complete the required number of sessions; and
  - (4) identification of reasons for non-completion, if available.
- c. Submit monthly reports to the Agency that include the following, as applicable:
  - (1) names of trainers who lead classes/workshops;

- (2) names of new trainers;
- (3) the total number of participants; and
- (4) sign-in sheets for each session; and
- (5) 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).
- d. Collect the participant information described in A.7.c. and will maintain service delivery program information. Together, participant information and service delivery program information are referred to as "III-D Data."
- e. Do one of the following:
  - (1) Enter III-D Data into the State Unit on Aging-approved database and submit verification reports to the Agency by 11:59 p.m. on the 10<sup>th</sup> of the following month;
  - (2) Enter III-D 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
  - (3) 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.
- f. 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.
- g. If Grantee does not provide III-D Data appropriately, 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:

- (1) 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.

- (2) 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.

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 minimis 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 minimis error.

- h. 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

**B. TERM OF GRANT CONTRACT:**

- B.1. Term. This Grant Contract shall be effective for the period beginning on July 1, 2023, (“Effective Date”) and ending on June 30, 2024 (“Term”). The Agency shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the Agency under this Grant Contract exceed Fifty-One Thousand, Seven Hundred And Eight Dollars (\$51,708.00) (“Maximum Liability”). The Grant Budget, attached and incorporated as Attachment A 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 by the 8th of the month, no less frequently than quarterly and no more frequently than monthly, and, if a separate final invoice is going to be submitted, the Grantee shall submit an estimated final invoice by the 8th of the month following the expiration of the contract. Invoices should include all necessary supporting documentation and be presented to:

Accounting@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.

- 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 thirty (30) days of the Grant Contract end date, in form and substance acceptable to the Agency. The Grantee will submit an estimated final invoice within eight (8) days of the Contract end date.
- 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 the 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 by this Grant Contract 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 Term 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 Agency 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 non-allowable 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. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the Agency shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the Agency's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the Agency for damages sustained by virtue of any breach of this Grant Contract by the Grantee.
- 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 the 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  
44 Vantage Way, Ste 450, 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 such information without entering into a business associate agreement or signing another such 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 Agency, 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 Agency.
- 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 the 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 State Unit on Aging, 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 State Unit on Aging, 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 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. 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—200.327 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.20. 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.21. 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.22. 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.23. 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.24. 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.25. 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.26. 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.27. 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.28. 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.29. 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 of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties, whether written or oral.
- D.30. 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.31. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.32. 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.33. 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. Work Papers Subject to Review. The Grantee shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.
- E.3. Drug-Free Workplace. The Grantee shall provide a drug-free workplace pursuant to the "Drug-Free Workplace Act," 41 U.S.C. §§ 8101 through 8106, and its accompanying regulations.
- E.4. 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 the 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.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 provisions of this Section E(5)(a)-(h) in every subcontract or purchase order (which consists of a portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) of section 204 of Executive Order 11246) 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.
- i. 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. 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 C.F.R. §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 C.F.R. §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 the 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.7. Intentionally Omitted.
- E.8. 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 Agency. The Grantee shall immediately notify the Agency in writing of a proposed transfer or restructuring of its operations related to this Grant Contract. The Agency reserves the right to request additional information or impose additional terms and conditions before approving a proposed transfer or restructuring.
- E.9. 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.

**AGREED:**

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

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**SHANE MCFARLAND, MAYOR**

**DATE**

**GREATER NASHVILLE REGIONAL COUNCIL:**

---

**MICHAEL SKIPPER, EXECUTIVE DIRECTOR**

**DATE**

Approved to form:

*Adam Tucker*

43A2035E51F9401...  
Adam F. Tucker, City Attorney

## ATTACHMENT A

<b>GRANT BUDGET</b>				
Senior Center Services				
The grant budget line-item amounts below shall be applicable only to expense incurred during the following				
Applicable Period: BEGIN: July 1, 2023 END: June 30, 2024				
<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	\$ 0.00	\$ 0.00	\$ 0.00
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	\$39,644.00	\$3,321.89	\$42,965.89
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>\$39,644.00</b>	<b>\$3,321.89</b>	<b>\$42,965.89</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 A****GRANT BUDGET LINE-ITEM DETAIL:**  
Senior Center Services

<b>OTHER NON-PERSONNEL</b>	<b>GRANT CONTRACT AMOUNT</b> (Grantee Participation Not Included)
Senior Center Services	\$39,644.00
<b>TOTAL</b>	<b>\$39,644.00</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	\$ 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		\$9,747.00
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>\$39,644.00</b>



**ATTACHMENT A****GRANT BUDGET LINE-ITEM DETAIL:**  
Evidence Based Programming

<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	\$8,500.00
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		\$ 0.00
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>\$8,500.00</b>

## ATTACHMENT A

<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, 2023	END: June 30, 2024	
<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	\$ 0.00	\$ 0.00	\$ 0.00
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	\$3,564.00	\$ 0.00	\$3,564.00
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>\$3,564.00</b>	<b>\$ 0.00</b>	<b>\$3,564.00</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 A****GRANT BUDGET LINE-ITEM DETAIL:**  
Senior Center Services - ARP

<b>OTHER NON-PERSONNEL</b>	<b>GRANT CONTRACT AMOUNT</b> (Grantee Participation Not Included)
Senior Center Services - ARP	\$3,564.00
<b>TOTAL</b>	<b>\$3,564.00</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	\$ 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		\$3,564.00
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>\$3,564.00</b>



## ATTACHMENT B

**Federal Award Identification Worksheet**

Subrecipient's (Grantee) name (must match name associated with its Unique Entity Identifier (SAM))	City of Murfreesboro - St. Clair Street Senior Center
Subrecipient's Unique Entity Identifier (SAM)	D9NSAAP96ZL6
Federal Award Identification Number (FAIN)	OAA IIIB: 2301TNOASS-01, 2201TNOASS-02 OAA IIIC-1: 2301TNOACM-01, 2201TNOACM-02 OAA IIIC-2: 2301TNOAHD-01, 2201TNOAHD-02 OAA IIID: 2301TNOAPH-01, 2201TNOAPH-02 OAA IIIE: 2301TNOAFC-01, 2201TNOAFC-02 OAA VII: 2301TNOAOM-01, 2201TNOAOM-02, 2301TNOAEA-01 NSIP: 2301TNOANS-01 ARP IIIB: 2101TNSSC6-01 ARP IIIC-1: 2101TNCMC6-01 ARP IIIC-2: 2101TNHDC6-01 ARP IIID: 2101TNPHC6-00 ARP IIIE: 2101TNFCC6-00 ARP VII: 2101TNOMC6-00
Federal award date	OAA – 2/13/2023 ARP – 8/17/2022
Subaward Period of Performance Start and End Date	7/1/2023 - 6/30/2024
Subaward Budget Period Start and End Date	7/1/2023 - 6/30/2024
Assistance Listing number (formerly known as the CFDA number) and Assistance Listing program title.	IIIB 93.044, IIID 93.043
Grant contract's begin date	7/1/2023
Grant contract's end date	6/30/2024
Amount of federal funds obligated by this grant contract	See Attachment A, Grant Budget
Total amount of federal funds obligated to the subrecipient	See Attachment A, Grant Budget
Total amount of the federal award to the pass-through entity (Agency)	\$8,693,335.00
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	Older Americans Act & American Rescue Plan Title III-B, Title III-D, State Senior Centers
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	Greater Nashville Regional Council
Name and contact information for the pass-through entity awarding official	Michael Skipper, Executive Director 44 Vantage Way, Ste 450 Nashville, TN 37228
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)	

# COUNCIL COMMUNICATION

Meeting Date: 7/20/2023

---

**Item Title:** Main Street Banner Request  
**Department:** Street Department  
**Presented by:** Raymond Hillis, Executive Director Public Works  
**Requested Council Action:**

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

---

## Summary

Request from St. Clair Senior Center to hang a banner over East Main Street.

## Staff Recommendation

Approve banner to be displayed as follows:

St. Clair Center from October 2-October 6, 2023 for their annual Health and Wellness Expo.

## Background Information

The health expo is an annual event that allows seniors access to obtain various health screenings and an opportunity to receive their annual flu shot if they desire.

This is a fun event for the seniors in the community and includes door prizes, snacks, and important information for seniors to take with them on the importance of health as we age.

## Council Priorities Served

*Establish strong City brand*

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

## Fiscal Impact

None.

## Attachments

1. Letter of request from St. Clair Senior Center to hang banner



June 22, 2023

Mayor McFarland and City Council  
City of Murfreesboro  
City Hall, 111 W. Vine Street  
Murfreesboro, TN 37130

Honorable Mayor and City Council:

The St. Clair Street Senior Center will be holding its annual Health and Wellness Expo for Seniors age 60+ on Thursday, October 12, 2023. The Expo allows Seniors to obtain various health screenings and the opportunity to receive their yearly flu shot then as well. Also, there will be door prizes, snacks, and important information available regarding the health of Seniors.

The Senior Center staff would like to have a banner hung across East Main Street from October 2 – 6, 2023, to advertise the event and has verified with Lisa Mangrum of the Street Department that these dates are available. The Senior Center is in the process of ordering said banner.

I am respectfully requesting on behalf of the Senior Center that you approve said banner to be displayed as indicated to help promote the Health and Wellness Expo at St. Clair Street Senior Center.

Sincerely,

Nate Williams, Director  
Murfreesboro Parks and Recreation  
615-890-5333

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**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*

Perishable fuel-based commodity procurement fluctuates constantly; however, soliciting multiple vendors consistently provide the best pricing for the Department.

**Fiscal Impacts**

The overall costs, \$150,000 to \$175,000 per year, are funded by the FY24 operating budget.

**Attachments**

Asphalt Purchases Report



## MWRD OPERATIONS & MAINTENANCE

### Asphalt Purchases FY 2022

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



# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**Item Title:** J. Percy Priest Reservoir Water Supply Interlocal Agreement with CUD

**Department:** Water Resources

**Presented by:** Darren Gore, Assistant City Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Interlocal Agreement with Consolidated Utilities District formalizing water storage sharing arrangements for City customers.

**Recommendation**

Approve ILA with CUD for water storage sharing in J. Percy Priest Reservoir.

**Background Information**

In December 2020, the Corps of Engineers that confirmed Rutherford County water suppliers would receive full credit for return flows in their water storage pools within J. Percy Priest Lake. The water supply contracts with the Corps were modified to reflect this decision.

With this change in water storage accounting, the proposed Interlocal Agreement (ILA) formalizes the water storage sharing arrangements between the City and CUD. CUD provides water to approximately 50% of the City's residents. That percentage will increase as the City continues to grow. The proposed ILA credits CUD's water storage account in the lake with return flows from the City's Water Resources Recovery Facility (WRRF) generated by CUD's City customers. It also permits CUD access to the City's surplus water storage in the Lake under drought conditions assuring CUD can continue to serve City customers. In a drought, CUD and the City will consider their total water supply pools as shared for the benefit of City customers.

**Council Priorities Served**

*Expand infrastructure*

Sharing water supply in J. Percy Priest Reservoir with CUD effectively expands and increases the level of services to customers without the need to expand costly infrastructure accessing alternative water supply sources.



**Fiscal Impacts**

None.

**Attachments**

- Projection of Water Supply Demands
- Interlocal Agreement with Consolidated Utility District of Rutherford County Regarding the Allocation of Return Flows and Surplus Water Supply

## Projection of Water Supply Demands

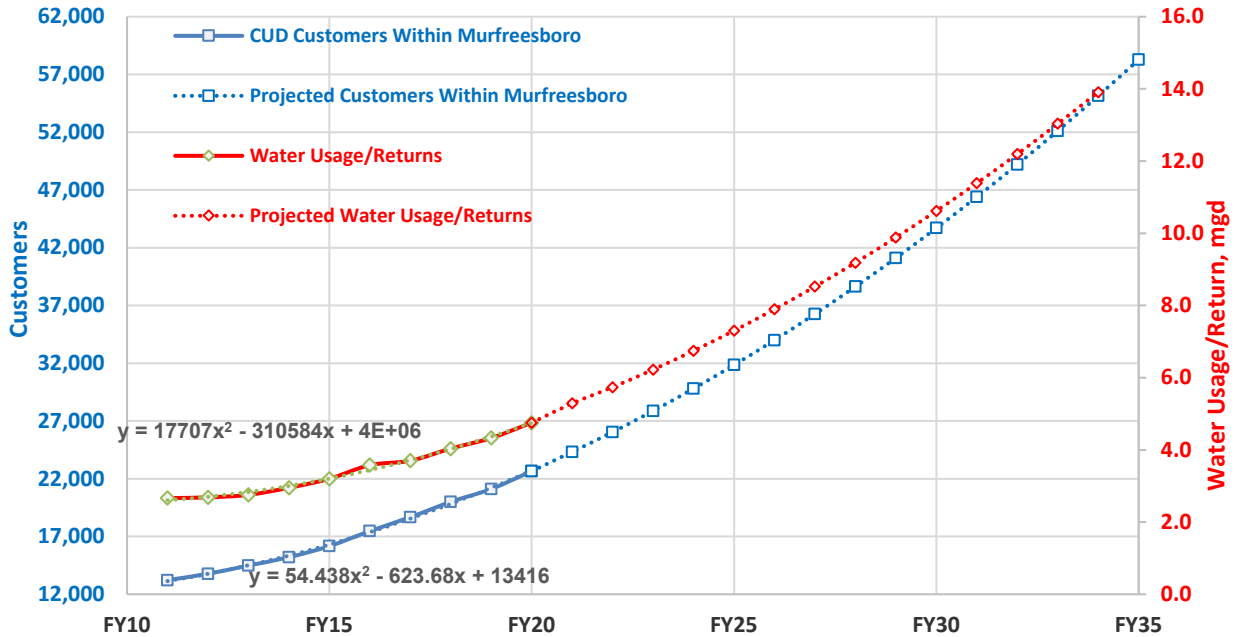
1) Credits to CUD’s water supply storage by Murfreesboro Customers

The proposed ILA affords CUD the following return flows from the City’s WRRF during each calendar year. These return flow credits are derived from the water CUD supplies City customers who discharging back to the City’s WWRF and ultimately to J. Percy Priest reservoir.

YEAR	CUD-SUPPLIED RETURN
2023	6.2 MGD
2024	6.7 MGD
2025	7.3 MGD
2026	7.9 MGD
2027	8.5 MGD
2028	9.2 MGD
2029	9.9 MGD
2030	10.6 MGD

The CUD-Supplied Return Flows are based on the projections of the growth of CUD customers within the City as charted below. Currently, MWRD water customers within the City is around 52% and CUD water customers inside the City at 48%. In 2030, the estimated number of CUD water customers will be approximately 60% served by CUD and 40% served by MWRD.

**CUD - MURFREESBORO  
WATER USE/WW RETURNS - HISTORIC & PROJECTED**



2) Surplus Water Provisions to CUD’s water supply storage for Murfreesboro Customers

After crediting City-customer return flows, CUD’s new water supply contract with the Corps remains 4.66 mgd short of its projected 2030 Demand, as shown below:

		<b>Murfreesboro</b>	<b>CUD</b>
Current Plant Capacity		20.3	32
2030 Demand		15.14	31.1
2030 Supply	2003 contract	12.1	11.1
	2020 contract	0	4.74
	2030 returns	8.6	10.6
	Total:	20.7	26.44
<b>Surplus or (Deficit) over Demand</b>		<b>5.56</b>	<b>(4.66)</b>
<b>Surplus or (Deficit) over Capacity</b>		0.4	(5.56)

CUD attempted to secure the additional storage necessary for their 2030 demands by purchasing remaining surplus storage identified in the J. Percy Priest Reallocation report. The Corps, however, insisted that the City and CUD agree to share the City’s surplus storage of 5.56 MGD to cover CUD’s shortfall of 4.66 MGD. While the Corps’ ability to require this arrangement is questionable, MWRD and CUD believe the attached ILA will meet with the Corps requirement and benefit the City residents.

**INTERLOCAL AGREEMENT BETWEEN  
MURFREESBORO, TENNESSEE  
AND THE CONSOLIDATED UTILITY DISTRICT OF RUTHERFORD COUNTY  
REGARDING THE ALLOCATION OF RETURN FLOWS AND  
SURPLUS WATER SUPPLY**

**THIS INTERLOCAL AGREEMENT (“AGREEMENT”)** is entered into by and between the City of Murfreesboro (the “City,” or “Murfreesboro”), a municipal government within Rutherford County, Tennessee, and the Consolidated Utility District of Rutherford County, Tennessee (“CUD”), a utility district governed by an independent Board of Commissioners, which exists to water supply to certain areas of Rutherford County, to establish the ownership of “return flows” to the J. Percy Priest Reservoir, and to make surplus water supplies belonging to Murfreesboro available to CUD to serve Murfreesboro residents.

**RECITALS**

**WHEREAS**, Murfreesboro and CUD both operate water treatment plants to provide finished water for domestic, municipal, commercial, and industrial uses to customers within the Murfreesboro City limits;

**WHEREAS**, Murfreesboro provides sewerage within the City limits and to some areas of unincorporated Rutherford County;

**WHEREAS**, Murfreesboro and CUD have each entered into “storage contracts” with the United States Army Corps of Engineers (the “Corps”) to utilize the J. Percy Priest Reservoir (“Reservoir”) to store water for water supply purposes;

**WHEREAS**, Murfreesboro entered into a Water Storage Agreement with the United States on May 21, 2003 granting a permanent right to utilize 5,084 acre-feet of water storage space in the Reservoir; and

**WHEREAS**, CUD entered into a Water Storage Agreement with the United States on June 7, 2003 granting a permanent right to utilize (in two increments) a total of 4,374 acre-feet of water storage space in the Reservoir; and CUD entered into a second Water Storage Agreement in 2021 to bring its total storage allocation to 6,243 acre-feet;

**WHEREAS**, the Water Storage Agreements authorize the use of “storage space” and permit the parties to withdraw any water deemed to have accumulated within that space, but do not guarantee how much water will accumulate or how much can reliably be withdrawn (the “reliable yield”);

**WHEREAS**, the Corps uses “storage accounting” to determine how much water has accumulated in each user’s storage, and thus how much can be withdrawn;

**WHEREAS**, the parties worked together for many years to change the Corps' method of accounting for "return flows" in the Corps' storage accounting; and

**WHEREAS**, the parties worked together to win passage of Tennessee Code Annotated § 69-3-108, which provides the following:

(u)(l) Notwithstanding any other provisions of the law, a person who has contracted for the right to store water in a reservoir owned by the U.S. Army Corps of Engineers shall have exclusive rights to any return flows generated directly or indirectly to that reservoir by the person. The rights conferred by this subsection (u) shall be subject to any regulatory requirements imposed by the commissioner and to the availability to the person of unused storage capacity within the reservoir to store such return flows.

(2) As used in this subsection (u), "return flow" means water that is discharged directly or indirectly to a reservoir from a water reclamation facility.

**WHEREAS**, as a result of this law and continued advocacy by both parties, the Assistant Secretary of the Army approved the direct crediting of return flows at J. Percy Priest on August 20, 2020;

**WHEREAS**, as a result of this change, the reliable yield available to Murfreesboro from its storage space in the reservoir is now expected to exceed the City's projected 2030 demand by about 16.5 million gallons per day ("MGD");

**WHEREAS**, the surplus water supply available to Murfreesboro exceeds the amount stated above, because Murfreesboro can also obtain water supply from the City's Walter Hill Reservoir on the East Fork Stone River;

**WHEREAS**, because CUD does not generate return flows directly, the change in policy that CUD helped Murfreesboro obtain did not benefit CUD directly;

**WHEREAS**, CUD's projected water supply demand in the year 2030 is expected to exceed the reliable yield of CUD's storage space in the Reservoir by approximately 5 MGD; and

**WHEREAS**, the Corps has declined a request by CUD to provide additional storage space to CUD to cover its projected 2030 demand due to the surplus available to Murfreesboro;

**WHEREAS**, it is in Murfreesboro's interest to ensure that CUD has sufficient water supply to meet CUD's entire projected 2030 demand, because any shortage would impact City residents supplied by CUD;

**WHEREAS**, of the total "return flow" currently generated by Murfreesboro, the Parties estimate that approximately 5 MGD is generated from water originally supplied by CUD to

Murfreesboro customers, and this number is expected to increase to approximately 10.6 MGD by 2030;

**WHEREAS**, Murfreesboro and CUD agree that any return flows generated by Murfreesboro from water originally supplied by CUD to Murfreesboro sewer customers should be considered a return flow “of CUD” that should be “credited” to CUD in the Corps’ storage accounting; and

**WHEREAS**, Murfreesboro and CUD further agree that any surplus remaining to Murfreesboro can be used by CUD without charge to supply City residents within CUD’s service area, at least until 2030.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

**I. Purposes of Agreement.** The purpose of this Agreement is to establish the ownership of return flows produced by Murfreesboro from water originally supplied to Murfreesboro sewer customers by CUD; and also to further the cooperation between Murfreesboro and CUD by making Murfreesboro’s Surplus Water Supply available to CUD to serve Murfreesboro residents.

**II. Authority.** This Agreement is made and entered into pursuant to the authority granted by the Interlocal Cooperation Act, Tennessee Code Annotated §§ 12-9-101 et seq., and the parties agree that all approvals and filings required by the Act shall be achieved prior to the execution of this Agreement.

**III. Definitions.**

1. “Return Flow” means water that is discharged directly or indirectly to a reservoir from a water reclamation facility. Tennessee Code Annotated § 69-3-108(u)(2). As relevant to this agreement given present conditions, “return flows” means the amount reclaimed wastewater discharged from the Murfreesboro Water Resources Reclamation Facility (WRRF) into the West Fork Stones River, which is located upstream of the Reservoir.

2. “CUD-Supplied Return Flow” means water supplied by CUD to Murfreesboro sewer customers, which Murfreesboro subsequently discharges from its WRRF into the West Fork Stones River above J. Percy Priest Reservoir.

3. “Surplus Water Supply” means the amount by which the total projected water supply available to Murfreesboro to exceeds total demand from Murfreesboro’s water supply customers.

4. “Storage Accounting” means the methodology used by the Corps to determine how much water is available in storage space contracted to each user of the J. Percy Priest Reservoir. This

methodology is described in detail in an exhibit to the 2021 Water Storage Agreement between CUD and the United States. The same methodology is used for all users of the Reservoir.

5. "Reliable Yield" means the amount that can be withdrawn from the user's storage space in J. Percy Priest Reservoir consistently, without interruption, from beginning to end of the worst drought on record, as determined by hydrologic modeling based on historic conditions.

**IV. Mutual understandings**

**1. CUD-Supplied Return Flows.**

a) CUD-Supplied Return Flows shall be considered to belong to CUD. The Parties shall mutually request that the Corps credit such flows to CUD in the Storage Accounting for the Reservoir.

b) Based on the best available data, the Parties agree that the following schedule will be used to determine how much of the water discharged from the Murfreesboro WRRF shall be deemed to be CUD-Supplied Return Flow:

<b>YEAR</b>	<b>CUD-SUPPLIED RETURN</b>
2023	6.2 MGD
2024	6.7 MGD
2025	7.3 MGD
2026	7.9 MGD
2027	8.5 MGD
2028	9.2 MGD
2029	9.9 MGD
2030	10.6 MGD

c) Should new or better data become available, or should conditions change, either party may request that the estimate of CUD-Supplied Return Flows in Article IV.1.b be adjusted. In that circumstance, the parties will cooperate to select a new estimate or schedule based on the best available data and projections. The dispute resolution clause under Article VII.6 will be invoked if the parties are unable to reach agreement. Unless and until a final agreement is reached, however, the

parties will mutually agree to instruct the Corps to continue crediting CUD with the amount stated in Article IV.1.b.

**2. Surplus Water Supply.**

a) Provided the total supply available to Murfreesboro continues to exceed demand, CUD may utilize any Surplus Water Supply available to Murfreesboro to supply water to Murfreesboro residents.

b) If at any time Murfreesboro projects that its Surplus Water Supply may be exhausted, it will immediately provide notice of that fact to CUD. Murfreesboro and CUD will work cooperatively to reduce water supply demand and/or to increase available supplies to eliminate any projected gap.

c) Upon receipt of the notice required under subparagraph (b), the Parties will meet and confer to determine the terms under which CUD's use of any surplus may continue. In this respect, the Parties acknowledge that significant time may be required to develop alternative sources of supply, and agree to work cooperatively to ensure an adequate and reliable water supply for residents served by CUD and/or the City.

**V. Financing.** Subject to the terms of this agreement, surplus water supplies intended to facilitate the provision of water service to City residents will be made available by the City to CUD at no charge. Each entity will bear the cost of its own operations.

**VI. Duration.** This Agreement shall remain in effect for a period of fifty (50) years unless terminated earlier as provided herein or extended by mutual agreement prior to the expiration date.

**VII. Termination.** Subject to the following conditions, either party may terminate its obligations under this Agreement by providing written notice to the other party at least two years prior to the termination date:

1. Termination will not affect the parties' agreement in principle that CUD-Supplied Return Flows belong to CUD and should be credited to CUD in the Corps' Storage Accounting;

2. Termination will not affect the parties' agreement in Article IV.1.b) regarding how much of the water discharged from Murfreesboro's WRRF will be deemed CUD-Supplied Return Flow until December 30, 2030;

3. Termination will not affect the parties' agreement that CUD may utilize Surplus Water Supply available to Murfreesboro at least until December 31, 2030.

4. In the event this Agreement is terminated after December 31, 2030, the parties agree to cooperate as provided in Article IV.2.c to ensure adequate water supplies are available to residents served by CUD and the City.

**VIII. General Terms.**



**1. Relationship Between the Parties.** In consideration of the mutual covenants provided herein, the parties agree that nothing in this Agreement is intended to create or establish, or should be construed in any manner as creating or establishing, a joint venture or the relationship of co-partners between the parties hereto or as constituting an agency relationship in any manner whatsoever. The individual parties are and shall remain independent entities with respect to this Agreement.

**2. Notices.** Any notices required to be given pursuant to the provisions of this Agreement shall be given in writing and shall be deemed received, and shall be effective when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the other party at the address given below, or at a substitute address previously furnished to the party by written notice in accordance herewith:

To Consolidated Utility District of Rutherford  
County:

Roger Goodson, General Manager  
709 New Salem Road  
Murfreesboro, TN 37129

To City of Murfreesboro:

Craig D. Tindall, City Manager  
111 W. Vine Street  
Murfreesboro, TN 37130

**3. Authority to Execute.** Each of the individuals executing this Agreement on behalf of his or her respective party agrees and represents to the other party that he or she is authorized to do so and further agrees and represents that this Agreement has been duly passed upon by the required governmental agency or board in accordance with all applicable laws.

**4. Governing Law.** The validity, construction and effect of this Agreement, and any extensions or modifications thereof, shall be governed by the laws of the State of Tennessee.

**5. Interpretation.** The parties hereto have cooperated in the preparation of this Agreement, and **hence**, it shall not be interpreted or construed against or in favor of either party by virtue of identity, interest, or affiliation of its preparer.

**6. Disputes and Venue.** If any disputes or issues arise in connection with this Agreement which cannot be resolved amicably, then either party shall have the right to request the other party participate in non-binding mediation. The mediator shall be mutually agreed upon, and the costs of the mediator shall be shared equally between the parties. In the event mediation is unsuccessful or deemed futile, the CUD and the City shall each be entitled to pursue all available remedies at law or

equity; provided that any action or suit related to this Agreement shall be brought in the courts of Rutherford County, Tennessee.

**7. Entire Agreement.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

**8. Force Majeure.** No party shall have any liability to any other party 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, work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

**9. Assignment.** This Agreement may not be assigned by any of the parties without the prior written consent of the other parties. In the event of such assignment, no party shall be discharged or released from any of its obligations or duties contained herein.

**10. Modification.** This Agreement may be modified only by written amendment executed by all parties.

**11. Waiver.** No waiver of any provision of this Agreement shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

**12. Liability.** It is the express intention of the parties hereto that neither should bear liability for injury or loss caused by the other party. Thus, in no event shall CUD bear any liability for any loss, expense, attorneys' fees or claims for injury or damages arising out of any act or omission in the performance of this Agreement. Likewise, the City shall bear no liability for any loss, expense,

attorneys' fees or claims for injury or damages arising out of any act or omission in the performance of this Agreement.

**13. Maintenance of Records.** Each party shall maintain records relating to matters covered by this Agreement as required by Tennessee law. Such records shall be maintained for a minimum period of three years following the termination of this Agreement.

**14. Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Agreement.

**15. Counterparts.** This Agreement may be executed in multiple counterparts, and each counterpart shall be considered an original.

**16. Specific Performance.** The Parties agree that specific performance is an available remedy under this Agreement.

**17. Effective Date.** This Agreement shall be binding upon the parties upon its approval by both CUD and the City and its execution by all parties hereto.

CONSOLIDATED UTILITY DISTRICT OF  
RUTHERFORD COUNTY

CITY OF MURFREESBORO

DocuSigned by:  
*Carter Woodruff*  
3F96EC048BA245E...  
By: Carter Woodruff, Board of  
Commissioners President  
Dated: 6/22/2023

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

Approved as to form:

Approved as to form:

DocuSigned by:  
*Roger Hudson*  
CA6AF15BF105413...  
Roger Hudson, Attorney for CUD  
Dated: 6/23/2023

DocuSigned by:  
*Adam Tucker*  
43A2035E51F9401...  
Adam F. Tucker, City Attorney  
Dated: 6/27/2023

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** Scheduling Public Hearing for Zoning Ordinance Amendment

**Department:** Planning

**Presented by:** Joel Aguilera, Planner

**Requested Council Action:**

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

**Summary**

Scheduling amendment to Zoning Ordinance for a public hearing before Council.

**Staff Recommendation**

Schedule a public hearing for the item below on August 17, 2023.

**Background Information**

The Zoning Ordinance amendment listed below pertains to the height of structures used in conjunction with government utilities as well as the height of telecommunications towers. It will be discussed by the Planning Commission at its July 19<sup>th</sup> regular meeting. At that meeting, Staff expects the Planning Commission to schedule a public hearing on this item for August 2<sup>nd</sup>. Staff is requesting that Council schedule a public hearing on this item as well.

- a. Proposed amendment to the Zoning Ordinance [2023-802] regarding the maximum height of structures and pertaining to the following sections:
  - Section 25: Temporary and Accessory Structures and Uses;
  - Section 31: Wireless Telecommunications Towers and Antennas; and
  - Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios (including Chart 2 endnotes),City of Murfreesboro Planning Department applicant.

**Fiscal Impact**

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

**Attachments:**

Draft Zoning Ordinance amendment

**ORDINANCE 23-O-XX** amending Murfreesboro City Code Appendix A, Zoning, Sections 25, 31, Chart 2 and Chart 2 Endnotes, dealing with the Maximum Height of certain structures.

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

SECTION 1. Appendix A, Section 25, Temporary and Accessory Structures and Uses, of the Murfreesboro City Code is hereby amended by adding new subsection 25 (E)(4)(c) as follows:

- (c) Accessory structures used in conjunction with a government utility or government public safety agency, including but not limited to structures used in conjunction with water, repurified water, sanitary sewer, electricity, communications (including, but not limited to, emergency communications), and solid waste management, shall be exempt from all maximum height requirements, including those in any overlay district, except for the Airport Overlay District.

SECTION 2. Appendix A, Section 31, Wireless Telecommunications Towers and Antennas, of the Murfreesboro City Code is hereby amended by adding new subsection 31 (E)(7) as follows:

- (7) The maximum height of respective antenna-supporting structures shall be as determined by the Board of Zoning Appeals as a part of the special use permit process. However, no special use permit shall grant authority for such a structure to exceed the maximum height requirements denoted in the Airport Overlay District regulations.

SECTION 3. Appendix A, Chart 2, Minimum Lot Requirements, Minimum Yard Requirements and Land Use Intensity Ratios, of the Murfreesboro City Code is hereby amended by adding the superscript references [39] and [40] to the column heading “Maximum Height.”

SECTION 4. Appendix A, Chart 2 Endnotes, Minimum Lot Requirements, Minimum Yard Requirements and Land Use Intensity Ratios, of the Murfreesboro City Code is hereby amended by adding the following new Endnotes:

39. Principal and accessory structures used in conjunction with a government utility or government public safety agency, including but not limited to structures used in conjunction with water, repurified water, sanitary sewer, electricity, communications (including, but not limited to, emergency communications), and solid waste management, shall be exempt from all maximum height requirements, including those in any overlay district, except for the Airport Overlay District.
40. See Section 31 for maximum height for antenna-supporting structures, including wireless communications towers.

SECTION 5. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

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

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

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

ATTEST:

APPROVED AS TO FORM:  
\_\_\_\_\_

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

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

SEAL

DRAFT

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**Item Title:** Planning Commission Recommendations

**Department:** Planning

**Presented by:** Joel Aguilera, Planner

**Requested Council Action:**

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

**Summary**

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

**Staff Recommendation**

Schedule public hearings for the items below on August 17, 2023.

**Background Information**

During its regular meeting on July 12, 2023, the Planning Commission conducted public hearings on the items listed below. After the public hearings, the Planning Commission discussed the matters and then voted to recommend their approval.

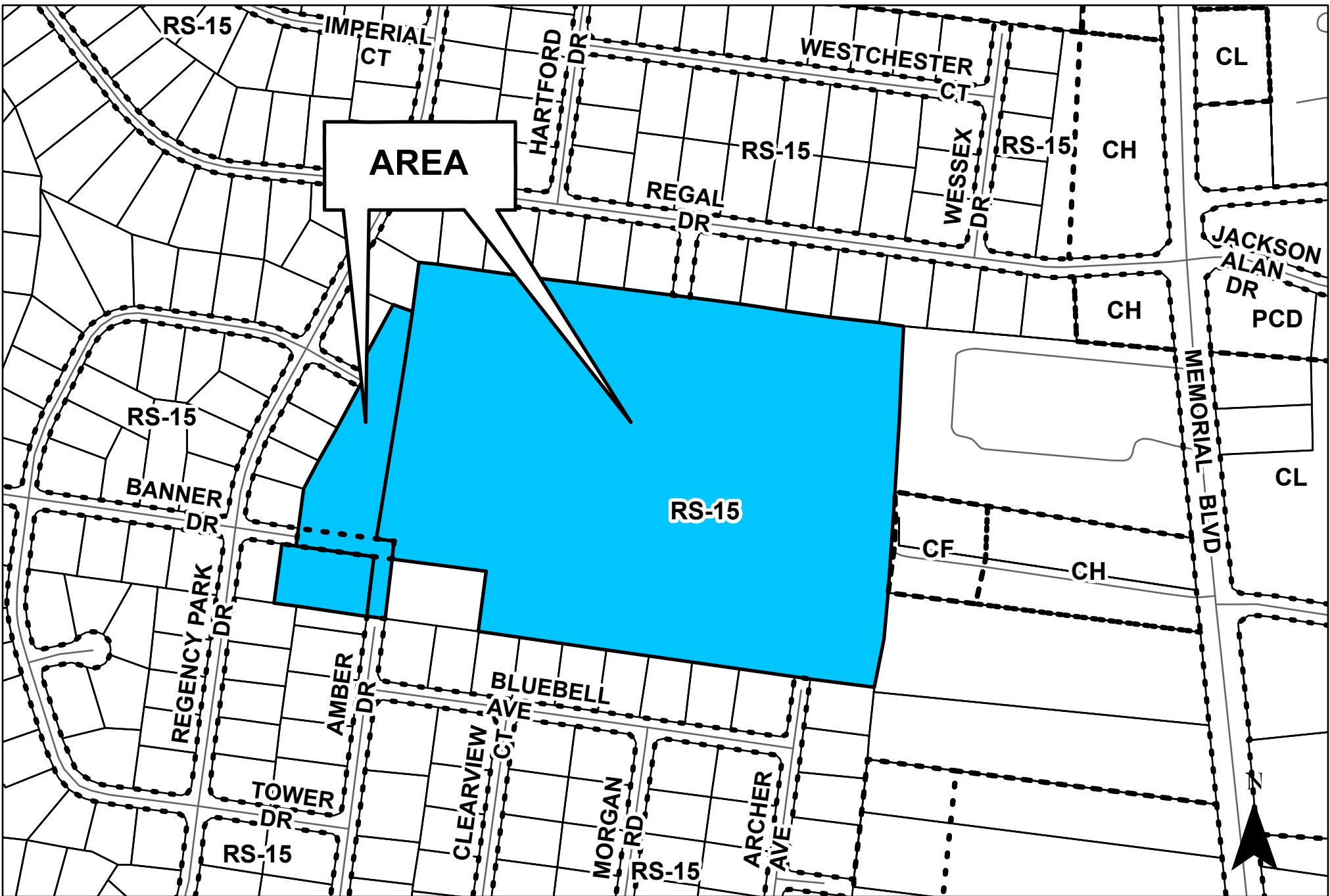
- a. Zoning application [2023-405] for approximately 34.2 acres located west of Memorial Boulevard to be rezoned from RS-15 to PRD (Northridge Park PRD), Brightland Homes applicant.
- b. Zoning application [2023-407] for approximately 16.5 acres located along Veterans Parkway to be rezoned from CH to PRD (approx. 12.8 acres) and PCD (approx. 3.7 acres), Cornerstone Development, LLC applicant.
- c. Zoning application [2023-406] for approximately 0.64 acres located along East Vine Street to be rezoned from RS-8 and CCO to PRD and CCO (East Vine Manor PRD), 520 Vine Street, LLC applicant.

**Fiscal Impact**

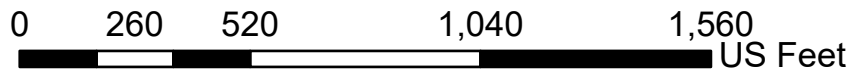
Advertising expense for notice publication in the newspaper, which is unknown at this time, is provided for in the Department Operating Budget.

**Attachments:**

- 1. Map for zoning application for approx. 34.2 acres located west of Memorial Boulevard
- 2. Map for zoning application for approx. 16.5 acres located along Veterans Parkway
- 3. Map for zoning application for approx. 0.64 acres located along East Vine Street

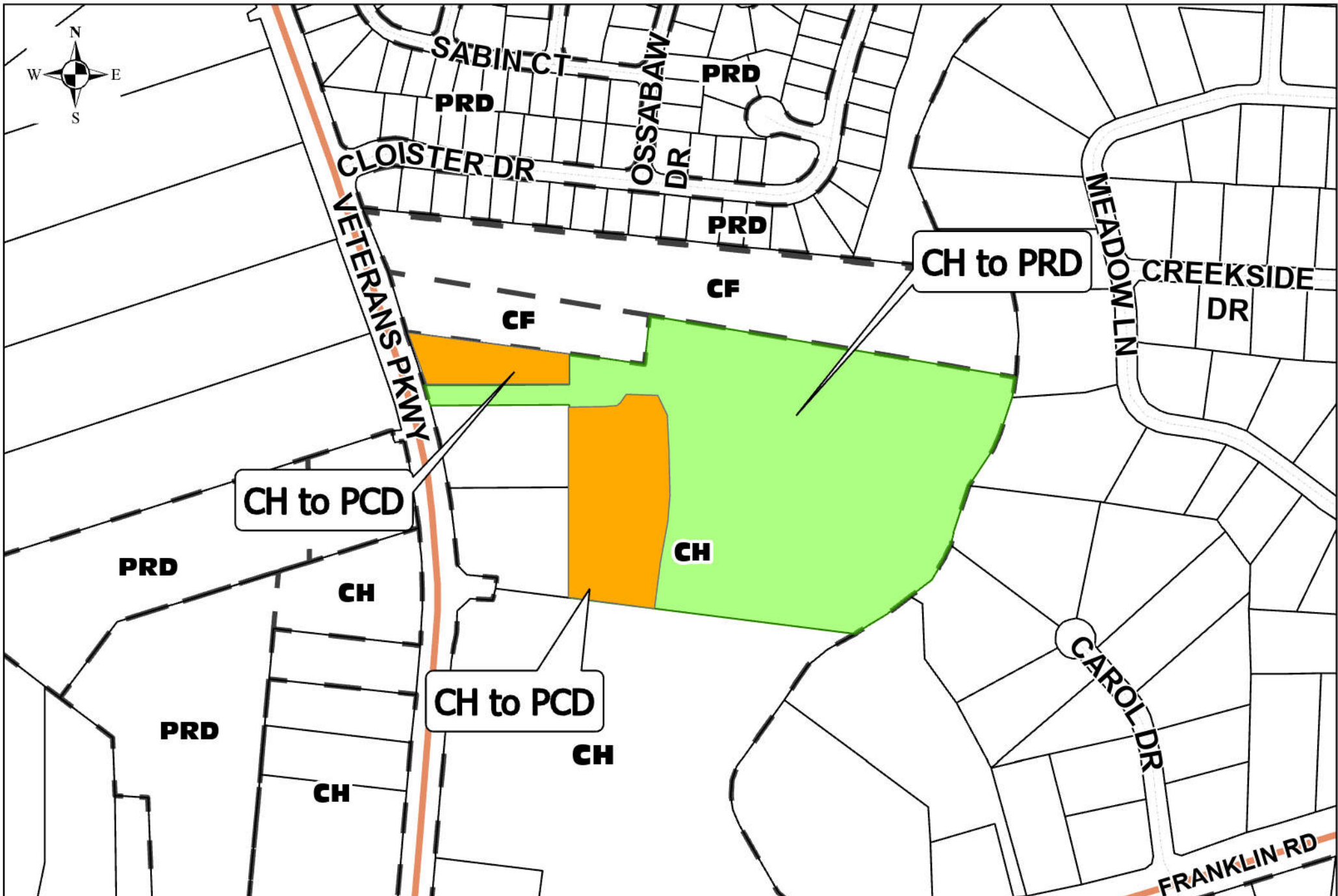


Rezoning request for property west of Memorial Blvd  
 RS-15 to PRD (Northridge Park PRD)



Planning Department  
 City of Murfreesboro  
 111 West Vine St  
 Murfreesboro, TN 37130  
[www.murfreesborotn.gov](http://www.murfreesborotn.gov)

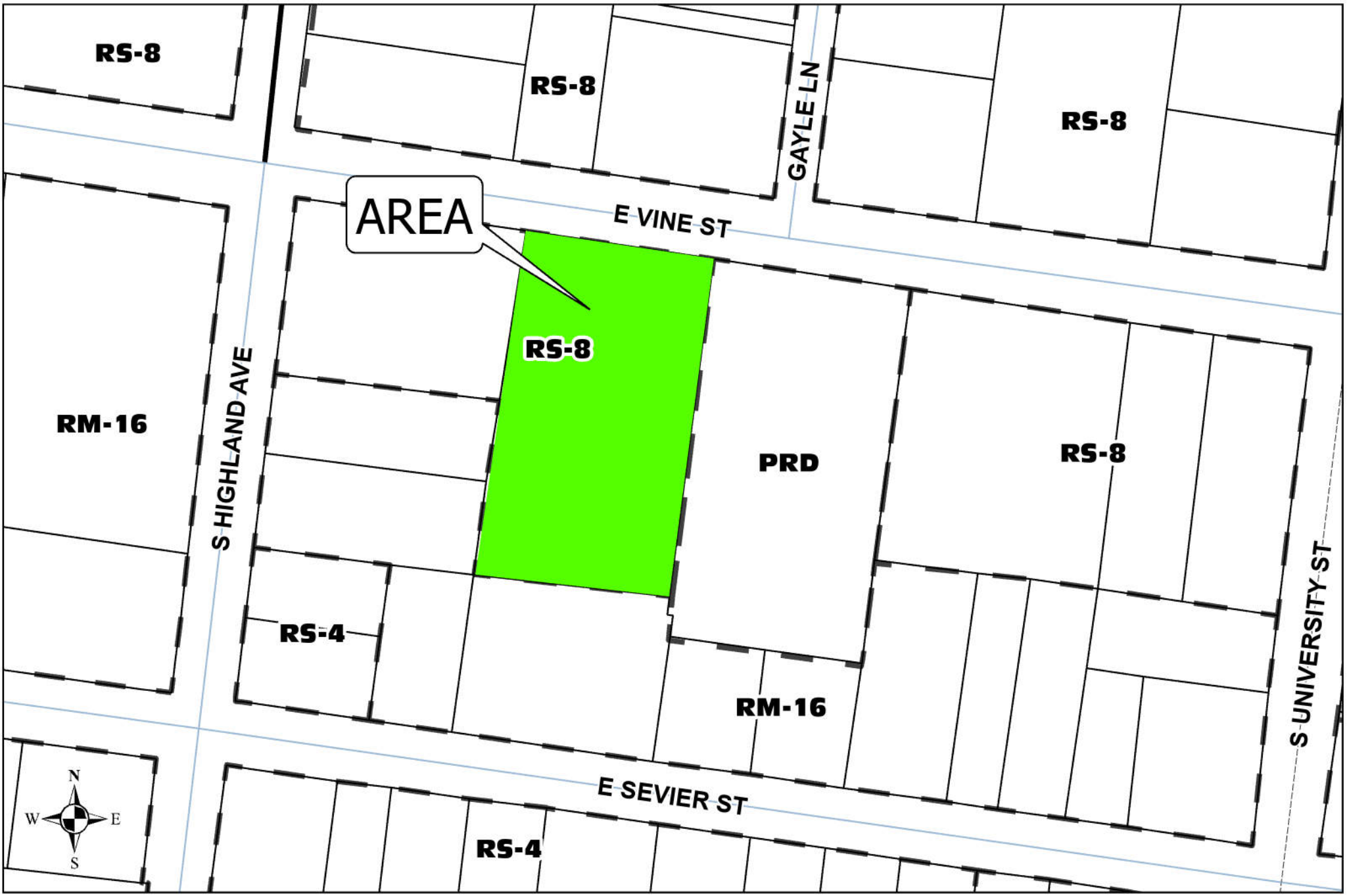




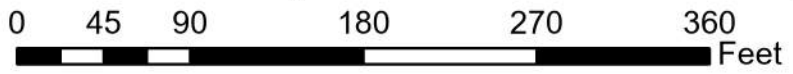
**Rezoning request for property along Veterans Parkway  
CH to PRD and PCD (Sullivans Retreat PRD and PCD)**



Planning Department  
City of Murfreesboro  
111 W. Vine St.  
Murfreesboro, TN 37130  
[www.murfreesborotn.gov](http://www.murfreesborotn.gov)



**Rezoning request for property along East Vine Street  
RS-8 and CCO to PRD (East Vine Manor PRD) and CCO**



Planning Department  
 City of Murfreesboro  
 111 West Vine St.  
 Murfreesboro, TN 37130  
[www.murfreesborotn.gov](http://www.murfreesborotn.gov)

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** FY24 Budget Amendment  
**Department:** Administration  
**Presented by:** Erin Tucker, Budget Director  
**Requested Council Action:**

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

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## Summary

Amendment to the City's FY24 Budget Ordinance

## Staff Recommendation

Approve Ordinance 23-O-24, amending the City's budget on first reading.

## Background Information

The State of Tennessee announced a grant for School Resource Officers (SRO) after the FY24 Budget was approved. This grant is anticipated to provide \$75,000 to the City per school, totaling \$975,000.

Staff surveyed neighboring Middle Tennessee cities to compare the City's Public Safety Pay Plan to peer cities. The results of the surveys determined that the public safety pay plan should be adjusted by 2.5% to better attract and retain public safety employees.

### Fire Rescue

The Fire Rescue Department's payroll increases result in a recommended increase of approximately \$490,200.

### Police

The Police Department's payroll increases result in a recommended increase of approximately \$746,500.

## Council Priorities Served

### *Responsible Budgeting*

The budget amendments reflect the City's increased revenues and expenses.

## Fiscal Impact

The amendment to the City's FY24 budget results in a decrease in ending Fund Balance of \$261,616.

## Attachments

1. FY24 City Budget Ordinance 23-O-24 and Exhibit A

**ORDINANCE 23-O-24** amending the Fiscal Year 2024 (hereafter “FY2024”) Budget (1<sup>st</sup> Amendment).

**WHEREAS**, the City Council adopted the FY2024 Budget by motion; and,

**WHEREAS**, the City Council adopted an appropriations ordinance, Ordinance 23-O-18, on June 8, 2023 to implement the FY2024 Budget; and,

**WHEREAS**, it is now desirable and appropriate to adjust and modify the FY2024 Budget adopted by this Ordinance to incorporate expenditure decisions made during the 2023-2024 fiscal year.

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

SECTION 1. The FY2024 Budget adopted by the City Council is hereby revised and amended as shown on Exhibit A, attached hereto.

SECTION 2. That this Ordinance take effect immediately upon and after its passage upon second and final reading, as an emergency Ordinance, an emergency existing, and it being imperative to provide for the necessary expenses, general and special, of said City of Murfreesboro for the FY2024 at the earliest practicable time, the welfare of the City requiring it.

Passed:

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

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

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

ATTEST:

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

APPROVED AS TO FORM:

DocuSigned by:  
*Adam F. Tucker*  
\_\_\_\_\_  
43A2036E61F0401...  
Adam F. Tucker  
City Attorney

SEAL

Department	Account	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
<u>General Fund</u>				
<u>Revenues</u>				
	<u>Unassigned</u>			
	State of TN SRO Grant		\$ 975,000.00	\$ 975,000.00
				<u>\$ 975,000.00</u>
 <u>Expenditures</u>				
	<u>Unassigned</u>			
	Fire Rescue Salaries	\$ 16,283,244.00	\$ 16,686,952.00	\$ 403,708.00
	Fire Rescue Social Security & Medicare	\$ 1,397,304.00	\$ 1,427,295.00	\$ 29,991.00
	Fire Rescue Pension	\$ 1,586,552.00	\$ 1,626,216.00	\$ 39,664.00
	Fire Rescue Defined Contribution	\$ 582,382.00	\$ 596,894.00	\$ 14,512.00
	Fire Rescue LTD	\$ 92,604.00	\$ 94,919.00	\$ 2,315.00
	Police Salaries	\$ 25,226,575.00	\$ 25,844,897.00	\$ 618,322.00
	Police Social Security & Medicare	\$ 2,066,793.00	\$ 2,115,860.00	\$ 49,067.00
	Police Pension	\$ 1,879,163.00	\$ 1,925,912.00	\$ 46,749.00
	Police Defined Contribution	\$ 1,013,897.00	\$ 1,042,763.00	\$ 28,866.00
	Police LTD	\$ 136,896.00	\$ 140,318.00	\$ 3,422.00
				<u>\$ 1,236,616.00</u>
CHANGE IN UNASSIGNED FUND BALANCE		\$ 555,926.00	\$ 294,310.00	\$ (261,616.00)
TOTAL ENDING FUND BALANCE (ESTIMATED)		\$ 158,709,364.00	\$ 158,447,748.00	\$ (261,616.00)

## COUNCIL COMMUNICATION

**Meeting Date: 07/17/2023**

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**Item Title:** Code Amendment Regarding the Location of Sexually Oriented Entertainment

**Department:** Administration

**Presented by:** Craig Tindall, City Manager

**Requested Council Action:**

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

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**Summary**

Ordinance amending the City Code to clarifies the location of sexual oriented entertainment.

**Staff Recommendation**

Pass and adopt Ordinance 23-O-25 amending City Code § 21-25.

**Background Information**

City Code currently imposes distance restrictions between certain land uses and sexually oriented adult businesses. These restrictions serve to protect the identified land uses from the undue secondary effects of such adult businesses. The amendment incorporates entertainment events that has the secondary effects on nearby land uses. Sexually oriented adult entertainment events are separated from churches, daycare facilities, public libraries, school, a funeral parlors, parks, and homes. Exceptions are made to protect speech that legitimately expresses matters of serious literary, artistic, scientific, or political value.

**Council Priorities Served**

*Improve economic development*

Assuring that property rights are protected from the deleterious effects of certain activities is crucial to the development and enhancement of economic activity within the City.

*Maintain public safety*

Separating activity that has the recognized potential to negatively impact public safety from land uses that are sensitive to an deleterious effect of the activity assists in maintain public order, health, and safety.

**Fiscal Impact**

None

**Attachments**

Ordinance 23-O-25

**ORDINANCE 23-O-25** amending the Murfreesboro City Code, Chapter 21, Offenses and Miscellaneous Provisions, Article I, Section 21-25, regarding sexually oriented adult entertainment.

**WHEREAS**, the conduct of sexually oriented adult entertainment in proximity to certain other permitted land uses has deleterious secondary impacts upon public safety, public health, property values, community economic conditions, and the reasonable use and enjoyment of adjacent permit land uses; and

**WHEREAS**, special regulation of sexually oriented adult entertainment is necessary to prevent adverse effects that contribute to the diminishment of property rights, contribute to the blighting or downgrading of surrounding areas, and tend to limit the beneficial use of public facilities for which significant public funds have been expended; and

**WHEREAS**, the City Council believes it is in the best interests of the City to adopt an ordinance that restricts the location at which sexual oriented adult entertainment may be conducted.

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

SECTION 1. Chapter 21, Article I of the Murfreesboro City Code is hereby amended by deleting the existing Section 21-25, currently marked “Reserved,” and in lieu thereof establishing the following new Section 21-25:

**“Section 21-25                      Sexually Oriented Adult Entertainment.**

(A) A person commits an offense if the person engages in sexually oriented adult entertainment on a commercial premises or other public venue to which members of the public are invited or admitted, where such commercial premises or public venue is located within five hundred (500) feet of:

- (1) a church;
- (2) a state-licensed daycare facility;
- (3) public library;
- (4) public or private educational facilities which serve persons aged seventeen (17) or younger, an elementary school, or a high school;
- (5) a funeral parlor/home;
- (6) a public park;
- (7) the property line of a lot devoted to residential use;
- (8) a residentially zoned district as defined in Appendix A - Zoning of Murfreesboro City Code; or,



- (9) a business licensed or permitted to sell beer or intoxicating liquors as defined in Chapter 4, Murfreesboro City Code.
- (B) For purposes of this section, sexually oriented adult entertainment means any exhibition of an adult-oriented motion picture or live performance that: (a) is erotic in nature and exhibited with the intent to sexually arouse or stimulate a person; and (b) involves the actual or simulated performance of specified sexual activities or has as its predominant focus or is predominately characterized by the exhibition and viewing of specified anatomical areas. In addition, the terms “specified sexual activities” and “specified anatomical areas” shall have the meaning ascribed to them in Section 32, Appendix A – Zoning, Murfreesboro City Code. Notwithstanding the foregoing, a motion picture or live performance does not constitute sexually oriented adult entertainment where the motion picture or live performance, when taken as a whole, expresses matters of serious literary, artistic, scientific, or political value. Furthermore, a motion picture will not be deemed a sexually oriented adult entertainment by virtue of it having received an R or NC-17 rating from the Motion Picture Association of America or a TV-MA rating under the Television Parental Guidelines.
- (C) Measurements required under subsection (A) shall be made in a straight line, without regard to intervening structures or objects, from the nearest lot line on which is located a building or structure used as a part of the premises where a sexually oriented adult entertainment is conducted, to the nearest property line of:
- (1) a church;
  - (2) a state-licensed daycare facility;
  - (3) public library;
  - (4) public or private educational facilities which serve persons aged seventeen (17) or younger, an elementary school, or a high school;
  - (5) a funeral parlor/home;
  - (6) a public park;
  - (7) the property line of a lot devoted to residential use;
  - (8) a residentially zoned district as defined in Appendix A - Zoning of Murfreesboro City Code; or,
  - (9) a business licensed or permitted to sell beer or intoxicating liquors as defined in Chapter 4, Murfreesboro City Code.
- (D) Any person violating this section shall commit an offense against the City, and upon conviction shall be punished as provided in Code § 1-8.”

SECTION 2. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

\_\_\_\_\_

Shane McFarland, Mayor

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

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

ATTEST:

APPROVED AS TO FORM:

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

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

SEAL

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**Item Title:** 2140 N. Thompson Lane Furniture Order  
**Department:** Administration  
**Presented by:** Sam A. Huddleston, 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

Furniture Order for 2140 N. Thompson Lane from Nashville Office Interiors.

## Staff Recommendation

Approve the purchase of furniture and fixtures from NOI and authorize staff to adjust the order up to 5% for potential changes in the order from back ordered, delayed, or out of stock items or similar issues.

## Background Information

The City purchased 2140 N. Thompson Lane to buildout and remodel for new offices for MFRD and MPRD administration staff. A construction contract has been issued and remodeling and buildout are underway. Additionally, a budget of \$2.7M was established for occupancy of the building including furnishings and fixtures. City staff worked with the departments, design team, and NOI to develop a furnishing and fixture plan to outfit the building for its occupancy which is anticipated at year's end. NOI provided pricing under the State bid for the order.

Utilizing state competitive established share purchasing is allowed by state law and the City's purchasing code. Funding for the order will be from 2021 CIP.

## Council Priorities Served

### *Responsible Budgeting*

Use of state contracts provides a cost effective means of secure strong, competitively established purchasing pricing.

## Fiscal Impact

The attached order from NOI is for \$185,869 with funding from 2021 CIP.

## Attachments

NOI Furniture Order

## **Agreement for Office Furniture**

This Agreement is entered into and effective as of the \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Nashville Office Interiors**, a corporation of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document
- Nashville Office Interiors Quote #55902 Dated: 07/10/2023
- Tennessee SWC# 238 – Contract #64063
- Any properly executed amendments to this Agreement

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

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority)
- Second, this Agreement
- Third, Nashville Office Interiors Quote #55902 Dated: 07/10/2023
- Lastly, Tennessee SWC# 238 – Contract #64063

- 1. Duties and Responsibilities of Contractor.** Contractor agrees to provide and City agrees to purchase office furniture from Nashville Office Interiors's Quote #55902 Dated: 07/10/2023 in accordance with Tennessee SWC# 238 – Contract #64063.
- 2. Term.** Contractor's performance may be terminated in whole or in part:
  - a. Upon expiration of Tennessee SWC# 238 – Contract #64063 on August 31, 2024.
  - b. Upon 30-day prior notice, for the convenience of the City.
  - c. 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.
  - d. 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.
  - e. 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.
  - f. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.
- 3. Price; Compensation; Method of Payment.**
  - a. The price for the goods and other items to be provided under this Agreement is set forth in the Nashville Office Interiors Quote #55902 dated: 07/10/2023, which reflects a total purchase of \$185,869.39, which includes delivery and installation. Any

compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, installed, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.

- b. Payment Terms: Net 30 days after receipt of goods. Deliveries of all items shall be made within 80 days of issuance of PO to Attn: Scott Elliott, Project Development Manager – 2140 N. Thompson Lane, Murfreesboro, TN. Contact Person: Scott Elliott (email: [selliott@murfreesborotn.gov](mailto:selliott@murfreesborotn.gov) – phone: 615.642.3228, must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
  - c. Deliveries of all items shall be made as stated in the quote. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or Agreement. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
  - d. Delivered items will not be considered “accepted” until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor’s Quote.
  - e. All deliveries made pursuant to the Agreement must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the purchase price.
- 4. Warranty.** Unless otherwise specified, every item bid shall meet the warranty requirements set forth in the specifications.
- 5. Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
- 6. Work Product.** Except as otherwise provided herein, all data, documents and materials produced and provided by Contractor under this Agreement are the property of the City, which retains the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Any of the City’s property, including but not limited to books, records and equipment, that is in Contractor's possession must be maintained in good condition and repair and returned to the City by Contractor at the end of this Agreement.
- 7. Indemnification.**
- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees (“Expenses”) arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its

officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

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

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

If to the City of Murfreesboro:

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

If to the Contractor:

Nashville Office Interiors  
Attn: Joey McKinney  
611 3<sup>rd</sup> Ave. South,  
Nashville, TN 37120  
[joey@noi-tn.com](mailto:joey@noi-tn.com)

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

employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

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

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

**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. Iran Divestment Act of Tennessee.** By submission of this quote or bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to T.C.A. §12-12-106. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered and any contract resulting from such bid shall be considered invalid.
- 18. Non-Boycott of Israel.** By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to T.C. A. § 12-4-119, and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.
- 19. Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.
- 20. Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.
- 21. Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
- 22. Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
- 23. Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
- 24. Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.

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

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

**CITY OF MURFREESBORO, TENNESSEE**

**NASHVILLE OFFICE INTERIORS**

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

By: \_\_\_\_\_  
Joey McKinney, Senior Account Manager

APPROVED AS TO FORM:

DocuSigned by:  
*Adam Tucker*  
\_\_\_\_\_  
43A2U35E91F9401...  
Adam F. Tucker, City Attorney



## City of Murf- Budgets

**Nashville**  
**611 3rd Avenue South**  
**Nashville , TN 37210**  
**Phone: 615-329-1811**  
**www.noifurniture.com**

**Remit To:**  
**Nashville Office Interiors**  
**611 3rd Avenue South**  
**Nashville, TN 37210**  
**www.noifurniture.com**

Order Number	55902
Date	07/10/2023
Customer PO No	
Customer Name	CITY OF MURFREESBORO
Salesperson	Missy Bean - New Customer
Project Name	
Terms	NET 30
Page	1 of 19

T CITY OF MURFREESBORO  
 O P.O. BOX 1139  
 MURFREESBORO, TN 37133-1139

ATTN: ACCOUNTS PAYABLE  
 Email: accountspayable@murfreesborotn.gov

S City of Murfreesboro  
 H 2140 N Thompson Lane  
 I Murfreesboro, TN .  
 P

T ATTN: Cathy Smith  
 O Phone: 615-849-2629  
 Email: cismith@murfreesborotn.gov

Prepared for : Cathy Smith , Missy Bean - New Customer

**STATE CONTRACT SWC 238**

Line	Quantity	Description	Unit Price	Extended Amount
1	8.00 Each	NATIONAL OFFICE FURNITURE N29GMAC1--CBB-5-51815-HARD CHADDY, GUEST, MESH BACK, UPHOLSTERED SEAT, ARMS, MOBILE, QTY 1 OPTION: CBB:CHROME FRAME,BLACK BACK & MESH OPTION: 5:GRADE 5 OPTION: 51815:MODE OMINOUS OPTION: HARD:HARD,DUAL WHEEL CASTER Tag: Tag TG: FIRE Tag GC: FIRST FLOOR Tag T3: FIRST FLOOR	478.80	3,830.40
2	7.00 Each	MAGNUSON GROUP RUNDA--Black 9011 Round painted steel deskside receptacle with internal bag ring and angled top. OPTION: Black 9011:Textured Black Tag: Tag TG: FIRE Tag GC: FIRST FLOOR Tag T3: FIRST FLOOR	123.75	866.25
3	20.00 Each	HAWORTH ZUBF-0000-PN Flush Mount Plate Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	4.96	99.20
4	4.00 Each	HAWORTH JCPR-0230-SJA-- ,TR-E-,LR-BP X Series,Combo Unit,27.5"H x 30"W,Box,Box(L),File(R),LatFile,Ptd Drw Frnt,Ptd Lock Rail,J Pull,TchLtch,Att,Glides OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	649.52	2,598.08



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Salesperson	Missy Bean - New Customer
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Terms	NET 30
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5	2.00 Each	HAWORTH JCPT-0230-SJA--,TR-E-,LR-BP X Series,Combo Unit,27.5"H x 30"W,File(L),Box,Box(R),LatFile,Ptd Drw Frnt,Ptd Lock Rail,J Pull,TchLtch,Att,Glides OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	649.52	1,299.04
6	1.00 Each	HAWORTH JDBL-2442-JNNFNFS--,H-WL-,HP-WL-,TR-E X Series,Bridge,Lam,2442,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	292.80	292.80
7	1.00 Each	HAWORTH JDRL-2442-JFNSFNS--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Return,Lam,2442,End Stil Pnl,Open,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	491.62	491.62
8	1.00 Each	HAWORTH JDRL-2442-JNFSFNS--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Return,Lam,2442,Open,End Stil Pnl,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	491.62	491.62
9	2.00 Each	HAWORTH JDRL-2460-JFNSFNS--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Return,Lam,2460,End Stil Pnl,Open,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	554.67	1,109.34
10	4.00 Each	HAWORTH JDRL-2460-JNFSFNS--,H-WL-,HP-WL-,TR-E-,TR-E	554.67	2,218.68



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Salesperson	Missy Bean - New Customer
Project Name	
Terms	NET 30
Page	3 of 19

		X Series,Return,Lam,2460,Open,End Stl Pnl,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR		
11	2.00 Each	HAWORTH JDSSL-2460-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect Desk,Lam, EB3,24X60,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	750.53	1,501.06
12	1.00 Each	HAWORTH JDSSL-2472-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect Desk,Lam, EB3,24X72,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	797.34	797.34
13	4.00 Each	HAWORTH JDSSL-3066-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect Desk,Lam, EB3,30X66,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	796.78	3,187.12
14	2.00 Each	HAWORTH JDXL-3066-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect, Exec, Desk,Lam, EB3,30X66,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	796.78	1,593.56
15	1.00 Each	HAWORTH JDXL-3072-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E	820.19	820.19



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Terms	NET 30
Page	4 of 19

		X Series,Rect, Exec, Desk,Lam, EB3,30X72,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR		
16	1.00 Each	HAWORTH JSCK-24--,TR-E Pedestal, Conversion Kit, Stationary, 24in D, X Series, Svc OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	91.04	91.04
17	4.00 Each	HAWORTH TCRA-2460-LJSNFH4A--,H-WL-,HP-WL-,TR-E Jive,Tbl,Rect,Lam,24"x60",Eb3,Std,Co:none,T - Rd,Cstr/Flip,29"h,Ptd OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	575.55	2,302.20
18	1.00 Each	HAWORTH TCRN-3636-LJSNXC4A--,H-WL-,HP-WL-,TR-E Jive,Tbl,Rd,Lam,36"x36",Eb3,Std,Co:none,X,Cstr,29"h,Ptd OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	325.30	325.30
19	1.00 Each	HAWORTH GAKD-1919-LJSNAC9--,H-WL-,HP-WL-,TR-E-,TR-7-,LR-BP Planes,Cart,Podium 46In.H X 19In.D X 19In.W,Lam,Std Core,Locking,Casters OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-7:FOG, GRADE B OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	954.57	954.57
20	2.00 Each	HAWORTH TACB-1200-4 Planes,Column Base,12"W,28"H Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	416.04	832.08
21	8.00	HAWORTH	122.37	978.96



## City of Murf- Budgets

**Nashville**  
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**Remit To:**  
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Order Number	55902
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Customer Name	CITY OF MURFREESBORO
Salesperson	Missy Bean - New Customer
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Item #	Quantity	Description	Unit Price	Total Price
	Each	TACC-1200-PF4--,TR-E Planes,Column Cladding,Flat,Painted,12"W,29"H,Single piece OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR		
22	1.00 Each	HAWORTH TAJC-7400 Planes,J-Channel,74"W Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	314.96	314.96
23	2.00 Each	HAWORTH TAPL-2712-SA--,TR-E Planes,Column Plate,Square,27",Painted OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	354.85	709.70
24	1.00 Each	HAWORTH TARA-48E4-LJSMBNNN--,H-WL-,HP-WL Planes,Top,Rt,Lam,48"x144",EB3,Std,Co:2Sd/8 Opn/Cntr,Col Str OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	1,332.36	1,332.36
25	1.00 Each	HAWORTH VLRD-0230-L--,TR-E-,LR-BP V Series,Lateral File,27.5"H x 30"W,Two-High,Freestanding,Full Pull Style OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	305.57	305.57
26	3.00 Each	HAWORTH VPAH-18-L--,TR-E-,LR-BP V Series,Pedestal,Attached,B/B/F,18"D,Lk,Ptd Frt,No Top,Full Pull OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	163.99	491.97
27	1.00 Each	HAWORTH VPAH-24-L--,TR-E-,LR-BP V Series,Pedestal,Attached,B/B/F,24"D,Lk,Ptd Frt,No Top,Full Pull OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	173.93	173.93
28	2.00	HAWORTH	152.78	305.56



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	Each	VPAJ-18-L--,TR-E-,LR-BP V Series,Pedestal,Attached,F/F,18"D,Lk,Ptd Frt,No Top,Full Pull OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: FIRST FLOOR		
29	19.00 Each	HAWORTH SCT-20-4115--(4H)-,4H-FT-(MS)-,MS-FJ-,TR-7-,TR-LE-,TR-7 Very Task Chair,Fab Seat,Mesh Bk,Hgt Adj Arms, Plstc Bse Hd Ctrs,Bk Lk, W/ Lum, OPTION: (4H):BLANKET (4H) OPTION: ,4H-FT:BLANKET (4H) - FORT, GRADE A OPTION: (MS):VERY TASK MESH (MS) OPTION: ,MS-FJ:VERY TASK MESH (MS) - SLATE, GRADE A OPTION: ,TR-7:FOG, GRADE B OPTION: ,TR-LE:METALLIC SILVER, GRADE B OPTION: ,TR-7:FOG, GRADE B Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	548.84	10,427.96
30	1.00 Each	HAWORTH SCTC-20-4115--(4H)-,4H-FT-(MS)-,MS-FJ-,TR-7-,TR-LE-,TR-7 Very Task Stool Chair,Fab Seat,Mesh Bk,Hgt Adj Arms, Plstc Bse Hd Ctrs,Bk Lk, W/Lum, OPTION: (4H):BLANKET (4H) OPTION: ,4H-FT:BLANKET (4H) - FORT, GRADE A OPTION: (MS):VERY TASK MESH (MS) OPTION: ,MS-FJ:VERY TASK MESH (MS) - SLATE, GRADE A OPTION: ,TR-7:FOG, GRADE B OPTION: ,TR-LE:METALLIC SILVER, GRADE B OPTION: ,TR-7:FOG, GRADE B Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	791.64	791.64
31	22.00 Each	HAWORTH SCH-44-0S--,TR-FJ-,TR-LE Very Wire Stacker, Plstc Seat, Plstc Bk, Armless, Non Ganging, OPTION: ,TR-FJ:SLATE, GRADE A OPTION: ,TR-LE:METALLIC SILVER, GRADE B Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	130.89	2,879.58
32	2.00 Each	HAWORTH EUE2-0000-1221W FTU,2sd,8 Port,2 Recpt,No USB,2 Data ports,No Cable Garage,Clr Anod Alum,Wht Tchp,12' Cord Tag: Tag TG: FIRE Tag GC: FIRST FLOOR	544.72	1,089.44





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33	16.00 Each	NATIONAL OFFICE FURNITURE N29GMAC1--CBB-5-51815-HARD CHADDY, GUEST, MESH BACK, UPHOLSTERED SEAT, ARMS, MOBILE, QTY 1 OPTION: CBB:CHROME FRAME,BLACK BACK & MESH OPTION: 5:GRADE 5 OPTION: 51815:MODE OMINOUS OPTION: HARD:HARD,DUAL WHEEL CASTER Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR Tag T3: FIRST FLOOR	478.80	7,660.80
34	4.00 Each	MAGNUSON GROUP RUNDA--Black 9011 Round painted steel deskside receptacle with internal bag ring and angled top. OPTION: Black 9011:Textured Black Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR Tag T3: FIRST FLOOR	123.75	495.00
35	10.00 Each	HAWORTH ZUBF-0000-PN Flush Mount Plate Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	4.96	49.60
36	1.00 Each	HAWORTH TYBA-4272-NNNNNG7A-- ,TR-E Cultivate,Base Only,42DX72W,Gld,39.5H,Ptd OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	872.48	872.48
37	1.00 Each	HAWORTH TYRA-4272-LJSN-- ,H-WL-,HP-WL Cultivate,Rect,42DX72W,LAM,EB3,Std core,no cutout OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	220.91	220.91
38	3.00 Each	HAWORTH JCPR-0230-SJA-- ,TR-E-,LR-BP X Series,Combo Unit,27.5"H x 30"W,Box,Box(L),File(R),LatFile,Ptd Drw Frnt,Ptd Lock Rail,J Pull,TchLtch,Att,Glides OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	649.52	1,948.56
39	1.00	HAWORTH	292.80	292.80



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	Each	JDBL-2442-JNNNFNS--,H-WL-,HP-WL-,TR-E X Series,Bridge,Lam,2442,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR		
40	3.00 Each	HAWORTH JDRL-2460-JNFSFNS--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Return,Lam,2460,Open,End Stl Pnl,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	554.67	1,664.01
41	1.00 Each	HAWORTH JDSL-2472-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect Desk,Lam, EB3,24X72,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	797.34	797.34
42	3.00 Each	HAWORTH JDXL-3066-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect, Exec, Desk,Lam, EB3,30X66,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	796.78	2,390.34
43	1.00 Each	HAWORTH JDXL-3072-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect, Exec, Desk,Lam, EB3,30X72,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	820.19	820.19
44	1.00 Each	HAWORTH JSCK-24--,TR-E	91.04	91.04



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		Pedestal, Conversion Kit, Stationary, 24in D, X Series, Svc OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR		
45	8.00 Each	HAWORTH TCRA-2460-LJSNFH4A--,H-WL-,HP-WL-,TR-E Jive,Tbl,Rect,Lam,24"x60",Eb3,Std,Co:none,T - Rd,Cstr/Flip,29"h,Ptd OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	575.55	4,604.40
46	1.00 Each	HAWORTH TCRN-4242-LJSNXC4A--,H-WL-,HP-WL-,TR-E Jive,Tbl,Rd,Lam,42"x42",Eb3,Std,Co:none,X,Cstr,29"h,Ptd OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	363.06	363.06
47	2.00 Each	HAWORTH TCRQ-3636-LJSNXC4A--,H-WL-,HP-WL-,TR-E Jive,Tbl,Sq,Lam,36"x36",Eb3,Std,Co:none,X,Cstr,29"h,Ptd OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	325.30	650.60
48	1.00 Each	HAWORTH VLRD-0230-L--,TR-E-,LR-BP V Series,Lateral File,27.5"H x 30"W,Two-High,Freestanding,Full Pull Style OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	305.57	305.57
49	1.00 Each	HAWORTH VPAH-18-L--,TR-E-,LR-BP V Series,Pedestal,Attached,B/B/F,18"D,Lk,Ptd Frt,No Top,Full Pull OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	163.99	163.99
50	1.00 Each	HAWORTH VPAH-24-L--,TR-E-,LR-BP V Series,Pedestal,Attached,B/B/F,24"D,Lk,Ptd Frt,No Top,Full Pull	173.93	173.93



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		OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR		
51	4.00 Each	HAWORTH SCT-20-4115--(4H)-,4H-FT-(MS)-,MS-FJ-,TR-7-,TR-LE-,TR-7 Very Task Chair,Fab Seat,Mesh Bk,Hgt Adj Arms, Plstc Bse Hd Ctrs,Bk Lk, W/ Lum, OPTION: (4H):BLANKET (4H) OPTION: ,4H-FT:BLANKET (4H) - FORT, GRADE A OPTION: (MS):VERY TASK MESH (MS) OPTION: ,MS-FJ:VERY TASK MESH (MS) - SLATE, GRADE A OPTION: ,TR-7:FOG, GRADE B OPTION: ,TR-LE:METALLIC SILVER, GRADE B OPTION: ,TR-7:FOG, GRADE B Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	548.84	2,195.36
52	1.00 Each	HAWORTH SCTC-20-4115--(4H)-,4H-FT-(MS)-,MS-FJ-,TR-7-,TR-LE-,TR-7 Very Task Stool Chair,Fab Seat,Mesh Bk,Hgt Adj Arms, Plstc Bse Hd Ctrs,Bk Lk, W/Lum, OPTION: (4H):BLANKET (4H) OPTION: ,4H-FT:BLANKET (4H) - FORT, GRADE A OPTION: (MS):VERY TASK MESH (MS) OPTION: ,MS-FJ:VERY TASK MESH (MS) - SLATE, GRADE A OPTION: ,TR-7:FOG, GRADE B OPTION: ,TR-LE:METALLIC SILVER, GRADE B OPTION: ,TR-7:FOG, GRADE B Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	791.64	791.64
53	24.00 Each	HAWORTH SCH-44-0S--,TR-FJ-,TR-LE Very Wire Stacker, Plstc Seat, Plstc Bk, Armless, Non Ganging, OPTION: ,TR-FJ:SLATE, GRADE A OPTION: ,TR-LE:METALLIC SILVER, GRADE B Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	130.89	3,141.36
54	2.00 Each	HAWORTH SCW-44-0S--,TR-FJ-,KR-V Very Wire Stool, Bar Height, Plstc Seat, Plstc Bk, Armless, OPTION: ,TR-FJ:SLATE, GRADE A OPTION: ,KR-V:CHROME, GRADE D Tag: Tag TG: PARKS & REC Tag GC: FIRST FLOOR	247.62	495.24
55	13.00	MAGNUSON GROUP	123.75	1,608.75



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	Each	RUNDA--Black 9011 Round painted steel deskside receptacle with internal bag ring and angled top. OPTION: Black 9011:Textured Black Tag: Tag TG: FIRE Tag GC: SECOND FLOOR Tag T3: SECOND FLOOR		
56	30.00 Each	HAWORTH ZUBF-0000-PN Flush Mount Plate Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	4.96	148.80
57	2.00 Each	HAWORTH JCPR-0230-SJA--,TR-E-,LR-BP X Series,Combo Unit,27.5"H x 30"W,Box,Box(L),File(R),LatFile,Ptd Drw Frnt,Ptd Lock Rail,J Pull,TchLtch,Att,Glides OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	649.52	1,299.04
58	7.00 Each	HAWORTH JCPT-0230-SJA--,TR-E-,LR-BP X Series,Combo Unit,27.5"H x 30"W,File(L),Box,Box(R),LatFile,Ptd Drw Frnt,Ptd Lock Rail,J Pull,TchLtch,Att,Glides OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	649.52	4,546.64
59	1.00 Each	HAWORTH JSPY-0536-SJ--,TR-E-,LR-BP X Series,5H x 36"W,Closed Cabinet,Two Doors,Ptd Dr Front,Ptd Lock Bar,Freestanding Mount OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	627.64	627.64
60	2.00 Each	HAWORTH JDBL-2442-JNNNFNS--,H-WL-,HP-WL-,TR-E X Series,Bridge,Lam,2442,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	292.80	585.60
61	2.00 Each	HAWORTH JDRL-2448-JNFSFNS--,H-WL-,HP-WL-,TR-E-,TR-E	512.64	1,025.28



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		X Series,Return,Lam,2448,Open,End Stl Pnl,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR		
62	7.00 Each	HAWORTH JDRL-2460-JFNSFNS--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Return,Lam,2460,End Stl Pnl,Open,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	554.67	3,882.69
63	2.00 Each	HAWORTH JDRL-2460-JNFSFNS--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Return,Lam,2460,Open,End Stl Pnl,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	554.67	1,109.34
64	2.00 Each	HAWORTH JDSL-2472-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect Desk,Lam, EB3,24X72,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	797.34	1,594.68
65	4.00 Each	HAWORTH JDSL-3066-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect Desk,Lam, EB3,30X66,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	796.78	3,187.12
66	7.00 Each	HAWORTH JDXL-3066-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E	796.78	5,577.46



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		X Series,Rect, Exec, Desk,Lam, EB3,30X66,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR		
67	2.00 Each	HAWORTH JDXL-3072-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect, Exec, Desk,Lam, EB3,30X72,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	820.19	1,640.38
68	2.00 Each	HAWORTH TCRN-4242-LJSNXC4A--,H-WL-,HP-WL-,TR-E Jive,Tbl,Rd,Lam,42"x42",Eb3,Std,Co:none,X,Cstr,29"h,Ptd OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	363.06	726.12
69	1.00 Each	HAWORTH TA01-JT12 Planes,Conference,J-channel tray,12"W Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	4.84	4.84
70	2.00 Each	HAWORTH TACB-1200-4 Planes,Column Base,12"W,28"H Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	416.04	832.08
71	8.00 Each	HAWORTH TACC-1200-PF4--,TR-E Planes,Column Cladding,Flat,Painted,12"W,29"H,Single piece OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	122.37	978.96
72	1.00 Each	HAWORTH TAJC-2600 Planes,J-Channel,26"W Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	110.61	110.61



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Order Number	55902
Date	07/10/2023
Customer PO No	
Customer Name	CITY OF MURFREESBORO
Salesperson	Missy Bean - New Customer
Project Name	
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73	2.00 Each	HAWORTH TAPL-2712-SA--,TR-E Planes,Column Plate,Square,27",Painted OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	354.85	709.70
74	1.00 Each	HAWORTH TARA-4896-LJSMBNNN--,H-WL-,HP-WL Planes,Top,Rt,Lam,48"x96",EB3,Std,Co:2Sd/8 Opn/Cntr,Col Str OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	671.52	671.52
75	2.00 Each	HAWORTH VLRD-0230-L--,TR-E-,LR-BP V Series,Lateral File,27.5"H x 30"W,Two-High,Freestanding,Full Pull Style OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	305.57	611.14
76	2.00 Each	HAWORTH VLRD-0536-L--,TR-E-,LR-BP V Series,Lateral File,63.5"H x 36"W,Five-High,Freestanding,Full Pull Style OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	602.82	1,205.64
77	2.00 Each	HAWORTH VPAH-18-L--,TR-E-,LR-BP V Series,Pedestal,Attached,B/B/F,18"D,Lk,Ptd Frt,No Top,Full Pull OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	163.99	327.98
78	2.00 Each	HAWORTH VPAH-24-L--,TR-E-,LR-BP V Series,Pedestal,Attached,B/B/F,24"D,Lk,Ptd Frt,No Top,Full Pull OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	173.93	347.86
79	2.00 Each	HAWORTH VPAJ-18-L--,TR-E-,LR-BP V Series,Pedestal,Attached,F/F,18"D,Lk,Ptd Frt,No Top,Full Pull OPTION: ,TR-E:SMOKE, GRADE A	152.78	305.56





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Project Name	
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		OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: FIRE Tag GC: SECOND FLOOR		
80	23.00 Each	HAWORTH SCT-20-4115--(4H)-,4H-FT-(MS)-,MS-FJ-,TR-7-,TR-LE-,TR-7 Very Task Chair,Fab Seat,Mesh Bk,Hgt Adj Arms, Plstc Bse Hd Ctrs,Bk Lk, W/ Lum, OPTION: (4H):BLANKET (4H) OPTION: ,4H-FT:BLANKET (4H) - FORT, GRADE A OPTION: (MS):VERY TASK MESH (MS) OPTION: ,MS-FJ:VERY TASK MESH (MS) - SLATE, GRADE A OPTION: ,TR-7:FOG, GRADE B OPTION: ,TR-LE:METALLIC SILVER, GRADE B OPTION: ,TR-7:FOG, GRADE B Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	548.84	12,623.32
81	34.00 Each	HAWORTH SCH-44-0S--,TR-FJ-,TR-LE Very Wire Stacker, Plstc Seat, Plstc Bk, Armless, Non Ganging, OPTION: ,TR-FJ:SLATE, GRADE A OPTION: ,TR-LE:METALLIC SILVER, GRADE B Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	130.89	4,450.26
82	3.00 Each	HAWORTH SCW-44-0S--,TR-FJ-,KR-V Very Wire Stool, Bar Height, Plstc Seat, Plstc Bk, Armless, OPTION: ,TR-FJ:SLATE, GRADE A OPTION: ,KR-V:CHROME, GRADE D Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	247.62	742.86
83	1.00 Each	HAWORTH EUE2-0000-1221W FTU,2sd,8 Port,2 Recpt,No USB,2 Data ports,No Cable Garage,Clr Anod Alum,Wht Tchp,12' Cord Tag: Tag TG: FIRE Tag GC: SECOND FLOOR	544.72	544.72
84	10.00 Each	MAGNUSON GROUP RUNDA--Black 9011 Round painted steel deskside receptacle with internal bag ring and angled top. OPTION: Black 9011:Textured Black Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR Tag T3: SECOND FLOOR	123.75	1,237.50
85	24.00 Each	HAWORTH ZUBF-0000-PN	4.96	119.04



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Project Name	
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		Flush Mount Plate Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR		
86	2.00 Each	HAWORTH TYBA-3660-NNNNNG4A--,TR-E Cultivate,Base Only,36DX60W,Gld,28H,Ptd OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	699.64	1,399.28
87	2.00 Each	HAWORTH TYBA-3672-NNNNNG7A--,TR-E Cultivate,Base Only,36DX72W,Gld,39.5H,Ptd OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	855.50	1,711.00
88	2.00 Each	HAWORTH TYRA-3660-LJSN--,H-WL-,HP-WL Cultivate,Rect,36DX60W,LAM,EB3,Std core,no cutout OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	177.74	355.48
89	2.00 Each	HAWORTH TYRA-3672-LJSN--,H-WL-,HP-WL Cultivate,Rect,36DX72W,LAM,EB3,Std core,no cutout OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	199.32	398.64
90	5.00 Each	HAWORTH JCPR-0230-SJA--,TR-E-,LR-BP X Series,Combo Unit,27.5"H x 30"W,Box,Box(L),File(R),LatFile,Ptd Drw Frnt,Ptd Lock Rail,J Pull,TchLtch,Att,Glides OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	649.52	3,247.60
91	3.00 Each	HAWORTH JCPT-0230-SJA--,TR-E-,LR-BP X Series,Combo Unit,27.5"H x 30"W,File(L),Box,Box(R),LatFile,Ptd Drw Frnt,Ptd Lock Rail,J Pull,TchLtch,Att,Glides OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	649.52	1,948.56



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92	2.00 Each	HAWORTH JDBL-2442-JNNNFNS--,H-WL-,HP-WL-,TR-E X Series,Bridge,Lam,2442,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	292.80	585.60
93	3.00 Each	HAWORTH JDRL-2460-JFNSFNS--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Return,Lam,2460,End Stil Pnl,Open,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	554.67	1,664.01
94	5.00 Each	HAWORTH JDRL-2460-JNFSFNS--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Return,Lam,2460,Open,End Stil Pnl,Full Modesty,No Cable Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	554.67	2,773.35
95	2.00 Each	HAWORTH JDSDL-2472-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect Desk,Lam, EB3,24X72,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	797.34	1,594.68
96	8.00 Each	HAWORTH JDXL-3066-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect, Exec, Desk,Lam, EB3,30X66,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	796.78	6,374.24
97	2.00	HAWORTH	820.19	1,640.38



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	Each	JDXL-3072-JFFSFN--,H-WL-,HP-WL-,TR-E-,TR-E X Series,Rect, Exec, Desk,Lam, EB3,30X72,End,End,Ptd,Full Mod,No Cbl Mgt OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR		
98	2.00 Each	HAWORTH TCRN-4242-LJSNXC4A--,H-WL-,HP-WL-,TR-E Jive,Tbl,Rd,Lam,42"x42",Eb3,Std,Co:none,X,Cstr,29"h,Ptd OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	363.06	726.12
99	1.00 Each	HAWORTH TCRQ-3030-LJSNXC4A--,H-WL-,HP-WL-,TR-E Jive,Tbl,Sq,Lam,30"x30",Eb3,Std,Co:none,X,Cstr,29"h,Ptd OPTION: ,H-WL:LINEN, GRADE A OPTION: ,HP-WL:LINEN, GRADE A OPTION: ,TR-E:SMOKE, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	292.98	292.98
100	2.00 Each	HAWORTH VLRD-0230-L--,TR-E-,LR-BP V Series,Lateral File,27.5"H x 30"W,Two-High,Freestanding,Full Pull Style OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	262.08	524.16
101	2.00 Each	HAWORTH VPAH-18-L--,TR-E-,LR-BP V Series,Pedestal,Attached,B/B/F,18"D,Lk,Ptd Frt,No Top,Full Pull OPTION: ,TR-E:SMOKE, GRADE A OPTION: ,LR-BP:CHROME, GRADE A Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	163.99	327.98
102	12.00 Each	HAWORTH SCT-20-4115--(4H)-,4H-FT-(MS)-,MS-FJ-,TR-7-,TR-LE-,TR-7 Very Task Chair,Fab Seat,Mesh Bk,Hgt Adj Arms, Plstc Bse Hd Ctrs,Bk Lk, W/ Lum, OPTION: (4H):BLANKET (4H) OPTION: ,4H-FT:BLANKET (4H) - FORT, GRADE A OPTION: (MS):VERY TASK MESH (MS)	548.84	6,586.08



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		OPTION: ,MS-FJ:VERY TASK MESH (MS) - SLATE, GRADE A OPTION: ,TR-7:FOG, GRADE B OPTION: ,TR-LE:METALLIC SILVER, GRADE B OPTION: ,TR-7:FOG, GRADE B Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR		
103	38.00 Each	HAWORTH SCH-44-0S--,TR-FJ-,TR-LE Very Wire Stacker, Plstc Seat, Plstc Bk, Armless, Non Ganging, OPTION: ,TR-FJ:SLATE, GRADE A OPTION: ,TR-LE:METALLIC SILVER, GRADE B Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	130.89	4,973.82
104	8.00 Each	HAWORTH SCW-44-0S--,TR-FJ-,KR-V Very Wire Stool, Bar Height, Plstc Seat, Plstc Bk, Armless, OPTION: ,TR-FJ:SLATE, GRADE A OPTION: ,KR-V:CHROME, GRADE D Tag: Tag TG: PARKS & REC Tag GC: SECOND FLOOR	247.62	1,980.96
105	75.00 Each	NOI-DESIGN DESIGN Furniture Design Specifications Tag: Tag TG: ZSERVICES Tag T3: DESIGN	10.00	750.00
106	616.00 Each	Furniture Guys, LLC. LABOR	27.50	16,940.00
107	1.00 Each	NOI-WHSE OVERHEAD WAREHOUSING	0.00	0.00
			<b>Order Sub-Total :</b>	<b>\$185,869.39</b>
			<b>TOTAL ORDER :</b>	<b>\$185,869.39</b>

PLEASE REVIEW THIS QUOTATION AND NOTIFY US PROMPTLY OF ANY CORRECTIONS REQUIRED      THANK YOU FOR THE OPPORTUNITY TO BE OF SERVICE

Signature: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**APPROVED AS TO FORM**

DocuSigned by:  
*Adam Tucker*  
43A2035E51E9401  
Adam F. Tucker, City Attorney

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**Item Title:** Blackman Park Master Plan Task Order  
**Department:** Administration  
**Presented by:** Sam A. Huddleston, 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

Master Plan Proposal and Task Order for planning and design services for Blackman Park

## Staff Recommendation

Approve the Master Plan proposal Task Order and funding allocations including a CIP Transfer

## Background Information

The City issued a Request for Competitive Sealed Proposals (RFCSP) for park master planning and design services. Gresham Smith was selected. City staff has reviewed the Master Plan proposal and Task Order to be issued under an existing Master Services Agreement. Funding for the Task Order will be from MED Sale Proceeds reserved for park related services and 2019 CIP for other City facilities services.

## Council Priorities Served

*Establish strong City brand*

A robust park system contributes to the positive identify of the City.

*Expand infrastructure*

Investment in the Blackman Park will increase parks, trails and greenways, education, and public safety infrastructure.

## Fiscal Impact

The attached Task Order proposes a Not-to-Exceed budget of \$182,858 with \$70,000 proposed from the 2019 CIP and the balance from MED sale proceeds. A CIP transfer is attached. A total of \$8M has been established for park elements at Blackman Park with funding from General Fund and MED Sale Proceeds.

## Attachments

1. Task Order and Proposal for Blackman Park Master Plan services.
2. CIP Transfer Form

# ATTACHMENT 1

## TASK ORDER

## Task Order No. 1

---

In accordance with paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated December 07, 2021 ("Agreement"), Owner and Engineer agree as follows:

### 1. Background Data

- A. Effective Date of Task Order: July 13, 2023
- B. Owner: City of Murfreesboro, TNMark
- C. Engineer: Gresham Smith
- D. Specific Project (title): Blackman Park Master Plan
- E. Specific Project (description): Park Master Plan and Economic Development/Facilities Plan

### 2. Services of Engineer

A. The specific services to be provided or furnished by Engineer under this Task Order are: *(Select one of the following 3 options.)*

- set forth in Part 1 – Basic Services of Exhibit A, “Engineer’s Services for Task Order,” modified for this specific Task Order, and attached to and incorporated as part of this Task Order.
- as follows: *Click or tap here to enter text.*
- the services (and related terms and conditions) set forth in the following sections of Exhibit A, as attached to the Agreement referred to above, such sections being hereby incorporated by reference *(Check all that apply)*:
  - Study and Report Services (Exhibit A, Paragraph A1.01)
  - Preliminary Design Phase (Exhibit A, Paragraph A1.02)
  - Final Design Phase (Exhibit A, Paragraph A1.03)
  - Bidding or Negotiating Services (Exhibit A, Paragraph A1.04)
  - Construction Phase Services (Exhibit A, Paragraph A1.05)
    - including Resident Project Representative (RPR) services**
    - not including Resident Project Representative (RPR) services**
  - Post-Construction Phase Services (Exhibit A, Paragraph A1.06)
  - Commissioning Services (Exhibit A, Paragraph A1.07)

B. Resident Project Representative (RPR) Services – If the scope of services established in Paragraph 2.A above includes RPR services, then Exhibit D of the Agreement or Exhibit D as modified and attached hereto is expressly incorporated in this Task Order by reference.

C. Designing to a Construction Cost limit – Under this Task Order, Engineer will design to a Construction Cost Limit, subject to the terms of Paragraph 5.02 of the Agreement of Exhibit D to the Agreement. Exhibit D is expressly incorporated by reference. The Construction Cost Limit is \$*Click or tap here to enter text.*. The bidding or negotiating contingency to be added to the Construction Cost Limit is *Click or tap here to enter text.* percent.

D. Other Services – Engineer shall also provide the following services: Click or tap here to enter text.

3. **Additional Services** – Additional Services that may be authorized or necessary under this Task Order are (select one of the options):

set forth as Additional Services in Part 2—Additional Services, of Exhibit A, “Engineer’s Services for Task Order,” modified for this specific Task Order, and attached to and incorporated as part of this Task Order.

as follows: Click or tap here to enter text.

those services (and related terms and conditions) set forth in Paragraph A2.01 of Exhibit A, as attached to the Agreement referred to above, such paragraph being hereby incorporated by reference.

4. **Owner's Responsibilities**

Owner shall have those responsibilities set forth in Article 2 and in Exhibit B, subject to the following: N/A

5. **Task Order Schedule** – In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following schedule:

<u>Party</u>	<u>Action</u>	<u>Schedule</u>
Engineer	Furnish N/A review copies of the Report and other Study and Report Phase deliverables to Owner.	Within N/A days of the Effective Date of the Task Order.
Owner	Submit comments regarding Report and other Study and Report Phase deliverables to Engineer.	Within N/A days of the receipt of Report and other Study and Report Phase deliverables from Engineer.
Engineer	Furnish N/A copies of the revised Report and other Study and Report Phase deliverables to Owner.	Within N/A days of the receipt of Owner’s comments regarding the Report and other Study and Report Phase deliverables.
Engineer	Furnish N/A review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	Within N/A days of Owner’s authorization to proceed with Preliminary Design Phase services.
Owner	Submit comments regarding Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	Within N/A days of the receipt of Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables from Engineer.
Engineer	Furnish N/A copies of the revised Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	Within N/A days of the receipt of Owner’s comments regarding the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Furnish N/A copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents,	Within N/A days of Owner’s authorization to proceed with Final Design Phase services.



	the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Owner.	
Owner	Submit comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Engineer.	Within N/A days of the receipt of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables from Engineer.
Engineer	Furnish N/A copies of the revised final Drawings and Specifications, assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Owner.	Within N/A days of the receipt of Owner's comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables

**5. Payments to Engineer:** The terms of payment are set forth in Article 4 of the Agreement and in Exhibit C. Owner shall pay Engineer for services rendered as follows:

Description of Service	Amount	Basis of Compensation
1. Basic Services (Part 1 of Exhibit A)	\$182,858	Lump Sum
a. Study and Report Phase (A1.01)	\$ 0	N/A
b. Preliminary and Final Design Phase (A1.02, A1.03)	\$0	N/A
c. Bidding or Negotiating Phase (A1.04)	\$0	N/A
d. Construction Phase (A1.05)*	\$0	N/A
e. Resident Project Representative Services* (A1.05.A.2).	\$0	N/A
f. Post-Construction Phase (A1.06)	\$0	N/A
g. Commissioning Phase (A1.07)	\$0	N/A
h. Other Services (see A1.08, and 2.D above)	\$0	N/A
<b>TOTAL COMPENSATION (lines 1.a-h)</b>	\$182,858	
2. Additional Services (Part 2 of Exhibit A)	(N/A)	Click or tap here to enter text.

\*Based on a N/A-month continuous construction period.

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 Consultants' 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.

**6. Consultants retained as of the Effective Date of this Task Order:**

Athena – Providing Preliminary Ecological Assessment

**7. Other Modifications to Agreement:**

N/A

**8. Attachments:**

N/A

**9. Documents Incorporated by Reference:**

N/A

**10. Terms and Conditions:** Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated herein by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is 7/13/2023.

**OWNER: City of Murfreesboro**

Designated Representative (8.03)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

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

Address for Giving Notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ENGINEER: GRESHAM SMITH**

Designated Representative (8.03)

By: *Jessica K. Lucyshyn* Jessica K. Lucyshyn

Name: John Lavender, PLA

Title: Market Vice President

Title: Project Executive

Date: 7/13/23

Phone: (615) 770-8443

Email: John.Lavender@greshamsmith.com

Address for Giving Notices:

222 Second Avenue South, Suite 1400  
Nashville, TN 37201-2308

## **EXHIBIT A – ENGINEER’S SERVICES**

- A. Services to be provided under this contract will be authorized in writing for each Specific Project. Each Work Authorization will indicate the specific tasks and functions to be performed and deliverables to be provided.
- B. This Agreement is not a commitment by City to issue any Work Authorization.
- C. Engineer shall not be obligated to perform any prospective Work unless and until City and Engineer agree as to the particulars of the Specific Project, Engineer’s Services, Engineer’s compensation, and all other appropriate matters.
- D. Services provided in Work Authorization may include the following.

### **PART 1 – Park Master Plan and Economic Development/Facilities Plan Design**

- Data Collection and Preliminary Analysis –
  - Survey - Verify/mitigate constraints and provide map/exhibit (easements, sinkholes, floodplain, etc.)
  - Update survey to include Right of Way at Blackman Road and Veterans Parkway
  - Conduct Natural Resource/Environmental Assessment
  - Develop base mapping
  - Verify ordinance and permitting constraints/opportunities
  - Secure general building footprint requirements provided by the City for desired program
- Kick-off Meeting - Beginning with a kick-off meeting between the city project team and the Gresham team, we will establish lines of communication, review the project schedule, discuss desired goals, objectives and outcomes, and identify areas of concern that could impact the plan or schedule.
- Public Engagement Historical Data – The design team will review previously obtained public engagement data and identify themes that will help direct the park program and desired amenities.
- Develop Preliminary Concept Plan – Utilizing site inventory and analysis information along with other city obtained data, building footprint prototypes and known site constraints, the design team will begin the concept planning process with preliminary space planning for the Blackman Park site. The space planning exercise will study potential park and overall property program use areas and zones utilizing assets and site features and will identify opportunities for access, circulation, and drainage while taking into consideration compatible use areas. The park plan will identify potential bike and pedestrian connections to surrounding land uses as identified in the City’s Greenway, Blueway and Bikeways Master Plan.
  - Space planning will consider the public safety area with a potential fire station, police station and supporting parking and outside support areas. The programming of the public safety area will utilize prototypical building footprints for these structures.

- A school/education campus will also be incorporated into the planning exercise complete with a standalone library/technology center. It is anticipated the library/tech center will encompass approximately 15-20K sf with shared parking, access and utilities but in a separate structure from the school facility. Access will be an important consideration for these uses.
  - A preliminary infrastructure plan will be developed to assess drainage, roadway, parking, and utility needs along with future access recommendations. This plan will identify needs at full buildout providing for phased development.
  - Character sketches and images will be developed to depict proposed architectural and design elements of the park.
  - A preliminary opinion of probable cost for infrastructure improvements will be provided for discussion and determination of phasing recommendations.
- In conjunction with the master plan, the design team will develop a potential building/development yield study for the area identified along Veterans Parkway and the CH-zoned interior area. The yield study will explore potential future uses along with building arrangements, circulation and overall aesthetic and interface with the park and other community uses. Highest and best uses will be considered as part of the overall infrastructure planning and design for the property.
  - Staff Review – The concept master plan and preliminary opinion of probable cost will be presented to the city design team for review and comment. The meeting review will discuss possible phasing recommendations and determine elements to be incorporated into early phase development.
  - Develop Final Master Plan – With adequate time for city design team staff review (approximately 1 week), the final master plan will be created along with an updated opinion of probable cost and phasing plan.

Part 1 Deliverables:

- Survey updates
- Concept space plan for desired property program
- Analysis of opportunities and constraints presented by current zoning
- Concept design and layout for area along Veteran’s Parkway and CH zones; two concepts shall be provided
- Graphic representation of building massing and parking layout
- Preliminary concept master plan for park and infrastructure
- Preliminary concept master plan opinion of probable cost
- Final master plan
- Final opinion of probable cost
- Phasing plan
- Staff design team update meetings (2 per month)
- Summary report describing process/potential outcomes

**Lump Sum Fee**

Park Master Plan	\$130,158
Natural Resource/Environmental Assessment	\$7,600
<u>Economic Development/Facilities Plan Design</u>	<u>\$45,100</u>
	<b>\$182,858</b>

PART 2 – PAYMENT TO ENGINEER FOR SERVICES

1. **City shall pay Engineer for services in accordance with one or more of the following methods:**
  - a. Negotiated Lump Sum.
  - b. Standard hourly Rates (shall be negotiated within specific Task Orders)



May 10, 2023

Cathy Smith, Director  
City of Murfreesboro – Purchasing Department  
111 W. Vine Street  
Murfreesboro, TN 37130

**Subject: Blackman Park  
Scope and Fee Proposal**

Dear Ms. Smith,

We are excited to team with the City of Murfreesboro in the development of this important community asset. Blackman Park is sure to become the central community destination for residents in the immediate vicinity and citizens of the greater Murfreesboro area as well. We have prepared a project approach and fees based on the scope of work bullet list you sent on April 21, 2023. Please let me know if you have any questions. This has been prepared based on our best understanding from conversations during our interview process and the line items identified in the desired three phase approach. Thank you again for the opportunity and we look forward to hearing from you.

Sincerely,

**Gresham Smith Land Planning**

A handwritten signature in black ink, appearing to read "John Lavender".

John Lavender, PLA  
Project Executive  
Land Planning

Attachments

Copy Louis Johnson, PLA, ASLA, Executive Vice President - Gresham Smith

*Genuine Ingenuity*

222 Second Avenue South  
Suite 1400  
Nashville, TN 37201  
615.770.8100

GreshamSmith.com



## Project Understanding

The City of Murfreesboro seeks to develop a master plan for the newly acquired Blackman Park property. The 150-acre parcel located along Veterans Parkway will provide land for the development of an approximately 85-acre park, school/educational facilities and public safety area with a possible fire station and police precinct. Road frontage along Veterans Parkway will be studied to identify potential neighborhood/community uses and support businesses.

The master plan will consider access and circulation for auto, bike and pedestrians with connections to surrounding neighborhoods and developments. Utility access and infrastructure needs will be considered for the entire site identifying phasing options that can service the initial park development and provide expansion capabilities for future phased development in accordance with the desired site programming.

The following project approach considers three phases of design and approval:

- Phase 1 – Master Plan (designed and approved to include intention of the park and building footprints)
- Phase 2 – Park Design and campus infrastructure designed and approved
- Phase 3 – Economic Development/Facilities Plan designed and approved

## Project Approach

### Phase 1 – Master Plan

- Data Collection and Preliminary Analysis –
  - Survey - Verify/mitigate constraints and provide map/exhibit (easements, sinkholes, floodplain, etc.)
  - Develop base mapping
  - Verify ordinance and permitting constraints/opportunities
  - Secure general building footprint requirements provided by the City for desired program
- Kick-off Meeting - Beginning with a kick-off meeting between the city project team and the Gresham team, we will establish lines of communication, review the project schedule, discuss desired goals, objectives and outcomes, and identify areas of concern that could impact the plan or schedule.
- Public Engagement Historical Data – We understand it is not the City's intention to conduct an extensive public engagement process with the master plan, so the design team will review previously obtained public engagement data and identify themes that will help direct the park program and desired amenities.
- Develop Preliminary Concept Plan – Utilizing site inventory and analysis information along with other city obtained data, building footprint prototypes and known site constraints, the design team will begin the concept planning process with preliminary space planning for the Blackman Park site. The space planning exercise will study potential park and overall property program use areas and zones utilizing assets and site features and will identify opportunities for access, circulation, and drainage while taking into consideration compatible use areas. The park plan





will identify potential bike and pedestrian connections to surrounding land uses as identified in the City's Greenway, Blueway and Bikeways Master Plan.

- Space planning will consider the public safety area with a potential fire station, police station and supporting parking and outside support areas. The programming of the public safety area will utilize prototypical building footprints for these structures.
  - A school/education campus will also be incorporated into the planning exercise complete with a standalone library/technology center. It is anticipated the library/tech center will encompass approximately 15-20K sf with shared parking, access and utilities but in a separate structure from the school facility. Access will be an important consideration for these uses.
  - A preliminary infrastructure plan will be developed to assess drainage, roadway, parking, and utility needs along with future access recommendations. This plan will identify needs at full buildout providing for phased development.
  - Character sketches and images will be developed to depict proposed architectural and design elements of the park.
  - A preliminary opinion of probable cost for infrastructure improvements will be provided for discussion and determination of phasing recommendations.
- Staff Review – The concept master plan and preliminary opinion of probable cost will be presented to the city design team for review and comment. The meeting review will discuss possible phasing recommendations and determine elements to be incorporated into early phase development.
  - Develop Final Master Plan – With adequate time for city design team staff review (approximately 1 week), the final master plan will be created along with an updated opinion of probable cost and phasing plan.
  - Present to City Council – At the conclusion of the master plan process with the city design team, the final master plan, opinion of probable cost and recommended phasing will be presented to the City Council for approval.

Phase 1 Deliverables:

- Survey updates
- Concept space plan for desired property program
- Preliminary concept master plan for park and infrastructure
- Preliminary concept master plan opinion of probable cost
- Final master plan
- Final opinion of probable cost
- Phasing plan
- Staff design team update meetings (2 per month)
- Final presentation to City Council for plan approval



### Phase 2 – Master Plan Design Drawings

- With the completion and approval of the final master plan and determination of desired phase 1 development, the design team will begin **Schematic Design** for the park and infrastructure design package. Working with city staff, the design team will determine the extents of development and prepare preliminary drawings. Schematic design drawings will include:
  - Preliminary layout of park program elements
  - Preliminary layout of roadway alignments and parking
  - Preliminary utility layout
  - Drainage area determinations for the entire site
  - Concept drawings for park structures (including restroom, concessions, shade, outdoor classrooms, and play equipment)
  - Preliminary layout for park amenities (including court sports, field sports, and greenways)
  - Updated opinion of probable cost
  
- With the review comments on schematic design drawings completed, the team will further the design package to the **Design Development** phase. During design development, we will begin to finalize design elements for the park choosing specific materials and overall aesthetic of the built structures. Elements of the outdoor play areas and classrooms will be finalized for detail development. Plans for infrastructure design will be advanced to include appropriate sizing to accommodate the future final buildout. The design development package along with updated opinion of probable cost will be presented for review by the city.
  
- At the completion of the design development phase, the team will commence with the development of **Phase 1 Construction Documents**. Construction documents will be developed to the 75% level of completion for review for by the city. Upon receipt of 75% review comments plans will be modified to the 95% level of completion for review and ultimately final completion of 100% construction documents. Permit approvals will be sought at the appropriate stage of plan development to allow for timely reviews and notices to proceed.

#### Phase 2 Deliverables

- Schematic Design Package and opinion of probable cost
- Design Development Package and opinion of probable cost
- 75% Construction Document review package and updated opinion of probable cost
- 95% Construction Document review package and updated opinion of probable cost
- Final Phase 1 Construction Document Package
- Presentation of Phase 1 Design Package to City Council



Phase 3 – Economic Development/Facilities Plan Design

- In conjunction with the master plan and construction documents, the design team will develop a potential building/development yield study for the area identified along Veterans Parkway and the CH-zoned interior area. The yield study will explore potential future uses along with building arrangements, circulation and overall aesthetic and interface with the park and other community uses. Highest and best uses will be considered as part of the overall infrastructure planning and design for the property.

Phase 3 Deliverables

- Analysis of opportunities and constraints presented by current zoning
- Concept design and layout for area along Veteran’s Parkway and CH zones; two concepts shall be provided
- Graphic representation of building massing and parking layout
- Summary report describing process/potential outcomes
- Presentation of yield study to City Council

**Fee Proposal**

Phase 1 – Master Plan	<b>\$130, 158</b>
Phase 2 – Park Design and Campus Infrastructure	<b>\$374,825</b>
Phase 3 – Economic Development/Facilities Plan Design	<b>\$45,100</b>

Exclusions:

Natural Resource/Environmental Assessment	<b>\$7,600</b>
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Planning level pump station sizing and estimating will be provided at the master plan phase. Pump sizing to accommodate park elements will be included in the phase 1 construction documents. Should a regional pump station design be required to accommodate other community facilities (i.e., school, library, police precinct, firehall, commercial development), additional services will be required to develop design plans.

Survey tasks limited to field verification of existing features and elements on site. A fee for full topographic survey can be provided if necessary.



... creating a better quality of life

**CIP Funds Transfer Request**

Mr. Tindall:

Submitted for your approval is the following request to transfer CIP funds.

CIP Loan 2021 Bond

Transfer CIP funds from:

Transfer CIP funds to:

Parks & Fire Administration Building \$ (70,000.00) Veterans Parkway Non-Park Facilities \$ 70,000.00

Multiple horizontal lines for additional transfer details.

TOTAL TRANSFER \$ (70,000.00)

TOTAL TRANSFER \$ 70,000.00

Explanation: It is requested that \$70,000 be transferred from Parks & Fire Administration Building to a new project, Veterans Parkway Non-Park Facilities.

Multiple horizontal lines for additional explanation details.

[Signature] 7-6-23  
Budget Director Signature Date

[Signature] 7/6/23  
Reviewed by Finance Date

Approved  [Signature] City Manager  
Declined  7.6.23 Date

Please send the original to Vicki Massey, Finance & Tax Dept., once all signatures have been obtained.

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**Item Title:** Cason Lane PreK Annex  
**Department:** Administration  
**Presented by:** Sam Huddleston, 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**

Replace two 8.5-ton HVAC units at Cason Lane PreK Annex.

**Staff Recommendation**

Approve the expenditure of \$68,344.00 for two HVAC units.

**Background Information**

The city recently purchased a daycare at 930 Cason Lane for Murfreesboro City Schools to use as a Pre-K Annex. Two of the existing HVAC units are original to the building built in 1998 and need to be replaced. Trane will be furnishing and installing the new units and were selected from the Omnia Partners Cooperative Purchasing Program.

**Council Priorities Served**

*Responsible budgeting.*

These new units will be more energy efficient than the 25 year old units and will reduce energy and maintenance costs.

**Fiscal Impact**

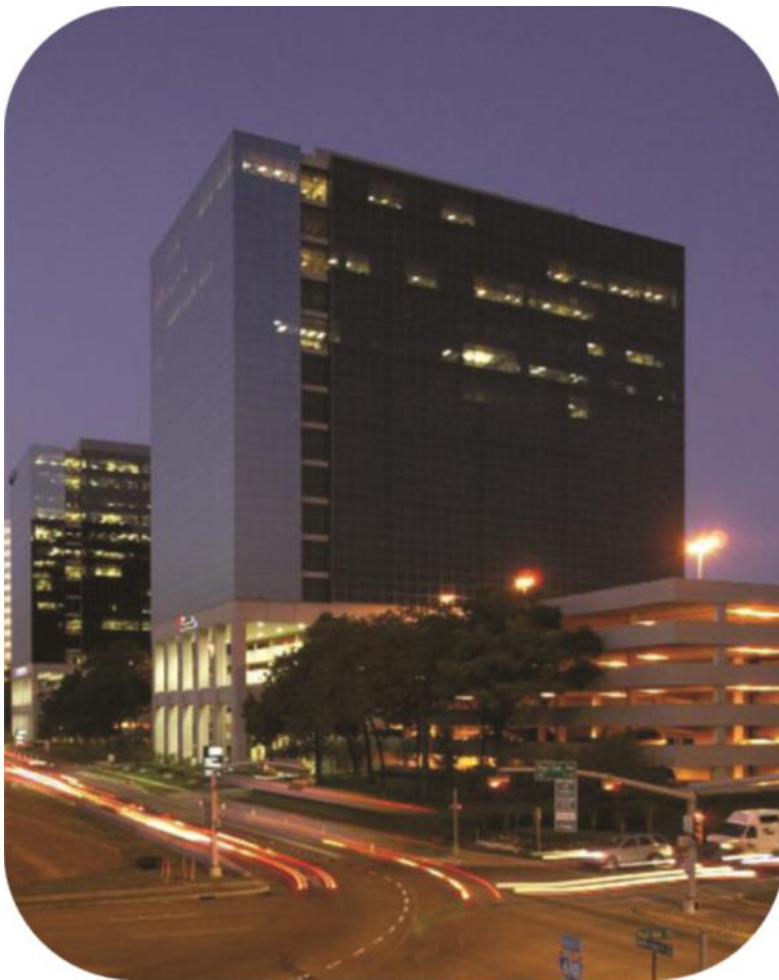
The expense of \$68,344.00 will be funded using CIP funding.

**Attachments:**

Proposal from Trane



# Trane Turnkey Proposal



**Turnkey Proposal For:**  
City Of Murfreesboro  
Administration DEPT 111 WE  
Murfreesboro, TN 37130-3713

**Local Trane Office:**  
Trane U.S. Inc.  
601 Grassmere Park Drive, Suite 10  
Nashville, TN 37211

**Local Trane Representative:**  
Michael Sharp & Brian Bolin  
Office Phone: (615) 242-0311

**Proposal ID:** 7332143  
**COOP Quote Number:** P4-296144-23-001  
**COOP or Federal Contract ID:** OMNIA  
Racine #3341

**Date:** June 08, 2023



**Prepared For:**  
City Of Murfreesboro

**Date:**  
June 08, 2023

**Job Name:**  
City of Murfreesboro Cason Ln Kindergarten

**Proposal Number:**  
7332143

**Delivery Terms:**  
Freight Allowed and Prepaid – F.O.B Factory

**Payment Terms:**  
Net 30

**State Contractor License Number:**

**Proposal Expiration Date:**  
30 Days

## Scope of Work

“Scope of Work” and notations within are based on the following negotiated scope of work and based on the site surveys performed.

Our proposal includes two options for replacement units and will be

### Turnkey Installation of HVAC Equipment

Trane will furnish the units below or similar units based on availability.

Item	Tag(s)	Qty	Description	Model Number
A1	NEW STOCK, PREC-2-1	2	8.5 Ton PKGD Precedent Unitary Rooftop	YSJ102A3S0H**D0C0A2B000A00000000000 00000

Product Data - PREC

**Item: A1 Qty: 2 Tag(s): NEW STOCK, PREC-2-1**

- DX Cooling / Gas Heat
- Standard Efficiency
- R-410A
- 8.5 Ton
- 208-230/60/3
- Symbio 700
- High Gas Heat
- Economizer, DB with Barometric Relief
- Hinged Access Panels with 2-in MERV 8 Filters
- Through the Base Electric
- Circuit Breaker
- Powered 15A Convenience Outlet
- Return Air Smoke Detector
- 1st Yr Labor Whole Unit

### Mechanical Installation

- Electrical and control wiring Demolition
- Recover and dispose of refrigerant per EPA guidelines.
- Dispose of existing Unit
- Delivery and installation of new units
- Installation of new duct connections to existing ductwork
- Re-Insulation of horizontal ductwork on disturbed ductwork.
- Re-connect electrical, gas and low voltage wiring.

## Proposal Notes/ Clarifications

- All work to be performed during normal business hours (8am to 5pm, M-F, non-holidays)
- Proposal does not include "Premium Time" or Price Contingency therefor
- Equipment Order Release and Services rendered are dependent on receipt of PO/Subcontract and credit approval
- Trane will not perform any work if working conditions could endanger or put at risk the safety of our employees or subcontractors
- Asbestos or hazardous material abatement removal shall be performed by customer
- Customer responsible for Extension of Concrete Pad and reconfiguration of Fence.





# Pricing and Acceptance

City Of Murfreesboro  
Administration  
Murfreesboro, TN 37130-3713

## Price

Total Net Price (Including appropriate Sales and/or Use Tax, if required by law).....\$71,524.00  
Total Discount.....\$ 3,180.00

**Total Adjusted Price with Discount.....\$68,344.00**  
**62,988.00**

## Financial items not included

- Bid Bond
- Payment and Performance Bond
- Guarantee of any energy, operational, or other savings

Respectfully submitted,

Michael Sharp & Brian Bolin  
Trane U.S. Inc.  
Office Phone: (615) 242-0311



**ACCEPTANCE**

This proposal is subject to Customer’s acceptance of the attached Trane Terms and Conditions (Installation).

We value the confidence you have placed in Trane and look forward to working with you.

Retention withheld 5% on installation, 0% on Equipment; rate reduced per the contract documents and released no later than the date of Trane substantial completion.

COVID-19 NATIONAL EMERGENCY CLAUSE

The parties agree that they are entering into this Agreement while the nation is in the midst of a national emergency due to the Covid-19 pandemic (“Covid-19 Pandemic”). With the continued existence of Covid-19 Pandemic and the evolving guidelines and executive orders, it is difficult to determine the impact of the Covid-19 Pandemic on Trane’s performance under this Agreement. Consequently, the parties agree as follows:

1. Each party shall use commercially reasonable efforts to perform its obligations under the Agreement and to meet the schedule and completion dates, subject to provisions below;
2. Each party will abide by any federal, state (U.S.), provincial (Canada) or local orders, directives, or advisories regarding the Covid-19 Pandemic with respect to its performance of its obligations under this Agreement and each shall have the sole discretion in determining the appropriate and responsible actions such party shall undertake to so abide or to safeguard its employees, subcontractors, agents and suppliers;
3. Each party shall use commercially reasonable efforts to keep the other party informed of pertinent updates or developments regarding its obligations as the Covid-19 Pandemic situation evolves; and
4. If Trane’s performance is delayed or suspended as a result of the Covid-19 Pandemic, Trane shall be entitled to an equitable adjustment to the project schedule and/or the contract price.

Submitted By: Michael Sharp & Brian Bolin	Cell: Office: (615) 242-0311 Proposal Date: June 08, 2023
<b>CUSTOMER ACCEPTANCE</b> City Of Murfreesboro	<b>TRANE ACCEPTANCE</b> Trane U.S. Inc.
Authorized Representative	Authorized Representative
Printed Name	Printed Name Joel Winstead
Title	Title Service Sales Manager
Purchase Order	Signature Date
Acceptance Date:	License Number:

**TERMS AND CONDITIONS – COMMERCIAL INSTALLATION**

“Company” shall mean Trane U.S. Inc. for Work performed in the United States or Trane Canada ULC for Work performed in Canada.

**1. Acceptance; Agreement.** These terms and conditions are an integral part of Company’s offer and form the basis of any agreement (the “Agreement”) resulting from Company’s proposal (the “Proposal”) for the commercial goods and/or services described (the “Work”). **COMPANY’S TERMS AND CONDITIONS AND EQUIPMENT PRICES ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.** The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 30 days from the date of the Proposal. Prices in the Proposal are subject to change at any time upon notice to Customer. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer’s order shall be deemed acceptance of the Proposal subject to Company’s terms and conditions. If Customer’s order is expressly conditioned upon Company’s acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company’s terms and conditions attached or referenced serves as Company’s notice of objection to Customer’s terms and as Company’s counteroffer to provide Work in accordance with the Proposal and the Company terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company’s counteroffer will be deemed accepted. Notwithstanding anything to the contrary herein, Customer’s acceptance of the Work by Company will in any event constitute an acceptance by Customer of Company’s terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer’s obligation to pay for Work rendered by Company to the date of cancellation.

**2. Connected Services.** In addition to these terms and conditions, the Connected Services Terms of Service (“Connected Services Terms”), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.

**3. Title and Risk of Loss.** All Equipment sales with destinations to Canada or the U.S. shall be made as follows: FOB Company’s U.S. manufacturing facility or warehouse (full freight allowed). Title and risk of loss or damage to Equipment will pass to Customer upon tender of delivery of such to carrier at Company’s U.S. manufacturing facility or warehouse.

**4. Pricing and Taxes.** Unless otherwise noted, the price in the Proposal includes standard ground transportation and, if required by law, all sales, consumer, use and similar taxes legally enacted as of the date hereof for equipment and material installed by Company. Tax exemption is contingent upon Customer furnishing appropriate certificates evidencing Customer’s tax-exempt status. Company shall charge Customer additional costs for bonds agreed to be provided. Equipment sold on an uninstalled basis and any taxable labor/labour do not include sales tax and taxes will be added. Within thirty (30) days following Customer acceptance of the Proposal without addition of any other terms and conditions of sale or any modification, Customer shall provide notification of release for immediate production at Company’s factory. Prices for Work are subject to change at any time prior to shipment to reflect any cost increases related to the manufacture, supply, and shipping of goods. This includes, but is not limited to, cost increases in raw materials, supplier components, labor, utilities, freight, logistics, wages and benefits, regulatory compliance, or any other event beyond Company’s control. If such release is not received within 6 months after date of order receipt, Company reserves the right to cancel any order. If shipment is delayed due to Customer’s actions, Company may also charge Customer storage fees. Company shall be entitled to equitable adjustments in the contract price to reflect any cost increases as set forth above and will provide notice to Customer prior to the date for which the increased price is to be in effect for the applicable customer contract. In no event will prices be decreased.

**5. Exclusions from Work.** Company’s obligation is limited to the Work as defined and does not include any modifications to the Work site under the Americans With Disabilities Act or any other law or building code(s). In no event shall Company be required to perform work Company reasonably believes is outside of the defined Work without a written change order signed by Customer and Company.

**6. Performance.** Company shall perform the Work in accordance with industry standards generally applicable in the area under similar circumstances as of the time Company performs the Work. Company may refuse to perform any Work where working conditions could endanger property or put at risk the safety of persons. Unless otherwise agreed to by Customer and Company, at Customer’s expense and before the Work begins, Customer will provide any necessary access platforms, catwalks to safely perform the Work in compliance with OSHA or state industrial safety regulations.

**7. Payment.** Customer shall pay Company’s invoices within net 30 days of invoice date. Company may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all Work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Company, in which case retention shall be reduced per the contract documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for the equipment portion of the order. If payment is not received as required, Company may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Company for all reasonable shutdown, standby and start-up costs as a result of the suspension. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys’ fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all equipment from Company to secure payment in full of all amounts due Company and its order for the equipment, together with these terms and conditions, form a security agreement. Customer shall keep the equipment free of all taxes and encumbrances, shall not remove the equipment from its original installation point and shall not assign or transfer any interest in the equipment until all payments due Company have been made.

**8. Time for Completion.** Except to the extent otherwise expressly agreed in writing signed by an authorized representative of Company, all dates provided by Company or its representatives for commencement, progress or completion are estimates only. While Company shall use commercially reasonable efforts to meet such estimated dates, Company shall not be responsible for any damages for its failure to do so. Delivery dates are approximate and not guaranteed. Company will use commercially reasonable efforts to deliver the Equipment on or before the estimated delivery date, will notify Customer if the estimated delivery dates cannot be honored, and will deliver the Equipment and services as soon as practicable thereafter. In no event will Company be liable for any damages or expenses caused by delays in delivery.

**9. Access.** Company and its subcontractors shall be provided access to the Work site during regular business hours, or such other hours as may be requested by Company and acceptable to the Work site’ owner or tenant for the performance of the Work, including sufficient areas for staging, mobilization, and storage. Company’s access to correct any emergency condition shall not be restricted. Customer grants to Company the right to remotely connect (via phone modem, internet or other agreed upon means) to Customer’s building automation system (BAS) and/or HVAC equipment to view, extract, or otherwise collect and retain data from the BAS, HVAC equipment, or other building systems, and to diagnose and remotely make repairs at Customer’s request.

**10. Completion.** Notwithstanding any other term or condition herein, when Company informs Customer that the Work has been completed, Customer shall inspect the Work in the presence of Company’s representative, and Customer shall either (a) accept the Work in its entirety in writing, or (b) accept the Work in part and specifically identify, in writing, any exception items. Customer agrees to re-inspect any and all excepted items as soon as Company informs Customer that all such excepted items have been completed. The initial acceptance inspection shall take place within ten (10) days from the date when Company informs Customer that the Work has been completed. Any subsequent re-inspection of excepted items shall take place within five (5) days from the date when Company informs Customer that the excepted items have been completed. Customer’s failure to cooperate and complete any of said inspections within the required time limits shall constitute complete acceptance of the Work as of ten (10) days from date when Company informs Customer that the Work, or the excepted items, if applicable, has/have been completed.

**11. Permits and Governmental Fees.** Company shall secure (with Customer’s assistance) and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work which are legally required when bids from Company’s subcontractors are received, negotiations thereon concluded, or the effective date of a relevant Change Order, whichever is later. Customer is responsible for necessary approvals, easements, assessments and charges for construction, use or occupancy of permanent structures or for permanent changes to existing facilities. If the cost of such permits, fees, licenses and inspections are not included in the Proposal, Company will invoice Customer for such costs.

**12. Utilities During Construction.** Customer shall provide without charge to Company all water, heat, and utilities required for performance of the Work.

**13. Concealed or Unknown Conditions.** In the performance of the Work, if Company encounters conditions at the Work site that are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated on drawings expressly incorporated herein or (ii) unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, Company shall notify Customer of such conditions promptly, prior to significantly disturbing same. If such conditions differ materially and cause an increase in Company’s cost of, or time required for, performance of any part of the Work, Company shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Contract Price, contract time, or both.

**14. Pre-Existing Conditions.** Company is not liable for any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the Work site before the Commencement Date of this Agreement (“Pre-Existing Conditions”), including, without limitation, damages, losses, or expenses involving Pre-Existing Conditions of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould and/or

fungi. Company also is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company.

**15. Asbestos and Hazardous Materials.** Company's Work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, polychlorinated biphenyl ("PCB"), or other hazardous materials (hereinafter, collectively, "Hazardous Materials"). Customer warrants and represents that, except as set forth in a writing signed by Company, there are no Hazardous Materials on the Work site that will in any way affect Company's Work and Customer has disclosed to Company the existence and location of any Hazardous Materials in all areas within which Company will be performing the Work. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be exclusively responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and, to the fullest extent permitted by law, shall indemnify and hold harmless Company (including its employees, agents and subcontractors) from and against any loss, claim, liability, fees, penalties, injury (including death) or liability of any nature, and the payment thereof arising out of or relating to any Hazardous Materials on or about the Work site, not brought onto the Work site by Company. Company shall be required to resume performance of the Work in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Company be obligated to transport or handle Hazardous Materials, provide any notices to any governmental agency, or examine the Work site for the presence of Hazardous Materials.

**16. Force Majeure.** Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days' notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

**17. Customer's Breach.** Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to Company for all Work furnished to date and all damages sustained by Company (including lost profit and overhead)

**18. Indemnity.** To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

**19. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS, LOST DOLLAR SAVINGS, OR LOST ENERGY USE SAVINGS, INCLUDING CONTAMINANTS LIABILITIES, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). Except for the indemnity obligation stated herein, in no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the greater of (i) One Hundred Thousand Dollars (\$100,000.00) or (ii) two-times (2x) the entire amount paid to Company by Customer under this Agreement.

#### **20. CONTAMINANTS LIABILITY**

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. **IN NO EVENT WILL COMPANY BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INDEMNIFICATION, ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH), DAMAGE TO PROPERTY, OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO CONTAMINANTS (INCLUDING THE SPREAD, TRANSMISSION, MITIGATION, ELIMINATION, OR CONTAMINATION THEREOF) (COLLECTIVELY, "CONTAMINANT LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES COMPANY FROM ANY SUCH CONTAMINANTS LIABILITIES.**

**21. Patent Indemnity.** Company shall protect and indemnify Customer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the goods manufactured by Company and delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Company shall promptly be notified and given full opportunity to negotiate a settlement. Company does not warrant against infringement by reason of Customer's design of the articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation, Customer agrees to reasonably cooperate with Company. In connection with any proceeding under the provisions of this Section, all parties concerned shall be entitled to be represented by counsel at their own expense.

**22. Limited Warranty.** Company warrants for a period of 12 months from the date of substantial completion ("Warranty Period") commercial equipment manufactured and installed by Company against failure due to defects in material and manufacture and that the labor/labour furnished is warranted to have been properly performed (the "Limited Warranty"). Trane equipment sold on an uninstalled basis is warranted in accordance with Company's standard warranty for supplied equipment. **Product manufactured by Company that includes required startup and is sold in North America will not be warranted by Company unless Company performs the product start-up.** Substantial completion shall be the earlier of the date that the Work is sufficiently complete so that the Work can be utilized for its intended use or the date that Customer receives beneficial use of the Work. If such defect is discovered within the Warranty Period, Company will correct the defect or furnish replacement equipment (or, at its option, parts therefor) and, if said equipment was installed pursuant hereto, labor/labour associated with the replacement of parts or equipment not conforming to this Limited Warranty. Defects must be reported to Company within the Warranty Period. Exclusions from this Limited Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; Customer's failure to follow the Company-provided maintenance plan; refrigerant not supplied by Company; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. No warranty liability whatsoever shall attach to Company until the Work has been paid for in full and then said liability shall be limited to the lesser of Company's cost to correct the defective Work and/or the purchase price of the equipment shown to be defective. Equipment, material and/or parts that are not manufactured by Company ("Third-Party Product(s)") are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **CUSTOMER UNDERSTANDS THAT COMPANY IS NOT THE MANUFACTURER OF ANY THIRD-PARTY PRODUCT(S) AND ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS ARE THOSE OF THE THIRD-PARTY MANUFACTURER, NOT COMPANY AND CUSTOMER IS NOT RELYING ON ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS REGARDING THE THIRD-PARTY PRODUCT THAT MAY BE PROVIDED BY COMPANY OR ITS AFFILIATES, WHETHER ORAL OR WRITTEN. THE WARRANTY AND LIABILITY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY MAKES NO REPRESENTATION OR WARRANTY, OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. ADDITIONALLY, COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL COMPANY HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, THIRD-PARTY PRODUCT, OR ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO.**

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**23. Insurance.** Company agrees to maintain the following insurance while the Work is being performed with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive its right of subrogation.

**24. Commencement of Statutory Limitation Period.** Except as to warranty claims, as may be applicable, any applicable statutes of limitation for acts or failures to act shall commence to run, and any alleged cause of action stemming therefrom shall be deemed to have accrued, in any and all events not later than the last date that Company or its subcontractors physically performed work on the project site.

**25. General.** Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Work is performed, without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Work is performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Work site is owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

**26. Equal Employment Opportunity/Affirmative Action Clause.** Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

**27. U.S. Government Work.**

**The following provision applies only to direct sales by Company to the US Government.** The Parties acknowledge that all items or services ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business.

**The following provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions in effect as of the date of this subcontract: 52.203-19; 52.204-21; 52.204-23; 52.219-8; 52.222-21; 52.222-26; 52.222-35; 52.222-36; 52.222-50; 52.225-26; 52.247-64. If the Work is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

**28. Limited Waiver of Sovereign Immunity.** If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

**29. Building Automation Systems and Network Security.** Customer and Trane acknowledge that Building Automation System (BAS) and connected networks security requires Customer and Trane to maintain certain cybersecurity obligations. Customer acknowledges that upon completion of installation and configuration of the BAS, the Customer maintains ownership of the BAS and the connected network equipment. Except for any applicable warranty obligations, Customer is solely responsible for the maintenance and security of the BAS and related networks and systems. In the event there is a service agreement between Trane and Customer, Trane will provide the services as set forth in the service agreement.

In order to maintain a minimum level of security for the BAS, associated networks, network equipment and systems, Customer's cybersecurity responsibilities include without limitation:

1. Ensure that the BAS, networks, and network equipment are physically secure and not accessible to unauthorized personnel.
2. Ensure the BAS remains behind a secure firewall and properly segmented from all other customer networks and systems, especially those with sensitive information.
3. Keep all Inbound ports closed to any IP Addresses in the BAS.
4. Remove all forwarded inbound ports and IP Addresses to the BAS.
5. Maintain user login credentials and unique passwords, including the use of strong passwords and the removal of access for users who no longer require access.
6. Where remote access is desired, utilize a secure method such as Trane Connect Secure Remote Access or your own VPN.
7. For any Trane services requiring remote data transfer and/or remote user access, configure the BAS and related firewall(s) per instructions provided by Trane. This typically includes configuring Port 443 and associated firewall(s) for Outbound only.
8. Perform regular system maintenance to ensure that your BAS is properly secured, including regular software updates to your BAS and related network equipment (i.e., firewalls).

Any and all claims, actions, losses, expenses, costs, damages, or liabilities of any nature due to Customer's failure to maintain BAS security responsibilities and/or industry standards for cybersecurity are the sole responsibility of the Customer.

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** City Hall Renovations Professional Services

**Department:** Administration

**Presented by:** Sam A. Huddleston, Assistant City Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Professional Services Agreement for City Hall Renovations.

**Staff Recommendation**

Approve the Professional Services Agreement with KDGi for design of City Hall renovations.

**Background Information**

With continued facility and office space needs, City staff proposes to renovate portions of City Hall. Significant changes to the layout of the second floor are anticipated to create a security separation between open-to-public and staff only spaces and repurposing spaces to create additional offices for City staff. Modifications to the first floor are proposed in Administration, Legal, and Finance to repurpose and rearrange space for additional offices and office operations.

**Council Priorities Served**

*Responsible budget*

Careful space planning and renovation of existing buildings is the most cost-efficient means of providing work space for City employees.

**Fiscal Impact**

The expense, \$164,500, is funded by the FY21 CIP.

**Attachments**

1. KDGi Scope and Fee Proposal
2. Professional Services Agreement



# AIA® Document B101® – 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the 20th day of July in the year 2023  
*(In words, indicate day, month and year.)*

**BETWEEN** the Architect’s client identified as the Owner:  
*(Name, legal status, address and other information)*

City of Murfreesboro  
111 Vine Street  
Murfreesboro, Tennessee 37130

and the Architect:  
*(Name, legal status, address and other information)*

Kingdom Development Group Incorporated  
102 S. Maple Street  
Murfreesboro, Tennessee 37130

for the following Project:  
*(Name, location and detailed description)*

City of Murfreesboro – City Hall Interior Renovations

The Owner and Architect agree as follows.

### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
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7	COPYRIGHTS AND LICENSES
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12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

- The KDGi Team will provide permit-ready construction drawings for renovations in the City Hall Building which will include:
  - ✓ First Floor – spatial reconfiguration, reuse, and interior upgrades of select existing areas in the Finance and Tax, Administration, and Legal departments.
  - ✓ Second Floor – major renovation includes spatial reconfiguration, reuse, and interior upgrades of the administrative office and staff support areas in the City Engineering, GIS, City Court, Traffic Control, Building Codes, Planning and Zoning, IT, and Transportation departments.
- The design and selection of interior finishes, fixtures, and equipment is included.
- Mechanical, Plumbing, and Electrical engineering design is included with this scope of work. (Structural Engineering is not required nor included with this scope of work).
- Low Voltage is not included with this scope.
- Unforeseen subsurface, plenum, and/or roof conditions are not included with this scope of work.
- A Project Manual with Specifications will be provided.
- KDGi will provide a rough order of magnitude cost estimate for this project.

§ 1.1.2 The Project's physical characteristics:

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User Notes:

(1815039848)



*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:  
*(Provide total and, if known, a line item breakdown.)*

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:  
180 days from execution of contract
- .2 Construction commencement date:
- .3 Substantial Completion date or dates:
- .4 Other milestone dates:

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:  
*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:  
*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*

While sustainable practices will be utilized, LEED or other formal sustainable design certifications will not be pursued

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:  
*(List name, address, and other contact information.)*

§ 1.1.8 The persons or entities, in addition to the Owner’s representative, who are required to review the Architect’s submittals to the Owner are as follows:  
(List name, address, and other contact information.)

§ 1.1.9 The Owner shall retain the following consultants and contractors:  
(List name, legal status, address, and other contact information.)

.1 Structural Engineer:

.2 Civil Engineer:

.3 Other, if any:  
(List any other consultants and contractors retained by the Owner.)

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
(List name, address, and other contact information.)

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.2 Mechanical Engineer:

Moradian Engineering  
226 Treutland Avenue  
Nashville, Tennessee 37207

**.3** Electrical Engineer:

Moradian Engineering  
226 Treutland Avenue  
Nashville, Tennessee 37207

**.4** Plumbing Engineer:

Moradian Engineering  
226 Treutland Avenue  
Nashville, Tennessee 37207

**§ 1.1.11.2** Consultants retained under Supplemental Services:

**§ 1.1.12** Other Initial Information on which the Agreement is based:

**§ 1.2** The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

**§ 1.3** The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

**§ 1.3.1** Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

**§ 2.1** The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

**§ 2.2** The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

**§ 2.3** The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9. Architect shall not cancel or modify an insurance coverage required by this Agreement without providing Owner with at least 30-days' prior written notice.

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$ 1,000,000.00) for each occurrence and One Million Dollars (\$ 1,000,000.00 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Hundred Thousand Dollars (\$ 100,000.00 ) each accident, One Hundred Thousand Dollars (\$ 100,000.00 ) each employee, and One Hundred Thousand Dollars (\$ 100,000.00 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per claim and One Million Dollars (\$ 1,000,000.00) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

§ 2.5.9 **Indemnification.** The Architect agrees to indemnify, save and hold harmless the Owner, its officials, officers, and employees, from any and all claims of any nature, including all costs, expenses and attorneys' fees, which may in any manner arise out of or result from Architect's negligent acts or omissions or intentional misconduct in performing work under this Agreement, except to the extent that such claims arise from the negligent acts or omissions of the City or its employees and agents. Architect's obligation to indemnify, save and hold harmless the Owner shall not be limited to the amount of insurance actually secured under this Agreement, including any insurance above the minimum required, but shall extend to the full amount on any claims, loss or damage incurred or awarded, including costs, expenses and attorneys' fees.

§ 2.6 The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall exercise due professional care in endeavoring to comply with the requirements imposed by governmental authorities having jurisdiction over the Project, including, but not limited to, applicable ADA standards. The Architect shall use the standard care ordinarily utilized by other architects designing projects under the applicable standards and

in identifying requirements imposed by governmental authorities. The Architect shall also identify to the Owner requirements that may be interpreted as conflicting with other requirements imposed by law.

### **ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES**

**§ 3.1** The Architect's Basic Services consist of those described in this Article 3 and include usual and customary civil, structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

**§ 3.1.1** The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

**§ 3.1.2** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall review thoroughly the services and information for completeness and sufficiency and provide timely written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

**§ 3.1.3** As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

**§ 3.1.4** The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

**§ 3.1.5** The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

**§ 3.1.6** The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

**§ 3.1.7** The Architect shall assist the Owner in determining allowable construction time and amount of liquidated damages.

**§ 3.1.8** In accordance with the standard of care, The Architect is responsible for the coordination of all drawings and design documents relating to Architect's design used on the Project, regardless of whether such drawings and documents are prepared or provided by Architect, by Architect's consultants, or by others. If preliminary or design development Work has been performed by others, Architect is nevertheless fully responsible for and accepts full responsibility for such earlier Work when Architect performs subsequent phases of the basic services called for under this Agreement, as fully as if the preliminary, schematic, and design development Work had been performed by the Architect itself. Architect is responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by Architect. Architect is responsible for the completeness and accuracy of all drawings and specifications submitted by or through Architect and for their compliance with all applicable codes, ordinances, regulations, laws, and statutes.

### **§ 3.2 Schematic Design Phase Services**

**§ 3.2.1** The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

**§ 3.2.2** The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall review such information to ascertain that it is

consistent with the requirements of the Project and shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. Owner's approval of the documents must be in writing to be binding against either party.

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. Owner's approval of the documents must be in writing to be binding against either party.

### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. Construction drawings, specifications, or other Construction Documents submitted by Architect must be complete and unambiguous and in compliance with all applicable codes, ordinances, statutes, regulations, and laws. By submitting the same, Architect certifies that Architect has informed the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, inform the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time, and take any action required under Section 6.5, and request the Owner's written approval. Owner's approval of the documents must be in writing to be binding against either party. The Architect will also ascertain that all elements of the construction documents specific to the Owner's requirements, including modifications to the General Conditions, are correctly contained within the construction documents prior to bidding.

## § 3.5 Procurement Phase Services

### § 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

### § 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### § 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

## § 3.6 Construction Phase Services

### § 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.4 The Architect shall be responsible for conducting progress meetings not less than monthly or as needed and for the preparation, distribution, and accuracy of minutes pertaining thereto to all parties as directed by the Owner.

### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect and Owner shall have the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or timely so as not to affect the Contract Time or the Contract Sum.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents. The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents; provided however, the Owner, with advice and assistance from the Architect, shall make final decisions on matters relating to aesthetic effect.



§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect’s certification for payment shall constitute a representation to the Owner, based on the Architect’s evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor’s Application for Payment, that, to the best of the Architect’s knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor’s right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

### § 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor’s submittal schedule and shall not unreasonably delay or withhold approval. The Architect’s action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, in a timely manner so as not to affect the Contract Time or the Contract Sum.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor’s submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor’s responsibility. The Architect’s review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor’s design professional, provided the submittals bear such professional’s seal and signature when submitted to the Architect. The Architect’s review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect’s response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

### § 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. The Architect shall timely report to Owner, in writing, those minor changes in the Work authorized by Architect pursuant to this section. If the Architect and the Owner determine that the implementation of the requested change would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner who may authorize further investigation of such change.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. Additionally, the Architect shall review and, upon request by Owner, provide written documentation of the same of all change order requests and proposals with respect to the following criteria:

- .1 confirm proposed change is a material change to the Contract;
- .2 confirm appropriate credits are included for Work not completed;
- .3 verify that the proposed additional cost or credit is reasonable with respect to industry standards. Cost verifications may, as authorized by Owner, include independent estimates and/or consultations with contractors and vendors; and
- .4 confirm that the appropriate back up documentation is included and mathematically correct including mark ups and taxes pursuant to the requirements of the Contract Documents.

### § 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall review, approve, and forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner and the Contractor to review the facility operations and performance.

## ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

### § 4.1 Supplemental Services

*[Intentionally Omitted]*

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

#### **§ 4.2 Architect's Additional Services**

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

**§ 4.2.1** Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

**§ 4.2.2** To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

**§ 4.2.3** The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Up to 3 (Three) reviews of each Shop Drawing, Product Data item, sample, and similar submittals of the Contractor
- .2 Up to 10 (Ten) visits to the site by the Architect during construction

- 3 Up to 2 (Two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- 4 Up to 2 (Two) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within 6 (Six) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner, with the Architect's assistance, shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.3.1 The Owner has the right to reject any portion of the Architect's Work on the Project, including but not limited to Schematic Design Documents, Design Development Documents, Construction Documents, or the Architect's provision of services during the construction of the Project, or any other design Work or documents on any reasonable basis, including, but not limited to aesthetics or because in the Owner's opinion, the construction cost of such design is likely to exceed the budget for Cost of the Work. If at any time the Architect's Work is rejected by the Owner, the Architect must proceed when requested by the Owner, to revise the design Work or documents prepared for that phase to the Owner's satisfaction. These revisions shall be made without adjustment to the compensation provided hereunder, unless revisions are made to Work previously approved by the Owner under previous phases, in which case such revision services will be paid as a Change in Services. Should there be substantial revisions to the original program after the approval of the Schematic Design Documents, which changes substantially increase the scope of design services to be furnished hereunder, such revision services will be paid as a Change in Services. The Architect must so notify the Owner of all Changes in Services in writing and receive approval from Owner before proceeding with revisions necessitated by such changes. No payment, of any nature whatsoever, will be made to the Architect for additional Work or Changes in Services without such written approval by Owner.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner may elect to furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground

corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Owner may, in its sole discretion, request that the Architect secure these services by contracting with a third party.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 Unless otherwise provided in this Agreement, the Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 Consistent and in accordance with the applicable standard of care owed by Architect, the Owner shall be entitled to rely on the accuracy and completeness of services and information provided by the Architect. The Owner shall provide timely written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall timely notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

*(Paragraph deleted)*

## **ARTICLE 6 COST OF THE WORK**

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot

and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

**§ 6.3** In preparing estimates of the Cost of Work, the Architect, in consultation with the Owner, shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

**§ 6.4** If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

**§ 6.5** If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

**§ 6.6** If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 undertake a good faith effort to obtain necessary and timely approval of Council for an increase in the budget for the Cost of the Work, as may be necessary, and then if approval is timely obtained, give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

**§ 6.7** If the Owner chooses to proceed under Section 6.6.2, the Architect, without additional compensation, shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the documents which the Architect is responsible for preparing under this Agreement as necessary to comply with the Owner's budget for the Cost of the Work, and shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. The modification of such documents and the rebidding or renegotiating of the Project shall be the limit of the Architect's responsibility under Section 6.6.

## **ARTICLE 7 COPYRIGHTS AND LICENSES**

**§ 7.1** The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

**§ 7.2** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

**§ 7.3** Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive, irrevocable, royalty-free, right and license to use the Architect's Instruments of Service for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely

and exclusively for use in performing services or construction for the Project. Upon completion of the Project, or upon termination of this Agreement for any reason prior to the completion of the Project, Owner shall be entitled to retain copies of all Instruments of Service and shall have an irrevocable, royalty-free, right and license to use all of the Instruments of Service for any and all purposes related to the Project in any manner the Owner deems fit, including Electronics Filing and Archiving for the purpose of record keeping at Owner designated areas; any future renovation, addition, or alteration to the Project; and any future maintenance or operations issue as it pertains to the Project. Architect or Architect's Consultants shall not be responsible for any modifications to the Work made by Owner or Owner's representatives using the Architect's Instruments of Service.

**§ 7.3.1** In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such use.

**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

**§ 7.5** Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 General**

**§ 8.1.1** The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement within the period specified by applicable Tennessee law.

**§ 8.1.2** To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

**§ 8.1.3** The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### **§ 8.2 Mediation**

**§ 8.2.1** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court whose jurisdiction includes Rutherford County, Tennessee
- Other: (Specify)

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 [Intentionally Omitted]

(Paragraphs deleted)

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

**ARTICLE 9 TERMINATION OR SUSPENSION**

§ 9.1 If the Owner fails to make payments of undisputed amounts to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, in accordance herewith, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and shall negotiate with the Owner any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Owner and the Architect shall negotiate the amount of any compensation the Owner will pay the Architect for expenses incurred in the interruption and resumption of the Architect's services. The Owner and the Architect shall negotiate any adjustments to the Architect's fees for the remaining services and the time schedules for completion.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination and Reimbursable Expenses incurred and unpaid.

§ 9.7

Init.



*(Paragraphs deleted)*  
**[Intentionally Omitted]**

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

§ 9.9 In the event of any termination under this Article, the Architect consents to the Owner's selection of another architect of the Owner's choice to assist the Owner in any way in completing the Project. Architect further agrees to cooperate and provide any information requested by Owner in connection with the completion of the Project and consents to and authorizes the making of any reasonable changes to the design of the Project by Owner and such other architect as Owner may desire. Any services provided by Architect that are requested by Owner after termination will be fairly compensated by Owner in accordance with Article 11.

#### **ARTICLE 10 MISCELLANEOUS PROVISIONS**

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. The Architect shall immediately report to the Owner's project manager the presence, handling, removal or disposal of, or exposure of persons to and location of any hazardous material which it discovers.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. Notwithstanding the foregoing, the Owner may disclose any information specifically required by law.

Init.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
*(Insert amount)*  
\$164,500 (One Hundred and Sixty Four Thousand, Five Hundred Dollars)
- .2 Percentage Basis  
*(Insert percentage value)*  
( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.
- .3 Other  
*(Describe the method of compensation)*

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Not applicable

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

In accordance with the hourly rates set forth in Section 11.7

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent ( %), or as follows:  
*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

Not Applicable

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Twenty	percent (	20	%)
Design Development Phase	Thirty	percent (	30	%)
Construction Documents Phase	Thirty-Five	percent (	35	%)
Procurement Phase	Ten	percent (	10	%)
Construction Phase	Five	percent (	5	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The Architect’s rates and multiples for service as set forth in this Agreement shall remain in effect for the life of this Agreement unless unforeseen events which are not the fault of the Architect delay the Project completion. In such event, an equitable adjustment in the Architect’s rates may be negotiated with the Owner.  
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

**KDGi Hourly Billing Rates (2023)**

Principal	\$275.00
Sr. Architect	\$205.00
Project Architect	\$150.00
Project Designer III	\$130.00
Project Designer II	\$115.00
Project Designer I	\$100.00
Project Associate	\$80.00

(Table deleted)

**§ 11.8 Compensation for Reimbursable Expenses**

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner’s prior written approval, the Architect’s consultants’ expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect’s consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;

- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent ( 10 %) of the expenses incurred.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

§ 11.10 **Payments to the Architect**

§ 11.10.1 **Initial Payments**

§ 11.10.1.1 An initial payment of Sixteen Thousand and Four Hundred and Fifty Dollars (\$ 16,450.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 **Progress Payments**

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid 30 ( Thirty ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of monthly or annual interest agreed upon.)*

10% (Ten Percent) Per Year

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:

*(Include other terms and conditions applicable to this Agreement.)*

**ARTICLE 13 SCOPE OF THE AGREEMENT**

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect

**.3 Exhibits:**  
*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

Other Exhibits incorporated into this Agreement:  
*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

**.4 Other documents:**  
*(List other documents, if any, forming part of the Agreement.)*

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
**OWNER** *(Signature)*

\_\_\_\_\_  
Shane McFarland, Mayor  
*(Printed name and title)*

Approved as to form:

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

\_\_\_\_\_  
**ARCHITECT** *(Signature)*

\_\_\_\_\_  
Brandon M. Harvey, AIA  
President & Managing Partner  
TN 107050  
\_\_\_\_\_  
*(Printed name, title, and license number, if required)*

# Additions and Deletions Report for AIA® Document B101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:26:49 ET on 07/14/2023.

## PAGE 1

**AGREEMENT** made as of the 20th day of July in the year 2023

...

City of Murfreesboro  
111 Vine Street  
Murfreesboro, Tennessee 37130

...

Kingdom Development Group Incorporated  
102 S. Maple Street  
Murfreesboro, Tennessee 37130

...

City of Murfreesboro – City Hall Interior Renovations

## PAGE 2

- The KDG Team will provide permit-ready construction drawings for renovations in the City Hall Building which will include:
  - ✓ First Floor – spatial reconfiguration, reuse, and interior upgrades of select existing areas in the Finance and Tax, Administration, and Legal departments.
  - ✓ Second Floor – major renovation includes spatial reconfiguration, reuse, and interior upgrades of the administrative office and staff support areas in the City Engineering, GIS, City Court, Traffic Control, Building Codes, Planning and Zoning, IT, and Transportation departments.
- The design and selection of interior finishes, fixtures, and equipment is included.
- Mechanical, Plumbing, and Electrical engineering design is included with this scope of work. (Structural Engineering is not required nor included with this scope of work).
- Low Voltage is not included with this scope.
- Unforeseen subsurface, plenum, and/or roof conditions are not included with this scope of work.
- A Project Manual with Specifications will be provided.
- KDG will provide a rough order of magnitude cost estimate for this project.

## PAGE 3

180 days from execution of contract

...

While sustainable practices will be utilized, LEED or other formal sustainable design certifications will not be pursued

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**User Notes:**

(1815039848)

PAGE 4

.1 Geotechnical Engineer:

Structural Engineer:

...

.1 Structural Engineer:

...

Moradian Engineering  
226 Treutland Avenue  
Nashville, Tennessee 37207

PAGE 5

Moradian Engineering  
226 Treutland Avenue  
Nashville, Tennessee 37207

.4 Plumbing Engineer:

Moradian Engineering  
226 Treutland Avenue  
Nashville, Tennessee 37207

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§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9. Architect shall not cancel or modify an insurance coverage required by this Agreement without providing Owner with at least 30-days' prior written notice.

§ 2.5.1 Commercial General Liability with policy limits of not less than ~~(\$—)~~ for each occurrence and ~~(\$—One Million Dollars (\$ 1,000,000.00) for each occurrence and One Million Dollars (\$ 1,000,000.00.)~~ in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 2.5.5 Employers' Liability with policy limits not less than One Hundred Thousand Dollars (\$ 100,000.00) each accident, One Hundred Thousand Dollars (\$ 100,000.00 ) each employee, and One Hundred Thousand Dollars (\$ 100,000.00 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ~~(\$—)~~ per claim and ~~(\$—)One Million Dollars (\$ 1,000,000.00) per claim and One Million Dollars (\$ 1,000,000.00) in the aggregate.~~

...

**§ 2.5.9 Indemnification.** The Architect agrees to indemnify, save and hold harmless the Owner, its officials, officers, and employees, from any and all claims of any nature, including all costs, expenses and attorneys' fees, which may in any manner arise out of or result from Architect's negligent acts or omissions or intentional misconduct in performing work under this Agreement, except to the extent that such claims arise from the negligent acts or omissions of the City or its employees and agents. Architect's obligation to indemnify, save and hold harmless the Owner shall not be limited to the amount of insurance actually secured under this Agreement, including any insurance above the minimum required, but shall extend to the full amount on any claims, loss or damage incurred or awarded, including costs, expenses and attorneys' fees.

**§ 2.6** The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall exercise due professional care in endeavoring to comply with the requirements imposed by governmental authorities having jurisdiction over the Project, including, but not limited to, applicable ADA standards. The Architect shall use the standard care ordinarily utilized by other architects designing projects under the applicable standards and in identifying requirements imposed by governmental authorities. The Architect shall also identify to the Owner requirements that may be interpreted as conflicting with other requirements imposed by law.

**§ 3.1** The Architect's Basic Services consist of those described in this Article 3 and include usual and customary civil, structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

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**§ 3.1.2** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall ~~provide prompt~~ review thoroughly the services and information for completeness and sufficiency and provide timely written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

...

**§ 3.1.7** The Architect shall assist the Owner in determining allowable construction time and amount of liquidated damages.

**§ 3.1.8** In accordance with the standard of care, The Architect is responsible for the coordination of all drawings and design documents relating to Architect's design used on the Project, regardless of whether such drawings and documents are prepared or provided by Architect, by Architect's consultants, or by others. If preliminary or design development Work has been performed by others, Architect is nevertheless fully responsible for and accepts full responsibility for such earlier Work when Architect performs subsequent phases of the basic services called for under this Agreement, as fully as if the preliminary, schematic, and design development Work had been performed by the Architect itself. Architect is responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by Architect. Architect is responsible for the completeness and accuracy of all drawings and specifications submitted by or through Architect and for their compliance with all applicable codes, ordinances, regulations, laws, and statutes.

...

**§ 3.2.2** The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

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**§ 3.2.7** The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. Owner's approval of the documents must be in writing to be binding against either party.



...

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. Owner's approval of the documents must be in writing to be binding against either party.

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§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. Construction drawings, specifications, or other Construction Documents submitted by Architect must be complete and unambiguous and in compliance with all applicable codes, ordinances, statutes, regulations, and laws. By submitting the same, Architect certifies that Architect has informed the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time.

...

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, inform the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time, and take any action required under Section 6.5, and request the Owner's written approval. Owner's approval of the documents must be in writing to be binding against either party. The Architect will also ascertain that all elements of the construction documents specific to the Owner's requirements, including modifications to the General Conditions, are correctly contained within the construction documents prior to bidding.

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§ 3.6.1.4 The Architect shall be responsible for conducting progress meetings not less than monthly or as needed and for the preparation, distribution, and accuracy of minutes pertaining thereto to all parties as directed by the Owner.

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect ~~has and~~ Owner shall have the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or ~~otherwise with reasonable promptness~~ timely so as not to affect the Contract Time or the Contract Sum.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. ~~When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.~~ The Architect's Documents. The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents; provided however, the Owner, with advice

and assistance from the Architect, shall make final decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.effect.

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§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule.approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review in a timely manner so as not to affect the Contract Time or the Contract Sum.

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§ 3.6.5.1 The Architect may ~~order~~ authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2,4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. The Architect shall timely report to Owner, in writing, those minor changes in the Work authorized by Architect pursuant to this section. If the Architect and the Owner determine that the implementation of the requested change would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner who may authorize further investigation of such change.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. Additionally, the Architect shall review and, upon request by Owner, provide written documentation of the same of all change order requests and proposals with respect to the following criteria:

- .1 confirm proposed change is a material change to the Contract;
- .2 confirm appropriate credits are included for Work not completed;
- .3 verify that the proposed additional cost or credit is reasonable with respect to industry standards. Cost verifications may, as authorized by Owner, include independent estimates and/or consultations with contractors and vendors; and
- .4 confirm that the appropriate back up documentation is included and mathematically correct including mark ups and taxes pursuant to the requirements of the Contract Documents.

...

§ 3.6.6.4 The Architect shall review, approve, and forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner and the Contractor to review the facility operations and performance.

...

[Intentionally Omitted]

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 Furniture, furnishings, and equipment design	
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	

**§ 4.1.2 Description of Supplemental Services**

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

~~§ 4.1.2.2~~ A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.  
(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

~~§ 4.1.3~~ If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

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- .1 ~~(—)~~ Up to 3 (Three) reviews of each Shop Drawing, Product Data item, ~~sample sample~~, and similar submittals of the Contractor
- .2 ~~(—)~~ Up to 10 (Ten) visits to the site by the Architect during construction
- .3 ~~(—)~~ Up to 2 (Two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 ~~(—)~~ Up to 2 (Two) inspections for any portion of the Work to determine final completion.

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~~§ 4.2.5~~ If the services covered by this Agreement have not been completed within ~~(—)6 (Six)~~ months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

...

~~§ 5.2~~ The ~~Owner~~ Owner, with the Architect's assistance, shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

...

~~§ 5.3.1~~ The Owner has the right to reject any portion of the Architect's Work on the Project, including but not limited to Schematic Design Documents, Design Development Documents, Construction Documents, or the Architect's provision of services during the construction of the Project, or any other design Work or documents on any reasonable basis, including, but not limited to aesthetics or because in the Owner's opinion, the construction cost of such design is likely to exceed the budget for Cost of the Work. If at any time the Architect's Work is rejected by the Owner, the Architect must proceed when requested by the Owner, to revise the design Work or documents prepared for that phase to the Owner's satisfaction. These revisions shall be made without adjustment to the compensation provided hereunder, unless revisions are made to Work previously approved by the Owner under previous phases, in which case such revision services will be paid as a Change in Services. Should there be substantial revisions to the original program after the approval of the Schematic Design Documents, which changes substantially increase the scope of design services to be furnished hereunder, such revision services will be paid as a Change in Services. The Architect must so notify the Owner of all Changes in Services in writing and receive approval from Owner before proceeding with revisions necessitated by such changes. No payment, of any nature whatsoever, will be made to the Architect for additional Work or Changes in Services without such written approval by Owner.

~~§ 5.5~~ The Owner shall ~~may~~ elect to furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Owner may, in its sole discretion, request that the Architect secure these services by contracting with a third party.

~~§ 5.8~~ Unless otherwise provided in this Agreement, the Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

...

~~§ 5.11~~ The Owner shall provide prompt Consistent and in accordance with the applicable standard of care owed by Architect, the Owner shall be entitled to rely on the accuracy and completeness of services and information provided by the Architect. The Owner shall provide timely written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

~~§ 5.12~~ The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall ~~promptly~~ timely notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

...

~~§ 5.15~~ Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

~~§ 6.3~~ In preparing estimates of the Cost of Work, the ~~Architect~~ Architect, in consultation with the Owner, shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

...

- ~~.1~~ undertake a good faith effort to obtain necessary and timely approval of Council for an increase in the budget for the Cost of the Work, as may be necessary, and then if approval is timely obtained, give written approval of an increase in the budget for the Cost of the Work;

...

~~§ 6.7~~ If the Owner chooses to proceed under Section 6.6.4, ~~the Architect shall modify the Construction Documents 6.6.2, the Architect, without additional compensation, shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the documents which the Architect is responsible for preparing under this Agreement as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the~~

~~Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents Work, and shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. The modification of such documents and the rebidding or renegotiating of the Project shall be the limit of the Architect's responsibility under this Article 6. Section 6.6.~~

...

~~§ 7.3 The Upon execution of this Agreement, the Architect grants to the Owner a ~~nonexclusive~~ nonexclusive, irrevocable, royalty-free, right and license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, obligations, including prompt payment of all sums due pursuant to Article 9 and Article 11, when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate. Upon completion of the Project, or upon termination of this Agreement for any reason prior to the completion of the Project, Owner shall be entitled to retain copies of all Instruments of Service and shall have an irrevocable, royalty-free, right and license to use all of the Instruments of Service for any and all purposes related to the Project in any manner the Owner deems fit, including Electronics Filing and Archiving for the purpose of record keeping at Owner designated areas; any future renovation, addition, or alteration to the Project; and any future maintenance or operations issue as it pertains to the Project. Architect or Architect's Consultants shall not be responsible for any modifications to the Work made by Owner or Owner's representatives using the Architect's Instruments of Service.~~

~~§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4. use.~~

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~~§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1. Tennessee law.~~

~~PAGE 18~~

~~[ X ] Litigation in a court of competent jurisdiction whose jurisdiction includes Rutherford County, Tennessee~~

...

**§ 8.3 Arbitration** *[Intentionally Omitted]*

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1~~ A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

~~§ 8.3.2~~ The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

~~§ 8.3.3~~ The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

#### ~~§ 8.3.4 Consolidation or Joinder~~

~~§ 8.3.4.1~~ Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

~~§ 8.3.4.2~~ Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

~~§ 8.3.4.3~~ The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

...

~~§ 9.1~~ If the Owner fails to make payments of undisputed amounts to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, in accordance herewith, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and shall negotiate with the Owner any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

~~§ 9.2~~ If the Owner suspends the Project, Project for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, ~~the Architect shall be compensated the Owner and the Architect shall negotiate the amount of any compensation the Owner will pay the Architect~~ for expenses incurred in the interruption and resumption of the Architect's services. The Owner and the Architect shall negotiate any adjustments to the Architect's fees for the remaining services and the time schedules shall be equitably adjusted for completion.

...

~~§ 9.6~~ If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements, termination and Reimbursable Expenses incurred and unpaid.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:  
*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 — Termination Fee:

.2 — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

**[Intentionally Omitted]**

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§ 9.9 In the event of any termination under this Article, the Architect consents to the Owner's selection of another architect of the Owner's choice to assist the Owner in any way in completing the Project. Architect further agrees to cooperate and provide any information requested by Owner in connection with the completion of the Project and consents to and authorizes the making of any reasonable changes to the design of the Project by Owner and such other architect as Owner may desire. Any services provided by Architect that are requested by Owner after termination will be fairly compensated by Owner in accordance with Article 11.

...

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. The Architect shall immediately report to the Owner's project manager the presence, handling, removal or disposal of, or exposure of persons to and location of any hazardous material which it discovers.

...

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. Notwithstanding the foregoing, the Owner may disclose any information specifically required by law.

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\$164,500 (One Hundred and Sixty Four Thousand, Five Hundred Dollars)

...

Not applicable

...

In accordance with the hourly rates set forth in Section 11.7

...

Not Applicable

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Schematic Design Phase	<u>Twenty</u>	percent (	<u>20</u>	)	%)
Design Development Phase	<u>Thirty</u>	percent (	<u>30</u>	)	%)
Construction Documents Phase	<u>Thirty-Five</u>	percent (	<u>35</u>	)	%)



Procurement Phase	<u>Ten</u>	percent (	<u>10</u>	%)
Construction Phase	<u>Five</u>	percent (	<u>5</u>	%)

...

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices. Architect’s rates and multiples for service as set forth in this Agreement shall remain in effect for the life of this Agreement unless unforeseen events which are not the fault of the Architect delay the Project completion. In such event, an equitable adjustment in the Architect’s rates may be negotiated with the Owner. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

**KDGi Hourly Billing Rates (2023)**

Principal	\$275.00
Sr. Architect	\$205.00
Project Architect	\$150.00
Project Designer III	\$130.00
Project Designer II	\$115.00
Project Designer I	\$100.00
Project Associate	\$80.00

...

<b>Employee or Category</b>	<b>Rate (\$0.00)</b>
-----------------------------	----------------------

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§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus Ten percent ( 10 %) of the expenses incurred.

...

§ 11.10.1.1 An initial payment of Sixteen Thousand and Four Hundred and Fifty Dollars (\$ 16,450.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner’s account in the final invoice.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect’s invoice. Amounts unpaid 30 ( Thirty ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

% 10 ( Ten Percent ) Per Year

...

.2 — AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this agreement.)

PAGE 23

[ ] ~~AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:  
(Insert the date of the E204 2017 incorporated into this agreement.)~~

...

Shane McFarland, Mayor

Brandon M. Harvey, AIA  
President & Managing Partner  
TN 107050

...

Approved as to form:

Adam F. Tucker, City Attorney

## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Adam F. Tucker, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:26:49 ET on 07/14/2023 under Order No. 3104238041 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Dated)*



July 13, 2023

Sam Huddleston, Assistant City Manager  
City of Murfreesboro  
111 Vine Street  
Murfreesboro, TN 37130

**Via Email:** [shuddleston@murfreesborotn.gov](mailto:shuddleston@murfreesborotn.gov)

**Subject: Scope and Fee Proposal for City of Murfreesboro City Hall Renovation**

KDGi is pleased to provide our professional design services to renovate the City of Murfreesboro City Hall Building located at 111 Vine Street in Murfreesboro, TN. Our experienced team of design professionals will work with you to ensure your project goals are met. This Scope and Fee Proposal will serve as the outline of our understanding and assumptions of your project, our scope of work, and fees for our professional services.

**Understanding of the Scope**

KDGi and its' engineering consultants will provide professional design services to develop detailed drawings and specifications to establish the major renovation requirements. The construction documents will describe the quality, configuration, size, and relationship of all architectural components to be incorporated into this project in consistency with this Project's program, budget, and schedule.

The following section defines the Summary of Services that KDGi will provide.

**Summary of Services**

**Assumptions**

- The KDGi Team will provide permit-ready construction drawings for renovations in the City Hall Building which will include:
  - ✓ First Floor – spatial reconfiguration, reuse, and interior upgrades of select existing areas in the Finance and Tax, Administration, and Legal departments.
  - ✓ Second Floor – major renovation includes spatial reconfiguration, reuse, and interior upgrades of the administrative office and staff support areas in the City Engineering, GIS, City Court, Traffic Control, Building Codes, Planning and Zoning, IT, and Transportation departments.
- The design and selection of interior finishes, fixtures, and equipment is included.
- Mechanical, Plumbing, and Electrical engineering design is included with this scope of work. (Structural Engineering is not required nor included with this scope of work).
- Low Voltage is not included with this scope.
- Unforeseen subsurface, plenum, and/or roof conditions are not included with this scope of work.
- A Project Manual with Specifications will be provided.
- KDGi will provide a rough order of magnitude cost estimate for this project.

## Work Elements

### Task 1: Schematic Design (30% Design)

The Design Team will develop schematic-level construction documents in sufficient detail to clearly convey a comprehensive image of the Client's design intent. The design documents will identify area allocations, conceptual organization interior spaces, and the identification/location mechanical/electrical equipment and fixtures.

- The Schematic Design drawings will include:
  - ✓ Schematic-level Building Floor Plans
  - ✓ Conceptual Interior Renderings
  - ✓ Interior Design
  - ✓ Life Safety Plans
  - ✓ Reflected Ceiling
  - ✓ Defined/Verified Wall Types
  - ✓ Code Analysis and General Information
  - ✓ Outline Specifications

#### Deliverables

- Schematic Design (30% Design) Drawing Package, *printed progress drawings upon request*
- Outline Specifications

### Task 2: Design Development (60% Design)

The Design Team will develop the schematic design architectural documents in further detail to clearly identify the developed architectural and engineering solutions. The Design Development drawings will include:

- ✓ Developed Plans and Interior Elevations
- ✓ Life Safety and Code Analysis
- ✓ Reflected Ceiling Plans (proposed locations of lighting fixtures & equipment)
- ✓ Interior Design
- ✓ Schedules – includes finishes, doors, frames & hardware, and interior windows.
- ✓ Updated Specifications

#### Deliverables

- Design Development (30% Design) Drawing Package, *printed progress drawings upon request*
- Updated Specifications

### Task 3: Construction Documents (90/100% Design)

The Design Team will develop the design development architectural documents in full detail to clearly identify the developed architectural and engineering solutions. The construction document package will provide a completed set of plans and technical specifications necessary to bid and permit the project. The Construction Documents Package will include:

- ✓ All Discipline drawings stamped, signed, and dated by the responsible design professional.

#### Deliverables

- Construction Documents (100% Design) Drawing Package – two full-sized printed sets of drawings, and additional as required.
- Project Manual – Design Specifications

### **Task 5: Bid procurement**

The KDGi Team will make any necessary changes to construction documents and assist with bidding procurement.

- All deliverables will be delivered electronically via PDF and printed drawings as required for Building Codes review.

### **Deliverables**

- Addenda as needed (revised/updated construction documents)

### **Task 6: Construction Administration**

The Design Team will be available for Construction Administration, which includes:

- Review of Submittals and Requests for Information (RFI's), and assistance to the Client through potential contract modifications.
- The Design Team will participate in the preconstruction meeting.
- At Substantial Completion, the Design Team will conduct a walk-through of the completed construction and develop a punch-list for items not otherwise in compliance with the design intent/Client's requirements to be completed before Final Completion

## **Project Schedule and Fee Estimate**

### **Schedule and Fee**

KDGi anticipates that the construction documents can be completed within the duration of six (6) months.

The fee to perform the proposed Scope of Services outlined in this proposal is a lump sum amount of **\$164,500.00** (One Hundred and Sixty-Four Thousand and Five Hundred Dollars).

Upon authorization and a contractual amendment for Additional Services from the Client, further fee negotiations will be made between the Client and KDGi at an hourly rate.

I hope that you find this Scope and Fee Proposal in good standing. If you agree, we shall enter into a Design Services Agreement and proceed with the Scope of Work.

Thank You!



Brandon M. Harvey, AIA, NCARB, NOMA  
President/Managing Partner

Cc: Brandon Neish

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**Item Title:** Agreement for Patterson Park Site Survey and Parking Lot Design

**Department:** Parks and Recreation

**Presented by:** Rachel Singer, Assistant Director

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Agreement with Griggs and Maloney for Patterson Park Site Survey and Parking Lot Design.

**Staff Recommendation**

Approve Agreement with Griggs and Maloney.

**Background Information**

The parking lot at Patterson Park Community Center needs repairs due to subgrade failures asphalt deterioration. Additionally, the existing parking area is not large enough to accommodate patronage to the facility with overflow parking in grass being regularly required.

With the anticipated replacement of the existing playground and addition of a splash pad, additional parking is a necessity. It is expected that the specified redesign will provide an additional 75 parking spaces.

**Council Priorities Served**

*Establish strong City brand*

Providing adequate and quality parking at Patterson Park Community Center will enhance the customer experience at the facility.

**Fiscal Impact**

Total cost for design services, \$55,200, is funded by the FY21 CIP Budget.

**Attachment**

Agreement with Griggs and Maloney



P.O. Box 2968  
Murfreesboro, TN 37133-2968  
(615) 895-8221  
Fax: (615) 895-0632

---

June 23, 2023

Mr. Nate Williams, Director  
Parks & Recreation Department  
City of Murfreesboro  
P.O. Box 1139  
Murfreesboro, Tennessee 37130

**RE: PROPOSAL FOR PROFESSIONAL ENGINEERING SERVICES  
PATTERSON PARK COMMUNITY CENTER - SITE SURVEY AND PARKING LOT DESIGN**

Dear Mr. Williams:

Griggs & Maloney, Inc. (G&M) is excited to present this proposal to assist the City of Murfreesboro (City) with surveying, design, bidding, and construction phase services for two new parking lots located at the Patterson Park Community Center (PPCC).

The scope of G&M's proposed services includes the following:

- **Site Survey** – A Topographic survey will be conducted for the location of the new splash pad and parking areas at PPCC.
- **Parking Analysis** – G&M will analyze park usage during peak times and available parking with the new parking combined with the existing parking. Existing pavement will also be analyzed for repair recommendations.
- **Limited Geotechnical Exploration** – Subsurface data at the site will be obtained in support of the earthwork and parking lot design. Test pits will be excavated to 8 feet or refusal and assumes the City can provide a backhoe and operator to excavate the test pits.
- **Demolition Plans** – for the removal of the existing playground and pavilion located in the north parking lot.
- **Civil Site Design and Planning Approval** – A civil site plan package will be developed to meet City planning requirements including site layout, grading design, parking lot design, utility layout, drainage design, landscape and irrigation plan, erosion and sediment control plan, and design details.



Mr. Nate Williams

June 23, 2023

Page 2

- **CGP & Storm Water Pollution Prevention Plan (SWPPP)** – 1 acre or more of disturbance is anticipated due to site work. A Construction General Permit (CGP) and SWPPP will be required by TDEC for the project if an acre or more is disturbed.
- **Electrical Design** – Site electrical and lighting design will be provided for the parking lot.
- **Contract Documents** – Contract documents will be developed suitable for bidding. The documents will be coordinated with legal and purchasing prior to bidding.
- **Bidding Phase Services** – Includes a pre-bid meeting and responding to questions during bidding.
- **Construction Phase Services** – Includes a pre-construction conference and administering the construction contract through contract closeout.

**PROJECT BUDGET**

G&M proposes to perform the survey & design and other tasks described above for a not-to-exceed amount of \$55,200. Support by G&M during bidding and construction will be provided on an as-needed, time and materials basis. No permitting activities or agency(s) permit fees beyond a CGP are included as components of this proposal. All work will be performed in accordance with the attached Billing Rates and Standard Terms and Conditions previously agreed to by G&M and the City.

To accept the conditions of this proposal please sign below and return a copy to us as our authorization to proceed. If you have any questions regarding the proposal, please call me at (615) 895-8221.

Sincerely,

**GRIGGS & MALONEY, INC.**



Ryan W. Maloney, P.E.

President

**ACCEPTED BY CITY OF MURFREESBORO**

\_\_\_\_\_  
SHANE MCFARLAND, MAYOR

\_\_\_\_\_  
DATE

**APPROVED AS TO FORM**

DocuSigned by:



7/7/2023

43A2035E51F9401...  
\_\_\_\_\_  
ADAM TUCKER, CITY ATTORNEY

\_\_\_\_\_  
DATE

## **GRIGGS & MALONEY, INC. STANDARD TERMS AND CONDITIONS**

### 1. ACCESS TO THE SITE/JOB SITE SAFETY

Unless otherwise stated, Griggs & Maloney, Inc., hereinafter referred to as the CONSULTANT, will have access to the site for activities necessary for performance of the services. The CONSULTANT will take precautions to minimize damage resulting from these activities, but has not included in the project fee the cost of restoration of any resulting damage.

The CONSULTANT has not been retained or compensated to provide services relating to the CONTRACTOR's safety precautions or means, methods, techniques, sequences or procedures for the CONTRACTOR to perform his work. The CLIENT understands that the CONSULTANT is not responsible, in any way, for the means, methods, techniques, sequences, procedures, scheduling, or for job site safety, and will not be responsible for any losses or injuries that occur at the Project site.

### 2. INSURANCE

The CONSULTANT shall secure and endeavor to maintain such insurance including general liability and errors and omissions insurance in the amount of \$1,000,000 as will protect the CLIENT from claims of negligence, bodily injury, death, or property damage that may arise out of the performance of the CONSULTANT's services under this agreement.

### 3. TERMINATION OF SERVICES:

This Agreement may be terminated by the CLIENT or by the CONSULTANT upon not less than seven days written notice should the other party fail to substantially perform in accordance with the terms of this Agreement through no fault of the party initiating termination. If this Agreement is terminated by the CLIENT, the CONSULTANT shall be paid for services performed to the termination notice date, including reimbursable expenses.

### 4. REIMBURSABLE EXPENSES:

Reimbursable expenses include actual expenditures made by the CONSULTANT, his employees, or his SUB-CONSULTANTS on behalf of the Project. Reimbursable expenses include, but are not necessarily limited to, the following: (a) expenses of transportation and living when traveling in connection with the Project: long distance communications; overnight mail; and fees paid for testing and/or securing approval of authorities having jurisdiction over the Project: (b) expenses of printing, reproduction, postage and handling of drawings and specifications, including duplicate sets at the completion of each phase of the Project for the CLIENT's review and approval; and (c) expenses related to SUB-CONSULTANTS and specialists when authorized by the CLIENT. Reimbursable expenses shall be billed as cost plus 15% incurred by the CONSULTANT.

### 5. DISPUTES RESOLUTION:

All claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to this Agreement or breach thereof shall be presented to non-binding mediation, subject to the parties agreeing to a mediator.

### 6. OWNERSHIP OF DOCUMENTS:

It is understood by and between the parties to this agreement that all drawings, specifications, reports and other work products of the CONSULTANT for this Project shall remain the property of the CONSULTANT and are instruments of the service for this Project only and shall apply to this particular Project and any reuse of the instruments of service of the CONSULTANT by the CLIENT for any extensions of the PROJECT or for any other project without the written permission of the CONSULTANT shall be at the CLIENT's sole risk, and the CLIENT agrees to defend, indemnify and hold harmless the CONSULTANT from all claims, damages and expenses, including attorney's fees, arising out of any unauthorized reuse of the CONSULTANT's instruments of service by the CLIENT or by others acting through or on behalf of the CLIENT to the extent permitted by law. Any reuse or adoption of the CONSULTANT's instruments of service on other projects shall entitle the CONSULTANT to additional compensation in an amount to be agreed upon by the CLIENT and the CONSULTANT.

### 7. GOVERNING LAW:

Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the State of Tennessee. In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

8. PAYMENT TO THE CONSULTANT:

If the CLIENT fails to make payment due to the CONSULTANT, the CONSULTANT may, after giving seven days written notice to the CLIENT, suspend services under this Agreement and retain all work products deliverable to the CLIENT until full payment. The project completion date shall be automatically extended by the number of days services are suspended.

No deductions shall be made from the CONSULTANT's compensation on account of penalty, liquidated damages, or other sums withheld from payment(s) to CONTRACTORS.

9. CLIENT RESPONSIBILITIES:

The CLIENT shall designate a person to act with authority on his behalf in respect to all aspects of the Project, shall examine and respond promptly to CONSULTANTS submissions, and shall give prompt written notice to the CONSULTANT whenever he observes or otherwise becomes aware of any defect in or problem with the Project.

The CLIENT shall also provide to the CONSULTANT all criteria and full information as to his requirements for the Project, and shall:

- Provide the CONSULTANT with escorts and means of access to all areas of the Project; this being necessary for the orderly progress of the work, the CONSULTANT shall be entitled to rely upon the efficiency and completeness thereof.
- Compensate the CONSULTANT for services rendered under this Agreement and pay all costs incidental to CLIENT furnished items.
- The CONSULTANT may justifiably rely upon information supplied by the CLIENT without the need for additional verification by the CONSULTANT.
- Provide such legal, accounting, and insurance counseling services as may be required for the Project.
- Guarantee access to and make all independent cost estimating, and insurance counseling services as may be required for the Project.

10. EXTENT OF AGREEMENT:

This Agreement represents the entire and integrated Agreement between the CLIENT and the CONSULTANT and supersedes all prior negotiations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CLIENT and the CONSULTANT.

The CONSULTANT intends to render services under the terms of this Agreement in accordance with generally accepted professional practices consistent with the intended use of the Project and makes no warranty either expressed or implied.

Any *opinion of construction* cost prepared by the CONSULTANT represents his judgment as a design professional and is supplied for the general guidance of the CLIENT. Since the CONSULTANT has no control over the cost of labor and material, or over competitive bidding or market conditions, the CONSULTANT does not guarantee the accuracy of such opinions as compared to CONTRACTOR bids or actual cost to the CLIENT.

11. CHANGES IN THE SCOPE OF SERVICES:

The CLIENT may request changes in the *Scope of Services* of the Agreement to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONSULTANT's compensation, which are mutually agreed upon by and between the CLIENT and the CONSULTANT shall be incorporated into this Agreement by written amendment.

Any changes made to construction documents by the CLIENT, or by the CLIENT's representative's, are strictly prohibited without the knowledge and written consent of the CONSULTANT. The CONSULTANT shall be released from any liability resulting from damages, injuries, and or death from the unauthorized alteration of construction documents.

12. EXISTING AND/OR HIDDEN CONDITIONS:

A condition is hidden if it is concealed by existing finishes or features or if it cannot be investigated by reasonable visual observation. If the CONSULTANT has reason to believe that such a condition may exist, the CONSULTANT will notify the CLIENT who then shall authorize and pay for all costs associated with the investigation of such a condition and, if necessary, all costs necessary to correct said condition. If (1) the CLIENT fails to authorize such investigation or correction after due notification, or (2) the CONSULTANT has no reason to believe that such a condition exists, the CLIENT is responsible for all risks associated with this condition, and the CONSULTANT shall not be responsible for the existing condition nor any resulting damages to persons or property. Further, the CONSULTANT will not be required to execute any document that would result in certifying, guaranteeing or warranting the existence of conditions whose existence the CONSULTANT cannot reasonably

ascertain.

### 13. STANDARD OF CARE

Services provided by the Design Professional under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any loss, claim or cost, including reasonable attorney's fees and costs of defense, arising or resulting from the performance of the same services set forth herein by third parties and from any and all claims arising from modifications, clarification, interpretations, adjustments or changes not approved by CONSULTANT that are made to the Contract Documents by Client or third party to reflect changed field or other conditions, except for claims arising from the negligence or willful misconduct of the CONSULTANT.

### 14. DESIGN WITHOUT CONSTRUCTION SERVICES

It is understood and agreed that the CONSULTANT's Basic Services under this Agreement do not include project observation or review of the CONTRACTOR's performance or any other construction phase services, and that such services will be provided by the CLIENT or by another party selected at the sole discretion of the CLIENT. Further, the CLIENT assumes all responsibility for interpretation of the Contract Documents and for construction observation and/or supervision and waives any claims against the CONSULTANT that may be in any way connected thereto.

In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any loss, claim or cost, including reasonable attorney's fees and costs of defense, arising or resulting from the performance of services under this contract by other persons or entities and from any and all claims arising from modifications, clarification, interpretations, adjustments or changes made to the Contract Documents to reflect changes field or other conditions, except for claims arising from the sole negligence or willful misconduct of the CONSULTANT.

If the CLIENT requests in writing that the CONSULTANT provide any specific construction phase service and if the CONSULTANT agrees in writing to provide such services, then the CONSULTANT shall be compensated for ADDITIONAL Services as provided in the Agreement.

## **END OF STANDARD TERMS AND CONDITIONS**

**GRIGGS & MALONEY, INC.****STANDARD RATES****January 2023**

	<u>Per Hour Rate</u>
<u>Principal</u>	<b>\$195.00</b>
<u>Senior Engineer/Project Manager</u>	<b>\$160.00 - \$185.00</b>
<u>Project Engineer</u>	<b>\$135.00 - \$155.00</b>
<u>Engineer II</u>	<b>\$115.00 - \$130.00</b>
<u>Engineer I</u>	<b>\$90.00 - \$110.00</b>
<u>Senior Planner</u>	<b>\$120.00 - \$140.00</b>
<u>Environmental/Health &amp; Safety</u>	<b>\$125.00</b>
<u>Sr. Environmental Scientist/Biologist</u>	<b>\$115.00 - \$125.00</b>
<u>Environmental Scientist/Biologist</u>	<b>\$90.00 - \$110.00</b>
<u>Sr. Geologist</u>	<b>\$115.00</b>
<u>Environmental Specialist</u>	<b>\$60.00 - \$80.00</b>
<u>Drafting/CADD Operator</u>	<b>\$100.00</b>
<u>Technician</u>	<b>\$80.00</b>
<u>Clerical</u>	<b>\$65.00</b>
<u>Administrative</u>	<b>\$100.00</b>
<u>Resident Representative</u>	<b>\$60.00 - \$100.00</b>

**ADDITIONAL CHARGES**

Mileage	\$0.655 per mile
Per Diem	
Meals	\$ 54.00 per day
Lodging	\$150.00 per day
Direct Costs/Subcontractor Costs	Cost plus 15 %
Copies (8.5"x11")	\$0.50 per copy
Printing: 24"x36" Black & White	\$2.50 each
Printing: 24"x36" Color	\$25.00 each
Printing 24"x36" Aerial-Gray	\$15.00 each

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**Item Title:** Agreement for Old Fort Park Tennis Court Project

**Department:** Parks and Recreation

**Presented by:** Thomas Laird, Assistant Director

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Agreement with Wold Architects and Engineers for Old Fort Park Tennis Court Project.

**Staff Recommendation**

Approve Agreement with Wold Architects and Engineers.

**Background Information**

The original eight tennis courts at Old Fort Park are over 30 years old and in need of renovation that will address lighting, surface deterioration, fencing, pedestrian access, and the addition of modern amenities that will better serve tennis players of all abilities.

**Council Priorities Served**

*Establish strong City brand*

This project is in line with other improvements to Old Fort Park, such as the skate park addition and ball field renovation that will provide a much-needed facelift to one of the oldest parks within MPRD.

**Fiscal Impact**

Total design fees are \$75,170, and ARPA funds are allocated for this project.

**Attachment**

Agreement with Wold Architects and Engineers



# AIA<sup>®</sup> Document B101<sup>®</sup> – 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the Ninth day of June in the year Two Thousand and Twenty-Three

*(In words, indicate day, month and year.)*

**BETWEEN** the Architect's client identified as the Owner:  
*(Name, legal status, address and other information)*

City of Murfreesboro  
111 West Vine Street  
Murfreesboro, Tennessee 37130  
Telephone Number: 615-893-5210

and the Architect:  
*(Name, legal status, address and other information)*

Wold Architects and Engineers  
214 Centerview Drive, Suite 300  
Brentwood, Tennessee 37027  
Telephone Number: 615-370-8500

for the following Project:  
*(Name, location and detailed description)*

Basic Contract Agreement for Planning and Design Services for the Renovations to Old Fort Tennis Courts project..

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

**TABLE OF ARTICLES**

- 1 INITIAL INFORMATION**
- 2 ARCHITECT’S RESPONSIBILITIES**
- 3 SCOPE OF ARCHITECT’S BASIC SERVICES**
- 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**
- 5 OWNER’S RESPONSIBILITIES**
- 6 COST OF THE WORK**
- 7 COPYRIGHTS AND LICENSES**
- 8 CLAIMS AND DISPUTES**
- 9 TERMINATION OR SUSPENSION**
- 10 MISCELLANEOUS PROVISIONS**
- 11 COMPENSATION**
- 12 SPECIAL TERMS AND CONDITIONS**
- 13 SCOPE OF THE AGREEMENT**

**ARTICLE 1 INITIAL INFORMATION**

**§ 1.1** This Agreement is based on the Initial Information set forth in this Section 1.1.  
*(For each item in this section, insert the information or a statement such as “not applicable” or “unknown at time of execution.”)*

**§ 1.1.1** The Owner’s program for the Project:  
*(Insert the Owner’s program, identify documentation that establishes the Owner’s program, or state the manner in which the program will be developed.)*

Refer to Exhibit A: Letter of Proposal dated June 8, 2023.

**§ 1.1.2** The Project’s physical characteristics:  
*(Identify or describe pertinent information about the Project’s physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

Refer to Exhibit A: Letter of Proposal dated June 8, 2023.

**§ 1.1.3** The Owner’s budget for the Cost of the Work, as defined in Section 6.1:  
*(Provide total and, if known, a line item breakdown.)*

Refer to Exhibit A: Letter of Proposal dated June 8, 2023.

**§ 1.1.4** The Owner’s anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:



To be determined.

**.2** Construction commencement date:

To be determined.

**.3** Substantial Completion date or dates:

To be determined.

**.4** Other milestone dates:

To be determined.

**§ 1.1.5** The Owner intends the following procurement and delivery method for the Project:  
*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

**§ 1.1.6** The Owner’s anticipated Sustainable Objective for the Project:  
*(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)*

*(Paragraph Deleted)*

**§ 1.1.6.1** If the Owner identifies a Sustainable Objective, the Owner and Architect shall define the terms, conditions and services related to the Owner’s Sustainable Objective.

**§ 1.1.7** The Owner identifies the following representative in accordance with Section 5.3:  
*(List name, address, and other contact information.)*

**§ 1.1.8** The persons or entities, in addition to the Owner’s representative, who are required to review the Architect’s submittals to the Owner are as follows:  
*(List name, address, and other contact information.)*

**§ 1.1.9** The Owner shall retain the following consultants and contractors:  
*(List name, legal status, address, and other contact information.)*

**.1** Geotechnical Engineer:

To be determined, if needed.

(Paragraph Deleted)

.2 Other, if any:  
(List any other consultants and contractors retained by the Owner.)

To be determined, if needed.

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
(List name, address, and other contact information.)

Jim Gilliam, PE  
Wold Architects and Engineers  
214 Centerview Drive, Suite 300  
Brentwood, Tennessee 37027

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

N/A

.2 Mechanical Engineer:

N/A

.3 Electrical Engineer:

I.C. Thomasson Associates, Inc.  
2950 Kraft Drive, Suite 500  
Nashville, Tennessee 37204

.4 Civil Engineer:

Wold Architects and Engineers  
214 Centerview Drive, Suite 300  
Brentwood, Tennessee

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§ 1.1.11.2 Consultants retained under Supplemental Services:

§ 1.1.12 Other Initial Information on which the Agreement is based:

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million (\$ 1,000,000 ) for each occurrence and Two Million (\$ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such

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primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

**§ 2.5.4** Workers' Compensation at statutory limits.

**§ 2.5.5** Employers' Liability with policy limits not less than One Million (\$ 1,000,000 ) each accident, One Million (\$ 1,000,000 ) each employee, and One Million (\$ 1,000,000 ) policy limit.

**§ 2.5.6** Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million (\$ 1,000,000 ) per claim and Two Million (\$ 2,000,000 ) in the aggregate.

**§ 2.5.7 Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

**§ 2.5.8** The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

### **ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES**

**§ 3.1** The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

**§ 3.1.1** The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

**§ 3.1.2** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

**§ 3.1.3** As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

**§ 3.1.4** The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

**§ 3.1.5** The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

**§ 3.1.6** The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

**§ 3.2 Schematic Design Phase Services**

**§ 3.2.1** The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

**§ 3.2.2** The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

**§ 3.2.3** The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

**§ 3.2.4** Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

**§ 3.2.5** Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

**§ 3.2.5.1** The Architect shall consider, if requested by the Owner, sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

**§ 3.2.5.2** The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

**§ 3.2.6** The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.2.7** The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

**§ 3.3 Design Development Phase Services**

**§ 3.3.1** Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

**§ 3.3.2** The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.3.3** The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

**§ 3.4 Construction Documents Phase Services**

**§ 3.4.1** Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the

further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

**§ 3.4.2** The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

**§ 3.4.3** During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

**§ 3.4.4** The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.4.5** The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. The Architect shall after consultation with the Owner be primarily responsible for the preparation of the necessary bidding information and bidding forms. The Architect shall also assist the owner in the preparation of the General Conditions of the Contract for Construction, and form of agreement between the Owner and Contractor. All bidding documents and contractual agreements shall be in compliance with the requirements of Tennessee's public bidding and contracting law as those laws apply to public entities.

**§ 3.4.6** The Architect shall work with the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall have the primary responsibility to complete the required documents and ensure that they are properly filed on behalf of the Owner. The Architect shall observe those applicable laws, statues, ordinances, codes, rules and regulations in force and publicly announced as of the date of this agreement or as of the date of subsequent compensation amendments whichever is the latter.

**§ 3.4.7** Owner understands that relatively few guidelines are available with respect to compliance with Americans with Disabilities Act (ADA). Architect is aware of developments in this field, including ADA guidelines that are incorporated in the building code, and legal decisions, but cannot guarantee or warrant that Architect's opinion of appropriate compliance measures will be found **valid**.

## **§ 3.5 Procurement Phase Services**

### **§ 3.5.1 General**

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

### **§ 3.5.2 Competitive Bidding**

**§ 3.5.2.1** Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

**§ 3.5.2.2** The Architect shall assist the Owner in bidding the Project by:

- .1** facilitating the distribution of Bidding Documents to prospective bidders;
- .2** organizing and conducting a pre-bid conference for prospective bidders, if requested by Owner;
- .3** preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4** organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

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**§ 3.5.2.3** If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### **§ 3.5.3 Negotiated Proposals**

**§ 3.5.3.1** Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

**§ 3.5.3.2** The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

**§ 3.5.3.3** If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

**§ 3.5.3.4** In the event the lowest bid (or bids) exceeds the budget for the Project, the Architect, in consultation with and at the direction of the Owner, shall provide such modifications in the Contract Documents as necessary to bring the cost of the Project within the budget, unless Owner directs the Architect to bid a project estimated over budget.

### **§ 3.6 Construction Phase Services**

#### **§ 3.6.1 General**

**§ 3.6.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

**§ 3.6.1.2** The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

**§ 3.6.1.3** Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates at the end of the one year contractor's construction warranty period.

#### **§ 3.6.2 Evaluations of the Work**

**§ 3.6.2.1** The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

**§ 3.6.2.2** The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 3.6.2.3** The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 3.6.2.4** Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

**§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.6.3.3** The Architect shall maintain a record of the Applications and Certificates for Payment.

**§ 3.6.4 Submittals**

**§ 3.6.4.1** The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

**§ 3.6.4.2** The Architect shall review, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

**§ 3.6.4.5** The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

### **§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

### **§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

**§ 3.6.6.2** The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

**§ 3.6.6.3** When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

**§ 3.6.6.4** The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

**§ 3.6.6.5** Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES****§ 4.1 Supplemental Services**

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	N/P
§ 4.1.1.2 Multiple preliminary designs	N/P
§ 4.1.1.3 Measured drawings	Owner
§ 4.1.1.4 Existing facilities surveys	Owner
§ 4.1.1.5 Site evaluation and planning	Architect – can be provided for an additional fee.
§ 4.1.1.6 Building Information Model management responsibilities	N/P
§ 4.1.1.7 Development of Building Information Models for post construction use	N/P
§ 4.1.1.8 Civil engineering	Architect – as a part of Basic Services.
§ 4.1.1.9 Landscape design	Architect – can be provided for an additional fee.
§ 4.1.1.10 Architectural interior design	Architect – can be provided for an additional fee.
§ 4.1.1.11 Value analysis	N/P
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Architect – can be provided for an additional fee.
§ 4.1.1.13 On-site project representation	N/P
§ 4.1.1.14 Conformed documents for construction	N/P
§ 4.1.1.15 As-designed record drawings	N/P
§ 4.1.1.16 As-constructed record drawings	N/P
§ 4.1.1.17 Post-occupancy evaluation	N/P
§ 4.1.1.18 Facility support services	N/P
§ 4.1.1.19 Tenant-related services	N/P
§ 4.1.1.20 Architect's coordination of the Owner's consultants	N/P
§ 4.1.1.21 Telecommunications/data design	Architect - can be provided for additional fee.
§ 4.1.1.22 Security evaluation and planning	N/P
§ 4.1.1.23 Commissioning	N/P
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	N/P
§ 4.1.1.25 Fast-track design services	N/P
§ 4.1.1.26 Multiple bid packages	N/P
§ 4.1.1.27 Historic preservation	N/P
§ 4.1.1.28 Furniture, furnishings, and equipment design	Architect - can be provided for additional fee.
§ 4.1.1.29 Other services provided by specialty Consultants	N/P
§ 4.1.1.30 Other Supplemental Services	N/P

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**§ 4.1.2 Description of Supplemental Services**

**§ 4.1.2.1** A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

**§ 4.1.2.2** A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

**§ 4.1.3** If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services agreed upon in writing between the Owner and Architect. The Owner shall compensate the Architect as provided in Section 11.2.

**§ 4.2 Architect's Additional Services**

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

**§ 4.2.1** Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction;  
or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

**§ 4.2.2** To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the

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Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

*(Paragraph Deleted)*

**§ 4.2.4** Except for services required under Section 3.6.6.5, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

**§ 4.2.5** If the services covered by this Agreement have not been completed within ( ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## **ARTICLE 5 OWNER'S RESPONSIBILITIES**

**§ 5.1** Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

**§ 5.2** The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

**§ 5.3** The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

**§ 5.4** The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as agreed upon in writing between the Owner and Architect.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the

Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

**§ 6.3** In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques.

**§ 6.4** If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

**§ 6.5** If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

**§ 6.6** If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

**§ 6.7** If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## **ARTICLE 7 COPYRIGHTS AND LICENSES**

**§ 7.1** The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

**§ 7.2** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

**§ 7.3** The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the

Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

**§ 7.3.1** In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

**§ 7.5** Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 General**

**§ 8.1.1** The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

**§ 8.1.2** To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

**§ 8.1.3** The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

### **§ 8.2 Mediation**

**§ 8.2.1** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

**§ 8.2.3** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

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**§ 8.2.4** If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
(Check the appropriate box.)

[ X ] Litigation in a court of competent jurisdiction

[ ] Other: (Specify)

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

**§ 8.3.4 Consolidation or Joinder**

**§ 8.3.4.1** No mediation or legal action arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to mediation or legal action involving an additional person or entity shall not constitute consent to mediation or legal action of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to mediate and other agreements to mediate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

*(Paragraphs Deleted)*

**ARTICLE 9 TERMINATION OR SUSPENSION**

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect’s option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days’ written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect’s services. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.2** If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect’s services. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.3** If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days’ written notice.

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§ 9.4 This Agreement may be terminated by the Owner upon seven (7) days written notice to Architect in its sole discretion. The Architect may terminate this Agreement only in the event of substantial non-performance by the Owner. In the event the Architect proposes to terminate this Agreement, the Architect shall notify the Owner in writing stating with specificity the alleged non-performance and further stating that the proposed termination shall be effective if the non-performance remains uncorrected for a period not less than 15 days following said notice.

Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

*(Paragraphs Deleted)*

*(Paragraph Deleted)*

§ 9.7 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7.

#### **ARTICLE 10 MISCELLANEOUS PROVISIONS**

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

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§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect’s promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect’s materials shall not include the Owner’s confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner’s promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as “confidential” or “business proprietary,” the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose “confidential” or “business proprietary” information after 7 days’ notice to the other party, when required by law, arbitrator’s order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Agreement.

§ 10.10 Owner irrevocably assigns to Architects all rights to claim Section 179D federal tax credits under Energy Policy Act of 2005 as amplified and clarified in IRS Notice 2008-40. Owner shall cooperate with Architect to establish Architect’s eligibility for these federal tax credits. Architect shall be responsible for the costs of the independent third party energy study and certification.

**ARTICLE 11 COMPENSATION**

§ 11.1 For the Architect’s Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

*(Paragraph Deleted)*

Total Project Fee = \$75,170.00

Refer to Exhibit A: Letter of Proposal dated June 8, 2023 for additional information.

*(Paragraphs Deleted)*

*(Paragraph Deleted)*

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**§ 11.2** For the Architect’s Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Hourly or Fixed Fee agreed upon in writing.

**§ 11.3** For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

Hourly or Fixed Fee agreed upon in writing.

**§ 11.4** Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be as follows:  
*(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)*

Hourly or Fixed Fee agreed upon in writing.

**§ 11.5** When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	fifteen	percent (	15	%)
Design Development Phase	twenty	percent (	20	%)
Construction Documents Phase	forty	percent (	40	%)
Procurement Phase	five	percent (	5	%)
Construction Phase	twenty	percent (	20	%)
Total Basic Compensation	one hundred	percent (	100	%)

**§ 11.6** When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

**§ 11.6.1** When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

**§ 11.7** The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices.  
*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

<b>Employee or Category</b>	<b>Rate (\$0.00)</b>
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**§ 11.8 Compensation for Reimbursable Expenses**

**§ 11.8.1** Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as

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follows:

- .1 mileage based on Federal rates in connection with the project and Owner requested out-of-state travel;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project, including government agency review and permit fees;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6

*(Paragraph Deleted)*

If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;

- .7 All taxes levied on professional services and on reimbursable expenses;
- .8 Site office expenses;
- .9 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .10 Other similar Project-related expenditures.
- .11 **Expense of computer aided design and drafting equipment time when used in connection with the**

**Project.**

**§ 11.8.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants and be billed at actual cost to Architect plus twenty percent ( 20 %) of the expenses incurred.

**§ 11.9 Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

## **§ 11.10 Payments to the Architect**

### **§ 11.10.1 Initial Payments**

**§ 11.10.1.1** An initial payment of zero (\$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

**§ 11.10.1.2** If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

### **§ 11.10.2 Progress Payments**

**§ 11.10.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid sixty ( 60 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of monthly or annual interest agreed upon.)*

Local rate of interest as set by Tennessee State Statute.

**§ 11.10.2.2** The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in

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the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

**§ 11.10.2.3** Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:  
*(Include other terms and conditions applicable to this Agreement.)*

**§ 12.1** At the time of the execution of this Agreement, the Architect’s services are limited to the planning and design services identified in Exhibit A: Letter of Proposal dated June 8, 2023. In addition to the non-exhaustive list of services excluded from the Architect’s scope of work and also identified in Exhibit A, the Architect’s services do not include project observation, review of the contractor’s performance, or any other construction phase services described in § 3.6 of this Agreement. Such services shall be provided by the Owner. In its provision of these services, the Owner assumes all responsibility for interpretation of the contract documents and for construction observation. The Owner expressly waives any and all claims or causes of action against the Architect and its subconsultants that may be in any way connected thereto or that relate to any activity beyond the scope of the services identified in Exhibit A: Letter of Proposal as the responsibility of the Architect. If the Owner requests that such services be provided by the Architect after the execution of this Agreement, the Owner and Architect shall expressly agree in writing on an updated scope of work and any applicable fee and contract time adjustments.

**ARTICLE 13 SCOPE OF THE AGREEMENT**

**§ 13.1** This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

**§ 13.2** This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect

*(Paragraph Deleted)*

- .2 Exhibits:

*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

*(Paragraph Deleted)*

Other Exhibits incorporated into this Agreement:

*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

Exhibit A: Letter of Proposal dated June 9, 2023

Exhibit B: Federally Required ARPA Clauses

- .3 Other documents:

*(List other documents, if any, forming part of the Agreement.)*

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This Agreement entered into as of the day and year first written above:

OWNER (Signature)

(Printed name and title)

ARCHITECT (Signature)

JG

(Printed name, title, and license number, if required)

APPROVED AS TO FORM

DocuSigned by:

Adam F. Tucker, City Attorney



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/

User Notes:

(3B9ADA4E)



June 9, 2023

**Cathy Smith**

Purchasing Director

111 W. Vine St

Murfreesboro, TN 37130

[cismith@murfreesborotn.gov](mailto:cismith@murfreesborotn.gov)

Re: Letter of Proposal  
RFQ 53-2023  
Planning and Design Services  
Renovations to Old Fort Tennis Courts

Dear Ms. Smith:

We are excited to have the opportunity to submit a proposal for the referenced project. Per your request, we are submitting this proposal for Design Services that may be required to complete this project for the tennis court renovations at Old Fort Park with associated site and drainage improvements within the City of Murfreesboro. The basis for the project is renovation of the existing 8 courts while maintaining the current layout of the courts. The list of improvements are further identified and outlined in the Attachment to this proposal.

Please find below a breakdown of the proposed services. The following compensation summary is based on design criteria as set forth by this document:

### **Civil, Structural and Electrical Engineering and Architectural Design Services**

Work included with the engineering proposal:

1. Demolition Plan
2. Site Plan
3. Grading and Drainage Plan
4. Erosion Control Plan
5. Utility Plan
6. Site details
7. Architectural/ structural design of hitting wall
8. Site Electrical/Photometric Plan
9. Stormwater Pollution Prevention Plan with submittal to TDEC.
10. Water quantity calculations
11. Approvals: Wold HFR will provide documents for submission to City Planning for approval of the site items. Response to City comments included.



**Excluded from this proposal:**

- Offsite utility infrastructure design
- Water and Sewer submittal to State of Tennessee
- Property platting
- Re-zoning of property
- As-Built Surveying
- Geotechnical Study
- Traffic Study
- Landscape Plan, Details
- Water quality calculations.
- Long Term Maintenance Plan (LTMP) (for permanent water quality treatment)
- Construction Administration, can be provided hourly as needed
- Shop Drawing Review, can be provided hourly as needed
- LID/BMP As-Built Certification

**Proposed Cost**

We propose to follow the State of Tennessee formula for Basic Services Fee Calculation. Their fee for new construction is calculated as:

$$35 / \text{Log}(X) - 1.15$$

Where X = the Maximum Allowable Construction Cost (MACC)

Based on your total project budget we allocated a MACC to be \$1,250,000.

$$\text{Fee} = 35 / \text{Log}(1,250,000) - 1.15$$

$$\text{Fee} = 35 / 6.0969 - 1.15$$

$$\text{Fee} = 35 / 4.9469$$

$$\text{Fee} = 7.075\%$$

Since we are not performing Construction Administration, we will deduct 15% of the fee for those services.

**Total Fee Project..... \$ 75,170.00**

All required fees for submission of documents to State and Local review agencies and travel will be considered as reimbursable expenses. Reimbursable expenses will be billed





in addition to the fee stated at a rate of direct cost plus 20% handling. Travel will be billed at actual mileage for meetings and site visits.

We can begin work immediately upon acceptance of this proposal. I trust this proposal meets with your approval, however if you would like to discuss anything, please do not hesitate to call. Thanks again for the opportunity to submit this proposal.

Sincerely,

**Wold Architects and Engineers**

A handwritten signature in blue ink, appearing to read "J. Gilliam".

Jim Gilliam, P.E.  
Principal

pc: Nate Williams, City of Murfreesboro  
Elisabeth Lund, WOLD



**To:** Attendees  
**From:** Jim Gilliam | Wold AE  
**Date:** June 1, 2023  
**Comm. No:** TBD

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**Subject:** Project Kick-Off

**Attendees:**

See attached Sign-in Sheet

**Discussion Topics:**

Meeting held at City Hall to review project scope and plan next steps.

1. Total Project Budget is \$1,355,000.00. This includes all soft costs.
2. Scope of Work includes re-building 8 existing tennis courts, crack repair & resurfacing 16 outdoor courts, and resurfacing 6 indoor courts. At the courts being re-built the scope further includes:
  - removal of trees around the court perimeter, by the City
  - concrete bleacher pads
  - addition of an ADA accessible path to bleacher seating
  - addition of hitting walls at each opposite end of the 8 court overall layout
  - new standards and nets
  - new benches to serve the 8 courts
  - new picnic tables
  - new court lighting
  - new vinyl coated fencing
  - new signage
  - minimal repair/replacement to existing sidewalk connecting parking to courts
  - new drinking fountain with bottle filler
3. A preliminary layout to be provided for staff review, no stakeholder meetings needed for the project.
4. No parking lot work is included.
5. The resurfacing of the 22 courts at the Adams Tennis Complex will be an add alternate.
6. The Owner will remove the existing trees.
7. Re-building of the courts includes pulverizing/grinding up the existing asphalt material for use as a base course then applying a stone dust / screening material to compact the surface as prep for the new asphalt layers.



8. Windscreen material to be provided for all the outdoor courts. The screen should match fence dimensions so that fastening is achieved at posts top, bottom, and mid-spans; eliminating the need to zip-tie the material to the fence fabric.
9. The fence fabric is to be a heavy gage, vinyl coated wire.
10. Lighting to be Musco, LED; with controls at each court. System shall be capable of remote control from phones and/or computers. The City may procure the lighting through a bid cooperative resulting in the lighting being Owner furnished, Contractor installed.
11. New standards shall be heavy-duty with brass cranks.
12. Court markings to include junior tennis lines.
13. No pickleball at this facility
14. Benches at the courts to include shading device, example provided of desired bench with cover. Two benches to be provided between courts, a total of 8 to be included.
15. Hitting wall to be full length; 10'-0" high with anchors for actual netting across wall.
  - Wall toward the ATC to blend with architecture of the ATC building complex.
  - Wall toward the future skate park to allow for future mural to be applied by Owner.
16. Existing bleachers to be re-used; placed on new concrete pads. (May want to consider shading structure for spectators to be included in pricing.)
17. Owner provided items discussed during the process:
  - Tree removal
  - Court nets
  - Landscaping
18. Discussed the need for a new survey; limits to include perimeter just outside of the trees being removed. Owner looking at procuring survey. *Added note: Wold AE may be able to provide survey services within a short period to help with project schedule.*
19. Thickness of the existing material is in question. This will have an impact on base layer material selection and design. Owner to provide follow-up investigation and/or core sample to determine thickness.
20. Competition Athletic Surfaces (Lee Murray) is the preferred resurfacing contractor. As a City requirement, the resurfacing provider is to be a licensed general contractor.
21. Brief discussion on contract type. The City will look at using their contract and if viable will forward a sample to Wold for review. This would be the preferred method over the AIA contract.
22. Owner-Contractor Agreement will be AIA.
23. The City will self-provide construction administration. Project Manual to reflect Owner forms and conditions for bids. Bidding will be through the City's online portal.
24. Davis-Bacon Act may be applicable; City to confirm.
25. Project will require Administrative Site Plan Review. With this, all departments are issued the project for review and comment. Expected timeframe to be approximately one week. There was some question as to whether stormwater quality would be enforced.
26. A timely schedule was emphasized, with brief review periods. Exhaustive presentation design documents are not required, just need plans and elevations that illustrate the work.



**Next Steps:**

1. City to confirm type of contract to be used.
2. Wold AE to submit fee proposal letter.
3. City to forward results on thickness of existing court material.
4. Survey needed – time period for deliverables.
5. Wold AE to develop scope document and preliminary project budget.
6. Wold AE to develop guidelines on hitting wall.

Cc: Brian Crump, Wold AE



[Home \(/\)](#) / [Shop Products \(/Collections/All/\)](#) / [Court Seating \(/Collections/Court-Seating\)](#)  
/ Cabana Bench

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(//cdn.shopify.com/s/files/1/1565/4441/products/Har-Tru-Cabana-Bench-for-tennis-courts-1516796202-image.jpg?v=1602700667)



SIGN IN SHEET  
 Kick-Off Meeting  
 City of Murfreesboro  
 Old Fort Park Tennis Court Renovation  
 June 1, 2023

INITIALS	NAME	FIRM	PHONE	EMAIL
	Jim Gilliam	WOLD	615-347-1013	sgilliam@woldae.com
	Johnnie Ray	WOLD	615-804-0213	JRAY@WOLDAE.COM
	Cathy Smith	City	629-201-1311	Csmith@murfreesborotn.gov
	Mate Williams	M'boro Parks/Rec	615-642-1080	mwilliams@murfreesborotn.gov
	Thomas Laird	MPRD	615-642-3725	tlaird@murfreesborotn.gov
	Eric Quiroz	MPRD	5416151514	EQuiroz@murfreesborotn.gov
	Malia Grubbs	City of M'boro	<del>615-642-3725</del>	mgrubbs@murfreesborotn.gov

## Exhibit B

### **FEDERALLY REQUIRED CLAUSES FOR PROJECTS USING ARPA GRANT EXPENSES**

- **CONFLICT OF INTEREST - GRATUITIES AND KICKBACKS.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
  
- **SUSPENSION & DEBARMENT** - Debarment and Suspension (Executive Orders 12549 and 12689)  
- A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
  - a. The awarded Proposer shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by an Federal department or agency to be:
    1. Debarred from participation in any federally assisted Award;
    2. Suspended from participation in any federally assisted Award;
    3. Proposed for debarment from participation in any federally assisted Award;
    4. Declared ineligible to participate in any federally assisted Award;
    5. Voluntarily excluded from participation in any federally assisted Award; or
    6. Disqualified from participation in any federally assisted Award.
  - b. By signing submitting a Proposal, Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- **BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)** - Contractors that apply for bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
  
- **CIVIL RIGHTS COMPLIANCE.** Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23. In order to carry out its enforcement responsibilities under Title VI of the Civil Rights Act, Treasury will collect and review information from non-Tribal recipients to ascertain their compliance with the applicable requirements before and after providing financial assistance. Treasury's implementing regulations, 31 CFR part 22, and the Department of Justice (DOJ) regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 CFR part 42, provide for the collection of data and information from recipients (see 28 CFR 42.406). Treasury may request that recipients submit data for post-award compliance reviews, including information such as a narrative describing their Title VI compliance status. This collection does not apply to Tribal governments.
  
- **CIVIL RIGHTS REQUIREMENTS.**
  - a. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 USC §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC § 12132, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.
  - b. Equal Employment Opportunity. Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, awarded Proposer shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment



Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC §2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the awarded Contract. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment; upgrading demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

c. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, Contractor shall refrain from discrimination against present and prospective employees for reason of age.

d. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

- **2 CFR 200.321 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.**

The City of Murfreesboro in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 41 U.S.C. 2000d to 2000d-4 hereby notifies all proposers that it will affirmatively insure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises ("DBE's") will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, creed, color, sex, national origin, or handicap in consideration for an award.

- **DOMESTIC PREFERENCES FOR PROCUREMENTS.** (2 CFR § 200.322)

(a) As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(b) For purposes of this clause:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

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

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

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

- **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148).** (all prime construction contracts in excess of \$2,000 awarded by non-Federal entities) Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once a week. A copy of the current prevailing wage determination issued by the Department of Labor can be found in the solicitation. Award of the contract or subcontract is conditioned upon the acceptance of the wage determination. The City will report all suspected or reported violations to the Federal awarding agency.

- **COPELAND "ANTI-KICKBACK" ACT.** Contractor must comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City will report all suspected or reported violations to the Federal awarding agency.

- **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- **CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED** - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- **PROCUREMENT OF RECOVERED MATERIALS (2 CFR § 200.323).** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (2 CFR § 200.216).**

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
  - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
  - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

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

(d) See also § 200.471.

- **RECORDKEEPING REQUIREMENTS.** The City must maintain records and financial documents for five years after all funds have been expended or returned to the Department of Treasury, as outlined in paragraph 4.c. of the Award Terms and Conditions. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

The City must agree to provide or make available such records to Treasury upon request, and to the Government Accountability Office (“GAO”), Treasury’s Office of Inspector General (“OIG”), and their authorized representative in order to conduct audits or other investigations.

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

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

- **COMPLIANCE WITH APPLICABLE LAW & REGULATIONS.**

Recipient agrees to comply with the requirements of sections 602 and 603 of the Act, regulations adopted by Treasury pursuant to sections 602(f) and 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

Federal regulations applicable to this award include, without limitation, the following:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part 180 and Treasury's implementing regulations at 31 CFR Part 19.
- Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- New Restrictions on Lobbying, 31 C.F.R. Part 21.
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- Generally applicable federal environmental laws and regulations.
- Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:
  - Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis

of race, color, or national origin under programs or activities receiving federal financial assistance;

- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
  - Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
  - The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
  - Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- **HATCH ACT.** The City agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
  - **PUBLICATIONS.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to City of Murfreesboro by the U.S. Department of the Treasury."
  - **PROTECTIONS FOR WHISTLEBLOWERS.** The City shall inform its employees in writing of the rights and remedies provided under clause 16 of the Grant Agreement, in the predominant native language of the workforce. Specifically, clause 16 states:
    - In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
    - The list of persons and entities referenced in the paragraph above includes the following:
      - A member of Congress or a representative of a committee of Congress;
      - An Inspector General;
      - The Government Accountability Office;
      - A Treasury employee responsible for contract or grant oversight or management;

- An authorized official of the Department of Justice or other law enforcement agency;
  - A court or grand jury; or
  - A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- 
- **INCREASING SEAT BELT USE IN THE UNITED STATES.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), the City encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
  
  - **REDUCING TEXT MESSAGING WHILE DRIVING.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** Agreement for Patterson Park Playground and Splash Pad Project

**Department:** Parks and Recreation

**Presented by:** Rachel Singer, Assistant Director

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Agreement with Kimley-Horn for Patterson Park Playground and Splash Pad Project.

**Staff Recommendation**

Approve Kimley-Horn Agreement.

**Background Information**

In 2021 MPRD coordinated with a design firm, in consultation with the local community and Patterson Park patrons, to develop a master plan for the campus.

Two of the key elements of the master plan were to replace the 20+ year old playground and add a splash pad, both to be located in front of the facility. Additionally, this design will include an enhanced sidewalk connection to the pickleball courts that will contain a "history trail" that details the history of the Patterson Park Campus.

**Council Priorities Served**

*Establish strong City brand*

Replacing the existing playground and adding a splash pad to the Patterson Park Community Center campus will provide a unique recreational experience for patrons to the facility.

**Fiscal Impact**

Total design costs are \$97,500 and funded through ARPA and 2021 CIP allocations.

**Attachment**

Kimley-Horn Agreement





June 16, 2023

Mr. Nate Williams  
City of Murfreesboro  
697 Veterans Parkway  
Murfreesboro, Tennessee 37128

**RE: *Professional Services Agreement  
Patterson Park Playground and Splashpad Construction Documents  
Murfreesboro, Tennessee***

Dear Mr. Williams:

Kimley-Horn and Associates, Inc. ("Kimley-Horn") is pleased to submit this letter agreement (the "Agreement") to the City of Murfreesboro, Tennessee ("City") for professional consulting services related to the playground and splashpad construction documents at the Patterson Park Community Center.

### **SCOPE OF SERVICES**

Our Scope of Services and Fee are as follows:

#### **Task 1 – Project Meetings and Coordination**

This task will consist of general project management, administrative, and accounting activities for the project. Coordination activities will consist of preparing and distributing project correspondence, scheduling of meetings, and discussion of project elements with the Client throughout the process.

##### *Task 1.1 – Draft Plan Review Meetings*

Kimley-Horn will attend up to four (4) preliminary design review meetings in-person to facilitate discussion regarding the project and review design progress.

##### *Task 1.2 – Planning Commission Meeting*

Kimley-Horn will attend one (1) Planning Commission meeting to present the proposed project.

If additional meetings are deemed necessary for the Project, additional time can be provided under Additional Services based on our current hourly rates, but only with advance written authorization from the Client.

#### **Task 2 – Master Plan Update**

Kimley-Horn will coordinate with City Staff to update the Patterson Park Master Plan, dated March of 2021, to only include the outlined playground and splashpad improvement area, and remove the building expansion, restroom facilities, open air pavilion, and additional parking area. Kimley-Horn will

prepare one revised master plan at the Client's request and deliver a PDF document on 24" by 36" sheet. Kimley-Horn will complete up to one (1) revision of the master plan at the Client's request.

### **Task 3 – Construction Plans**

#### *Task 3.1 – Concept Development*

Kimley-Horn will meet with the selected playground and splashpad equipment provider, along with the City Staff for one (1) Design Workshop meeting to select the proposed playground and splashpad features, locations, and surface materials. The Consultant will then coordinate with the selected playground and splashpad equipment provider to develop and provide four (4) 3D renderings of one (1) design concept for the City Staff to review.

#### *Task 3.2 – 50% Construction Plans*

Following receipt of the City-approved site layout completed by the selected playground and splashpad equipment provider, Kimley-Horn will prepare a set of supplemental construction plans for the proposed playground and splashpad improvements. It is anticipated this set of plans will be 24"x36" in size and will consist of the following sheets:

- Cover Sheet – This sheet will contain relevant project/contact information.
- General Notes – This sheet will contain notes related to contractor responsibilities, and coordination requirements during construction.
- Existing Conditions / Demolition Plan – This sheet will contain existing conditions and demolition areas based on the Client-provided topographic survey.
- Erosion and Sediment Control Plan – This sheet will show temporary erosion control measures, consisting of tree protection fence, silt fence, and diversions as necessary.
- Site Plan – This sheet will contain a layout plan showing the locations of the proposed playground, splashpad, one (1) monument sign, history walk ground panels, necessary sidewalk connections to the proposed improvements, and identify the final hardscape materials and patterns.
- Playground and Splashpad Equipment – The selected playground and splashpad equipment provider will provide the plan sheets and details for the selected playground and splashpad features.
- Dimension Control Plan – This sheet will consist of critical dimensions within the proposed playground, splashpad, additional hardscape areas, and other design elements.
- Grading and Drainage Plan – This sheet will consist of proposed contours, maximum and minimum slopes, key spot grades, stormwater improvements, and limits of disturbance. No offsite stormwater improvements are included within the scope of this task.
- Construction Details – This sheet will consist of construction details of the proposed playground and splashpad improvements and hardscape areas.
- Signage Details – This sheet will depict up to three (3) sign details.
- Irrigation Plan – This sheet will consist of the irrigation design, valve and equipment schedules, and irrigation equipment details.
- Landscape Plan – This sheet will consist of the planting design, plant material schedule, and planting details.



- Site Lighting Plan – This sheet will contain locations for the proposed pedestrian level lighting and pole and fixture specifications and details.
- Utility Plan – This sheet will consist of on-site water supply and sanitary sewer service for the proposed splashpad. No offsite utility extensions are included within the scope of this task.

#### *Task 3.3 – Opinion of Probable Construction Cost*

Kimley-Horn will prepare an opinion of the probable construction cost to accompany the 50% construction documents. The opinion of probable construction cost will be based on actual bid prices for recent projects which involved similar equipment and construction, to the extent that such information is available. The provided cost will be based on preliminary construction quantities developed from the 50% Construction Plans.

Any opinions rendered as to costs, expenses, or revenue, including but not limited to opinions as to the costs of construction and materials, shall be made based on the Kimley-Horn's experience and represent its judgment as an experienced and qualified professional, familiar with the industry. Kimley-Horn cannot and does not guarantee that proposals, bids, actual costs, or revenues will not vary from its opinions.

#### *Task 3.4 – 100% Construction Documents and Opinion of Probable Construction Cost*

After receiving one comprehensive list of revisions from the Client, Kimley-Horn will prepare 100% Construction Documents that includes the plan sheets listed in Task 3.2 above and will revise the Opinion of Probable Construction Cost to reflect any changes made in the 100% Construction Documents.

#### *Task 3.5 – Final Technical Specifications*

Kimley-Horn will provide a table of contents of Technical Specifications and Referenced Specifications to be provided with the 100% Construction Documents. Additionally, we will provide the Client with copies of reference specifications and MasterSpec specifications for certain technical specifications that are not provided for in the reference specifications. The reference specifications will be in reference to Murfreesboro Planning, TDEC or other local agency specifications. Any specifications not listed in the referenced specifications will be written following the MasterSpec format. It is anticipated that technical specifications will be written for site furnishings, decorative concrete paving, playground surfacing, decorative metal fences, plants, turf and grasses, and soil preparation.

#### **Task 4 – Bid Book and Requests for Information (RFI)**

Kimley-Horn will prepare bidding documents for the City to upload to OpenGov that will consist of the list of drawings, bid form, alternates form, bid bond form, performance bond form, partial release of liens for subcontractors, final release of liens for subcontractors, final release of liens for general contractors as well as the technical specifications for the project. The City will be responsible for advertising the bid.

Kimley-Horn will respond to a consolidated list of questions that arise during the bidding process and issue a statement of clarification or bid addendum as appropriate.



Kimley-Horn will also attend one (1) pre-bid meeting to answer questions from the bidding contractors.

#### **Task 5 – Permitting**

Kimley-Horn will provide up to three (3) submissions of the above outlined constructions documents to the City and two (2) comment responses addressing reasonable City/Fire Department comments as part of the Site Plan review process. Additional issuances, out of sequence services, tracking changes and the bubbling of plans are not included and, if requested, will be an Additional Service with advance written authorization from Client. Kimley-Horn will attend up to two (2) meetings with the City as part of this task.

#### **Task 6 – Stormwater Permitting**

Kimley-Horn will prepare a stormwater management report for on-site stormwater improvements per Murfreesboro Stormwater ordinance, which will consist of the following:

- Narrative description of proposed stormwater management system
- Hydraulic analyses of storm pipe capacity and drainage conveyance capacity
- Calculations demonstrating compliance with Murfreesboro stormwater detention requirements
- Calculations demonstrating compliance with Murfreesboro stormwater quality requirements based on the Murfreesboro Stormwater Controls Manual and Murfreesboro Stormwater Planning & Low Impact Design Guide
- Drainage Maps indicating drainage areas for individual structures and hydrologic properties of inlet drainage areas

Kimley-Horn will utilize the Stormwater Management Plan prepared with this task for the Murfreesboro land disturbance permit submittal. Kimley-Horn will make two (2) revisions to the plans based on comments from City of Murfreesboro.

The necessity for additional stormwater-related effort, including offsite studies or waiver or variance applications (such as LID waivers, detention waivers, and stormwater variance committee applications) is unknown and, as such, these items are not included in this task.

#### **Task 7 – NPDES Permitting**

Kimley-Horn will prepare a NPDES Construction General Permit to be submitted to the Tennessee Department of Environment and Conservation (TDEC). This permit application will consist of a Notice of Intent (NOI) and a narrative Stormwater Pollution Prevention Plan (SWPPP).

Kimley-Horn will submit the NPDES Construction General Permit application package to TDEC. Kimley-Horn will make one round of revisions to the plans and calculations based on review comments provided by TDEC.

#### **Task 8 – Additional Services**

Any services not specifically provided for in the above scope, as well as any changes in the scope the City requests, will be considered Additional Services and will be performed at our then current hourly rates. Additional Services Kimley-Horn can provide include, but are not limited to, the following:



- Additional meetings beyond those outlined in the above scope
- Additional design beyond the scope that is outlined above
- Additional site visits beyond those outlined in the above scope
- Stormwater quality and quantity calculations and design
- Bid phase and construction phase services beyond those outlined in the above scope
- Structural engineering
- Construction Phase Services
- Others as requested by the Client

### INFORMATION PROVIDED BY CLIENT

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's Kimley-Horns or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

- Site survey
- Text for history walk ground panels
- Approved layout by the City of selected playground and splashpad equipment

### SCHEDULE

Once given notice to proceed, Kimley-Horn will complete these services based upon a mutually agreed upon schedule.

### FEE AND BILLING

Kimley-Horn will perform the services in Tasks 1 – 7 for the total lump sum labor fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

	<b>Fee</b>
Task 1 – Project Meetings and Coordination	\$7,400
Task 2 – Master Plan Update	\$4,100
Task 3 – Construction Plans	\$61,800
Task 4 – Bid Book and Requests for Information (RFI)	\$5,300
Task 5 – Permitting	\$7,700
Task 6 – Stormwater Permitting	\$5,800
Task 7 – NPDES Permitting	\$5,400
Project Total	\$97,500

Fees and expenses will be invoiced monthly based, as applicable, upon the percentage of services performed or actual services performed and expenses incurred as of the invoice date. Payment will be due within 25 days of your receipt of the invoice.



**CLOSURE**

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Kimley-Horn" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to the **City of Murfreesboro, Tennessee.**

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please provide the following information:

\_\_\_\_ Please email all invoices to \_\_\_\_\_ accountspayable@murfreesborotn.gov

\_\_\_\_ Please copy \_\_\_\_\_ nwilliams@murfreesborotn.gov

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other to us. We will commence services only after we have received a fully-executed agreement.

We appreciate the opportunity to provide these services to you. Please contact us if you have any questions.

Sincerely,

**KIMLEY-HORN AND ASSOCIATES, INC.**

Chris Jansen, PLA  
Project Manager

Christopher D. Rhodes, P.E.  
Vice President



Mr. Nate Williams, June 16, 2023, Page 7

Attachment 1 – Standard Provisions  
Attachment 2 - Federally Required ARPA Clauses

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**City of Murfreesboro, Tennessee**  
**A Municipal Government**

By: \_\_\_\_\_

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Print or Type Name)

Title: \_\_\_\_\_  
(Member or Manager, as authorized)

\_\_\_\_\_  
(Email Address)

Approved as to Form:

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



**KIMLEY-HORN AND ASSOCIATES, INC.  
STANDARD PROVISIONS**

- 1) **Kimley-Horn's Scope of Services and Additional Services.** Kimley-Horn will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by Kimley-Horn, Kimley-Horn will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay Kimley-Horn for any Additional Services an amount based upon Kimley-Horn's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.
- 2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:
  - a. Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
  - b. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
  - c. Provide Kimley-Horn all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which Kimley-Horn may rely upon.
  - d. Arrange for access to the site and other property as required for Kimley-Horn to provide its services.
  - e. Review all documents or reports presented by Kimley-Horn and communicate decisions pertaining thereto within a reasonable time so as not to delay Kimley-Horn.
  - f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
  - g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
  - h. Give prompt written notice to Kimley-Horn whenever the Client becomes aware of any development that affects Kimley-Horn's services or any defect or noncompliance in any aspect of the project.
- 3) **Period of Services.** Unless otherwise stated herein, Kimley-Horn will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that Kimley-Horn does not control. If such delay or suspension extends for more than six months, Kimley-Horn's compensation shall be renegotiated.
- 4) **Method of Payment.** Client shall pay Kimley-Horn as follows:
  - a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by Kimley-Horn and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after Kimley-Horn's transmittal of its invoice, Kimley-Horn may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
  - b. If the Client relies on payment or proceeds from a third party to pay Kimley-Horn and Client does not pay Kimley-Horn's invoice within 60 days of receipt, Kimley-Horn may communicate directly with such third party to secure payment.
  - c. If the Client objects to an invoice, it must advise Kimley-Horn in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
  - d. If Kimley-Horn initiates legal proceedings to collect payment, it may recover, to the extent permitted by Tennessee law, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at Kimley-Horn's normal hourly billing rates, of the time devoted to such proceedings by its employees.
  - e. The Client agrees that the payment to Kimley-Horn is not subject to any contingency or condition. Kimley-Horn may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and





satisfaction of any disputed debt and without prejudicing any right of Kimley-Horn to collect additional amounts from the Client.

- 5) **Use of Documents.** All documents and data prepared by Kimley-Horn are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of Kimley-Horn's documents, or any reuse of the documents without written authorization by Kimley-Horn will be at the Client's sole risk and without liability to Kimley-Horn, and the Client shall indemnify, defend and hold Kimley-Horn harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. Kimley-Horn's electronic files and source code remain the property of Kimley-Horn and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by Kimley-Horn, the hardcopy shall govern.
- 6) **Intellectual Property.** Kimley-Horn may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Kimley-Horn or its affiliates ("Intellectual Property") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Kimley-Horn maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Kimley-Horn and its affiliates. If Kimley-Horn's services include providing Client with access to or a license for Kimley-Horn's (or its affiliates') proprietary software or technology, Client agrees to the terms of the Software License Agreement set forth at <https://www.kimley-horn.com/khts-software-license-agreement> ("the License Agreement") which terms are incorporated herein by reference.
- 7) **Opinions of Cost.** Because Kimley-Horn does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. Kimley-Horn cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Kimley-Horn's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- 8) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. Kimley-Horn shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by Kimley-Horn as a result of such termination.
- 9) **Standard of Care.** The standard of care applicable to Kimley-Horn's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by Kimley-Horn's performance of services, and it is agreed that Kimley-Horn is not a fiduciary with respect to the Client.
- 10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and Kimley-Horn, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of Kimley-Horn and Kimley-Horn's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of Kimley-Horn or Kimley-Horn's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by Kimley-Horn under



this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section shall require the Client to indemnify Kimley-Horn.

- 11) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.
- 12) **Construction Costs.** Under no circumstances shall Kimley-Horn be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Kimley-Horn shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before Kimley-Horn has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.
- 13) **Certifications.** All requests for Kimley-Horn to execute certificates, lender consents, or other third-party reliance letters must be submitted to Kimley-Horn at least 14 days prior to the requested date of execution. Kimley-Horn shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which Kimley-Horn does not have actual knowledge, or that would cause Kimley-Horn to violate applicable rules of professional responsibility.
- 14) **Dispute Resolution.** All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.
- 15) **Hazardous Substances and Conditions.** Kimley-Horn shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Kimley-Horn's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. Kimley-Horn will notify the Client of unanticipated hazardous substances or conditions of which Kimley-Horn actually becomes aware. Kimley-Horn may stop affected portions of its services until the hazardous substance or condition is eliminated.
- 16) **Construction Phase Services.**
  - a. If Kimley-Horn prepares construction documents and Kimley-Horn is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against Kimley-Horn in any way connected thereto.
  - b. Kimley-Horn shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Kimley-Horn have any authority or responsibility to stop or direct the work of any contractor. Kimley-Horn's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by Kimley-Horn. Kimley-Horn neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
  - c. Kimley-Horn is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and Kimley-Horn for all claims and liability arising out of job site accidents; and that the Client and Kimley-Horn shall be made additional insureds under the contractor's general liability insurance policy.
- 17) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and Kimley-Horn, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and Kimley-Horn. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Kimley-Horn, without the written consent of Kimley-Horn. Kimley-Horn reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market



conditions. If Kimley-Horn exercises this right, Kimley-Horn will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

- 18) **Confidentiality.** The Client consents to the use and dissemination by Kimley-Horn of photographs of the project and to the use by Kimley-Horn of facts, data and information obtained by Kimley-Horn in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, Kimley-Horn shall use reasonable care to maintain the confidentiality of that material.
  
- 19) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by Kimley-Horn. If Client requires Kimley-Horn to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Kimley-Horn or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

## ATTACHMENT 2

**FEDERALLY REQUIRED CLAUSES FOR PROJECTS USING ARPA GRANT EXPENSES**

- **CONFLICT OF INTEREST - GRATUITIES AND KICKBACKS**. It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
  
- **SUSPENSION & DEBARMENT** - Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
  - a. The awarded Proposer shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by an Federal department or agency to be:
    1. Debarred from participation in any federally assisted Award;
    2. Suspended from participation in any federally assisted Award;
    3. Proposed for debarment from participation in any federally assisted Award;
    4. Declared ineligible to participate in any federally assisted Award;
    5. Voluntarily excluded from participation in any federally assisted Award; or
    6. Disqualified from participation in any federally assisted Award.
  - b. By signing submitting a Proposal, Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in

its lower tier covered transactions.

- **BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)** - Contractors that apply for bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- **CIVIL RIGHTS COMPLIANCE.** Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23. In order to carry out its enforcement responsibilities under Title VI of the Civil Rights Act, Treasury will collect and review information from non-Tribal recipients to ascertain their compliance with the applicable requirements before and after providing financial assistance. Treasury's implementing regulations, 31 CFR part 22, and the Department of Justice (DOJ) regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 CFR part 42, provide for the collection of data and information from recipients (see 28 CFR 42.406). Treasury may request that recipients submit data for post-award compliance reviews, including information such as a narrative describing their Title VI compliance status. This collection does not apply to Tribal governments.
- **CIVIL RIGHTS REQUIREMENTS.**
  - a. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 USC §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC § 12132, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.
  - b. Equal Employment Opportunity. Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, awarded Proposer shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment

Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC §2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the awarded Contract. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment; upgrading demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

c. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, Contractor shall refrain from discrimination against present and prospective employees for reason of age.

d. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

- **2 CFR 200.321 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.**

The City of Murfreesboro in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 41 U.S.C. 2000d to 2000d-4 hereby notifies all proposers that it will affirmatively insure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises ("DBE's") will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, creed, color, sex, national origin, or handicap in consideration for an award.

- **DOMESTIC PREFERENCES FOR PROCUREMENTS.** (2 CFR § 200.322)

(a) As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(b) For purposes of this clause:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

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

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

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

- **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148).** (all prime construction contracts in excess of \$2,000 awarded by non-Federal entities) Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once a week. A copy of the current prevailing wage determination issued by the Department of Labor can be found in the solicitation. Award of the contract or subcontract is conditioned upon the acceptance of the wage determination. The City will report all suspected or reported violations to the Federal awarding agency.

- **COPELAND "ANTI-KICKBACK" ACT.** Contractor must comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City will report all suspected or reported violations to the Federal awarding agency.

- **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- **CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED** - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- **PROCUREMENT OF RECOVERED MATERIALS (2 CFR § 200.323).** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (2 CFR § 200.216).**



(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
  - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
  - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

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

(d) See also § 200.471.

- **RECORDKEEPING REQUIREMENTS.** The City must maintain records and financial documents for five years after all funds have been expended or returned to the Department of Treasury, as outlined in paragraph 4.c. of the Award Terms and Conditions. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

The City must agree to provide or make available such records to Treasury upon request, and to the Government Accountability Office (“GAO”), Treasury’s Office of Inspector General (“OIG”), and their authorized representative in order to conduct audits or other investigations.

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

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

- **COMPLIANCE WITH APPLICABLE LAW & REGULATIONS.**

Recipient agrees to comply with the requirements of sections 602 and 603 of the Act, regulations adopted by Treasury pursuant to sections 602(f) and 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

Federal regulations applicable to this award include, without limitation, the following:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part 180 and Treasury's implementing regulations at 31 CFR Part 19.
- Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- New Restrictions on Lobbying, 31 C.F.R. Part 21.
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- Generally applicable federal environmental laws and regulations.
- Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:
  - Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis

of race, color, or national origin under programs or activities receiving federal financial assistance;

- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
  - Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
  - The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
  - Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- **HATCH ACT.** The City agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
  - **PUBLICATIONS.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to City of Murfreesboro by the U.S. Department of the Treasury."
  - **PROTECTIONS FOR WHISTLEBLOWERS.** The City shall inform its employees in writing of the rights and remedies provided under clause 16 of the Grant Agreement, in the predominant native language of the workforce. Specifically, clause 16 states:
    - In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
    - The list of persons and entities referenced in the paragraph above includes the following:
      - A member of Congress or a representative of a committee of Congress;
      - An Inspector General;
      - The Government Accountability Office;
      - A Treasury employee responsible for contract or grant oversight or management;

- An authorized official of the Department of Justice or other law enforcement agency;
  - A court or grand jury; or
  - A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- 
- **INCREASING SEAT BELT USE IN THE UNITED STATES.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), the City encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
  
  - **REDUCING TEXT MESSAGING WHILE DRIVING.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** ADS Professional Services Contract-1<sup>st</sup> Amendment

**Department:** Water Resources

**Presented by:** Darren Gore, Assistant City Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Extension of ADS, LLC professional services contract for sanitary sewer flow monitoring.

**Staff Recommendation**

Approve the renewal of the ADS contract amendment for an additional one-year period.

**Background Information**

The City is contracted with ADS to operate and maintain MWRD’s 19 permanent sewer flow monitors and seven rain gauges, to analyze data recorded from these monitors and to report on this data annually. These annual reports assess wet and dry weather capacities and rain dependent inflow and infiltration (RDII) for 18 flow monitor areas that are integral to the Department’s annual sanitary sewer allocation assessment report. ADS is also contracted to perform temporary flow monitoring, analyze the temporary data recorded and report findings as well as perform field investigations.

The current Professional Services Contract ended June 30, 2023. There is an option to extend for two additional one-year periods, with pricing for Years 2 and 3 being established on the consumer pricing index (CPI-U) for the southern region. The proposed extension adjusts pricing 4.0%. Staff desires to continue to contract their professional service as we have in various forms over the last 28 years.

**Council Priorities Served**

*Expand infrastructure*

The permanent and temporary flow monitoring is the most important tool used to develop sewer rehabilitation projects, which provides a reduction in infiltration and inflow thereby allowing the City to increase sanitary sewer customer connections.

**Fiscal Impact**

The expense, \$330,000, is funded by MWRD’s FY24 operating budget.

**Attachments**

1. 1st Amendment to Contract
2. ADS Year 2 Pricing

**FIRST RENEWAL OF THE PROFESSIONAL SERVICES AGREEMENT BETWEEN ADS, LLC AND THE CITY OF MURFREESBORO, TENNESSEE**

This First Renewal of the Professional Services Agreement dated July 1, 2022 (the "Agreement"), by and between the City of Murfreesboro, Tennessee ("City"), a municipal corporation in the State of Tennessee, and ADS, LLC ("Engineer"), a Delaware limited liability company, doing business in the State of Tennessee and employing professional engineers duly licensed in the State of Tennessee, is entered into as follows:

WHEREAS, the Agreement by and between Engineer and City, acting through its Murfreesboro Water Resources Department, provided for Engineer to provide long term flow monitoring, capacity performance reports and presentations, temporary flow monitoring, and field services including manhole inspection, smoke testing, flow isolations, and wet weather inspections;

WHEREAS, the term of the Agreement ran from July 1, 2022 to June 30, 2023;

WHEREAS, Section 3.1 of the Agreement granted to City the option to renew the Agreement for two additional one-year periods;

WHEREAS, pursuant to Section 3.1.a of the Agreement, City has opted and elected to renew the Agreement for the first additional one-year period; and

WHEREAS, pursuant to Section 3.1.b of the Agreement, Engineer has submitted a form to continue contract performance for an additional one-year period.

NOW THEREFORE, for a good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Agreement is hereby renewed and amended for an additional one-year term, beginning July 1, 2023 and ending June 30, 2024.
2. Year 2 Pricing will be as attached. The total value of this First Renewal will be equal to that approved for City's upcoming 2023/2024 budget.
3. This is the First Renewal allowed by the Agreement, and all terms and conditions remain the same and in full force and affect.

CITY OF MURFREESBORO:

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

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

Approved as to form:

DocuSigned by:  
*Adam Tucker*  
\_\_\_\_\_  
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Adam Tucker, City Attorney

ADS, LLC:

DocuSigned by:  
By: *Bobby G Pickett Jr, Director of Finance*  
790A93D937064D3...

Print: Bobby G Pickett Jr, Director of Finance

Its: Director of Finance

Date: 7/10/2023

5.1 Long Term Flow Monitoring

Item	Description	# of Units	2023-2024 YEAR 2 Unit Price	2023-2024 YEAR 2 Total Price <sup>(1)</sup>
1	Turnkey Operations, Parts, Maintenance, Data Collection, Data Analysis, Monthly Data Delivery and Monthly Meetings for 21 meters.	252	\$958.00	\$ 241,416.00
2	Turnkey Operations, Parts, Maintenance, Data Collection, Data Analysis, Monthly Data Delivery and Monthly Meetings for 7 Rain Gauges.	84	\$329.95	\$ 27,715.90
3	Wet Weather and Capacity Performance Summary Report	1	included	
4	PRISM Set-up for additional sites added to network	9	\$305.80	\$2,752.20
5	PRISM Monthly Service per site per month	336	\$48.95	\$16,447.20
6	ECHO Service, Wireless & PRISM Monthly Charge	12	\$118.70	\$1,424.40
			<b>Total:</b>	<b>\$ 289,755.70</b>
<b>Notes:</b>	<sup>(1)</sup> Future years 2 & 3 indexed to CPI increases			

\*Monthly service items will be billed at the beginning of the month for which services are to be provided.

\*\*PRISM Set-up fee is a one-time event at the initial set up. Monthly service fee starts immediately upon setup.

5.2 Temporary Flow Monitoring

TFM	# of Monitors	# of Days	YEAR 2 Rate	Total
Equipment Rental, Service including parts, Meter Installation, Calibration, Collect, Analysis, Removal, for 1 <sup>st</sup> 30 days	9	30	\$165.15	\$44,590.50
Collect, Confirmation, Analysis for days>30*	9	30	\$85.60	\$23,112.00
Notes: Future years 2 & 3 indexed to CPI increases			<b>Total:</b>	<b>\$67,702.50</b>

\*Temporary Flow monitoring extensions assumes extensions in increments of 1 month (30 days)

5.3 Field Inspections (SSES)

SSES	Number	Units	YEAR 2 Rate	Total
Flow Isolation Readings	40	each	\$286.20	\$11,448.10
Wet Weather Inspection	30	Hrs.	\$308.25	\$9,247.50
Manhole Inspection with Data Entry	300	each	\$122.30	\$36,690.00
Smoke Testing w/ Data Entry	100,000	Lf.	\$0.51	\$51,000.00
Dye	20	each	\$458.70	\$9,174.00
PM Consultation	10	Hrs.	\$176.20	\$1,762.00
Field Crew Rate	4	Hrs.	\$256.85	\$1,027.40
TOTAL (using estimated quantities)			<b>Total:</b>	<b>\$120,349.00</b>
Notes: Future years 2 & 3 indexed to CPI increases				

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** EnviroSight Inspection System  
**Department:** Water Resources  
**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"/>

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## Summary

Purchase EnviroSight's Rovver X Basic Mainline Inspection System.

## Staff Recommendation

Approve purchase of EnviroSight's Mainline Inspection System.

## Background Information

Cobra Technologies' CCTV equipment was used for nearly 20 years to inspect sanitary sewer lines; however, in December 2022 support ended for this equipment and it was replaced with Aries' Voyager TV System. Since the original purchase, staff has encountered issues with performance and reliability resulting in many hours of downtime and costly repairs. Most of these issues remain unresolved and the manufacturer has agreed to issue a full refund on the purchase price of \$223,577.

EnviroSight provided a demonstration of their equipment and underwent thorough testing by our technicians. The technicians found the controls easier to operate and it provides a more seamless integration with our current software interface. An EnviroSight dealer is located within 15 miles which will provide convenient access to parts and service. A similar unit was also purchased by the Street Dept, and they have been pleased with its performance. The purchase price for this system is \$263,257.

## Council Priorities Served

*Responsible budgeting*

Ensuring proper performance of inspection equipment capabilities in conjunction with expense, provides for the most efficient and effective means to maintain sewer infrastructure.

## Fiscal Impact

Additional expense of \$39,680; funding coming from working capital reserves.

## Attachments

EnviroSight Inspection System Contract



**CONTRACT BETWEEN  
CITY OF MURFREESBORO  
AND  
SANSOM EQUIPMENT COMPANY**

This Contract is entered into and effective as of the \_\_\_\_\_ 2023 ("Effective Date"), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **SANSOM EQUIPMENT COMPANY, INC**, a corporation of the State of Alabama ("Contractor").

This Contract consists of the following documents:

- *This Contract*
- *Sourcewell Contract #120721 with EnviroSight ("Sourcewell Agreement")*
- *Contractor's Sales Quotes SECQ6210 and SECQ5721 dated May 8, 2023 (Contractor's Quote)*
- *Any properly executed amendments to this Contract.*

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

- *First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority)*
- *Second, this Contract*
- *Third, Sourcewell Contract #120721 with EnviroSight ("Sourcewell Agreement")*
- *Finally, Contractor's Sales Quotes SECQ6210 and SECQ5721 dated May 8, 2023 (Contractor's Quote)*

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase the equipment and accessories set forth in Contractor's Sales Quotes SECQ6210 and SECQ5721 dated May 8, 2023.
2. **Term.** Contractor's performance may be terminated in whole or in part:
  - a. Upon 30-day prior notice, for the convenience of the City.
  - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
  - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
  - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
  - e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. **Price; Compensation; Method of Payment.**

- a. The price for the goods and other items to be provided under this Contract is set forth in the Contractor's Quote SECQ6210 dated May 8, 2023, reflecting a purchase price of *One Hundred Twenty-Nine Thousand Three Hundred Ninety-Four Dollars and Seventy Cents* (\$129,394.70) and Contractor's Quote SECQ5721 dated May 8, 2023 reflecting a purchase price of *One Hundred Thirty-Four Thousand Sixty-Six Dollars and Ten Cents* (\$134,066.10) for a **TOTAL PURCHASE PRICE of Two Hundred Sixty-Three Thousand Four Hundred Sixty Dollars and Eighty Cents (\$263,460.80)** Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Contract and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete. Invoices should be sent to: [accounts payable@murfreesborotn.gov](mailto:accounts payable@murfreesborotn.gov).
- b. Deliveries of all items for the Water Resources Department shall be made within 90-120 days of issuance of Purchase Order to Attn: Matt Powers – Water Resources Department – 1725 South Church Street, Murfreesboro, TN 37130. Contact Person Matt Powers (tel. 615-848-3200x3220; email: mpowers@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
- c. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
- d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor's Quote.
- e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

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

5. **Indemnification.**

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

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

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

If to the City of Murfreesboro:  
City of Murfreesboro  
Attn: City Manager  
P.O. Box 1139  
111 West Vine Street  
Murfreesboro, TN 37133-1139

If to the Contractor:  
Sansom Equipment Company, Inc.  
Attn: Josh Stringer  
2800 Powell Ave S  
Birmingham, AL 35233  
251-631-3766  
[joshstringer@secequip.com](mailto:joshstringer@secequip.com)

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

contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

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

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

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

15. **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 Contract, 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. **Iran Divestment Act of Tennessee.** By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Tenn. Code Ann. §12-12-106. Bids not conforming with this provision shall not be opened. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered.
17. **Non-Boycott of Israel.** By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.
18. **Assignment.** The provisions of this Contract 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 Contract, neither this Contract nor any of the rights and obligations of Contractor hereunder may be

assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.

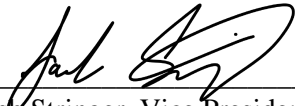
- 19. **Integration.** This Contract, Contractor’s Quotes, and State contract set forth the entire agreement between the parties with respect to the subject matter hereof and govern the respective duties and obligations of the parties.
- 20. **Force Majeure.** No party has any liability to the other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

**IN WITNESS WHEREOF**, the parties enter into this Agreement as of \_\_\_\_\_, 2023 (the “Effective Date”).

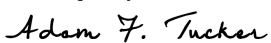
**CITY OF MURFREESBORO**

**Sansom Equipment Company, Inc**

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

By:  \_\_\_\_\_  
Josh Stringer, Vice President of Sales and Marketing

APPROVED AS TO FORM:

DocuSigned by:  
  
Adam F. Tucker, City Attorney



# QUOTE

QUOTE #	SECQ5721
DATE	May 8, 2023
CONTRACT CUSTOMER ID #	
CONTRACT #	120721-EVS

**To:** Matt Powers  
 Murfreesboro Water & Sewer  
 1725 S Church St  
 Murfreesboro, TN 37130  
 United States

**Sales Contact:** Danny Paladino  
 615-856-0534  
 danny@secequip.com

(629) 335-1830  
 mpowers@murfreesborotn.gov

QUOTE STATUS	SHIPPING TERMS	DELIVERY IN DAYS	PAYMENT TERMS
Sourcewell (NJPA)	Customer Location		Net Delivery

QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	Rower XPro Mainline Inspection System with Integrated Lift	\$119,893.50	\$119,893.50
1	Rackmount Computer	\$3,177.90	\$3,177.90
2	19" Tru-Vu Monitor w/mount (For Rackmount)	\$1,305.40	\$2,610.80
4	XL Rubber Wheel QC	\$625.95	\$2,503.80
4	Medium Aggressive Wheel QC	\$668.75	\$2,675.00
4	Small Aggressive Wheel QC	\$513.60	\$2,054.40
1	Aux lights with backup camera	\$5,243.00	\$5,243.00
1	upgrade to rip saw video capture card	\$411.95	\$411.95
TOTAL BEFORE DISCOUNT			\$138,570.35
1	Sourcewell Discount	-\$6,536.47	-\$6,536.47
1	Installation by Sansom	\$532.22	\$532.22
1	Freight	\$1,500.00	\$1,500.00

This quote does not include any federal, state, or local taxes.  
 \* In stock equipment are subject to prior sale. \*

**SUBTOTAL** \$134,066.10

**This Quote is valid for 30 Days.**

**TOTAL** \$134,066.10

Please contact me if I can be of further assistance.



# QUOTE

QUOTE # SECQ6210  
 DATE May 8, 2023  
 CONTRACT CUSTOMER ID #  
 CONTRACT # 120721-EVS

**To:** Matt Powers  
 Murfreesboro Water & Sewer  
 1725 S Church St  
 Murfreesboro, TN 37130  
 United States

**Sales Contact:** Danny Paladino  
 615-856-0534  
 danny@secequip.com

(629) 335-1830  
 mpowers@murfreesborotn.gov

QUOTE STATUS	SHIPPING TERMS	DELIVERY IN DAYS	PAYMENT TERMS
Sourcewell (NJPA)	Customer Location		Net Delivery

QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	Rower X Basic Mainline Inspection System with Integrated Lift and HD video	\$106,037.00	\$106,037.00
1	Outpost	\$14,498.50	\$14,498.50
1	VC500 Power Supply Complete (US Version)	\$481.50	\$481.50
4	XL Rubber Wheel QC	\$625.95	\$2,503.80
4	Medium Aggressive Wheel QC	\$668.75	\$2,675.00
4	Small Aggressive Wheel QC	\$513.60	\$2,054.40
1	Aux lights with backup camera	\$5,243.00	\$5,243.00
TOTAL BEFORE DISCOUNT			\$133,493.20
1	Installation	\$500.00	\$500.00
1	Freight	\$1,500.00	\$1,500.00
1	Sourcewell Discount	-\$6,098.50	-\$6,098.50

This quote does not include any federal, state, or local taxes.  
 \* In stock equipment are subject to prior sale. \*

**SUBTOTAL** \$129,394.70

**This Quote is valid for 30 Days.**

**TOTAL** \$129,394.70

**Please contact me if I can be of further assistance.**



**BIRMINGHAM OFFICE**

2800 Powell Avenue  
Birmingham, AL 35233  
Ph: (205) 324-3104  
Fax: (205) 324-2679

**MOBILE OFFICE**

2025 West I-65 Service Road North  
Mobile, AL 36618  
Ph: (251) 631-3766  
Fax: (251) 631-3768



**SHELBYVILLE OFFICE**

3196 Highway 231 North  
Shelbyville, TN 37160  
Ph: (615) 696-7066  
Fax: (615) 413-5323

**STONECREST OFFICE**

2601 South Stone Mountain Lithonia Road  
Stonecrest, Georgia 30058  
Ph: (706) 685-6900  
Fax: (706) 609-3491



# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** Vac Truck Purchase  
**Department:** Water Resources  
**Presented by:** Darren Gore, Assistant City Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Purchase 2024 Kenworth T880 vac truck.

**Staff Recommendation**

Approve Sourcewell contract with Vactor through Sansom Equipment company.

**Background Information**

O&M is requesting approval to purchase a new vac truck to clean sewer mains, laterals, and provide maintenance to pump station wet wells. With the recent supply chain struggles and unknown delivery dates, staff is requesting approval to enter into an agreement with Sansom Equipment Company to purchase this truck with an expected delivery in two to three months.

**Council Priorities Served**

*Expand infrastructure*

Cleaning the City’s gravity sanitary sewer pipes with the combination of high-pressure jetting and vacuuming via a mobile truck unit increases the capacity of the system and affectively expands the sewer system’s capacity to make new connections.

**Fiscal Impact**

The expense, \$519,890 is funded by the Department’s working capital reserves.

**Attachments**

Sansom Contract

**CONTRACT BETWEEN  
CITY OF MURFREESBORO  
AND  
SANSOM EQUIPMENT COMPANY, INC.**

This Contract is entered into and effective as of the \_\_\_\_\_ 2023 ("Effective Date"), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **SANSOM EQUIPMENT COMPANY, INC.**, a corporation of the State of Alabama ("Contractor").

This Contract consists of the following documents:

- *This Contract*
- *Sourcewell Contract #101221-VTR with Vector ("Sourcewell Agreement")*
- *Contractor's Sales Quotes SECQ6384 dated June 23, 2023 ("Contractor's Quote")*
- *Any properly executed amendments to this Contract.*

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

- *First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority)*
- *Second, this Contract*
- *Third, Sourcewell Agreement*
- *Finally, Contractor's Quote.*

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase the equipment and accessories set forth in Contractor's Quote dated June 23, 2023.
2. **Term.** Contractor's performance may be terminated in whole or in part:
  - a. Upon 30-day prior notice, for the convenience of the City.
  - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
  - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Contract. 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 Contract or if it should violate any of the terms of this Contract, the City has the right to immediately terminate this Contract. 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 this Contract immediately upon written notice to Contractor.

3. **Price; Compensation; Method of Payment.**

- a. The price for the goods and other items to be provided under this Contract is set forth in the Contractor's Quote dated June 23, 2023, reflecting a purchase price of *Five Hundred Nineteen Thousand Eight Hundred Ninety Dollars and Zero Cents (\$519,890.00)*. Any compensation due Contractor under this Contract shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Contract and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete. Invoices should be sent to: [accountspayable@murfreesborotn.gov](mailto:accountspayable@murfreesborotn.gov).
- b. Deliveries of all items for the Water Resources Department shall be made within 90-120 days of issuance of Purchase Order to Attn: Matt Powers – Water Resources Department – 1725 South Church Street, Murfreesboro, TN 37130. Contact Person Matt Powers (tel. 615-848-3200x3220; email: mpowers@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
- c. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
- d. Delivered items will not be considered “accepted” until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor's Quote.
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- 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.
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  - i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (1) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (2) no cost or expense whatsoever accrues to the City at any time; and (3) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
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    - 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.
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Attn: City Manager  
P.O. Box 1139  
111 West Vine Street  
Murfreesboro, TN 37133-1139

If to the Contractor:  
Sansom Equipment Company, Inc.  
Attn: Danny Paladino  
2800 Powell Ave S  
Birmingham, AL 35233  
615-856-0534  
danny@secequip.com

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

be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

- a) **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**
  - b) **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**
  - c) **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**
15. **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 Contract, 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. **Iran Divestment Act of Tennessee.** By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Tenn. Code Ann. § 12-12-106. Bids not conforming with this provision shall not be opened. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered.
17. **Non-Boycott of Israel.** By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.
18. **Assignment.** The provisions of this Contract 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 Contract, neither this Contract nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.


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

**IN WITNESS WHEREOF**, the parties enter into this Agreement as of \_\_\_\_\_, 2023 (the “Effective Date”).

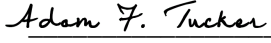
**CITY OF MURFREESBORO**

**Sansom Equipment Company, Inc**

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

By:  \_\_\_\_\_  
Josh Stringer, Vice President of Sales and Marketing

APPROVED AS TO FORM:

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



**QUOTE**

QUOTE # SECQ6384

DATE Jun 23, 2023

CONTRACT CUSTOMER ID # 20562

CONTRACT # 101221-VTR

**To:** Matt Powers  
 Murfreesboro Water & Sewer  
 1725 S Church St  
 Murfreesboro, TN 37130  
 United States

**Sales Contact:** Danny Paladino  
 615-856-0534  
 danny@secequip.com

(629) 335-1830  
 mpowers@murfreesborotn.gov

QUOTE STATUS	SHIPPING TERMS	DELIVERY IN DAYS	PAYMENT TERMS
Sourcewell (NJPA)	Customer Location	90 - 120 Days	Net Delivery

QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	Vactor 2100i Combination Sewer Cleaner with 15 cubic yard debris body, 1500 gallon water capacity, Roots 824-16 PD blower vacuum system and 80 GPM @ 2500 PSI water system	\$404,723.00	\$404,723.00
	Includes all standard features plus the following equipment:	\$0.00	\$0.00
	<ul style="list-style-type: none"> <li>- Debris body washout</li> <li>- 6" rear door drain with knife valve and camlock 3:00 position</li> <li>- 6" rear door drain with knife valve and camlock 6:00 position</li> <li>- Full rear door swinging screen drain filter</li> <li>- (4) centrifugal cyclone separators</li> <li>- Folding pipe rack curbside</li> <li>- Sub-frame pipe rack</li> <li>- Rear door splash shield</li> <li>- Lube manifold with chart</li> <li>- Air purge system</li> <li>- Front blower controls</li> <li>- Blower high temp safety shutdown</li> <li>- Digital water level indicator</li> <li>- Digital debris level indicator</li> <li>- 10x15 RDB (rapid deployment boom)</li> <li>- RDB wash out coupling</li> <li>- Backpack wireless controller</li> <li>- Rotatable boom inlet hose</li> <li>- Anti splash valve in debris body</li> <li>- 600' x 1" Piranha sewer hose</li> <li>- Auto hose wind guide - dual roller, non-indexing</li> <li>- Hydro excavation kit with spring loaded hose reel</li> <li>- Drain valves at rodder pump, final filter and silencer</li> <li>- Rear directional control LED arrow board</li> <li>- Wireless waterproof rechargeable LED hand light</li> <li>- Federal Signal 6 LED strobe package</li> <li>- LED work lights on boom</li> <li>- LED work lights on curb side</li> <li>- 16 x 30 x 96 full width toolbox behind cab</li> <li>- Toolboxes at front bumper with LED markers</li> <li>- Toolbox driver side 24 x 24 x 24</li> </ul>		

QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
	- Safety cone rack - drop in style - Passenger side mount lateral cleaning reel w/ 150' x 1/2" hose		
1	New 2024 Kenworth T880 chassis with 370 HP diesel, Allison automatic transmission, 66,000 GVWR	\$138,320.00	\$138,320.00
1	Sourcewell Contract Discount:	-\$12,141.00	-\$12,141.00
1	Additional Sansom Discount -	-\$13,512.00	-\$13,512.00
1	Freight & Delivery to Murfreesboro, TN	\$2,500.00	\$2,500.00

This quote does not include any federal, state, or local taxes.  
\* In stock equipment are subject to prior sale. \*

**SUBTOTAL** \$519,890.00

**TOTAL** \$519,890.00

**This Quote is valid for 30 Days.**

#### BIRMINGHAM OFFICE

2800 Powell Avenue  
Birmingham, AL 35233  
Ph: (205) 324-3104  
Fax: (205) 324-2679

#### MOBILE OFFICE

2025 West I-65 Service Road North  
Mobile, AL 36618  
Ph: (251) 631-3766  
Fax: (251) 631-3768



#### SHELBYVILLE OFFICE

3196 Highway 231 North  
Shelbyville, TN 37160  
Ph: (615) 696-7066  
Fax: (615) 413-5323

#### STONECREST OFFICE

2601 South Stone Mountain Lithonia Road  
Stonecrest, Georgia 30058  
Ph: (706) 685-6900  
Fax: (706) 609-3491



# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

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**Item Title:** Board of Electrical Examiners

**Department:** Administration

**Presented by:** Mayor Shane McFarland

**Requested Council Action:**

Ordinance

Resolution

Motion

Direction

Information

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**Summary**

Reappointment to the Board of Electrical Examiners.

**Background Information**

The Board of Electrical Examiners is responsible for reviewing electrical contractor's licenses and license applications to assure compliance with the Electrical Contractors Licensing Ordinance.

As established by City Code § 11-33-36, there are nine members who serve four-year terms.

**Attachments:**

1. Memo from Mayor McFarland
2. Memo from Kevin Jones, Director of Building & Codes



*. . . creating a better quality of life.*

July 20, 2023

Members of City Council

**RE: Recommended Appointments – Board of Electrical Examiners**

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As an item for the City Council Agenda, I am recommending the following reappointments to the Board of Electrical Examiners.

**Reappointments**

Mike McCann (term expires June 30, 2027)

Shandrea Womack replacing the vacancy left by Carl Peas (term expires June 30, 2027)

Sincerely,

A handwritten signature in blue ink that reads "Shane McFarland". The signature is fluid and cursive, with a long horizontal stroke at the end.

Shane McFarland  
Mayor



To: Mayor Shane McFarland  
From: Kevin Jones (Director Building & Codes)  
RE: Construction and Electrical Boards Reappointments  
Date: July 5, 2023

Mayor,

We had two members of our Board of Electrical Examiners that have expiring terms at the end of June. Mike McCann is willing to server an additional 4-year term. A representative of the Murfreesboro Fire Department is required to serve on the board as well. Carl Peas will be retiring so he will not be returning to the board but has recommended his replacement to be Shandrea Womack with MFRD.

Mike McCann	06/30/2027
Shandrea Womack	06/30/2027

Our Construction Board of Adjustments and Appeals also has 4 members with terms that expire in June. All 4 members have volunteered to extend their service to the board an additional 3 years, and they have been a great asset to the Board. Their new terms would be as follows.

Matt Taylor	06/30/2026
Ben Blake	06/30/2026
Carolyn Lester	06/30/2026
Mike Picklesimer	06/30/2026

Both Boards meet on a regular basis. If you have any questions or concerns, please don't hesitate to contact me and I will be glad to assist.

Cc: Precious Parham  
Phillip Burns

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**Item Title:** Construction Board of Adjustments and Appeals Reappointments

**Department:** Mayor and Council

**Presented by:** Mayor McFarland

**Requested Council Action:**

Ordinance

Resolution

Motion

Direction

Information

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**Summary**

Reappointment to the Construction Board of Adjustments and Appeals.

**Background Information**

The Board hears requests for variances from the adopted building codes minimum housing standards; garbage, weed and trash ordinances and, the open storage Ordinance.

As established by City Code § 7, Standard Building Code, Unsafe Building Abatement Code, Standard Excavation and Grading Code, Standard Mechanical Code), there are seven members appointed for three-year terms.

**Attachments:**

1. Memo from Mayor McFarland
2. Memo from Kevin Jones, Director of Building & Codes



*... creating a better quality of life.*

July 20, 2023

Members of City Council

**RE: Recommended Appointments – Construction Board of Adjustments and Appeals**

As an item for the City Council Agenda, I am recommending the following reappointments to the Construction Board of Adjustments and Appeals.

**Reappointments**

Matt Taylor (term expires June 30, 2026)

Ben Blake (term expires June 30, 2026)

Carolyn Lester (term expires June 30, 2026)

Mike Picklesimer (term expires June 30, 2026)

Sincerely,

A handwritten signature in blue ink that reads "Shane McFarland". The signature is written in a cursive style.

Shane McFarland  
Mayor



To: Mayor Shane McFarland  
From: Kevin Jones (Director Building & Codes)  
RE: Construction and Electrical Boards Reappointments  
Date: July 5, 2023

Mayor,

We had two members of our Board of Electrical Examiners that have expiring terms at the end of June. Mike McCann is willing to server an additional 4-year term. A representative of the Murfreesboro Fire Department is required to serve on the board as well. Carl Peas will be retiring so he will not be returning to the board but has recommended his replacement to be Shandrea Womack with MFRD.

Mike McCann	06/30/2027
Shandrea Womack	06/30/2027

Our Construction Board of Adjustments and Appeals also has 4 members with terms that expire in June. All 4 members have volunteered to extend their service to the board an additional 3 years, and they have been a great asset to the Board. Their new terms would be as follows.

Matt Taylor	06/30/2026
Ben Blake	06/30/2026
Carolyn Lester	06/30/2026
Mike Picklesimer	06/30/2026

Both Boards meet on a regular basis. If you have any questions or concerns, please don't hesitate to contact me and I will be glad to assist.

Cc: Precious Parham  
Phillip Burns



# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

---

**Item Title:** Parks and Recreation Commission

**Department:** Administration

**Presented by:** Mayor Shane McFarland

**Requested Council Action:**

Ordinance

Resolution

Motion

Direction

Information

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**Summary**

Appointment to the Parks and Recreation Commission.

**Background Information**

The Commission oversees the operations of the Parks and Recreation Department. As established by M.C.C. §31-15, there are nine appointed members appointed for three-year terms.

**Attachments:**

Memo from Mayor McFarland



*... creating a better quality of life.*

July 20, 2023

Members of City Council

**RE: Recommended Appointment – Parks and Recreation Commission**

As an item for the Council Agenda, I am recommending the following appointments to the Parks and Recreation Commission.

**Reappointments**

Dr. Gloria Bonner (term expires June 30, 2026)

Mr. Tim Roediger (term expires June 30, 2026)

Mr. Charlie Montgomery (term expires June 30, 2026)

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: 07/20/2023

---

**Item Title:** Library Board  
**Department:** Administration  
**Presented by:** Mayor McFarland

**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**

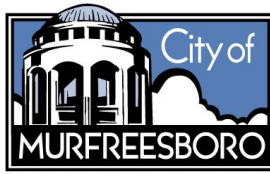
Appointment to the Library Board.

**Background Information**

The Rutherford County Library Board of Directors has members from Murfreesboro, Rutherford County, Smyrna, and Eagleville. The Board of Directors consists of eleven members.

**Attachments:**

1. Memo from Mayor McFarland



*... creating a better quality of life.*

July 20, 2023

Members of City Council

**RE: Library Board**

---

As an item for the Council agenda, I am recommending the reappointments to the Library Board.

**Appointment**

Dina Piazza filling the vacancy left by Vicki Twitty (term expiring June 30,2026)

Sincerely,

Mayor Shane McFarland

Administration Department

# COUNCIL COMMUNICATION

Meeting Date: 07/20/2023

**Item Title:** Beer Permits  
**Department:** Finance  
**Presented by:** Jennifer Brown, City Recorder  
**Requested Council Action:**

Ordinance   
Resolution   
Motion   
Direction   
Information

## Summary

TCA 57-5-103 delegates the authority to regulate the sale, distribution, manufacture, or storage of beer to the City where the business is located.

## Staff Recommendation

The applications from the following applicants meet requirements and are recommended to be approved. The permits will only be issued once the permits are approved by the City Council (Beer Board) and building and codes final inspections are passed for regular beer permits or a special event permit is approved for special event beer permits.

## Regular Beer Permits

Name of Applicant	Name of Business	Address	Type of Permit	Type of Business	Reason
7-Eleven, Inc	7-Eleven Store # 41962H	5265 Veterans Pkwy.	Off-Premises	Convenient Store/Gas	New Location

## Background Information

All applicants meet the requirements for issuing a beer permit per the City Code Chapter 4 Alcoholic Beverages with the exception of pending building and codes inspections for regular beer permits or pending special event permit for special event beer permits.

## Council Priorities Served

*Maintain public safety*

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

## Attachments

Summaries of Request



**No Items.**

