

MURFREESBORO CITY COUNCIL
Regular Meeting Agenda
Council Chambers – 6:00 PM
July 18, 2024

PRAYER

PLEDGE OF ALLEGIANCE

Public Comment on Actionable Agenda Items

Consent Agenda

1. FY25 Tennessee Housing Development Agency Emergency Solutions Grant (Community Development)
2. Defined Benefit Plan Actuarial Services (Finance)
3. Other Post-Employment Benefit (OPEB) Actuarial Services (Finance)
4. Purchase of Mobile Column Lifts and Stands (Fleet)
5. St. Clair Senior Center Grant with GNRC (Parks)
6. Mandatory Referral for Dedication of an Electric Easement along New Salem Highway (Planning)
7. Mandatory Referral for Abandonment of a Drainage Easement along Gresham Lane (Planning)
8. Robert Rose Administration Building Renovations Contingency Allowance Allocation (Project Development)
9. Housing Rehabilitation Change Order #4 511 Eventide (Community Development)
10. Second Amendment to SaaS Agreement with Utility Associates (Police)
11. Magnet Forensics License Agreements (Police)
12. Asphalt Purchases Report (Water Resources)
13. Sewer Rehab Task Order Amendment No. 1 (Water Resources)
14. Hobas Rehab Task Order Amendment No. 2 (Water Resources)
15. Itron Annual Support (Water Resources)

Old Business

Land Use Matters

16. Ordinance 24-OZ-16 Zoning for property along Butler Drive (2nd and final reading) (Planning)

New Business

Land Use Matters

17. Plan of Services and Annexation for property along New Salem Highway (Planning)
 - a. Public Hearing: Plan of Services and Annexation
 - b. Plan of Services: Resolution 24-R-PS-22
 - c. Annexation: Resolution 24-R-A-22

Ordinance

18. Ordinance 24-O-23 Amendment to Murfreesboro City Code, Airport Chapter 3 (Airport)
First Reading: Ordinance 24-O-23
19. Ordinance 24-O-25 Ethics Code (Legal)
First Reading: Ordinance 24-O-25
20. Ordinance 24-O-24 City Code Ch. 27.5 Amendment (Water Resources)
First Reading: Ordinance 24-O-24

Resolution

21. Resolution 24-R-23 Opioid Litigation Settlement Agreement with Kroger Co. (Legal)

On Motion

22. FY25 Annual Action Plan (Community Development)
23. NEOGOV Attract System Agreement (Human Resources)
24. Update Policy No. 3023, 4010, and 1009 (Human Resources)
25. Retail Liquor Certificates of Compliance -- Possible Revisions to Murfreesboro City Code Ch. 4 (Legal)
26. Purchase of Uniforms Clothing and Equipment Items (Police)
27. Contract Extension with Heritage Cleaners (Police/Fire Rescue)
28. Semi Tractor Purchase (Water Resources)
29. MWRD/CUD Boundary Revision No. 8 (Water Resources)
30. American Rescue Plan Grant Management Task Order (Water Resources)

Board & Commission Appointments

31. Parks and Recreation Commission (Administration)
32. Historic Zoning Commission (Administration)

Licensing

33. Beer Permits (Finance)

Payment of Statements

Other Business

Adjourn

COUNCIL COMMUNICATION

Meeting Date: 7/18/2024

Item Title: FY25 Tennessee Housing Development Agency Emergency Solutions Grant

Department: Community Development

Presented by: Robert Holtz, Director of Community Development

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Tennessee Housing Development Agency (THDA) Emergency Solutions Grant (ESG) for homelessness assistance grant award.

Staff Recommendation

Approve acceptance of the THDA grant agreement.

Background Information

The ESG grant provides funding to eligible non-profit agencies for emergency services to assist homeless individuals and individuals in danger of becoming homeless. Funding is provided by HUD through THDA. The City through Community Development awards local non-profit agencies grants from these funds for the administration of emergency services.

THDA has notified the City of award of the ESG Set Aside totaling \$134,375.

Council Priorities Served

Responsible Budgeting

Grant funds supplement or supplant funds that may otherwise be budgeted from City revenues for community services.

Fiscal Impact

No expenditure. Funding provides \$125,000 for grant award activities and \$9,375 for administrative expense.

Attachments

1. THDA ESG Agreement



GOVERNMENTAL GRANT CONTRACT

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

Begin Date 07/01/2024	End Date 06/30/2025	Agency Tracking # ESG-24-04	Edison ID 82053		
Grantee Legal Entity Name CITY OF MURFREESBORO			Edison Vendor ID 4110		
Subrecipient or Recipient <input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Recipient		Assistance Listing Number: 14.231 Emergency Solutions Grants Program			
		Grantee's fiscal year end: 6/30			
Service Caption (one line only) Emergency Solutions Grants ("ESG") 2024					
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Grant Contract Amount
2024		\$134,375.00			\$134,375.00
TOTAL:		\$134,375.00			\$134,375.00
Grantee Selection Process Summary					
<input type="checkbox"/> Competitive Selection			Emergency Solutions Grants ("ESG") Program funds are made available competitively to nonprofit organizations and local governments to implement eligible activities. Funds are awarded based on the scoring criteria identified in the 2024 Emergency Solutions Grants Program Description.		
<input checked="" type="checkbox"/> Non-competitive Selection					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.				<i>CPO USE - GG</i>	
Speed Chart (optional)		Account Code (optional)			

**GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
THE TENNESSEE HOUSING DEVELOPMENT AGENCY,
AND
CITY OF MURFREESBORO**

This grant contract ("Grant Contract"), by and between the State of Tennessee and the Tennessee Housing Development Agency ("THDA"), hereinafter referred to as the "State" or the "Grantor State Agency," and CITY OF MURFREESBORO, hereinafter referred to as the "Grantee," is for the provision of services to the homeless and those at risk of homelessness under the Emergency Solutions Grants ("ESG") Program, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID #: 4110
THDA Grant Contract #: ESG-24-04

A. SCOPE OF SERVICES AND DELIVERABLES:

- A.1. The Grantee shall provide the scope of services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.
- A.2. ESG funds may be used to maintain and operate emergency homeless shelters; to provide essential services, street outreach and/or rapid re-housing services to the homeless; to provide prevention services to households at risk of homelessness; and to perform data collection activities for all persons assisted as specified in ATTACHMENT A: DESCRIPTION OF GRANTEE ACTIVITIES, ATTACHMENT B: IMPLEMENTATION PLAN, and ATTACHMENT C: BUDGET, attached and incorporated herein by this reference.
- A.3. Incorporation of Additional Documents. Each of the following documents is included as 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 terms shall govern in order of precedence below:
- a. Title 24 Code of Federal Regulations, Part 576, and Part 91 of the Emergency Solutions Grants Program authorized by Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11371-11378) Interim Regulations (the "Federal ESG Regulations").
 - b. The United States Department of Housing Urban Development ESG Desk Guide for Program and Eligibility Policies and Procedures.
 - c. The THDA 2024 ESG Program Description and the ESG Manual "the THDA ESG Requirements").
 - d. Federal Award Identification Worksheet. The federal award identification worksheet, which appears as ATTACHMENT D.
- A.4. The Grantee shall comply with the Eligibility Activity Requirements of 24 CFR Part 576, Subpart B, and Part 91 as applicable to the type of project assisted.
- A.5. The Grantee shall comply with the Program Requirements of 24 CFR Part 576, Subpart E, and Part 91 as applicable to the type of project assisted.
- A.6. The Grantee shall comply with other applicable Federal Requirements, including, but not limited to, 24 CFR Part 576 and Part 91, as follows:
- a. 24 CFR 5.105(a). Section 3 Nondiscrimination and Equal Opportunity;

- b. 24 CFR 576 B Applicability of OMB Circulars;
 - c. 24 CFR 576 Subpart B Lead-Based Poisoning Prevention Act;
 - d. 24 CFR 576.404 Conflicts of Interest;
 - e. 24 CFR 576.406; 24 CFR 5.109 – Equal Participation of Faith-Based Organizations in HUD Programs and Activities;
 - f. 24 CFR 24.50 Environmental Review;
 - g. 24 CFR 576.4089 Relocation and Acquisition;
 - h. Title VI and Executive Order 13166 Affirmative Outreach; and
 - i. 24 CFR 184 Buy America Preferences for Infrastructure Projects.
- A.7. The Grantee shall match dollar-for-dollar the ESG funding the Grantee receives under this Grant Contract with funds from other public and private sources, as permitted and required under the Federal ESG Regulations and THDA ESG Requirements.
- A.8. The Grantee shall use ESG funds pursuant to the local, HUD-approved Consolidated Plan or the State, HUD-approved Consolidated Plan, as applicable, and all requirements of 24 CFR, Part 576 and Part 91.
- A.9. If the Grantee is a unit of general-purpose local government, the Grantee shall obligate all ESG grant funds to sub-recipients within sixty (60) days of the Effective Date of this Agreement. The funds must be obligated by a subgrant agreement with, or a letter of award requiring payment to, a private nonprofit organization; a procurement contract; or the written designation of a department within the government of the subrecipient to directly carry out an eligible activity.
- A.10. Terminating Assistance to Beneficiaries & Due Process.
- a. Process for Terminating Assistance Other Than Rental Assistance, Housing Relocation, or Stabilization Services. Grantee shall establish policies and procedures for terminating assistance to beneficiaries that require staff to examine all extenuating circumstances and exercise judgment in determining when violations warrant termination, so that assistance is only terminated in the most severe cases. Such policies and procedures must be submitted and approved by THDA. This process, at a minimum, must consist of:
 - (1) Providing the program participant with a written copy of the program rules and the termination process before the participant beneficiary begins to receive assistance;
 - (2) Written notice to the program participant containing a clear statement of the reasons for termination; and
 - (3) A review of the decision by a staff person of the Grantee who was not involved in the decision to terminate (or a subordinate of that person).
 - b. Process for Terminating Rental Assistance, Housing Relocation, or Stabilization Services. Grantee shall follow the process above, but, if after review, staff believes that termination is warranted, the Grantee shall refer the case to THDA's legal division the next business day after the review and:

- (1) THDA will review the information and will either overturn the termination, or, if it agrees termination should occur, will send a proposed notice of termination. The program participant will be given 14 days from the date of the notice to appeal THDA's decision or the decision is final;
 - (2) If the program participant appeals THDA's decision, the matter will be heard by THDA's hearing officer or its designee. The hearing officer will either overturn the termination or uphold it.
- c. During either review process, the Grantee shall provide effective communication and accessibility for individuals with disabilities, including the provision of reasonable accommodations and meaningful access to persons with Limited English Proficiency.
- A.11. The Grantee shall ensure that at least one homeless or formerly homeless individual participates in a policy-making function within the organization in accordance with 24 CFR Part 576.405.
- A.12. The Grantee shall involve homeless individuals and families in the operation of the ESG funded program through work or volunteer activities in accordance with 24 CFR Part 576.405.
- A.13. The Grantee will maintain adequate documentation of homelessness status to determine and verify eligibility of persons served by the ESG funded program.
- A.14. The Grantee shall maintain records adequate to document compliance with 24 CFR Part 576, along with such other records the State determines necessary to enable the State to fulfill its responsibilities in the ESG Program. All records will be retained for the more restrictive of the period required in 24 CFR Part 576 or as provided in Section D.15. of this contract.
- A.15. The Grantee shall comply with the uniform administrative requirements of 24 CFR Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Award, and the requirements of 24 CFR 576.407.
- A.16. The Grantee shall comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Estate Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR, Part 24 and the requirements of 24 CFR 576.59.
- A.17. The Grantee shall furnish to the State all reports required to be filed in accordance with any directives of the State and within the time period prescribed by the State for such reports.
- A.18. Homeless Management Information System (HMIS). The Grantee and its subgrantees, if applicable, must participate in the local Continuum of Care and ensure that data on all persons served in all activities assisted under ESG are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS.
- If the Grantee or its subgrantees is a victim service provider or a legal services provider, the Grantee or the subgrantee may opt to not use the established HMIS for the applicable Continuum of Care, but alternatively, must use a comparable database that collects client-level data over time (e.g., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to a local HMIS.
- A.19. Training. The Grantee shall attend all training sessions regarding management of the ESG Program as required by THDA.
- A.20. Centralized or Coordinated Assessment System. The Grantee and its subgrantees, if applicable, must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with

other programs targeted to homeless people in the area covered by the applicable Continuum of Care or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area, in accordance with HUD's standards on participation and coordination.

- A.21. Corrective Action. If HUD orders the State to take corrective or remedial action as outlined in 24 CFR §576.67 that is the result of any action taken by the Grantee, the Grantee will take any action required by THDA to prevent a continuation of the deficiency, mitigate to the extent possible its adverse effects or consequences, and prevent its recurrence. These remedies could, among other actions, include repaying ESG funds to THDA for repayment to HUD.

B. TERM OF CONTRACT:

This Grant Contract shall be effective on 07/01/2024 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date ("Term"), through 11:59 PM on 6/30/2025. The State 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 State under this Grant Contract exceed ONE HUNDRED THIRTY-FOUR THOUSAND, THREE HUNDRED SEVENTY-FIVE AND 00/100 (\$134,375.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment C 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 State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology – Reimbursement or Periodic Advance Payment. The Grantee shall be reimbursed or, upon approval, advanced for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in section C.1. If eligible for advance payment, THDA shall pay the Grantee an amount in accordance with the below requirements upon approval of this Grant Contract and at such other times as eligible below. 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, or further advance payment, of allowable costs. The total of said advanced and reimbursed payments shall not exceed the Maximum Liability of this Grant Contract.
- a. If eligible, the Grantee may request advances of certain percentages of the Maximum Liability in writing, detailing how it will use the funds on approved Program costs.
 - b. Eligibility Criteria, Approved Amounts, and Limitations. Eligibility and the amount of funds available for advance are based on the following criteria:
 - (1) If the Grantee has administered a THDA-funded program for five (5) consecutive years or more and is in good standing, THDA will allow the Grantee to access up to 20% of the Maximum Liability as an advance;
 - (2) All other grantees will have access up to 10% of the Maximum Liability as an advance;

- (3) The amount of an approved advance must not exceed the amount needed for the actual, immediate cash needs of the Grantee in carrying out its obligations hereunder;
 - (4) THDA may, at any time, adjust the amount of advancement a Grantee is eligible for or even revoke a Grantee's eligibility to receive advance funds, based on the Grantee's subsequent performance hereunder or under another THDA program, at THDA's sole discretion.
- c. If the Grantee is eligible for an advancement, it may receive its first advancement at the start of the Term, as long as THDA is in receipt of a fully executed version of this Grant Contract.
 - d. Grantees must expend the funds under an advance within thirty (30) days in order to be eligible for any further advances.
 - e. Each advancement must be fully expended before the Grantee is eligible for an additional advance. The Grantee will be required to show detailed documentation tracking each expenditure under an advance payment, demonstrating that each expenditure was appropriate.
- 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 THDA based on an approved payment schedule, using the forms, and shall provide all necessary supporting documentation, specified under the THDA ESG Requirements, and present such to THDA electronically using the Grants Management System, as directed by THDA. The Grantee understands and agrees to all of the following.
- a. An invoice under this Grant Contract shall only include reimbursement requests or renderings of expenditures under an advance payment 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 and advance payments.
 - b. An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
 - c. Except for the final invoice, an invoice under this Grant Contract shall be presented to THDA within sixty (60) days after the end of the calendar month in which the subject costs were incurred or services were rendered by the Grantee. An invoice submitted more than sixty (60) days after such date will NOT be paid. THDA will not deem such Grantee costs to be allowable and reimbursable unless, at the sole discretion of THDA, the failure to submit a timely invoice is warranted. The Grantee shall submit a special, written request for reimbursement with any such untimely invoice. The request must detail the reason the invoice is untimely as well as the Grantee's plan for submitting future invoices as required, and it shall be signed by a Grantee agent that would be authorized to sign this Grant Contract.
- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount,

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. 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 forty-five (45) days of the Grant Contract end date, in form and substance acceptable to the State.
- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
 - b. The State shall not be responsible for the payment of any invoice submitted to the State after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
 - c. The Grantee's failure to provide a final grant disbursement reconciliation report to the State 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 State 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.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State 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 State, and subject to the availability of funds the State 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 Central Procurement Office Policy Statement 2013-007 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State 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 State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.12. State's Right to Set Off. The State 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 State of Tennessee under which the Grantee has a right to receive payment from the State.

- C.13. Prerequisite Documentation. The Grantee shall not invoice THDA under this Grant Contract until the Tennessee Department of Finance & Administration has received the following, properly completed documentation.
- a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the Tennessee Department of Finance & Administration. By doing so, the Grantee acknowledges and agrees that, once this form is received by the Tennessee Department of Finance & Administration, 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 Tennessee Department of Finance & Administration the State-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 State 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 State 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 State. The State 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 in accordance with Federal ESG Regulations and THDA ESG Requirements as of the termination date, but in no event shall the State 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 State is liable shall be determined by the State. 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 State'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 State 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 State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State 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 State. If such subcontracts are approved by the State, 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 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.

The Grantee acknowledges, understands, and agrees that this Grant Contract shall be null and void if the Grantee is, or within the past six months has been, an employee of the State of Tennessee or if the Grantee is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.

Each Grantee also must adopt a conflict-of-interest policy in accordance with 24 CFR § 576.404 which prohibits any employee, persons with decision making positions or having information about decisions made by an organization, from obtaining a personal or financial interest or benefit from the organization's activity, including through contracts, subcontracts, or agreements.

- 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 State:

Don Watt, Chief Programs Officer

Tennessee Housing Development Agency
 Andrew Jackson Building, Fifth Floor
 502 Deaderick Street
 Nashville, TN 37243
 DWatt@thda.org
 Telephone #: 615.815.2032
 FAX #: 615.649.3153

The Grantee:

Shane McFarland, Mayor
 City of Murfreesboro
 111 W Vine, Murfreesboro, TN 37130
 smcfarland@murfreesborotn.gov
 Telephone #: (615) 893-5210
 FAX #: N/A

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 State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. 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 State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this 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 State 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 State 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 State, including cooperation and coordination with State 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 State 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 State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive 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 State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

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

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State 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 through the U.S. Department of Housing and Urban Development ("HUD")." All notices must include the fair housing and Americans with Disabilities Act logos as stated in the THDA ESG Requirements. All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
- 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 for a period that is five (5) full years from the date of the final payment or the term specified in 24 CFR 576.500 (y), whichever is longer, and shall be subject to audit at any reasonable time and upon reasonable notice by THDA, HUD, the Comptroller of the Treasury, or their duly appointed representatives.

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

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

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

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

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

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by THDA, HUD, 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 THDA, HUD, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.18. Annual and Final Reports. The Grantee shall submit all reports in form and substance and within deadlines as specified in the Federal ESG Regulations and the THDA ESG Requirements.
- D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.

At least ninety (90) days before the end of its fiscal year, the Grantee shall complete the Information for Audit Purposes ("IAP") form online (accessible through the Edison Supplier portal) to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed form online during the Grantee's fiscal year. Immediately after the fiscal year has ended, the Grantee shall fill out the End of Fiscal Year ("EOFY") (accessible through the Edison Supplier portal).

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

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

- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.327 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State 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).

The Grantee shall also comply with all procurement requirements as stated in the Federal ESG Regulations and in the THDA ESG Requirements.

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State 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 State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State 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 State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.
- D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.

- D.26. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract, except as otherwise allowed under 24 CFR 576..
- D.27. State Interest in Equipment. The Grantee shall take legal title to all equipment purchased totally or in part with funds provided under this Grant Contract, subject to the State's equitable interest therein, to the extent of its pro rata share, based upon the State's contribution to the purchase price. 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).

The Grantee grants the State a security interest in all equipment acquired in whole or in part by the Grantee under this Grant Contract. This Grant Contract is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Grantee hereby grants the State a security interest in said equipment. The Grantee agrees that the State may file this Grant Contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment or herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Grantee agrees to execute and deliver to the State, upon the State's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant Contract in such form as the State may require to perfect a security interest with respect to said equipment or motor vehicles. The Grantee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the State may reasonably require. Without the prior written consent of the State, the Grantee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment, including replacements and additions thereto. Upon the Grantee's breach of any covenant or agreement contained in this Grant Contract, including the covenants to pay when due all sums secured by this Grant Contract, the State shall have the remedies of a secured party under the Uniform Commercial Code and, at the State's option, may also invoke the remedies herein provided.

The Grantee agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant Contract. The Grantee shall maintain a perpetual inventory system for all equipment purchased with funds provided under this Grant Contract and shall submit an inventory control report which must include, at a minimum, the following:

- a. Description of the equipment;
- b. Manufacturer's serial number or other identification number, when applicable;
- c. Acquisition date, cost, and check number;
- d. Fund source, State Grant number, or other applicable fund source identification;
- e. Percentage of state funds applied to the purchase;
- f. Location within the Grantee's operations where the equipment is used;
- g. Condition of the property or disposition date if Grantee no longer has possession;
- h. Depreciation method, if applicable; and
- i. Monthly depreciation amount, if applicable.

The Grantee shall tag equipment with an identification number which is cross referenced to the equipment on the inventory control report. The Grantee shall inventory equipment annually. The Grantee must compare the results of the inventory with the inventory control report and investigate any differences. The Grantee must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

The Grantee shall submit its inventory control report of all equipment purchased with funding through this Grant Contract within thirty (30) days of its end date and in form and substance acceptable to the State. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Grantee shall notify the State, in writing, of any equipment loss describing the reasons for the loss. Should the equipment be destroyed, lost, or stolen, the Grantee shall be responsible to the State for the pro rata amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

Upon termination of the Grant Contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant Contract, the Grantee shall request written approval from the State for any proposed disposition of equipment purchased with Grant funds. All equipment shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.
- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

- b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, 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 State or acquired by the Grantee on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit 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 State 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.

- D.36. State Sponsored Insurance Plan Enrollment. The Grantee warrants that it will not enroll or permit its employees, officials, or employees of contractors to enroll or participate in a state sponsored health insurance plan through their employment, official, or contractual relationship with Grantee unless Grantee first demonstrates to the satisfaction of the Department of Finance and Administration that it and any contract entity satisfies the definition of a governmental or quasigovernmental entity as defined by federal law applicable to ERISA.

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. 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 State as required.

The Grantee shall comply with the following:

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

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.
 - (2) Total compensation means the cash and noncash dollar value earned by the executive during the Grantee's preceding fiscal year and includes the following (for more information see 17 CFR § 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Grantee must report executive total compensation described above to the State by the end of the month during which this Grant Contract is established.
- c. If this Grant Contract is amended to extend its term, the Grantee must submit an executive total compensation report to the State 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 State may terminate this Grant Contract for cause. The State 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.3. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn. Code Ann. §§ 39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract.
- E.4. 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.5. Americans with Disabilities Act. The Grantee must comply with the Americans with Disabilities Act (ADA) of 1990, as amended, including implementing regulations codified at 28 CFR Part 35 "Nondiscrimination on the Basis of Disability in State and Local Government Services" and at 28 CFR Part 36 "Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities," and any other laws or regulations governing the provision of services to persons with a disability, as applicable. For more information, please visit the ADA website: <http://www.ada.gov>.

[SIGNATURES START ON NEXT PAGE]

[GRANTEE SIGNATURE PAGE]

IN WITNESS WHEREOF,

CITY OF MURFREESBORO:

SHANE MCFARLAND, MAYOR

DATE

APPROVED AS TO FORM:

ADAM TUCKER, CITY ATTORNEY

DATE

[THDA SIGNATURE PAGE]

TENNESSEE HOUSING DEVELOPMENT AGENCY:

REBECCA CARTER, DIRECTOR OF COMMUNITY SERVICES

DATE

ATTACHMENT A**TENNESSEE HOUSING DEVELOPMENT AGENCY****2024 ESG PROGRAM****DESCRIPTION OF GRANTEE ACTIVITIES**

GRANTEE NAME: CITY OF MURFREESBORO

The activities for the 2024 ESG Project shall consist of the following:

1. Administer ESG funds through subrecipient agreements with the following agencies: Barnabas Vision and Salvation Army of Murfreesboro
2. Salvation Army of Murfreesboro will use ESG funds to provide Shelter services to homeless individuals and/or families in Rutherford County.
3. Barnabas Vision will use ESG funds to provide Homelessness Prevention services to homeless individuals and/or families in Rutherford County.
4. Barnabas Vision will use ESG funds to provide Rapid Rehousing services to homeless individuals and/or families in Rutherford County.
5. Except as noted in #6 below, an invoice under this Grant Contract shall be presented to THDA within sixty (60) days after the end of the calendar month in which the subject costs were incurred or services were rendered by the Grantee. An invoice submitted more than sixty (60) days after such date will NOT be paid. THDA will not deem such Grantee costs to be allowable and reimbursable unless, at the sole discretion of THDA, the failure to submit a timely invoice is warranted. The Grantee shall submit a special, written request for reimbursement with any such untimely invoice. The request must detail the reason the invoice is untimely as well as the Grantee's plan for submitting future invoices as required, and it shall be signed by a Grantee agent that would be authorized to sign this Grant Contract.
6. The final invoice under this Grant Contract shall be submitted to THDA by August 14, 2025. An invoice submitted after that date will NOT be paid.

ATTACHMENT B

**TENNESSEE HOUSING DEVELOPMENT AGENCY
2024 ESG PROGRAM
IMPLEMENTATION PLAN FOR ESG PROJECTS**

GRANTEE: CITY OF MURFREESBORO

Grantee shall meet the following deadlines:

- | | |
|---|------------|
| 1. Determination of Status for Environmental Review | 07/01/2024 |
| 2. Release of Funds | 07/01/2024 |
| 3. Begin Providing Services to Homeless | 07/01/2024 |
| 4. Contract Complete | 06/30/2025 |
| 5. Final Date to Submit Draw Support | 08/14/2025 |

ATTACHMENT C

**TENNESSEE HOUSING DEVELOPMENT AGENCY
2024 ESG PROGRAM
PROJECT BUDGET**

GRANTEE NAME: CITY OF MURFREESBORO

ACTIVITY BUDGET: \$134,375.00

STREET OUTREACH	
EMERGENCY SHELTER	\$62,500.00
HOMELESSNESS PREVENTION	\$31,250.00
RAPID REHOUSING	\$31,250.00
DATA COLLECTION (HMIS)	
ADMINISTRATION (not included in total project budget)	\$9,375.00

MATCHING FUNDS: \$125,000.00

OTHER NON-ESG FUNDS	
FEDERAL FUNDS	
STATE GOVERNMENT FUNDS	
LOCAL GOVERNMENT FUNDS	
PRIVATE FUNDS	\$100,000.00
PROGRAM INCOME	
OTHER	\$25,000.00

TOTAL PROJECT BUDGET: \$250,000.00

ATTACHMENT D

Federal Award Identification Worksheet

Subrecipient's name (must match name associated with its Unique Entity Identifier (SAM))	City of Murfreesboro
Subrecipient's Unique Entity Identifier (SAM)	CMF9NNK9Z7D6
Federal Award Identification Number (FAIN)	E-24-DC-47-0001
Federal award date	07/01/2024
Subaward Period of Performance Start and End Date	07/01/2024 – 06/30/2025
Subaward Budget Period Start and End Date	07/01/2024 – 06/30/2025
Assistance Listing number (formerly known as the CFDA number) and Assistance Listing program title.	14.231 Emergency Solutions Grant Program
Grant contract's begin date	07/01/2024
Grant contract's end date	06/30/2025
Amount of federal funds obligated by this grant contract	\$134,375.00
Total amount of federal funds obligated to the subrecipient	\$134,375.00
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$3,244,618
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	ESG aims to reduce the length of time individuals experience homelessness, move individuals to permanent housing, and limit returns to homelessness.
Name of federal awarding agency	U.S. Department of Housing and Urban Development
Name and contact information for the federal awarding official	Erik D. Hoglund, Director of Community Planning and Development 710 Locust St. SW Knoxville, TN 37902 Phone: (865)474-8221
Name of pass-through entity	Tennessee Housing Development Agency
Name and contact information for the pass-through entity awarding official	Don Watt, Chief Program Officer Tennessee Housing Development Agency Andrew Jackson Building, Fifth Floor Nashville, TN 37243 DWatt@thda.org Telephone # 615-815-2032
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.332 for information on type of indirect cost rate)	N/A

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Defined Benefit Plan Actuarial Services

Department: Finance

Presented by: Erin Tucker

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Actuarial services contract with Cowden & Associates (a subsidiary of Acrisure)

Staff Recommendation

Approve actuarial services for the City of Murfreesboro Defined Benefit Pension Plan.

Background Information

In accordance with Government Accounting Standards (GASB) Rule 68, the City is required to have an actuarial evaluation of the City's defined benefit pension plan. Cowden & Associates provided a professional services proposal for an actuarial valuation report including required disclosure and expense calculations for fiscal years 2025-2028. The initial fee for FY25 totals \$41,000 with \$1,000 annual escalation fees through FY28.

Council Priorities Served

Responsible budgeting

The annual actuarial valuation reports provide budgetary expense amounts and audit disclosures for FY25-FY28.

Fiscal Impact

The annual actuarial valuation reports for the defined benefit pension plan will be funded by the Pension Plan assets.

Attachments

Actuarial Services for City of Murfreesboro Employees' Pension Plan



July 12, 2024

CONFIDENTIAL - SENT VIA E-MAIL

Ms. Erin Tucker
Budget Director
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Re: Actuarial Services for the City of Murfreesboro Employees' Pension Plan

Dear Erin,

The purpose of this engagement letter (the "Agreement") is to confirm our engagement to provide ongoing actuarial services (the "Services") to the City of Murfreesboro ("City," "you," or "your"). This letter describes the Services that Cowden Associates, Inc., a wholly owned Acrisure, LLC subsidiary, ("Cowden," "we," "us," and "ours") will use reasonable efforts to provide for the City of Murfreesboro Employees' Pension Plan (the "Plan"). The terms of this Agreement are supplemented by our Standard Terms of Engagement (the "Terms"), a copy of which is attached to this letter as Exhibit A. Those Terms are also important, and you should read them closely.

Scope of the Engagement

Cowden will use commercially reasonable efforts to provide the Plan with following Services on an annual basis during the term of this Agreement:

- Actuarial Valuation report as of July 1 of each year (Funding Report), including liability measurements split by City General Employees and Water & Sewer Department
- GASB 68 disclosure and expense calculations as of June 30 of each year (Accounting Report and Disclosure), separated by Governmental and Business-type activities
- Preparation of Individual Employee Benefit Statements as of July 1 of each year – transmitted to City electronically as PDF files
- One meeting per year to review the actuarial valuation and discuss the status of the Plan
- Routine analysis of changes in valuation assumptions at each valuation and measurement date
- Routine audit support
- Assistance with responding to questions from regulatory auditors, as needed
- Routine correspondence and phone calls regarding the Plan
- Six (6) hours of general consulting services
- Inform the City of legislative and regulatory changes that impact the Plan

Additional Services

We can provide additional services (“Additional Services”), which are outside the scope of the Services. Generally, the fees for Additional Services will be based upon an applicable hourly rate. The current hourly rates applicable to our personnel are listed below under Fees & Expenses. Such Additional Services may include:

- Preparation or review of individual benefit calculations
- Domestic Relations Order ([Q]DRO) reviews and calculations
- Plan Document/Summary of Plan Document/Ordinance reviews
- Multi-year actuarial projections/budgeting
- Plan change cost studies, including but not limited to cost-of-living adjustment (COLA) for retirees, Deferred Retirement Option Plans (DROP), retirement subsidies, and so forth
- Study of demographic assumptions based on Plan experience, outside of routine updates
- Negotiation and arbitration support
- Training/Educational sessions for employees, as requested
- Additional meetings, as requested
- Plan Termination or de-risking analysis (e.g., lump sum window, annuity purchase)
- Implementation and costing associated with new legislation
- Postemployment Benefits Other than Pensions (OPEB) plan valuations (e.g., GASB 75)

Upon request, we will participate in analyst calls and internal discussions with financial officers to address concerns regarding pension issues and related matters, including possible accounting, cash flow, and balance sheet concerns.

Fees & Expenses

Our annual fee for the Services is forty-one thousand dollars (\$41,000) for the July 1, 2024 plan year, increasing \$1,000 annually for the term of this Agreement, payable as set forth in the Terms. Billing for Additional Services will be invoiced separately. Prior to commencing any Additional Services, we will contact you to get your agreement as to the scope of additional services and estimated costs. Currently, our applicable hourly rate for performing such Additional Services will range from \$150 to \$200 for actuarial analysts, \$200 to \$300 for consultants and actuaries, and \$300 to \$400 for senior consultants and actuaries, plus reasonable out-of-pocket expenses.

In addition to fees, in the course of providing services to you, Cowden may incur expenses for services including delivery services, international telephone usage, postage, document binding, court costs, filing fees, transportation, mileage, lodging, meals and travel time. The actual expenses incurred depends on the services provided. Expense items incurred on your behalf will be itemized separately on billing statements, and you authorize Cowden to incur such expenses as are reasonable and necessary to your representation. Note that expense disbursements may not be current at the time of billing.

Annual fees will be invoiced quarterly in July, October, January, and April of each year.

Plan Year/Fiscal Year	Annual Fee	Quarterly Fee
July 1, 2024 – June 30, 2025	\$41,000	\$10,250
July 1, 2025 – June 30, 2026	\$42,000	\$10,500
July 1, 2026 – June 30, 2027	\$43,000	\$10,750
July 1, 2027 – June 30, 2028	\$44,000	\$11,000

Staffing of the Engagement

I, Amy Crouse, will be involved in coordinating and overseeing the delivery of services to you. Other service team members will be assigned to the account from among our staff.

Thank you for this opportunity and we look forward to this partnership! Please contact me if you have any questions or comments.

Sincerely,


Amy M. Crouse, EA, ASA, MAAA
Consultant and Actuary
O: 412-394-9355
C: 814-440-6860
acrouse@acrisure.com

AGREED AND ACKNOWLEDGED

City of Murfreesboro

Cowden Associates, Inc.

Signature

Signature

Print Name: _____

Ryan G. Foley

Title: _____

Executive Vice President

Today's Date: _____

APPROVED AS TO FORM

Adam F. Tucker, City Attorney

Exhibit A

Standard Terms of Engagement

These Standard Terms of Engagement ("Terms") add certain provisions to the Engagement Letter by and between Cowden Associates, Inc., a wholly owned Acrisure, LLC subsidiary, ("Cowden") and the City of Murfreesboro ("Company") (the "Agreement") dated as of the Effective Date and shall incorporate all terms of said Agreement by reference herein.

1. **Scope of Work:** Cowden will provide the Services, as set forth in the Agreement. Additional Services may be requested from time to time, and will be billed at Cowden's normal hourly rates, plus direct costs, if any.
2. **Payment of Fees.** Cowden's terms for payment of invoices are that they are due upon receipt. A late payment fee of two percent (2%) of the invoice amount for any invoice that is forty-five (45) days past due will be applied. If an invoice is still outstanding at ninety (90) days, an additional five percent (5%) late payment fee will be added to the amount outstanding at the time the late payment fee is added. Company shall reimburse Cowden for all reasonable costs incurred in collecting any overdue payments and related interest, including, without limitation, reasonable attorneys' fees, legal expenses, filing fees, court costs, and collection agency fees. If this engagement is terminated, then any outstanding fees shall be paid promptly.
3. **Relationship of the Parties.** At all times during the term of the Agreement, the relationship between the Company and Cowden shall be that of independent contractors. Nothing contained herein shall indicate that the parties hereto have any employer/employee relationship, joint venture, partnership, agency relationship, or right or power to represent or act on behalf of each other except as set forth in this Agreement.
4. **Insurance.** Each party covenants, represents, and warrants that it now has in force and effect a valid and binding contract of professional liability insurance covering it for damages occasioned by professional errors or omissions, and covenants to keep such policy, or one similar thereto, in full force and effect at all times during the continuance of the Engagement Letter, at the party's own expense.
5. **Limitation of Liability.** It is agreed and understood that Cowden's work will be based upon the data provided to Cowden by Company. To the extent that the data provided is incorrect or incomplete, Cowden shall not be liable for the results of work based on that data unless Cowden was negligent with respect to such data. Cowden shall have no obligation to discern any errors, omissions, or irregularities relating to data provided to Cowden by Company or any third party, except to the extent that the failure to discern such errors, omissions, or irregularities is inconsistent with the applicable professional standards established by the Actuarial Standards Board. In such instance, Cowden shall not be liable for any direct, indirect, incidental, special, consequential, punitive, exemplary, or any other damages relating to or resulting from the Services performed pursuant to the Agreement.
6. **Term; Termination.** The term of Agreement shall be for a period of forty-eight (48) months from the date of execution ("Initial Term") and upon expiration of the Initial Term shall automatically renew for additional twelve (12) month periods thereafter (the "Renewal Term"), unless either Party provides written notice of nonrenewal at least sixty (60) days prior to the end of the then-current Renewal Term. If the Agreement is terminated prior to expiration of the Initial Term, Company shall pay Cowden for all services actually performed to the termination date set forth in the notice without further liability to the Company of any nature whatsoever either in law or in equity by reason of the termination.

7. Confidential Information. Each Party acknowledges and agrees that all such information disclosed to the other or obtained by the other shall remain the property of the disclosing Party. Upon request, the receiving Party shall promptly return to the other all tangible representations of such confidential information in the recipient's possession and completely destroy all electronic copies and records of such information that cannot be returned.
8. General. These Terms and the Agreement shall be interpreted and enforced in accordance with the laws of the State of Tennessee, without giving effect to conflict of law principles. These Terms and the Agreement may not be changed or modified except in writing signed by both

Parties. These Terms and the Agreement shall inure to the benefit of the respective assigns and successors of each party. The failure of either party to insist on strict compliance with any term, provision or condition of this Agreement shall not be construed as a waiver thereof. If any provision of this Agreement should be void, invalid or unenforceable for any reason, the remainder of the Agreement shall not be affected thereby.

9. Entire Agreement. These Terms and the Agreement replace and supersede all previous agreements, written or oral, which may have existed between the parties or their affiliates, predecessors, successors or assigns. This Agreement constitutes the full agreement of the Parties regarding the subject matter hereof.

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Other Post-Employment Benefit (OPEB) Actuarial Services

Department: Finance

Presented by: Erin Tucker

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Actuarial services contract with Cowden & Associates (a subsidiary of Acrisure)

Staff Recommendation

Approve actuarial services for the City’s Other Post-Employment Benefits (OPEB).

Background Information

In accordance with Government Accounting Standards (GASB) GASB Rule 75, the City is required to have a biennial actuarial valuation report every two years for Other Post-Employment Benefits (OPEB), including annual disclosures and expense calculations. Cowden & Associates provided a professional services proposal for these services for fiscal years 2025-2028. The initial fee for FY25 and FY26 totals \$12,300 each year and increases to \$12,600 per year in FY27 and FY28.

Council Priorities Served

Responsible budgeting

The biennial actuarial valuation reports provide budgetary expense amounts and audit disclosures for FY25-FY28.

Fiscal Impact

The OPEB valuation report will be funded out of the Finance Department’s FY25-FY28 operating budgets.

Attachments

Actuarial services for City of Murfreesboro Administered OPEB Plan



July 12, 2024

CONFIDENTIAL - SENT VIA E-MAIL

Ms. Erin Tucker
Budget Director
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Re: Actuarial Services for City of Murfreesboro Administered OPEB Plan

Dear Erin,

The purpose of this engagement letter (the "Agreement") is to confirm our engagement to provide ongoing actuarial services (the "Services") to the City of Murfreesboro ("City," "you" or "your"). This letter describes the Services that Cowden Associates, Inc., a wholly owned Acrisure, LLC subsidiary ("Cowden," "we," "us" and "ours") will use reasonable efforts to provide for the City of Murfreesboro Administered OPEB Plan (the "Plan"). The terms of this Agreement are supplemented by our Standard Terms of Engagement (the "Terms"), a copy of which is attached to this letter as Exhibit A. Those Terms are also important, and you should read them closely.

Scope of the Engagement

Cowden will use commercially reasonable efforts to provide the Plan with following Services during the term of this Agreement:

- Biennial Actuarial Valuation Reports as of July 1 of odd-numbered years, including liability measurements split by:
 - General Government
 - Fire and Police
 - Murfreesboro Water and Sewer Department
- Annual GASB 75 disclosure and expense calculations as of June 30 of each year, separated by Governmental and Business-type activities
- Routine audit support
- Routine correspondence and phone calls regarding the Plan
- Consulting on legislative, regulatory, or other changes that may impact the Plan

Additional Services

We can provide additional services (“Additional Services”), which are outside the scope of the Services. Generally, the fees for Additional Services will be based upon an applicable hourly rate. The current hourly rates applicable to our personnel are listed below under Fees & Expenses. Such Additional Services may include:

- Multi-year actuarial projections/budgeting
- Changes to employee contracts or benefit design since the last measurement
- Plan change cost studies
- Multi-year actuarial projections
- Negotiation and arbitration support
- Plan Document/Summary of Plan Document/Ordinance reviews
- Implementation and costing associated with new legislation

Upon request, we will participate in analyst calls and internal discussions with financial officers to address concerns regarding pension issues and related matters, including possible accounting, cash flow, and balance sheet concerns.

Fees & Expenses

Our annual fee for the Services is twelve thousand three hundred dollars (\$12,300) for fiscal years 2026 and 2027, increasing to twelve thousand six hundred dollars (\$12,600) for fiscal years 2028 and 2029, payable as set forth in the Terms. Billing for Additional Services will be invoiced separately. Prior to commencing any Additional Services, we will contact you to get your agreement as to the scope of additional services and estimated costs. Currently, our applicable hourly rate for performing such Additional Services will range from \$150 to \$200 for actuarial analysts, \$200 to \$300 for consultants and actuaries, and \$300 to \$400 for senior consultants and actuaries, plus reasonable out-of-pocket expenses.

In addition to fees, in the course of providing services to you, Cowden may incur expenses for services including delivery services, international telephone usage, postage, document binding, court costs, filing fees, transportation, mileage, lodging, meals and travel time. The actual expenses incurred depends on the services provided. Expense items incurred on your behalf will be itemized separately on billing statements, and you authorize Cowden to incur such expenses as are reasonable and necessary to your representation. Note that expense disbursements may not be current at the time of billing.

Annual fees will be invoiced quarterly in July, October, January, and April of each year.

Fiscal Year	Annual Fee	Quarterly Fee
July 1, 2025 – June 30, 2026	\$12,300	\$3,075
July 1, 2026 – June 30, 2027	\$12,300	\$3,075
July 1, 2027 – June 30, 2028	\$12,600	\$3,150
July 1, 2028 – June 30, 2029	\$12,600	\$3,150

Staffing of the Engagement

I, Amy Crouse, will be involved in coordinating and overseeing the delivery of services to you. We will be assigning other service team members to the account from among our staff.

Thank you for this opportunity and we look forward to this partnership! Please contact me if you have any questions or comments.

Sincerely,


Amy M Crouse, EA, ASA, MAAA
Consultant and Actuary
O: 412-394-9355
C: 814-440-6860
acrouse@acrisure.com

AGREED AND ACKNOWLEDGED

City of Murfreesboro

Cowden Associates, Inc.

Signature

Signature

Print Name: _____

Ryan G. Foley

Title: _____

Executive Vice President

Today's Date: _____

APPROVED AS TO FORM

Adam F. Tucker, City Attorney

Exhibit A

Standard Terms of Engagement

These Standard Terms of Engagement ("Terms") add certain provisions to the Engagement Letter by and between Cowden Associates, Inc., a wholly owned Acrisure, LLC subsidiary, ("Cowden") and the City of Murfreesboro ("Company") (the "Agreement") dated as of the Effective Date and shall incorporate all terms of said Agreement by reference herein.

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2. **Payment of Fees.** Cowden's terms for payment of invoices are that they are due upon receipt. A late payment fee of two percent (2%) of the invoice amount for any invoice that is forty-five (45) days past due will be applied. If an invoice is still outstanding at ninety (90) days, an additional five percent (5%) late payment fee will be added to the amount outstanding at the time the late payment fee is added. Company shall reimburse Cowden for all reasonable costs incurred in collecting any overdue payments and related interest, including, without limitation, reasonable attorneys' fees, legal expenses, filing fees, court costs, and collection agency fees. If this engagement is terminated, then any outstanding fees shall be paid promptly.
3. **Relationship of the Parties.** At all times during the term of the Agreement, the relationship between the Company and Cowden shall be that of independent contractors. Nothing contained herein shall indicate that the parties hereto have any employer/employee relationship, joint venture, partnership, agency relationship, or right or power to represent or act on behalf of each other except as set forth in this Agreement.
4. **Insurance.** Each party covenants, represents, and warrants that it now has in force and effect a valid and binding contract of professional liability insurance covering it for damages occasioned by professional errors or omissions, and covenants to keep such policy, or one similar thereto, in full force and effect at all times during the continuance of the Engagement Letter, at the party's own expense.
5. **Limitation of Liability.** It is agreed and understood that Cowden's work will be based upon the data provided to Cowden by Company. To the extent that the data provided is incorrect or incomplete, Cowden shall not be liable for the results of work based on that data unless Cowden was negligent with respect to such data. Cowden shall have no obligation to discern any errors, omissions, or irregularities relating to data provided to Cowden by Company or any third party, except to the extent that the failure to discern such errors, omissions, or irregularities is inconsistent with the applicable professional standards established by the Actuarial Standards Board. In such instance, Cowden shall not be liable for any direct, indirect, incidental, special, consequential, punitive, exemplary, or any other damages relating to or resulting from the Services performed pursuant to the Agreement.
6. **Term; Termination.** The term of Agreement shall be for a period of forty-eight (48) months from the date of execution ("Initial Term") and upon expiration of the Initial Term shall automatically renew for additional twenty-four (24) month periods thereafter (the "Renewal Term"), unless either Party provides written notice of nonrenewal at least sixty (60) days prior to the end of the then-current Renewal Term. If the Agreement is terminated prior to expiration of the Initial Term, Company shall pay Cowden for all services actually performed to the termination date set forth in the notice without further liability to the Company of any nature whatsoever either in law or in equity by reason of the termination.

7. Confidential Information. Each Party acknowledges and agrees that all such information disclosed to the other or obtained by the other shall remain the property of the disclosing Party. Upon request, the receiving Party shall promptly return to the other all tangible representations of such confidential information in the recipient's possession and completely destroy all electronic copies and records of such information that cannot be returned.
8. General. These Terms and the Agreement shall be interpreted and enforced in accordance with the laws of the State of Tennessee, without giving effect to conflict of law principles. These Terms and the Agreement may not be changed or modified except in writing signed by both

Parties. These Terms and the Agreement shall inure to the benefit of the respective assigns and successors of each party. The failure of either party to insist on strict compliance with any term, provision or condition of this Agreement shall not be construed as a waiver thereof. If any provision of this Agreement should be void, invalid or unenforceable for any reason, the remainder of the Agreement shall not be affected thereby.

9. Entire Agreement. These Terms and the Agreement replace and supersede all previous agreements, written or oral, which may have existed between the parties or their affiliates, predecessors, successors or assigns. This Agreement constitutes the full agreement of the Parties regarding the subject matter hereof.

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Purchase of Mobile Column Lifts and Stands

Department: Fleet Services

Presented by: Kyle Lingo, Assistant Director

Requested Council Action:

Ordinance

Resolution

Motion

Direction

Information

Summary

Purchase set of 6 Mohawk Mobile Column Lifts and Stands for Heavy Duty Vehicles

Staff Recommendation

Approve the purchase contract with Mohawk Lifts LLC

Background Information

This purchase will allow safer and more time efficient service and repairs of our Medium and Heavy-Duty vehicles. This purchase is being made through a Sourcewell contract with Mohawk Lifts.

State statute and City Code authorizes cooperative purchases.

Council Priorities Served

Responsible budgeting

Expand infrastructure

By purchasing from an established contract, we have found a cost-effective lift system to save repair time on the City's expanding fleet of vehicles.

Fiscal Impact

The expense, \$73,558.40, is funded from the Fleet Services Operating Budget

Attachments

Contract for Mohawk Lifts, LLC

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
MOHAWK LIFTS LLC
FOR PURCHASE OF LIFTS AND STANDS**

This Contract is entered into and effective as of _____ 2024 ("Effective Date"), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **MOHAWK LIFTS, LLC** a Limited Liability Company of the State of New York ("Contractor").

This Contract consists of the following documents:

- *This Contract*
- *Sourcewell Contract #121223-MRL with Mohawk Lifts, LLC, hereinafter referred to as "Sourcewell Contract"*
- *Sales Quotation Form Numbers WPLS-140, set of 6.07082024 for one mobile column lift, dated July 8, 2024, and 7-THR 07082024 for nine stands, dated July 8, 2024, hereinafter, "Contractor's Quotes"*
- *Any properly executed amendments to this Agreement*

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

- *First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority)*
- *Second, this Contract*
- *Third, Sourcewell Contract #121223-MRL with Mohawk Lifts, LLC.*
- *Finally, the Contractor's Quotes dated July 8, 2024, including attendant Terms and Conditions, and govlifts.com Standard Terms and Conditions*

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase the following equipment as set forth in the Sourcewell Contract and Contractor's Quotes:
 - a. One (1) **Mobile Column Lift, 6-24 volt units, 84,000 pound capacity (part #WPLS-140, Set of 6),**
 - b. Six (6) each **High Rise Stand, 14,000 pound capacity – 53-1/8" to 72-1/8" (part #7-THR), and**
 - c. Three (3) each **Stand, 15,435 pound capacity per stand – 12" to 20" (part #7-THF).**
2. **Term.** The term of this contract shall be from the Effective Date to the expiration of the Sourcewell Contract on February 12, 2028. 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 Quotes for One (1) Mobile Column Lift WPLS-140, Set of 6, six (6) High-Rise Stands 7-THR, and three (3) Stands 7-THF as listed on the Quote Forms, and as set forth in the Sourcewell Contract for a **Total Purchase Price of Seventy-Three Thousand Five Hundred Fifty-Eight Dollars and Forty Cents (\$73,558.40)**, including delivery and five year warranty. 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 or goods are received.
 - b. Deliveries of all items for the Transportation Department shall be made within sixty (60) days from the date of this contract, to Attn: Kyle Lingo – Fleet Services Department – 4753 Florence Road, Murfreesboro, TN 37129. Contact Kyle Lingo (tel. 615-217-3037; email: klingo@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
 - c. Deliveries of all items shall be made as stated in the Contract documents. 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.** Every item purchased shall meet the warranty requirements set forth by the manufacturer, Sourcewell. The contract includes the manufacturer's standard warranty as specified in the attachment to the Contractor's Quotes.

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
111 West Vine Street
Murfreesboro, TN 37130

If to the Contractor:
Mohawk Lifts, LLC
Attn: Thomas Havens, Asst. Controller
P.O. Box 110
Amsterdam, NY 12010
Thavens@Mohawklifts.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 three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by 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.
15. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for

the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

16. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.
17. **Integration.** This Contract 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.
18. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
19. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
20. **Severability.** Should any provision of this 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.
21. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
22. **Iran Divestment Act of Tennessee.** By submission of the Contractor's Quote, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.
23. **Non-Boycott of Israel.** By submission of the Contractor's Quote, Contractor certifies, 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.
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 the "Effective Date" first listed above.

CITY OF MURFREESBORO

MOHAWK LIFTS, LLC.

By: _____
Shane McFarland, Mayor

DocuSigned by:
By: Thomas Havens
D6B79E6A24F4EB...
Thomas Havens, Assistant Controller

APPROVED AS TO FORM:

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

MOHAWK LIFTS

Vendor: **MOHAWK LIFTS LLC**
 PO Box 110, Amsterdam, NY 12010
HUNTER@MOHAWKLIFTS.COM
 800-833-2006 x1000



For purchase of GRAY equipment using:
 Sourcewell Contract #
 121223-MRL
 02/07/2024 - 02/12/2028

PREPARED FOR
Kyle Lingo City of Murfreesboro 4753 Florence Rd. Murfreesboro, TN 37129

QUOTE NO	QUOTE DATE
Murfreesboro.WPLS-140, set of 6.07082024	7/8/2024
Freight Terms:	FOB Destination, Prepaid
Payment Terms:	Net 30
Lead Time:	Up to 60 Days ARO*
Good Through: August 7, 2024	

PART #	DESCRIPTION	QTY	LIST PRICE	CONTRACT PRICE	TOTAL
WPLS-140, set of 6	6 - 24 volt units, 84,000 lb capacity mobile column lift	1	\$ 70,690.00	\$ 63,078.10	\$ 63,078.10

All quoted equipment has been Competitively Bid and Competitively Awarded on Sourcewell [REDACTED] and is Guaranteed Best government pricing.

NOTES:

Subtotal	\$ 63,078.10
Sales Tax (if applicable)	\$ -
TOTAL	\$ 63,078.10

Click here for Mohawk Lifts LLC's W-9: www.mohawklifts.com/Mohawk-W9
 This quotation is subject to the terms and conditions noted on the following page

TERMS AND CONDITIONS

- 1) This order is subject to the standard terms and conditions of the above named contract and the corresponding master agreement, which are hereby incorporated by reference and accessible at www.govlifts.com.
- 2) The quoted prices have been competitively bid and awarded and are guaranteed to be the lowest government prices.
- 3) Electrical and compressed air connections to equipment are not included on this quotation. Any required concrete or electrical work is to be supplied by an outside contractor or the buyer and is not included in this quote.
- 4) Each party will agree to defend, hold harmless, and indemnify the other from any cost, loss, or damages of any type, including attorney fees, to the extent that they arise from the breach of the Agreement and/or willful misconduct or negligence.
- 5) The buyer is responsible for inspecting all products at the time of delivery and before signing the delivery receipt, freight bill, or bill of lading. Should the buyer determine at the time of delivery that any items are damaged or missing the buyer must note the item, discrepancy, or condition on the delivery receipt, freight bill, or bill of lading. Mohawk is not responsible for missing or damaged products when the buyer has signed the delivery receipt, freight bill, or bill of lading in good condition.
- 6) A fork truck must be supplied at the offload site to unload the equipment from the freight carriers, if applicable.
- 7) Price does not include sales tax (unless applicable), duties, brokerage, or any other fees.
- 8) Any and all permits, licenses, fees, etc. are the buyers responsibility

To place your order using this quotation, please fill in the following required information:

BILLING INFORMATION

SHIPPING INFORMATION

Name: _____
 Address: _____

 Contact: _____
 Phone: _____
 Email: _____

Name: _____
 Address: _____

 Contact: _____
 Phone: _____
 Email: _____

Delivery Hours/Instructions: _____

Please provide a tax exempt certificate, if applicable, with order and email to orders@mohawklifts.com

Acknowledged and Accepted by:

Authorized Buyers Name (PRINT)

 Title

 Phone

Authorized Buyers Signature

 Date

 Email

Remit orders to:
 MOHAWK LIFTS LLC
 PO Box 110, Amsterdam, NY 12010
ORDERS@MOHAWKLIFTS.COM
 Fax: 518-842-1289

TERMS AND CONDITIONS

- 1) This order is subject to the standard terms and conditions of the above named contract and the corresponding master agreement, which are hereby incorporated by reference and accessible at www.govlifts.com.
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- 6) A fork truck must be supplied at the offload site to unload the equipment from the freight carriers, if applicable.
- 7) Price does not include sales tax (unless applicable), duties, brokerage, or any other fees.
- 8) Any and all permits, licenses, fees, etc. are the buyers responsibility

To place your order using this quotation, please fill in the following required information:

BILLING INFORMATION

SHIPPING INFORMATION

Name: _____
 Address: _____

 Contact: _____
 Phone: _____
 Email: _____

Name: _____
 Address: _____

 Contact: _____
 Phone: _____
 Email: _____

Delivery Hours/Instructions: _____

Please provide a tax exempt certificate, if applicable, with order and email to orders@mohawklifts.com

Acknowledged and Accepted by:

Authorized Buyers Name (PRINT)

 Title

 Phone

Authorized Buyers Signature

 Date

 Email

Remit orders to:
 MOHAWK LIFTS LLC
 PO Box 110, Amsterdam, NY 12010
ORDERS@MOHAWKLIFTS.COM
 Fax: 518-842-1289



GRAY MANUFACTURING
Company, Inc. • St. Joseph, Missouri

A tradition of quality since 1952

(800) 821-7320
(816) 233-6121
(816) 233-7251 Fax
www.GrayUSA.com

Effective: March 1, 2024

Warranty:

All current model WPLS units are now offered with a 2-year factory limited warranty (previous warranty was 1 year). Lifts also carry a lifetime material and workmanship warranty (as expressed in current warranty). With the 2-year limited warranty we will also offer a 5-year warranty on the lift carriage hydraulic cylinder. All warranty coverage is at the discretion of Gray Manufacturing.

Note: 2-year warranty / 5-year hydraulic cylinder warranty apply to Gray WPLS units only.

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: St. Clair Senior Center Grant with GNRC
Department: Parks and Recreation
Presented by: Nate Williams, Exec. Director of Recreation Services

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 \$62,797 in FY25 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. This GNRC grant was also awarded to the City 2018 – 2023.

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 \$62,797 will be allocated to the St. Clair Senior Center for FY25.

Attachment

Contract with GNRC



Contract Cover Sheet

Aging and Disability Services

Contractor ID: StClairSC-G

Contract #: 2025-30

Contractor Legal Entity Name: City of Murfreesboro - St. Clair Street Senior Center	
Service Type: Senior center services and evidence-based programming	
Start Date: 7/1/2024	End Date: 6/30/2025
Maximum/Estimated Liability: \$ 62,797.00	
Contract Type: Cost Reimbursement	
Match Required: Yes	
Assistance Living Number(s): IIIB 93.044, IIID 93.043	
Contractor Entity Type: Government	
DBE: N/A - Government	
GNRC Contact: Michael Skipper Executive Director 44 Vantage Way, Suite 450 Nashville, TN 37228 mskipper@gnrc.org; CC: sfowler@gnrc.org 615-682-6628	Contractor Contact: Mark Owens Facility Superintendent 325 St Clair Street, PO Box 332369 Murfreesboro, TN 37133 mowens@murfreesborotn.gov 615-848-2550 ext 2501

**CONTRACT 2025-30
BETWEEN
CITY OF MURFREESBORO - ST. CLAIR STREET SENIOR CENTER
AND THE
GREATER NASHVILLE REGIONAL COUNCIL**

This Contract, by and between City of Murfreesboro - St. Clair Street Senior Center (“CONTRACTOR”), and the GREATER NASHVILLE REGIONAL COUNCIL, a Tennessee governmental entity (“GNRC”), is for the provision of senior center services and evidence-based programming. GNRC and CONTRACTOR may be referred to individually as a “Party” or collectively as the “Parties” to this Contract.

Grantee Entity Type: Government
Grantee Place of Incorporation or Organization: Tennessee
Grantee EIN: 62-6000374

This Contract is for funding originating from the federal Older Americans Act and the state of Tennessee. This funding is passed through the Tennessee Department of Disability and Aging in its role as the State Unit on Aging (“SUA”) to GNRC in its role as the designated Area Agency on Aging and Disability (“AAAD”) for its thirteen-county region.

A. SCOPE OF SERVICES:

Scope of Services. CONTRACTOR agrees to provide the activities identified in the “Scope of Services” described in Attachment A and incorporated into this Contract.

B. TERM OF CONTRACT:

- B.1. Term. The parties agree that this Contract is effective for the period beginning on July 1, 2024 (“Effective Date”) and ending on June 30, 2025 (“Initial Term”) unless terminated in accordance with Sections E.2. and E.3.
- B.2. Renewal Option. GNRC may, at its sole option, renew the Contract for additional terms of one year (each a “Renewal Term”) until such time as three Renewal Terms have been completed. In no event, however, will the maximum contracting period, including all renewals or extensions, exceed a total of 48 months. To exercise its renewal option, GNRC may send written notice of its intent to renew at any time prior to the end of the then-current Term. CONTRACTOR has 14 calendar days after receipt of notice to decline the renewal by written notice to GNRC, in which case the Contract will terminate at the end of the then-current Term. For each Renewal Term, GNRC will provide CONTRACTOR with an updated budget (Attachment B) and Maximum Liability for the Renewal Term, but all other terms and conditions of the Contract will remain the same.
- B.3. Out-of-Term Work. GNRC will have no obligation to CONTRACTOR for fulfillment of the Scope outside the then-current Term.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event will the maximum liability of GNRC under this Contract exceed \$62,797.00 (“Maximum Liability”). The Contract Budget, attached and incorporated as Attachment B, is the maximum amount due CONTRACTOR under this Contract. The Contract 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 CONTRACTOR.

- C.2. Payment Methodology. CONTRACTOR will be reimbursed for actual, reasonable, and necessary costs based upon the Contract 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 Contract, CONTRACTOR must submit invoices prior to any reimbursement of allowable costs.
- C.3. Travel Compensation. Reimbursement to CONTRACTOR for travel, meals, or lodging, if any, will be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and will be contingent upon and limited by the Contract Budget funding for said reimbursement.
- C.4. Invoice Requirements. Utilizing the template provided by GNRC, CONTRACTOR must invoice GNRC as described in the requirements below. Invoices should include all necessary supporting documentation and be presented to Accounting@gnrc.org.
- a. CONTRACTOR's invoices must:
- (1) be submitted to Accounting@gnrc.org with necessary supporting documentation quarterly no later than the 8th of the month following the end of the quarter;
 - (2) be completed on the template provided to CONTRACTOR by GNRC;
 - (3) include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Contract and must be subject to the Contract Budget and any other provision of this Contract relating to allowable reimbursements;
 - (4) be submitted only for costs incurred and not include any reimbursement request for future expenditures;
 - (5) not include CONTRACTOR's taxes, which includes without limitation CONTRACTOR's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
 - (6) itemize the reimbursement requested for the invoice period, including, at a minimum, all of the following:
 - i. The amount requested by Contract 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 Contract Budget line-item to date.
 - iii. The total amount reimbursed under the Contract to date.
 - iv. The total amount requested (all line-items) for the Invoice Period.
- b. CONTRACTOR must include with any invoice a financial report on the template provided by GNRC showing all CONTRACTOR's financials.
- c. GNRC will issue reimbursement only for complete, accurate invoices received as required by this Section. GNRC may delay reimbursement due to late, incomplete, or incorrect invoices. There is no guaranteed reimbursement timeframe for invoices

- C.5. Payment of Invoice. A payment by GNRC does not prejudice GNRC's right to object to or question any reimbursement, payment, invoice, or related matter. A payment by GNRC must not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.6. Non-allowable Costs. Any amounts payable to the CONTRACTOR will be subject to reduction for amounts included in any invoice or payment that are determined by GNRC to constitute non-allowable costs.
- C.7. Timeliness. Time is of the essence with respect to the CONTRACTOR's obligations under this Grant Contract, and it is a material term of this Grant Contract that the CONTRACTOR timely fulfill its programming and reporting obligations.

The CONTRACTOR must submit data in a timely and complete manner as detailed in Attachment A. If CONTRACTOR does not provide the required data appropriately, the CONTRACTOR will have a one-time grace period of five days. During the grace period, the CONTRACTOR must enter the required data in the database. If the CONTRACTOR does not comply during the grace period, then the CONTRACTOR's non-compliance may, at GNRC's discretion, be treated as a second event of non-compliance, and the liquidated damages described below will apply.

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

- a. upon the second event of non-compliance with reporting obligations and for each subsequent event of non-compliance, the CONTRACTOR must pay GNRC 5% of the amount it would otherwise be owed for providing services during the month for which the data was untimely.
- b. upon any failure to provide a contracted service during a month, the CONTRACTOR must pay GNRC an amount equal to 25% of the total budgeted allocation

The liquidated damages are cumulative for subsequent offenses. GNRC reserves all other rights to address CONTRACTOR non-compliance.

GNRC, in its sole reasonable discretion, may 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.

- C.8. GNRC's Right to Set Off. GNRC reserves the right to set off or deduct from amounts that are or will become due and payable to the CONTRACTOR under this Contract or under any other agreement between the CONTRACTOR and GNRC under which the CONTRACTOR has a right to receive payment from GNRC.
- C.9. Prerequisite Documentation. The CONTRACTOR must not invoice GNRC under this Contract until GNRC has received the following documentation.
- a. The "Authorization Agreement for Automatic Deposit Form" provided by GNRC. By doing so, the CONTRACTOR acknowledges and agrees that, once this form is received by GNRC, payments to the CONTRACTOR, under this or any other contract the CONTRACTOR has with GNRC, may be made by ACH.

- b. A W-9 form. The taxpayer identification number on the W-9 form must be the same as the CONTRACTOR's Federal Employer Identification Number or Social Security Number provided in CONTRACTOR's response to any requests for proposals.
- C.10. Final Invoice and Close Out. CONTRACTOR must submit any final invoice within thirty days of the conclusion of the Term, in form and substance acceptable to GNRC. CONTRACTOR must submit an estimated final invoice by the 8th of the month following the conclusion of the Term.
- a. If total disbursements by GNRC pursuant to this Contract exceed the amounts permitted by this Contract, CONTRACTOR must refund the difference to GNRC. CONTRACTOR must submit the refund with the final invoice.
 - b. GNRC will not pay any invoice submitted to GNRC later than thirty days after the conclusion of the Term.
 - d. CONTRACTOR 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.
- C.11. Contractor Match. CONTRACTOR must document any required match on the supporting documentation provided with the monthly and final invoices, as detailed in Section C. The amounts required for match are detailed by the column(s) titled "Contractor Match," found in Attachment B.
- a. Each CONTRACTOR expenditure may be recorded and reported toward meeting a Contractor match requirement on only one contract for funding from the state of Tennessee.
 - b. If the CONTRACTOR fails to meet a Contractor match requirement by the end of the Term, the maximum total amount reimbursable by GNRC pursuant to this Contract, as detailed by the Contract Budget column "Contract," will be reduced by the amount that CONTRACTOR failed to contribute to the Total Project as budgeted.
- C.12. Compensation Firm. The Maximum Liability is not subject to escalation for any reason unless amended. The Contract 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.13. Budget Line-items. Expenditures, reimbursements, and payments under this Contract must adhere to the Contract Budget. The CONTRACTOR may vary from a Contract Budget line-item amount by up to twenty percent 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 does not increase the total Contract amount detailed by the Contract Budget. The net result of any changes to Contract Budget line-item amounts without amendment must not result in funding for a line-item that was previously funded at \$0.00. Any increase in the Contract Budget, grand total amounts must be made by amendment to this Contract.
- C.14. Indirect Cost. CONTRACTOR will not be reimbursed for indirect costs under this Contract.
- C.15. Cost Allocation. If any part of the costs to be reimbursed under this Contract are joint costs involving allocation to more than one program or activity, such costs must be allocated and reported in accordance with the provisions of Central Procurement Office Policy Statement 2013-007 or any amendments or revisions made to this policy statement during the Term.

[THIS SPACE INTENTIONALLY BLANK]

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. GNRC is not bound by this Contract until it is signed by the Parties and, if necessary, approved by appropriate officials in accordance with any applicable laws, regulations, and bylaws.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract must be in writing and must be made by a nationally recognized overnight delivery service with an asset-tracking system, or by email with receipt confirmation. All communications, regardless of method of transmission, must be addressed to the respective Party at the appropriate mailing address, or email address.

CONTRACTOR:
MARK OWENS
FACILITY SUPERINTENDENT
325 ST CLAIR STREET, PO BOX 332369
MURFREESBORO, TN 37133
EMAIL: MOWENS@MURFREESBOROTN.GOV
PHONE: 615-848-2550 ext 2501

GNRC:
MICHAEL SKIPPER
EXECUTIVE DIRECTOR
44 VANTAGE WAY, SUITE 450
NASHVILLE, TN 37228
EMAIL: MSKIPPER@GNRC.ORG CC: SFOWLER@GNRC.ORG
PHONE: 615-682-6628

All instructions, notices, consents, demands, or other communications are effective upon actual receipt or upon confirmation of delivery. A Party may change its contact information for the purposes of receiving notice by providing notice in accordance with this section.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties to this Contract and approved by appropriate officials in accordance with any applicable laws, regulations, and or bylaws.
- D.4. Assignment and Subcontracting. CONTRACTOR must not assign this Contract or enter into a subcontract for any of the services provided under this Contract without the prior written approval of GNRC. Notwithstanding any use of the approved subcontractors, CONTRACTOR must be the prime contractor and responsible for compliance with all terms and conditions of this Contract.
- D.5. Monitoring. CONTRACTOR understands and agrees that all activities conducted and records maintained pursuant to this Contract are subject to monitoring and evaluation by GNRC as well as other entities including without limitation the Tennessee Department of Disability and Aging, the Tennessee Comptroller of the Treasury, or their duly appointed representatives.
- D.6. Strict Performance. Failure by any Party to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract must not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract may be held to be waived, modified, or deleted except by a written amendment signed by the Parties to this Contract.
- D.7. Independent Contractor; No Third-Party Beneficiary. The Parties to this Contract must not act as employees, partners, joint venturers, or associates of one another. Nothing in this Contract may be construed to create an employer/employee relationship or to allow either party to exercise

control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not the employees or agents of the other Party. There are no third-party beneficiaries to this Contract.

- D.8. Tennessee Department of Revenue Registration. CONTRACTOR must comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608.
- D.9. Force Majeure. The obligations of the Parties are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.10. State and Federal Compliance. The CONTRACTOR must comply with all applicable state and federal laws and regulations in the performance of this Contract. This includes, but is not limited to, compliance with Title VI of the Civil Rights Act of 1964.
- D.11. Governing Law. This Contract must be governed by and construed in accordance with the laws of the state of Tennessee. The Parties agree that they are subject to the exclusive jurisdiction of the courts of the state of Tennessee in actions that may arise under this Contract. Each Party hereby irrevocably consents to the exclusive jurisdiction and venue of the state or federal courts located within Davidson County.
- D.12. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.13. Severability. The terms and conditions of this Contract are severable. If any provision is determined to be invalid or unenforceable, the remaining provisions will not be affected and remain in full force and effect.
- D.14. Headings. Section headings of this Contract are for reference purposes only and must not be construed as part of this Contract.
- D.15. Incorporation of Additional Documents. Each of the following documents are included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding GNRC's duties, responsibilities, and performance under this Contract, these items govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with attachments and exhibits;
 - c. RFP-2022-03, with any addenda and updates provided by GNRC; and
 - d. CONTRACTOR's response to RFP-2022-03.
- D.16. Intentionally omitted.
- D.17. Subject to Funds Availability. This 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, GNRC reserves the right to terminate this Contract upon written notice to CONTRACTOR. GNRC's right to terminate this Contract due to lack of funds is not a breach of this Contract by GNRC. Upon receipt of the written notice, CONTRACTOR must cease all work associated with the Contract. Should such an event occur, CONTRACTOR will be entitled to compensation for all

satisfactory and authorized services completed as of the termination date. Upon such termination, CONTRACTOR will have no right to recover from GNRC any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- D.18. Licensure. CONTRACTOR, its employees, and any approved subcontractor must be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and must upon request provide proof of all licenses.
- D.19. Limitation of GNRC's Liability. GNRC is not liability except as specifically provided in this Contract. In no event will GNRC be liable to CONTRACTOR 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 Contract or otherwise. GNRC's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise will under no circumstances exceed the Maximum Liability established in Section C.1 of this Contract. This limitation of liability is cumulative and not per incident.
- D.20. No Acquisition of Equipment or Motor Vehicles. This Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Contract.
- D.21. Confidentiality of Records. Strict standards of confidentiality of records and information must be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to CONTRACTOR by GNRC or acquired by CONTRACTOR on behalf of GNRC that is regarded as confidential under state or federal law must be regarded as "Confidential Information." Nothing in this Section permits CONTRACTOR to disclose any Confidential Information, regardless of whether it has been disclosed or made available to CONTRACTOR due to intentional or negligent actions or inactions of agents of GNRC or third parties. Confidential Information must not be disclosed except as required or permitted under state or federal law. CONTRACTOR must 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 will survive the termination of this Contract.
- D.22. Intentionally omitted.
- D.23. Personally Identifiable Information. While performing its obligations under this Contract, CONTRACTOR may have access to Personally Identifiable Information held by GNRC ("PII"). For the purposes of this 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"). CONTRACTOR agrees to not do or omit to do anything which would cause GNRC to be in breach of any Privacy Laws. CONTRACTOR must, and must 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 CONTRACTOR and in accordance with this 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. CONTRACTOR must immediately notify GNRC: (1) of any disclosure or use of any PII by CONTRACTOR or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to CONTRACTOR or its employees, agents and

representatives where the purpose of such disclosure is not known to CONTRACTOR or its employees, agents and representatives. GNRC reserves the right to review CONTRACTOR's policies and procedures used to maintain the security and confidentiality of PII and CONTRACTOR must, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from GNRC to enable GNRC to verify or ensure that CONTRACTOR is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at GNRC's direction at any time in its sole discretion, whichever is earlier, CONTRACTOR must immediately return to GNRC any and all PII which it has received under this Contract and must destroy all records of such PII. CONTRACTOR must report to GNRC any instances of unauthorized access to or potential disclosure of PII in the custody or control of CONTRACTOR ("Unauthorized Disclosure") that come to CONTRACTOR's attention. Any such report must be made by CONTRACTOR within 24 hours after the Unauthorized Disclosure has come to the attention of CONTRACTOR. CONTRACTOR must take all necessary measures to halt any further Unauthorized Disclosures. CONTRACTOR, at the sole discretion of GNRC, must provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. CONTRACTOR must 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 GNRC under this Contract or otherwise available at law. The obligations set forth in this Section survive the termination of this Contract.

D.24. Transfer of CONTRACTOR's Obligations. CONTRACTOR must not transfer or restructure its operations related to this Contract without the prior written approval of GNRC. CONTRACTOR must immediately notify GNRC in writing of a proposed transfer or restructuring of its operations related to this Contract. GNRC reserves the right to request additional information or impose additional terms and conditions before approving a proposed transfer or restructuring.

D.25 Prohibited Advertising. CONTRACTOR must not refer to this Contract or CONTRACTOR's relationship with GNRC under this Contract in commercial advertising in such a manner as to state or imply that CONTRACTOR or the CONTRACTOR's goods or services are endorsed. The obligations set forth in this Section survive the termination of this Contract.

E. FEDERALLY AND STATE-REQUIRED TERMS AND CONDITIONS

E.1. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as Attachment C, is incorporated in this Contract

E.2. Termination for Convenience. GNRC may terminate this Contract without cause for any reason. A termination for convenience shall not be a breach of this Contract by GNRC. GNRC will give CONTRACTOR at least 30 days written notice before the effective termination date. CONTRACTOR shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall GNRC be liable to CONTRACTOR for compensation for any service that has not been rendered. The final decision as to the amount for which GNRC is liable shall be determined by GNRC. CONTRACTOR shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for GNRC's exercise of its right to terminate for convenience.

E.3. Termination for Cause. If CONTRACTOR fails to properly perform its obligations under this Contract, or if CONTRACTOR violates any terms of this Contract, GNRC shall have the right to immediately terminate this Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of GNRC's right to terminate this Contract for cause, CONTRACTOR shall not be relieved of liability to GNRC for damages sustained by virtue of any breach of this Contract by CONTRACTOR.

E.4. Conflicts of Interest. CONTRACTOR warrants that no part of the total Maximum Liability shall be paid directly or indirectly to an employee or official of the state of Tennessee or GNRC as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to CONTRACTOR in connection with any work contemplated or performed relative to this Contract.

E.5. Lobbying.

a. Certification for Contracts, Grants, Loans, and Cooperative Agreements

CONTRACTOR certifies, to the best of his or her knowledge and belief, that:

- (1) 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.
- (2) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any 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, CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) CONTRACTOR shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. 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. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

b. Statement for Loan Guarantees and Loan Insurance

CONTRACTOR states, to the best of his or her knowledge and belief, that:

- i. If any 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 commitment provided for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

E.6. Nondiscrimination. CONTRACTOR hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of CONTRACTOR 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. CONTRACTOR shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

E.7. Public Accountability. If CONTRACTOR is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Contract involves the provision of services to citizens by CONTRACTOR on behalf of GNRC, CONTRACTOR agrees to establish a system through which recipients of services may present grievances about the operation of the service program. CONTRACTOR shall also display in a prominent place, located near the passageway through which the public enters in order to receive Contract supported services, a sign at least 11" in height and 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 SUA shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from CONTRACTOR, provide CONTRACTOR with any necessary signs.

E.8. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by CONTRACTOR in relation to this Contract shall include the statement, "This project is funded under a contract with the State of Tennessee." All notices by CONTRACTOR in relation to this Contract shall be approved by GNRC.

E.9. Records. CONTRACTOR and any approved subcontractor shall maintain documentation for all charges under this Contract. The books, records, and documents of CONTRACTOR and any approved subcontractor, insofar as they relate to work performed or money received under this 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 full years from the date of the final payment. CONTRACTOR's records shall be subject to audit at any reasonable time and upon reasonable notice by GNRC, the SUA, the Comptroller of the Treasury, or their duly appointed representatives.

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

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

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

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

CONTRACTOR 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.

CONTRACTOR 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 GNRC, the SUA, the Central Procurement Office, or the Commissioner of Finance and Administration of the state of Tennessee.

- E.10. Debarment and Suspension. CONTRACTOR certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three-year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - 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-year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

CONTRACTOR shall provide immediate written notice to GNRC 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.

- E.11. Prohibition of Illegal Immigrants.
- a. CONTRACTOR agrees that it shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. CONTRACTOR shall reaffirm this attestation by submitting to GNRC a completed Attestation, included as Attachment D, semi-annually during the Term. If CONTRACTOR is a party to more than one contract with GNRC, CONTRACTOR may submit one attestation that applies to all contracts with GNRC. All CONTRACTOR attestations shall be maintained by CONTRACTOR and made available to GNRC upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, CONTRACTOR shall obtain and retain a current, written Attestation that the subcontractor will not knowingly utilize the services of an illegal immigrant to perform work under this Contract and will not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by CONTRACTOR and made available to GNRC upon request.

- c. CONTRACTOR shall maintain records for all personnel used in the performance of this Contract. CONTRACTOR's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by GNRC and SUA.
 - d. CONTRACTOR understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; or (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.
- E.12. Equal Opportunity. As a condition for receipt of funds under this Contract, CONTRACTOR agrees to comply with 41 C.F. R. § 60-1.4 as that section is amended from time to time during the term.
- E.13. Clean Air Act and Federal Water Pollution Control Act. As a condition for receipt of funds under this Contract, CONTRACTOR agrees to comply with the Clean Air Act, 42 U.S.C. § 7401 *et seq.* and the Federal Water Pollution Control Act, 33 U.S.C § 1251 *et seq.*, as those sections are amended from time to time during the term. Violations must be reported to the Administration for Community Living and the Region 4 Office of the Environmental Protection Agency.
- E.14. 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 Contract. CONTRACTOR 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.
- E.15. State Sponsored Insurance Plan Enrollment. CONTRACTOR warrants that it will not enroll or permit its employees, officials, or employees of contractors to enroll or participate in a state sponsored health insurance plan through their employment, official, or contractual relationship with CONTRACTOR unless CONTRACTOR first demonstrates to the satisfaction of the Department of Finance and Administration that it and any contract entity satisfies the definition of a governmental or quasigovernmental entity as defined by federal law applicable to ERISA.
- E.16. Work Papers Subject to Review. CONTRACTOR 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 Contract.
- E.17. 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.18. Intentionally omitted.
- E.19. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires CONTRACTOR to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. CONTRACTOR is responsible for ensuring that all applicable FFATA requirements, including but not limited to those below, are met and that CONTRACTOR provides information to the state of Tennessee as required.

CONTRACTOR shall comply with the following:

- a. Reporting of Total Compensation of CONTRACTOR's Executives.

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

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

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

- b. CONTRACTOR must report Executives' Total Compensation described above to the state of Tennessee by the end of the month during which this Contract is established.

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

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

AGREED:

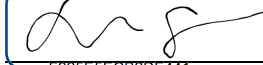
CITY OF MURFREESBORO - ST. CLAIR STREET SENIOR CENTER

SHANE MCFARLAND, MAYOR

Date

GREATER NASHVILLE REGIONAL COUNCIL

DocuSigned by:



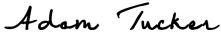
7/10/2024

MICHAEL SKIPPER, EXECUTIVE DIRECTOR

Date

APPROVED AS TO FORM

DocuSigned by:



Adam F. Tucker, City Attorney

Attachment A**Senior Center Services for Older and Disabled Adults
Greater Nashville Regional Council Scope of Services for City of Murfreesboro - St. Clair Street
Senior Center****1.0 GENERAL****1.1. DEFINITIONS**

For the purpose of this Scope of Services:

- **“GNRC”** refers to The Greater Nashville Regional Council
- **“Contractor”** refers to City of Murfreesboro - St. Clair Street Senior Center, a Tennessee governmental entity
- **“Contract”** refers to Contract # 2025-30 between GNRC and Contractor. This Scope of Services is incorporated into the Contract
- **“Contractor’s Designee”** refers to the individual designated by Contractor to be responsible for ensuring compliance with the Contract
- **“SUA”** refers to the Tennessee Department of Disability and Aging, in its capacity as the designated State Unit on Aging under the Older Americans Act
- **“SUA Database”** refers to Mon Ami, accessible from app.monami.io, or any successor product required by the SUA
- **“Senior Center”** refers to the community facility at which services under the Contract are provided
- **“Senior Center Data”** refers to participant information and service delivery program information
- **“Older Adult Participant”** refers to adults aged sixty and over who is a participant, member, or attendee of the Contractor’s Senior Center services and programs
- **“Quality Assurance”** refers to the process in which GNRC ensures that its programs and services are compliant with contractual obligations and program expectations and that contractors and grantees are fulfilling their obligations

1.2. BACKGROUND AND OBJECTIVES

The purpose of the Contract is for Contractor to operate a Senior Center. The Senior Center should aim to facilitate the social, emotional, and physical well-being of adults aged sixty and over as a part of a comprehensive and coordinated system of community-based services and activities. Services provided include health (including mental and behavioral health), social, nutritional, and educational services.

GNRC distributes funding to community facilities capable of providing a broad spectrum of services and a facility for recreational activities to older adults, adults with disabilities, and their caregivers through senior center services. Contractors must submit all reports to GNRC as specified in this Scope of Services to receive reimbursement for services rendered.

The planning and service area for the GNRC includes Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Trousdale, Williamson, and Wilson Counties.

Funding sources include federal Older Americans Act Title IIIB Supportive Services funds, and State of Tennessee Senior Center Operations funds. Federal and state funds provided through a contract with GNRC may be expended only for services authorized by that contract.

1.3. PREREQUISITES

Prior to performing any work under this Contract, Contractor must meet the following criteria:

- A. Be eligible to conduct business in the state of Tennessee and in the relevant city or county.
- B. Be one of the following:
 - 1. Chartered in the State of Tennessee as a non-profit corporation; or
 - 2. A division of a city or county government
- C. Be either:
 - 1. A single-purpose agency with programs and activities designed and operated only for the benefit of adults aged sixty and over; or

A multi-purpose agency with a broad spectrum of services, including but not limited to provision of health, social, nutritional, and educational services, as well as the provision of facilities for recreational activities for adults aged sixty and over.

1.4. PREREQUISITE DOCUMENTATION

Contractor must submit the following documentation in order to be eligible for reimbursement under this Contract.

- A. All financial documentation detailed in section C.8 of the Contract.
- B. Documentation of required insurance as detailed in section D.16 of the Contract, if applicable.
- C. If Contractor is a not-for-profit organization, a copy of Contractor's bylaws

1.5. COMPLIANCE GUIDELINES

- A. Contractor must have a policy in place to ensure that personnel or volunteers who have contracted any infectious illness or disease do not provide in-person services to any Older Adult Participants until they are without symptoms.
- B. Contractor must notify Adult Protective Services and GNRC about any potentially unsafe or hazardous conditions, or suspicions of abuse, neglect, or exploitation that may place the client, case managers, aides, or any other persons in imminent danger.
- C. Contractor must:
 - 1. Inform older individuals and their family caregivers of their right to file a grievance if they are dissatisfied with or denied services related to this Contract
 - 2. Provide them with a copy of GNRC's required grievance procedures; and

3. Follow the GNRC-required grievance procedures.
- D. Contractor must comply with the administrative, program, and fiscal requirements contained in all applicable SUA policies, procedures, and Program Instructions, as well as any applicable federal and state laws, regulations, and rules. The Tennessee Commission on Aging and Disability, *Program and Policy Manual Chapter 6: Senior Center* (2019), is available at <https://www.tn.gov/aging/administration/program-and-policy-manual.html>.
- E. Contractor must comply with the GNRC-issued *Senior Center Guide*, which is distributed at provider orientation, when updated, and upon request.

2.0. PERSONNEL

2.1 PERSONNEL FILES

- A. Contractor must complete background checks on employees, subcontractors, and volunteers as required by TCA § 52-2-1002 or any successor authority. Required background checks must be conducted prior to the employee, subcontractor, or volunteer having direct contact with or assuming direct responsibility for the Older Adult Participant. "Direct responsibility" includes anyone who supervises persons who have direct contact with Older Adult Participant, even if the supervisors themselves do not have direct contact.
- B. Contractor must document and maintain personnel files for each Contractor staff or volunteer who has access to Contractor data or who provides direct care for, has direct contact with, or has direct responsibility for the safety and care of Older Adult Participants. At minimum, personnel files must contain the following:
 1. A statement of any prior convictions
 2. Confidentiality statement renewed and signed annually.
 3. Current job description
 4. Results of employment history and personal reference checks
 5. Results of any required background checks
 6. Results of any other requested checks
 7. Justification of the decision to employ an individual, with reference to any information received from the background check. The justification must be signed by a representative of Contractor.
 8. Evidence of orientation and training
 9. Annual documentation of flu vaccine or declination

2.2. KEY PERSONNEL AND ORGANIZATIONAL POLICY

- A. If Contractor is a chartered not-for-profit corporation, Contractor 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 Contractor and the Senior Center's policy and procedures, programs, and services. The bylaws must include the roles and

responsibilities of the governing entity, Senior Center director, staff, participants, and fiscal integrity and responsibilities.

- B. If Contractor is a governmental entity, the following apply:
1. Contractor must have policies and procedures that address the administrative and fiscal policies that govern the operation and management of the Senior Center.
 2. Contractor must ensure that the Senior Center operates in accordance with Contractor's policy and procedures.
 3. Contractor must have documented policies and procedures addressing the aforementioned administrative and fiscal policies that govern the operation and management of the Senior Center. These fiscal policies must include procedures for:
 - a. Developing and approving the budget;
 - b. Handling cash and providing receipts;
 - c. Check writing and disbursements;
 - d. Purchasing;
 - e. Petty cash disbursement and replenishment;
 - f. Bank reconciliation;
 - g. Program income; and
 - h. Voluntary Contribution.
- C. Contractor must not discriminate on the basis of race, sex, national origin, religion, presence of disability, or any other class protected by law and must have written policies documenting the same. Contractor must adhere to Title VI of the Civil Rights Act of 1964 and must adopt written policies to implement its protections

2.3. **TRAINING**

- A. Contractor must require staff and volunteers to participate in training relevant to their major job responsibilities and in GNRC- and SUA-designated training, including Title VI training, when appropriate.
- B. Contractor's Designee must attend and participate in the semiannual mandatory meetings and training, including Title VI training, hosted by GNRC.

2.4. **PERSONNEL CONDUCT**

- A. Contractor must not collect the Social Security number of any Older Adult Participant.
- B. Contractor must not deny any Older Adult Participant access to, or provision of any service provided through GNRC funding because of non-payment of membership dues.
- C. Non-coercive solicitation of voluntary contributions is allowed. These contributions must be considered program income, must be reported to GNRC, and must be expended during the budget year in which it is received. Program income must be used to expand the service for which the contribution was given and not replace federal funding.

- D. Outside of allowable voluntary contributions and membership dues, no staff, volunteers, or guests (such as vendors) of the Senior Center may sell any type of merchandise or service to Older Adult Participants; nor may they seek to encourage the acceptance of any particular belief or philosophy by any Older Adult Participant.

3.0. SECURITY

Contractor must treat all Senior Center Data as confidential as described in the contract, including without limitation sections D.21. and D.23 of the Contract. Contractor must ensure that Senior Center Data is filed securely and accessed or shared according to the minimum necessary rule.

4.0. LOCATION OF SERVICE

4.1. HOURS OF OPERATION

The Senior Center must be open to the public at least four days per week for at least four hours per day.

4.2. FACILITY REQUIREMENTS

- A. The Senior Center must have public areas that are accessible for participants with limited mobility, including those participants using canes, walkers, or wheelchairs. Public areas include but are not limited to parking lots, entrances, restrooms, and activity spaces.
- B. Contractor must post notices of nondiscrimination policies in conspicuous places within the Senior Center that are available to all employees and applicants. Proof of these policies and notices must be made available upon request.
- C. Contractor must post the following in a conspicuous place that is available to all Older Adult Participants within the Senior Center:
 - 1. Senior Center Participant Grievance Procedures
 - 2. Title VI Civil Rights Notice
 - 3. Equal Employment Opportunity Poster
 - 4. Public Accountability Poster (800# TN Comptroller's Office)
 - 5. Call 911 for Emergency
 - 6. Location of First Aid Kits, Fire Extinguishers, and other supplies
 - 7. Monthly Calendar of Events

5.0. SERVICES

5.1. PROVISION OF SERVICES

Through its operation of the Senior Center, Contractor must provide telephone reassurance and should strive to provide one or more of the following services at the Senior Center:

- A. Health education
- B. Education/training
- C. Health screening
- D. Physical fitness/exercise

E. Recreation

5.2. **CONDUCTING SERVICES**

- A. Contractor must record participant information using the questions on the Participant Registration Form located in the SUA Database.
- B. Contractor must not exclude any person from participation in, deny any person benefits of, or subject any person to discrimination in the performance of services or in the employment practices of Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by law. Contractor must comply with all applicable federal, state, and local laws, rules, and regulations, including, without limitation, civil rights laws.
- C. Contractor must allow a GNRC State Health Insurance Assistance Program (SHIP) representative to present SHIP information at the Senior Center to 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).

5.3. **SERVICE REPORTING AND TIMELINES**

- A. Contractor must record Older Adult Participant information on the Participant Registration Form, maintain the information on file, and record the information in the SUA Database.
- B. Contractor must submit Senior Center Data to GNRC at least quarterly by the eighth of the month following the end of the quarter.
- C. Contractor must administer a Satisfaction Survey and the results must be submitted to GNRC annually.

5.4. **SERVICE RECORD KEEPING**

Contractor must retain records as detailed in section E.9. of the Contract.

6.0. **QUALITY ASSURANCE**

Quality Assurance (QA) is an ongoing process that involves GNRC, Older Adult Participants, the SUA and Contractor. The purpose of QA is to monitor compliance with the Contract in order to ensure that all Older Adult Participants receive services from qualified Contractors. GNRC QA staff review documents for accuracy and monitor for compliance with contractual, federal and state quality standards. GNRC QA staff frequently communicate with Contractor to offer program orientation, provide recurring training, schedule monitoring, and review incident or complaint reports involving Senior Centers.

- A. Contractor must respond to requests for information from GNRC and the SUA in a timely manner.
- B. Contractor will be subject to an in-person program monitoring visit at least once annually at the Senior Center. Contractor is required to submit all requested documents electronically prior to the onsite visit. Contractor must submit an acceptable and detailed Plan of Compliance for any findings of noncompliance issued by GNRC.

GNRC reserves the right to conduct additional visits as necessary to assist Contractor in achieving and maintaining compliance with the required standards. Failure to cooperate with the monitoring process may result in the termination of the Contract.

Attachment A Cont.**Disease Prevention and Health Promotion Services for Older and Disabled Adults
Greater Nashville Regional Council Scope of Services for City of Murfreesboro - St. Clair Street
Senior Center****1.0 GENERAL****1.1 DEFINITIONS**

For the purpose of this Scope of Services:

- **“GNRC”** refers to The Greater Nashville Regional Council
- **“Contractor”** refers to City of Murfreesboro - St. Clair Street Senior Center, a Tennessee governmental entity
- **“Contract”** refers to Contract # 2025-30 between GNRC and Contractor. This Scope of Services is incorporated into the Contract
- **“Contractor’s Designee”** refers to the individual designated by the Contractor to be responsible for ensuring compliance with the Contract
- **“SUA”** refers to the Tennessee Department on Disability and Aging, in its capacity as the designated State Unit on Aging under the Older Americans Act
- **“SUA Database”** refers to Mon Ami, accessible from app.monami.io, or any successor product required by the SUA
- **“Older Adult Participant”** refers to participants, members or attendees who are aged 60 and older
- **“Quality Assurance”** refers to the process by which GNRC ensures that its programs and services are compliant with contractual obligations and program expectations and that contractors and grantees are fulfilling their obligations

1.2. BACKGROUND AND OBJECTIVES

The purpose of the Contract is for the Contractor to arrange for the provision of disease prevention and health promotion programs, which have been approved by operating division of the federal Health and Human Services, for adults aged sixty or older within the GNRC service area. The planning and service area for GNRC includes Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Trousdale, Williamson, and Wilson Counties.

GNRC reimburses certain eligible expenses for programs that have been proven to improve health and well-being or reduce risk of injury, disease, or disability among older adults. Only programs that meet the definition of an “evidenced-based program” as defined by the Administration for Community Living (ACL) are eligible for Title III-D funding. These programs are referred to, often interchangeably, as Health Promotion and Disease Prevention or Evidence-Based programs. Contractor will submit all reports to GNRC as specified in this Scope of Services to receive reimbursement for services rendered.

The funding source for services provided is federal Older Americans Act (OAA) Title III-D Health Promotion and Disease Prevention funds. Federal and state funds provided through a contract with GNRC will be expended only for services authorized by that contract.

1.3. PREREQUISITES

Prior to performing any work under this Contract, Contractor must be registered and in good standing with the Tennessee Secretary of State, if applicable.

1.4. PREREQUISITE DOCUMENTATION

Contractor must submit the following documentation in order to be eligible for reimbursement under the Contract.

- A. Contractor must provide all financial documentation detailed in section C.8 of the Contract.
- B. Contractor must submit documentation of required insurance as detailed in section D.16 of the Contract
- C. If required in order to maintain the Contractor's entity status, Contractor will submit an annual report to the Secretary of State and to GNRC. If Contractor is a non-profit organization, they will also submit a copy of the agency's 990 tax form.
- D. If the Contractor's business is organized any way other than a sole proprietorship, Contractor must provide a copy of partnership agreement, operating agreement, or bylaws, depending on the business structure.
- E. Unless this Contract also includes the provision of Senior Center Services, Contractor must notify GNRC electronically at the beginning of each Contract term the counties in which Contractor intends to operate. This service area must be approved in writing by GNRC prior to the provision of any services by Contractor. Written approval from GNRC must be received prior to the Contractor's implementation of any changes in service area.

1.5. COMPLIANCE GUIDELINES

- A. Contractor must have a policy in place to ensure that personnel or volunteers who have contracted any infectious illness or disease do not provide in-person services to any Older Adult Participants until they are without symptoms.
- B. Contractor must ensure that notices of nondiscrimination policies are posted in conspicuous places that are available to all employees and applicants. Proof of these policies and notices must be made available upon request.
- C. Contractor must report any abuse, neglect, or exploitation directly to Adult Protective Services, as required by law, as well as submit reports about incidences and action taken to GNRC.
- C. Contractor must:
 - 1. Inform older individuals and their family caregivers of their right to file a grievance if they are dissatisfied with or denied services related to this Contract
 - 2. Provide them with a copy of GNRC's required grievance procedures; and
 - 3. Follow the GNRC-required grievance procedures.
- E. All Disease Prevention and Health Promotion Programs must be consistent with OAA rules and regulations and must meet ACL definitions of an Evidence-Based Program.
- F. Contractor must comply with the administrative, program, and fiscal requirements contained in all applicable SUA policies, procedures and Program Instructions, as well as any applicable federal and state laws, rules, and regulations. The Tennessee

Commission on Aging and Disability, *Program and Policy Manual Chapter 17: Title III-D Health Promotion and Disease Prevention (2020)*, is available at <https://www.tn.gov/aging/administration/program-and-policy-manual.html>

- G. Contractor must comply with the GNRC-issued *Provider Guide*, which is distributed at provider orientation, when updated, and upon request.

1.6. REFERENCE DOCUMENTS

The following documents may be helpful to Contractor in performing the work described in this document:

- A. Administration for Community Living, *Health Promotion (2023)*, <https://acl.gov/programs/health-wellness/disease-prevention>
- B. National Council on Aging, *Find an Evidence-Based Program (2024)*, <https://www.ncoa.org/evidence-based-programs>

2.0 PERSONNEL

2.1. BACKGROUND CHECKS

Contractor must complete background checks on employees, subcontractors, and volunteers as required by TCA § 52-2-1002 or any successor authority. Required background checks must be conducted prior to the employee, subcontractor, or volunteer having direct contact with or assuming direct responsibility for the Older Adult Participant. "Direct responsibility" includes anyone who supervises persons who have direct contact with Older Adult Participant, even if the supervisors themselves do not have direct contact.

2.2. TRAINING

Contractor must require staff and volunteers to participate in training relevant to their major job responsibilities, such as training required to receive and maintain the credentials to offer the approved disease prevention and health promotion programs, and in GNRC- and SUA-designated training, including Title VI training, when appropriate.

2.3. PERSONNEL CONDUCT

- A. Contractor must not collect the Social Security number of any Older Adult Participant.
- B. Contractor must not exclude any person from participation in, deny any person benefits of, or subject any person to discrimination in the performance of services or in the employment practices of the agency or organization on the grounds of any classification protected by federal, Tennessee state constitutional, or statutory law.
- C. Non-coercive solicitation of voluntary contributions is allowed. These contributions must be considered program income, must be reported to GNRC, and must be expended during the budget year in which it is received. Program income must be used to expand the service for which the contribution was given and not replace federal funding.
- D. Outside of voluntary contributions and membership dues, no staff, volunteers, or guests (such as vendors) of the Contractor may sell any type of merchandise or service to Older Adult Participants; nor may they seek to encourage the acceptance of any particular belief or philosophy by any Older Adult Participant.

3.0. SECURITY

Contractor must treat all participant information as confidential as described in the contract, including without limitation sections D.21. and D.23 the Contract. Contractor must ensure that participant information is filed securely and accessed or shared according to the minimum necessary rule.

4.0. SERVICES**4.1. PROVISION OF SERVICES**

Prior to the implementation of any programs, Contractor must submit the following information to GNRC for approval of the disease prevention and health promotion program(s) selected.

- A. Proposed program name/topic
- B. Program description
- C. Training received or proposed
- D. Proposed schedule
- E. Proof of all program certifications
- F. Plan to recruit participants

4.2. CONDUCTING SERVICES

Contractor must ensure the following are posted in a conspicuous place that is available to all Older Adult Participants:

- A. Participant Grievance Procedures
- B. Title VI Civil Rights Notice
- C. Equal Employment Opportunity Poster
- D. Public Accountability Poster (800# TN Comptroller's Office)
- E. Call 911 for Emergency
- F. Location of First Aid Kits, Fire Extinguishers, and other supplies
- G. Monthly Calendar of Events

4.3. SERVICE REPORTING AND TIMELINES

- A. Contractor must record Older Adult Participant information on the Participant Registration Form, maintain the information on file, and record the information in the SUA Database on or before the tenth day of the following month. Program information inputted should include:
 - 1. County
 - 2. Name of Program
 - 3. Total Number of Sessions
- B. Contractor must submit reports every state FY quarter to GNRC. This report must include:
 - 1. Names of trainers who lead classes/workshops. Indicate if the trainer is new to Contractor or program
 - 2. Total number of participants.

For workshops with finite number of sessions, this report should also include:

1. Start and end dates of the workshops
2. Number of participants in each workshop.

4.4. **SERVICE RECORD KEEPING**

Contractor must retain records as detailed in section E.9 of the Contract.

5.0 QUALITY ASSURANCE

Quality Assurance (QA) is an ongoing process that involves GNRC, Older Adult Participants, the SUA and Contractor. The purpose of QA is to monitor compliance with the Contract in order to ensure that all Older Adult Participants receive services from qualified Contractors. GNRC QA staff review documents for accuracy and monitor for compliance with contractual, federal and state quality standards. GNRC QA staff frequently communicate with Contractor to offer program orientation, provide recurring training, schedule monitoring, and review incident or complaint reports involving Contractors.

- A. Contractor must respond to requests for information from GNRC and the SUA in a timely manner.
- B. Contractor will be subject to an in-person program monitoring visit at least once annually. Contractor is required to submit all requested documents electronically prior to the onsite visit. Contractor must submit an acceptable and detailed Plan of Compliance for any findings of noncompliance issued by GNRC.

GNRC reserves the right to conduct additional visits as necessary to assist Contractor in achieving and maintaining compliance with the required standards. Failure to cooperate with the monitoring process may result in the termination of the Contract.

ATTACHMENT B

CONTRACT BUDGET		
Senior Center Services		
The contract budget line-item amounts below are applicable only to expenses incurred during the following period: BEGIN: July 1, 2024 END: June 30, 2025		
POLICY 03 Object Line-item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY	CONTRACT AMOUNT
1. 2	Salaries, Benefits & Taxes	\$ 0.00
4, 15	Professional Fee, Grant & Award	\$ 0.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	\$ 0.00
11. 12	Travel, Conferences & Meetings	\$ 0.00
13	Interest	\$ 0.00
14	Insurance	\$ 0.00
16	Specific Assistance To Individuals	\$ 0.00
17	Depreciation	\$ 0.00
18	Other Non-Personnel	\$55,597.00
20	Capital Purchase	\$ 0.00
22	Indirect Cost	\$ 0.00
24	In-Kind Expense	\$ 0.00
25	TOTAL CONTRACTED	\$55,597.00
	TOTAL CONTRACTOR MATCH	\$20,133.00
	PROJECT TOTAL (Includes Contractor Match)	\$75,730.00

¹ Each expense object line-item is defined by the U.S. OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart E Cost Principles (posted on the Internet at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-11/part-200/subpart-E>) and CPO Policy 2013-007 (posted online at <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-.html>).

² Applicable detail follows this page if line-item is funded.

CONTRACT BUDGET LINE-ITEM DETAIL:
Senior Center Services

PROFESSIONAL FEE, GRANT & AWARD	CONTRACT AMOUNT (Contractor Match Not Included)
Specific, Descriptive, Detail (Repeat Row As Necessary)	\$55,597.00
TOTAL	\$55,597.00

OTHER NON-PERSONNEL	CONTRACT AMOUNT (Contractor Match Not Included)
Specific, Descriptive, Detail (Repeat Row As Necessary)	\$55,597.00
TOTAL	\$55,597.00

SOURCE OF FUNDS	ALN	CONTRACT AMOUNT (Contractor Match Not Included)	CONTRACTOR MATCH
Federal Funds			
Title III-B Community Support Services	93.044	\$39,897.00	\$4,433.00
Title III-C-1 Congregate Meals Service	93.045	\$ 0.00	\$ 0.00
Title III-C-2 Home Delivered Meals Service	93.045	\$ 0.00	\$ 0.00
Title III-D Disease Prevention and Health Promotion Services	93.043	\$ 0.00	\$ 0.00
Title III-E National Family Caregiver Support Program	93.052	\$ 0.00	\$ 0.00
Title VII Long-Term Care Ombudsman Program	93.042	\$ 0.00	\$ 0.00
Title VII Elder Abuse Prevention Program	93.041	\$ 0.00	\$ 0.00
Nutrition Services Incentive Program (NSIP)	93.053	\$ 0.00	\$ 0.00
State Funds			
State Senior Centers Operations		\$15,700.00	\$15,700.00
State Home delivered Meals		\$ 0.00	\$ 0.00
State Homemaker		\$ 0.00	\$ 0.00
State Caregiver		\$ 0.00	\$ 0.00
State Guardianship		\$ 0.00	\$ 0.00
State HCBS/Options for Community Living Program		\$ 0.00	\$ 0.00
TOTAL		\$55,597.00	\$20,133.00

ATTACHMENT B CONT.

CONTRACT BUDGET		
Evidence Based Programming		
The contract budget line-item amounts below are applicable only to expenses incurred during the following period: BEGIN: July 1, 2024 END: June 30, 2025		
POLICY 03 Object Line-item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY	CONTRACT AMOUNT
1. 2	Salaries, Benefits & Taxes	\$ 6,352.94
4, 15	Professional Fee, Grant & Award	\$ 0.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	\$ 847.06
11. 12	Travel, Conferences & Meetings	\$ 0.00
13	Interest	\$ 0.00
14	Insurance	\$ 0.00
16	Specific Assistance To Individuals	\$ 0.00
17	Depreciation	\$ 0.00
18	Other Non-Personnel	\$ 0.00
20	Capital Purchase	\$ 0.00
22	Indirect Cost	\$ 0.00
24	In-Kind Expense	\$ 0.00
25	TOTAL CONTRACTED	\$7,200.00
	TOTAL CONTRACTOR MATCH	\$ 0.00
	PROJECT TOTAL (Includes Contractor Match)	\$7,200.00

¹ Each expense object line-item is defined by the U.S. OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart E Cost Principles (posted on the Internet at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-11/part-200/subpart-E>) and CPO Policy 2013-007 (posted online at <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-.html>).

² Applicable detail follows this page if line-item is funded.

CONTRACT BUDGET LINE-ITEM DETAIL:
Evidence Based Programming

SOURCE OF FUNDS	ALN	CONTRACT AMOUNT (Contractor Match Not Included)	CONTRACTOR MATCH
Federal Funds			
Title III-B Community Support Services	93.044	\$ 0.00	\$ 0.00
Title III-C-1 Congregate Meals Service	93.045	\$ 0.00	\$ 0.00
Title III-C-2 Home Delivered Meals Service	93.045	\$ 0.00	\$ 0.00
Title III-D Disease Prevention and Health Promotion Services	93.043	\$7,200.00	\$ 0.00
Title III-E National Family Caregiver Support Program	93.052	\$ 0.00	\$ 0.00
Title VII Long-Term Care Ombudsman Program	93.042	\$ 0.00	\$ 0.00
Title VII Elder Abuse Prevention Program	93.041	\$ 0.00	\$ 0.00
Nutrition Services Incentive Program (NSIP)	93.053	\$ 0.00	\$ 0.00
State Funds			
State Senior Centers Operations		\$ 0.00	\$ 0.00
State Home delivered Meals		\$ 0.00	\$ 0.00
State Homemaker		\$ 0.00	\$ 0.00
State Caregiver		\$ 0.00	\$ 0.00
State Guardianship		\$ 0.00	\$ 0.00
State HCBS/Options for Community Living Program		\$ 0.00	\$ 0.00
	TOTAL	\$7,200.00	\$ 0.00

Attachment C

Federal Award Identification Worksheets for City of Murfreesboro - St. Clair Street Senior Center

Subrecipient's (Contractor) name (must match name associated with its Unique Entity Identifier (SAM) or FEIN)	City of Murfreesboro - St. Clair Street Senior Center
Subrecipient's Unique Entity Identifier (SAM) or FEIN	62-6000374
Federal Award Identification Number (FAIN)	2401TNOASS-02
Federal award date	03/22/2024
Subaward Period of Performance Start and End Date	7/1/2024
Subaward Budget Period Start and End Date	6/30/2025
Assistance Listing number (formerly known as the CFDA number) and Assistance Listing program title.	93.044
Contract begin date	7/1/2024
Contract end date	6/30/2025
Amount of federal funds obligated by this Contract	See Attachment C, Budget
Total amount of federal funds obligated to the subrecipient	See Attachment C, Budget
Total amount of the federal award to the pass-through entity (GNRC)	\$1,878,300
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	IIIB Support Services
Name of federal awarding agency	Administration for Community Living
Name and contact information for the federal awarding official	Department of Health and Human Services Administration for Community Living One Massachusetts Avenue NW Washington, DC 20001-1401
Name of pass-through entity	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. §200.332 for information on type of indirect cost rate)	N/A

Subrecipient's (Contractor) name (must match name associated with its Unique Entity Identifier (SAM) or FEIN)	City of Murfreesboro - St. Clair Street Senior Center
Subrecipient's Unique Entity Identifier (SAM) or FEIN	62-6000374
Federal Award Identification Number (FAIN)	2401TNOAPH-02
Federal award date	03/22/2024
Subaward Period of Performance Start and End Date	7/1/2024
Subaward Budget Period Start and End Date	6/30/2025
Assistance Listing number (formerly known as the CFDA number) and Assistance Listing program title.	93.043
Grant contract's begin date	7/1/2024
Grant contract's end date	6/30/2025
Amount of federal funds obligated by this grant contract	See Attachment C, Budget
Total amount of federal funds obligated to the subrecipient	See Attachment C, Budget
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$113,600
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	IIID Health Promotion
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. §200.332 for information on type of indirect cost rate)	N/A

Attachment D

This document must be signed and submitted semi-annually, as detailed in E.11 of the Contract.

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	2025-30
CONTRACTOR LEGAL ENTITY NAME:	City of Murfreesboro - St. Clair Street Senior Center
EMPLOYER IDENTIFICATION NUMBER:	62-6000374

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

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Mandatory Referral for Dedication of an Electric Easement along New Salem Highway

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Consider request to allow dedication of an electric easement on City-owned property located at 324 New Salem Highway.

Staff Recommendation

Approve the mandatory referral request.

The Planning Commission recommend approval at its July 10, 2024 regular meeting.

Background Information

In this mandatory referral, Council is being asked to consider the approval of the dedication of an electric easement for Middle Tennessee Electric (MTE) on property that the City owns at 324 New Salem Highway. The property in question is currently being developed with the City's new Transit Center. The proposed easement will accommodate the proposed electric infrastructure on the City's property that will serve the new Transit Center.

Council Priorities Served

Expand Infrastructure

The proposed easement dedication will assist MTE in providing electric infrastructure to serve the City's new Transit Center.

Attachments:

1. Planning Commission staff comments from 07/10/2024 meeting
2. Exhibits and legal description of the proposed easement
3. Draft easement document



**MEMORANDUM
CITY OF MURFREESBORO
LEGAL DEPARTMENT**

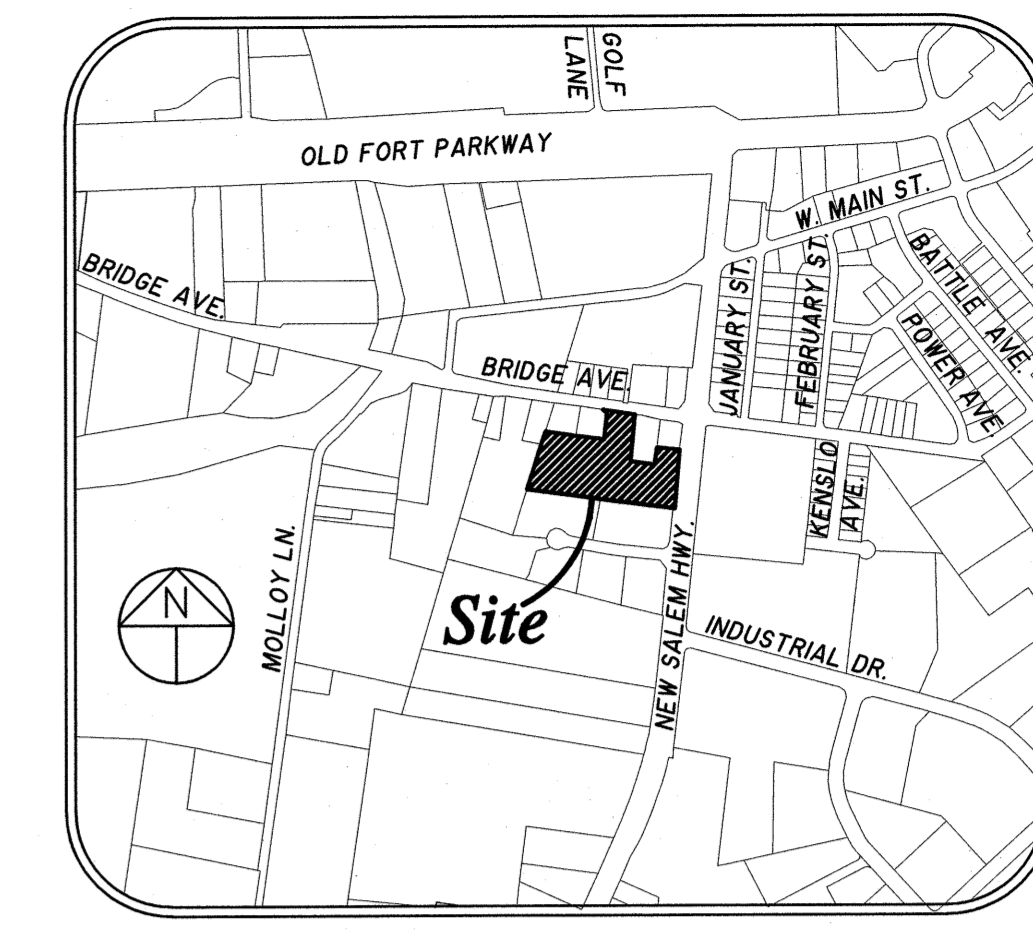
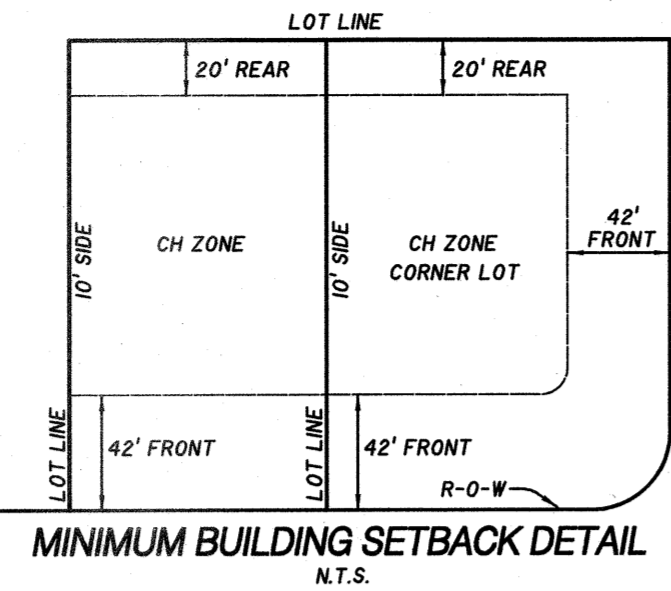
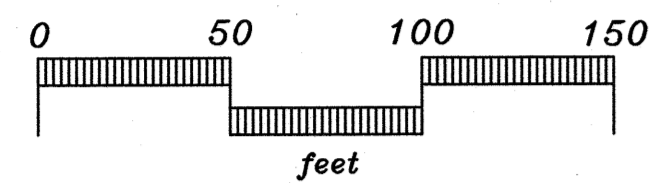
TO: Members of the Planning Commission
CY: Jim Kerr, Scott Elliott
FROM: Roman S. Hankins
DATE: July 2, 2024
RE: Mandatory Referral: Proposed Electric Easement to MTE

MANDATORY REFERRAL

The Transportation Department is requesting an underground electric easement to Middle Tennessee Electric ("MTE") over City-owned property located at 324 New Salem Highway to provide power to the City's new Transit Center.

The easement area has been surveyed and a copy of the drawing is attached.

I will be available if you have any questions.



CERTIFICATE OF OWNERSHIP AND DEDICATION

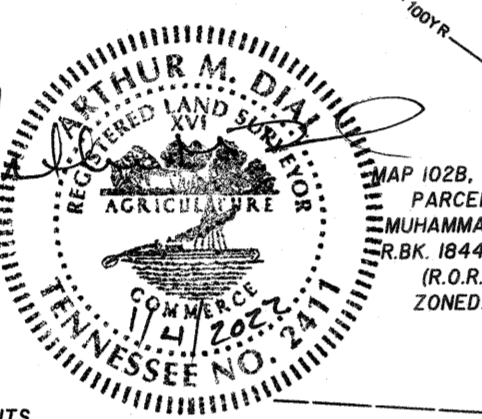
I (WE) HEREBY CERTIFY THAT I AM (WE ARE) THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I (WE) HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY (OUR) FREE CONSENT ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES AND DEDICATE ALL STREETS, ALLEYS, WALKS, UTILITIES THEREIN, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE: _____ CITY OF MURFREESBORO
RECORD BOOK 2035, PAGE 2745

CERTIFICATE OF ACCURACY

I HEREBY CERTIFY THAT THIS IS A CATEGORY I SURVEY AND THE RATIO OF PRECISION OF THE UNADJUSTED SURVEY IS 1:10,000 OR GREATER AS SHOWN HEREON. I ALSO CERTIFY THAT THE MONUMENTS HAVE BEEN, OR WILL BE, PLACED AS SHOWN TO THE SPECIFICATIONS OF THE CITY ENGINEER.

SEC. NO. 147022
DATE 11/14/2022
REGISTERED SURVEYOR
TENN. R.L.S. No. 2411



CERTIFICATE OF APPROVAL OF STREETS AND DRAINAGE

I HEREBY CERTIFY: (1) THAT STREETS, DRAINAGE STRUCTURES, DRAINAGE IMPROVEMENTS, AND STORMWATER QUALITY CONTROLS FOR THE SUBDIVISION SHOWN HEREON HAVE BEEN INSTALLED IN ACCORDANCE WITH CITY SPECIFICATIONS, OR (2) THAT A SURETY FOR THESE IMPROVEMENTS HAS BEEN POSTED WITH THE CITY OF MURFREESBORO TO ASSURE COMPLETION OF SAME.

DATE: _____ CITY ENGINEER

CERTIFICATE FOR APPROVAL OF WATER SYSTEMS

I HEREBY CERTIFY THAT: (1) THE WATER LINES AND APPURTENANCES FOR THE WATER SYSTEM OF THE SUBDIVISION SHOWN HEREON HAVE BEEN INSTALLED IN ACCORDANCE WITH CITY CODES AND SPECIFICATIONS, OR THE SPECIFICATIONS OF THE CONSOLIDATED UTILITY DISTRICT OF RUTHERFORD COUNTY IF THEY ARE MORE STRINGENT, AND THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION COMMUNITY PUBLIC WATER SYSTEMS DESIGN CRITERIA, OR (2) THAT A SURETY FOR THESE IMPROVEMENTS HAS BEEN POSTED WITH THE CONSOLIDATED UTILITY DISTRICT OF RUTHERFORD COUNTY TO ASSURE COMPLETION OF SAME.

DATE: _____ CONSOLIDATED UTILITY DISTRICT OF RUTHERFORD COUNTY OFFICIAL

CERTIFICATE OF APPROVAL OF SEWER SYSTEMS

I HEREBY CERTIFY THAT: (1) THE SEWER LINES AND APPURTENANCES FOR THE SEWER SYSTEM OF THE SUBDIVISION SHOWN HEREON HAVE BEEN INSTALLED IN ACCORDANCE WITH CITY CODES AND SPECIFICATIONS AND REQUIREMENTS OF THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION DESIGN CRITERIA FOR SEWER WORKS; (2) THAT A SURETY FOR THESE IMPROVEMENTS HAS BEEN POSTED WITH THE CITY OF MURFREESBORO TO ASSURE COMPLETION OF SAME; OR (3) THAT A SUBSURFACE SEWAGE SYSTEM WILL BE PERMITTED SUBJECT TO THE APPROVAL OF THE RUTHERFORD COUNTY HEALTH DEPARTMENT.

DATE: _____ MURFREESBORO WATER RESOURCES OFFICIAL

CERTIFICATE OF APPROVAL FOR ELECTRIC POWER

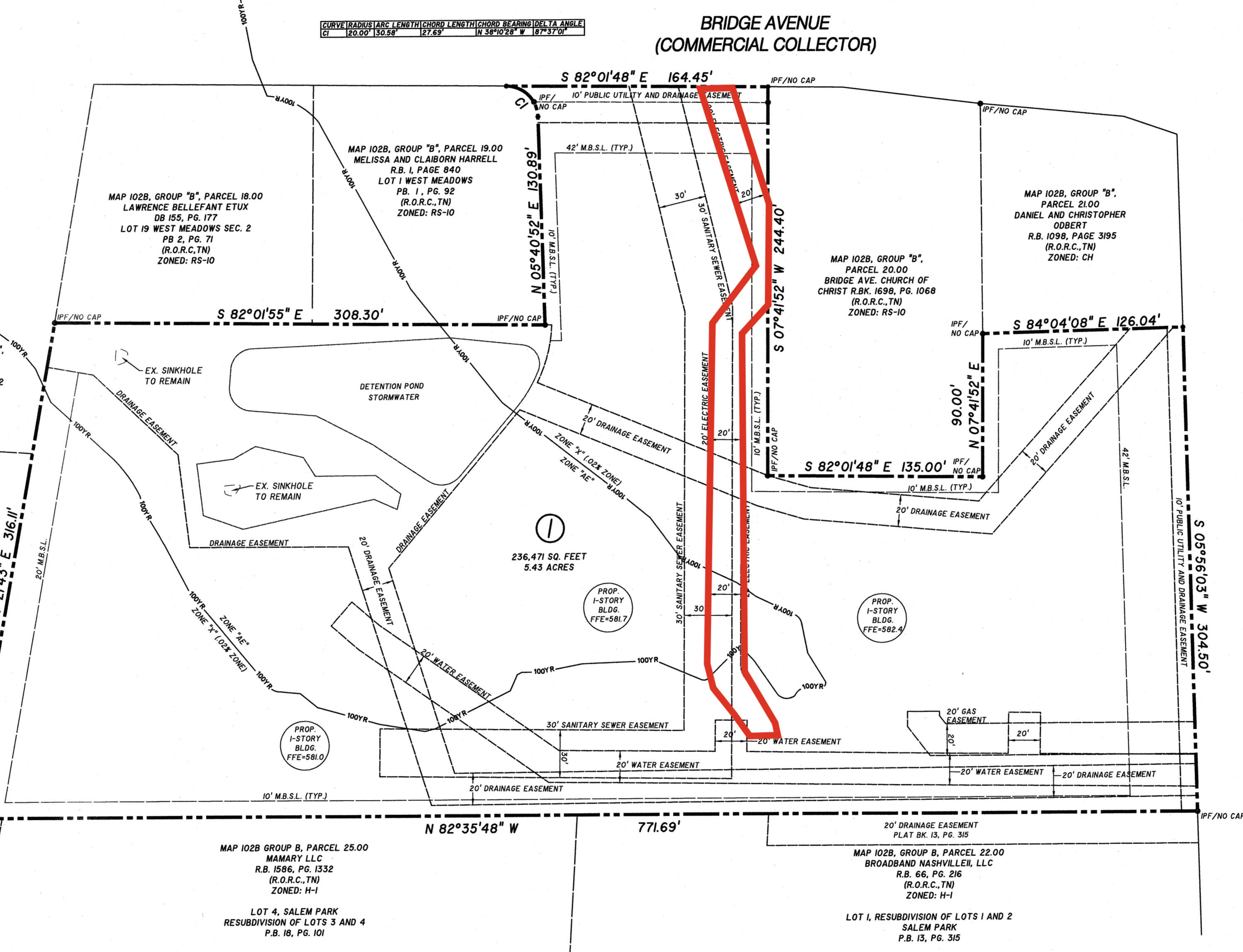
MIDDLE TENNESSEE ELECTRIC MEMBERSHIP CORPORATION (MTEMC) WILL PROVIDE ELECTRIC SERVICE TO THE SUBJECT PROPERTY ACCORDING TO THE NORMAL OPERATING PRACTICES OF MTEMC AS DEFINED IN THE RULES AND REGULATIONS, BYLAWS, POLICY BULLETINS AND OPERATIONAL BULLETINS OF MTEMC, AND IN ACCORDANCE WITH THE PLAT APPROVAL CHECKLIST, TREE PLANTING GUIDELINES AND OTHER REGULATIONS CONTAINED ON THE MTEMC WEB SITE AT WWW.MTEMC.COM (COLLECTIVELY THE "REQUIREMENTS"). NO ELECTRIC SERVICE WILL BE PROVIDED UNTIL MTEMC'S REQUIREMENTS HAVE BEEN MET AND APPROVED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF MTEMC. ANY APPROVAL IS, AT ALL TIMES, CONTINGENT UPON CONTINUING COMPLIANCE WITH MTEMC'S REQUIREMENTS.

DATE: _____ MIDDLE TENNESSEE ELECTRIC MEMBERSHIP CORP. OFFICIAL

CERTIFICATE OF APPROVAL FOR RECORDING

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS FOR THE CITY OF MURFREESBORO, TENNESSEE, WITH THE EXCEPTION OF SUCH VARIANCES, IF ANY, AS ARE NOTED IN THE MINUTES OF THE PLANNING COMMISSION AND THAT IT HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE RUTHERFORD COUNTY REGISTER OF DEEDS PROVIDED THAT IT IS SO RECORDED WITHIN ONE YEAR OF THIS DATE.

DATE: _____ PLANNING COMMISSION SECRETARY



OWNER/DEVELOPER:
CITY OF MURFREESBORO
111 WEST VINE ST.
MURFREESBORO, TN 37130
CONTACT: JIM KERR

DEED REFERENCE:
TAX MAP 102B GROUP B PARCEL 21.01
R.B.K. 2035, PG. 2745

YARD REQUIREMENTS:
FRONT: 42'
SIDE: 10'
REAR: 20'

INTENDED USE:
TRANSIT CENTER
LAND USE DATA:
ZONED: PND

1 LOT ON: 5.43± ACRES

FLOOD MAP NO.:
A PORTION THIS SITE LIES WITHIN ZONE AE, IN THE
100 YEAR FLOODPLAIN, PER COMMUNITY PANEL
4749C0260H DATED JANUARY 5, 2007.

- GENERAL NOTES**
1. THE PURPOSE OF THIS PLAT IS TO CREATE ONE LOT OF RECORD AND TO DEDICATE EASEMENTS, AS SHOWN.
 2. BEARING SYSTEM IS BASED ON TENNESSEE STATE PLANE COORDINATES TIED TO CITY OF MURFREESBORO URBAN GROWTH BOUNDARY MONUMENTS UG802-202 (MAD 83-96).
 3. THIS PROPERTY LIES WITHIN ZONE AE, A SPECIAL FLOOD HAZARD AREA, AS DETERMINED FROM ELEVATIONS SHOWN ON FEMA FIRM MAPS FOR RUTHERFORD COUNTY, MAP NO. 4749C0260H, EFFECTIVE DATE JANUARY 5, 2007.
 4. ANY MINIMUM FINISHED FLOOR ELEVATION (MIN. FFE) SHOWN INCLUDES THE MAIN BUILDING, GARAGES AND ACCESSORY STRUCTURES.
 5. THIS SURVEYOR HAS NOT PHYSICALLY LOCATED ALL OF THE UNDERGROUND UTILITIES. ABOVE GRADE AND UNDERGROUND UTILITIES SHOWN WERE TAKEN FROM VISIBLE APPURTENANCES AT THE SITE, PUBLIC RECORDS AND/OR MAPS PREPARED BY OTHERS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA OR THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. AVAILABILITY AND LOCATION OF UTILITIES SHOULD BE CONFIRMED WITH THE APPROPRIATE UTILITY COMPANY.
 6. NO TITLE REPORT WAS FURNISHED TO THIS SURVEYOR. THEREFORE, THIS PROPERTY IS SUBJECT TO THE FINDINGS OF A CURRENT AND ACCURATE TITLE SEARCH.
 7. SUBJECT PROPERTY IS ZONED PND. MINIMUM BUILDING SETBACKS FOR THIS PROPERTY ARE: FRONT = 42 FT. / SIDE = 10 FT. / REAR = 20 FT.
 8. PUBLIC UTILITY EASEMENTS AS SHOWN ARE INTENDED FOR NON-EXCLUSIVE USE BY UTILITIES SUCH AS MURFREESBORO ELECTRIC DEPARTMENT, NATURAL GAS COMPANIES, AT&T, CONSOLIDATED UTILITY DISTRICT, CABLE TELEVISION SERVICES AND OTHERS.
 9. EASEMENTS IN THE SUBDIVISION MAY NOT HAVE INFRASTRUCTURE CONSTRUCTED WITHIN THEM UNTIL SOME FUTURE TIME AND THERE MAY BE NO NOTICE OR CONSULTATION WITH THE INDIVIDUAL LOT OWNERS OF THIS CONSTRUCTION.
 10. THIS SITE CONTAINS POST-CONSTRUCTION BEST MANAGEMENT PRACTICES UTILIZED IN TREATING STORMWATER RUNOFF IN ORDER TO COMPLY WITH MURFREESBORO CITY CODE. A STORMWATER MAINTENANCE AGREEMENT IS RECORDED WITH THIS PROPERTY AND OBLIGATES ALL SUBSEQUENT OWNERS TO ADHERE TO THE STORMWATER MAINTENANCE PLAN ON FILE WITH THE CITY OF MURFREESBORO.
 11. CONSOLIDATED UTILITY DISTRICT MAY REQUIRE AN AMENDMENT PLAT OR SURVEY METES AND BOUNDS DESCRIPTION WITH EXHIBIT TO DEDICATE ANY NECESSARY EASEMENTS WITH THE DEVELOPMENT CONSTRUCTION IS COMPLETE.
 12. UNDER THE CURRENT ADOPTED PLUMBING CODE, THE CITY OF MURFREESBORO REQUIRES THE MINIMUM FLOOR ELEVATION (M.F.E.) TO BE SET AT OR ABOVE THE TOP OF CASTING ELEVATION OF THE NEAREST MANHOLE THAT IS UPSTREAM OF THE SEWER SERVICE CONNECTION. AS AN ALTERNATIVE, THE HOMEOWNER SHALL INSTALL A BACKWATER VALVE PER THE PLUMBING CODE AND EXECUTE AND RECORD A RELEASE OF INDEMNIFICATION AGAINST THE CITY OF MURFREESBORO WITH REGARDS TO THE SANITARY SEWER CONNECTION. THE BUILDER AND/OR HOMEOWNER SHALL BE RESPONSIBLE FOR COMPLIANCE WITH THIS REQUIREMENT.

NEW SALEM HIGHWAY / STATE HIGHWAY 99
(MAJOR ARTERIAL)

FINAL PLAT

CITY OF MURFREESBORO

TRANSIT CENTER

SUBDIVISION

CITY OF MURFREESBORO, TENNESSEE
7th CIVIL DISTRICT OF RUTHERFORD COUNTY

SEC, Inc. SITE ENGINEERING CONSULTANTS

ENGINEERING • SURVEYING • LAND PLANNING

850 MIDDLE TENNESSEE BLVD • MURFREESBORO, TENNESSEE 37129
PHONE (615) 890-7901 • FAX (615) 895-2567

PROJ. # 1512214	DATE: 12-8-2021 REV: 1-3-2022	FILE:	DRAWN BY: ATS	SCALE: 1" = 50'	SHEET 1 OF 1
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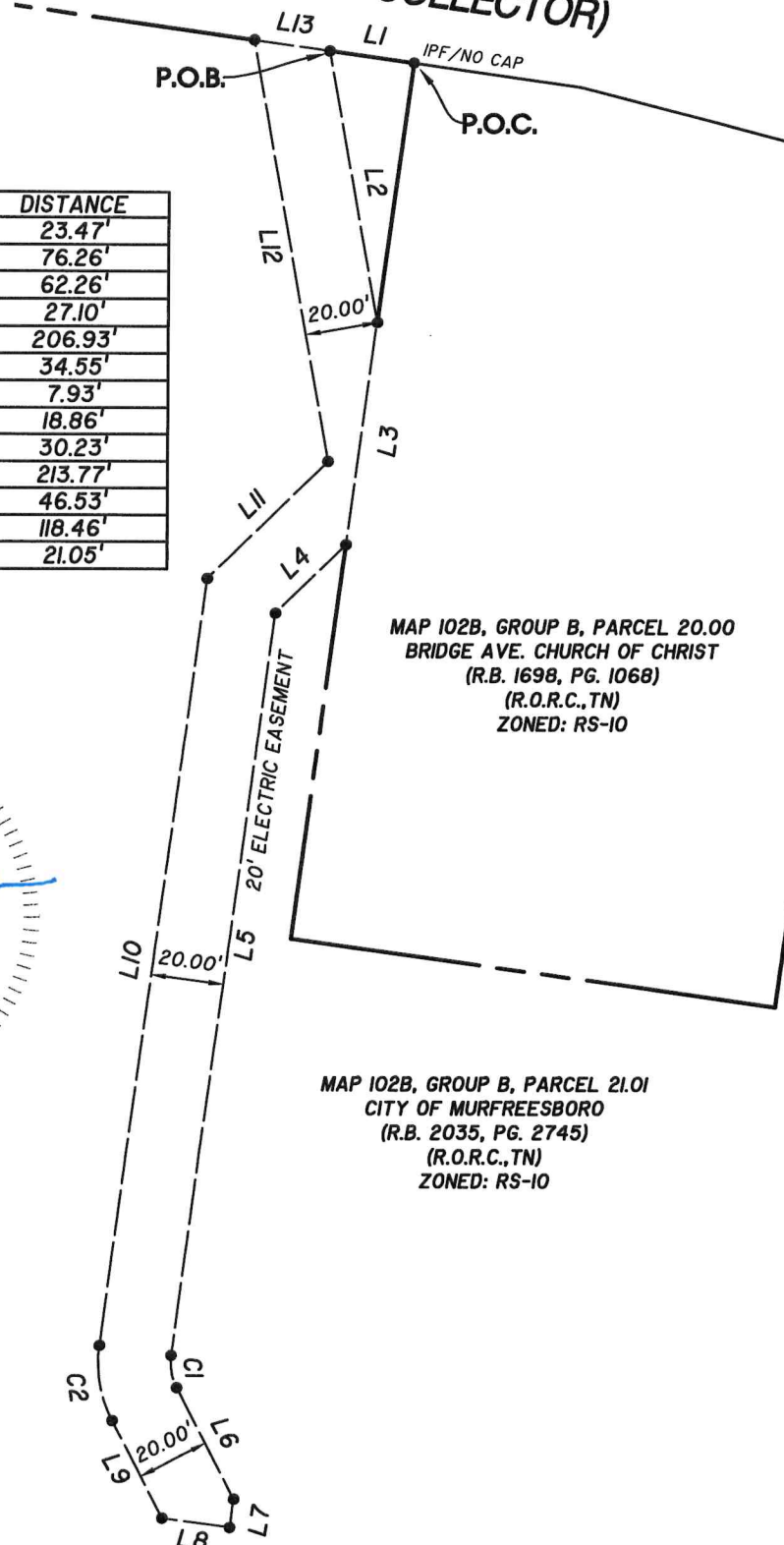
- LEGEND**
- IRON PIN (FOUND)
 - IRON PIN SET (NEW)



CURVE TABLE

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	15.00'	35°04'32"	9.18'	S 09°45'43" E	9.04'
C2	35.00'	35°01'49"	21.40'	N 09°44'21" W	21.07'

**BRIDGE AVENUE
(COMMERCIAL COLLECTOR)**

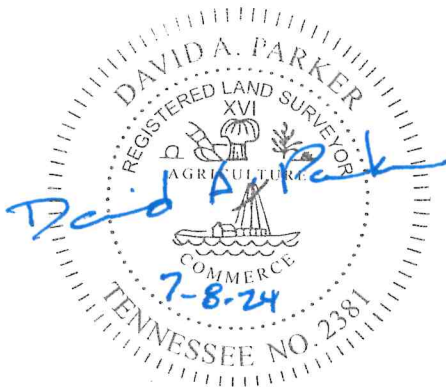


LINE TABLE

LINE	BEARING	DISTANCE
L1	N 82°01'48" W	23.47'
L2	S 10°13'23" E	76.26'
L3	S 07°41'52" W	62.26'
L4	S 45°33'36" W	27.10'
L5	S 07°46'33" W	206.93'
L6	S 27°10'06" E	34.55'
L7	S 07°46'33" W	7.93'
L8	N 82°13'27" W	18.86'
L9	N 27°10'06" W	30.23'
L10	N 07°46'33" E	213.77'
L11	N 45°33'36" E	46.53'
L12	N 10°13'23" W	118.46'
L13	S 82°01'48" E	21.05'

MAP 102B, GROUP B, PARCEL 20.00
 BRIDGE AVE. CHURCH OF CHRIST
 (R.B. 1698, PG. 1068)
 (R.O.R.C., TN)
 ZONED: RS-10

MAP 102B, GROUP B, PARCEL 21.01
 CITY OF MURFREESBORO
 (R.B. 2035, PG. 2745)
 (R.O.R.C., TN)
 ZONED: RS-10



20' ELECTRIC EASEMENT EXHIBIT FOR:
MAP 102B, GROUP B, PARCEL 21.01
CITY OF MURFREESBORO
R.B. 2035, PG. 2745
(R.O.R.C., TN)

**20' ELECTRIC EASEMENT
MAP 102B, GROUP B, PART OF PARCEL 21.01
CITY OF MURFREESBORO
R.B. 2035, PG. 2745 (R.O.R.C., TN)
8,170 SQ. FT. ±, 0.1876 AC. ±**

A PORTION OF A PARCEL OF LAND LYING IN THE 13TH CIVIL DISTRICT OF RUTHERFORD COUNTY, TENNESSEE AND BOUNDED IN GENERAL ON THE NORTH BY BRIDGE AVENUE, ON THE EAST BY BRIDGE AVENUE CHURCH OF CHRIST – (R.B. 1698, PG. 1068), ON THE SOUTH, EAST, AND WEST BY THE REMAINING LANDS OF THE CITY OF MURFREESBORO – (R.B. 2035, PG. 2745). BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM AN IRON PIN FOUND WITH NO CAP, SAID PIN BEING THE NORTHWEST CORNER OF BRIDGE AVENUE CHURCH OF CHRIST AND THE SOUTHERLY RIGHT OF WAY OF BRIDGE AVENUE, THENCE, ALONG WITH THE SAID RIGHT OF WAY N 82°01'48" W FOR A DISTANCE OF 23.47' TO THE POINT OF BEGINNING;
THENCE, LEAVING SAID RIGHT OF WAY, S 10°13'23" E FOR A DISTANCE OF 76.26' TO A POINT ON THE WEST LINE OF BRIDGE AVENUE CHURCH OF CHRIST;
THENCE, ALONG THE WEST LINE OF SAID CHURCH, S 07°41'52" W FOR A DISTANCE OF 62.26' TO A POINT;
THENCE, LEAVING SAID WEST LINE AND ACROSS THE REMAINING LANDS OF THE CITY OF MURFREESBORO FOR THE FOLLOWING NEXT (11) CALLS:

- 1) THENCE, S 45°33'36" W FOR A DISTANCE OF 27.10' TO A POINT;
- 2) THENCE, S 07°46'33" W FOR A DISTANCE OF 206.93' TO A POINT;
- 3) THENCE, WITH A CURVE TURNING TO THE LEFT, WITH AN ARC LENGTH OF 9.18', WITH A RADIUS OF 15.00', WITH A CHORD BEARING OF S 09°45'43" E, AND A CHORD LENGTH OF 9.04' TO A POINT;
- 4) THENCE, S 27°10'06" E FOR A DISTANCE OF 34.55' TO A POINT;
- 5) THENCE, S 07°46'33" W FOR A DISTANCE OF 7.93' TO A POINT;
- 6) THENCE, N 82°13'27" W FOR A DISTANCE OF 18.86' TO A POINT;
- 7) THENCE, N 27°10'06" W FOR A DISTANCE OF 30.23' TO A POINT;
- 8) THENCE WITH A CURVE TURNING TO THE RIGHT, WITH AN ARC LENGTH OF 21.40', WITH A RADIUS OF 35.00', WITH A CHORD BEARING OF N 09°44'21" W, AND A CHORD LENGTH OF 21.07' TO A POINT;
- 9) THENCE, N 07°46'33" E FOR A DISTANCE OF 213.77' TO A POINT;
- 10) THENCE, N 45°33'36" E FOR A DISTANCE OF 46.53' TO A POINT;
- 11) THENCE, N 10°13'23" W FOR A DISTANCE OF 118.46' TO A POINT ON THE SAID RIGHT OF WAY;
THENCE, S 82°01'48" E FOR A DISTANCE OF 21.05' TO THE POINT OF BEGINNING. HAVING AN AREA OF 8,170 SQUARE FEET ±, 0.1876 ACRES ±

BEING A PORTION OF THE SAME PROPERTY CONVEYED TO THE CITY OF MURFREESBORO, TENNESSEE, A TENNESSE MUNICIPAL CORPORAION BY WARRANTY DEED FROM NOLA E. SONNER, RECORD IN BOOK 2035, PAGE 2745 REGISTER'S OFFICE FOR RUTHERFORD COUNTY, TENNESSEE, DATED FEBRUARY 5TH, 2021 AND RECORDED ON FEBRUARY 9TH, 2021.

Right-of-Way

Easement

This instrument prepared by: MTE
555 New Salem Highway, Murfreesboro, TN 37129
_____ Employee Initials



Service Location # _____ Meter Set SO # _____ WO# _____

Grantor: _____ And/by _____

Select one of the following: unmarried married business entity

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Grantor, whether one or more, does hereby grant unto Middle Tennessee Electric Membership Corporation, a Tennessee not-for-profit corporation ("Grantee" or "MTE"), its affiliates, successors or assigns, a perpetual easement (the "Easement") that, except as may be otherwise indicated on Exhibit 1, shall be twenty feet (20') from the centerline (total of 40') for any overhead transmission and/or distribution line or system, including anchoring, and ten feet (10') from the centerline (total of 20') for any underground transmission and/or distribution line or system with the right to:

- install, construct, reconstruct, rephase, operate and maintain an electric transmission and/or distribution line or system;
- inspect and make such repairs, changes, alterations, improvements, removals from, substitutions and additions to its facilities as Grantee may from time to time deem advisable, including, by way of example and not by way of limitation, the right to increase or decrease the number of conduits, wires, cables, poles, guy wire and anchors, hand holes, manholes, connection boxes, transformers and transformer enclosures;
- cut, trim and control the growth by chemical means, machinery or otherwise of trees and shrubbery within the Easement, or any tree that may interfere with or threaten to endanger the operation and maintenance of said line or system;
- prohibit, prevent and restrict the planting and/or maintenance of any trees, shrubbery or vegetation not approved in writing by Grantee (except those trees that appear on MTE's approved standard planting guide) which approval may be withheld by Grantee in its sole discretion if it determines said trees, shrubbery or vegetation may in the future interfere with or threaten to endanger the operation and maintenance of said line or system;
- prohibit the planting of any trees, shrubbery or vegetation within 15' of a pole or pad-mounted equipment;
- keep the Easement clear of all buildings, structures or other obstructions;
- license, permit or otherwise agree to the joint use or occupancy of the lines, system or, if any of said system is placed underground, of the trench and related underground facilities, by any other person, association or corporation for electrification, for other utility or commercial purposes;
- install and maintain guy additions to overhead lines if any portion of the lines or system is placed underground; over, across, and through the land owned by Grantor as further described below (the "Property")

County _____ State of Tennessee Tax Map: _____ Group: _____ Parcel: _____

Address _____
House/building# _____ Street/Road Name _____ City _____ Zip _____

and such Property being of record in Deed Book _____, Page _____, Register's Office of the above-named county, and as may be further described according to Exhibit 1 attached hereto and incorporated herein by reference, if attached, together with the right of ingress and egress over adjacent lands of the Grantor, and Grantor's successors and assigns for the purposes of this Easement.

The Grantor agrees that all poles, wires, and other facilities, including any main service entrance equipment, installed in, upon or under the Property at Grantee's expense shall remain the property of the Grantee and removable at the option of the Grantee. The Grantor hereby expressly releases any claims, demands, actions, or causes of action for trespass related to the Grantee's use of this Easement as described herein. The grant and other provisions of this Easement shall run with the land for the benefit of the Grantee, its affiliates, successor and assigns.

IN WITNESS WHEREOF, the Grantor has executed this instrument this _____ day of _____, 202____.

Print Name/Title of Authorized Signatory

Print Name/Title of Authorized Signatory

Legal Signature

Legal Signature

STATE OF _____

STATE OF _____

COUNTY OF _____

COUNTY OF _____

On the ____ day of _____, 202____, personally appeared before me, the within named bargainer(s), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that such person(s) executed the within instrument for the purposes therein contained.

On the ____ day of _____, 202____, personally appeared before me, the within named bargainer(s), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that such person(s) executed the within instrument for the purposes therein contained.

Notary Signature

My Commission Expires

Notary Signature

My Commission Expires

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Mandatory Referral for Abandonment of a Drainage Easement along Gresham Lane

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Consider request to allow abandonment of a portion of a drainage easement along Gresham Lane.

Staff Recommendation

Approve the mandatory referral request.

The Planning Commission first considered this request at its June 5, 2024 regular meeting and then voted to defer action. It was included on the June 19, 2024 regular meeting agenda under Old Business, at which time the Planning Commission voted to recommend approval.

Background Information

In this mandatory referral, Council is being asked to consider abandoning a portion of a drainage easement on property located along the west side of Gresham Lane. The easement in question is located on Lot 2 of the Gresham Lane Subdivision but was originally recorded in 1986 on the Glendale Subdivision final plat. This portion of the Glendale Subdivision, which is zoned RS-15, is currently being redeveloped as the Gresham Lane Subdivision, which will include a total of seven single-family residential lots.

The existing pond within the easement is being modified with the construction of the Gresham Lane Subdivision, decreasing the total area that the pond will occupy. When this construction is complete, it will render a portion of the easement directly adjacent to Gresham Lane surplus. Abandonment of the portion of the easement in question is needed in order to create six additional residential lots along Gresham Lane. The City Engineer and the Planning Department's Project Engineer have both reviewed this easement abandonment request and do not object to it. Planning Staff and the Planning Commission recommend that the City Council approve this request subject to the following conditions:

1. If approved by City Council, the applicant will be responsible for providing the information necessary (including, but not limited to, any exhibits and legal descriptions) for the Legal Department to prepare legal instrument(s) to formally

abandon the portion of the easement in question.

2. The legal instrument(s) will be subject to the final review and approval of the Legal Department.
3. The applicant will also be responsible for recording the instrument(s), including payment of the recording fee.
4. The final plat for the Gresham Lane Subdivision, Section 2, which will include the recording of some additional drainage easement area, shall be recorded simultaneously with the recording of the quitclaim deed abandoning the portion of the easement in question.

Council Priorities Served

Establish Strong City Brand

The abandonment of this easement is consistent with the City’s goals to be customer service-oriented, abandoning a portion of an existing easement, so that the property owners can more fully enjoy and utilize their property.

Improve Economic Development

The abandonment of this easement will assist in facilitating the development of a single-family residential subdivision.

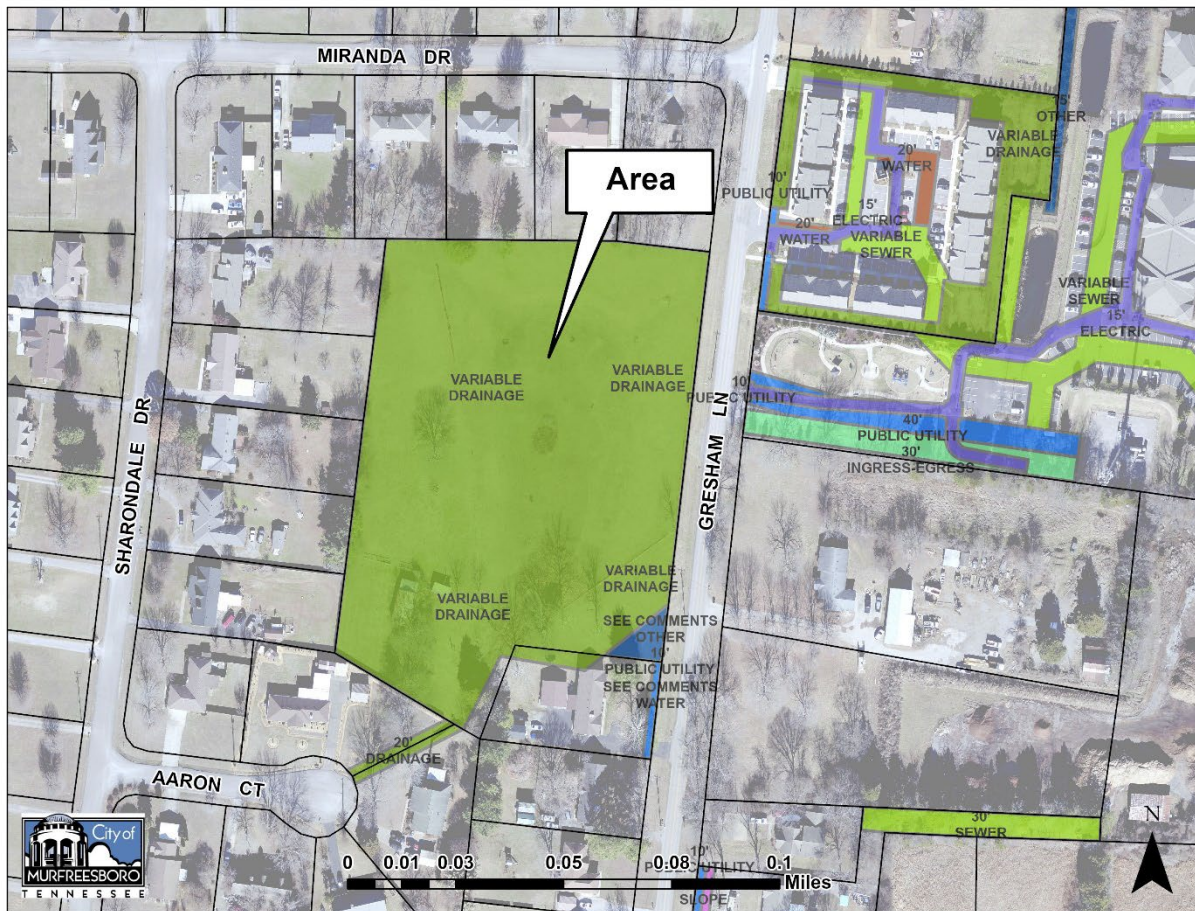
Attachments:

1. Staff comments from 06/19/2024 Planning Commission meeting
2. Letter and exhibits from applicant

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
JUNE 19, 2024
PROJECT PLANNER: JOEL AGUILERA**

6.a. Mandatory Referral [2024-714] to consider the abandonment of a portion of a drainage easement located on property along Gresham Lane, Civil Infrastructure Associates on behalf of Hensley Group applicant.

This mandatory referral request to abandon a portion of an existing drainage easement is from Nathan Melson of Civil Infrastructure Associates, LLC, on behalf of Hensley Group, LLC. The easement in question is located on Lots 1 & 2 of the Gresham Lane Subdivision. This item was deferred by Planning Commission during the June 5 meeting, but staff will have additional information for the meeting.



In this mandatory referral, the Planning Commission is being asked to consider the abandonment of a drainage easement that extends through proposed Lots 2 – 7 of the Gresham Lane Subdivision, as shown the attached exhibit. The applicant is in the process of developing this property in preparation for its subdivision. The existing drainage easement was dedicated via final plat, in 1986, for the Glendale Subdivision, a portion of which (Lot 57) was incorporated into the Gresham Lane Subdivision in 2022.

Per the attached correspondence, the applicant has stated that the original purpose for the dedication of the drainage easement was to encompass the existing detention pond on Lot 57. However, the applicant has reconfigured the pond to be located on proposed Lot 7 west of Lots 2-6 and it will no longer require the requested easement abandonment area. The balance of the existing easement for the pond will remain in place with the recording of the final plat for Section 2 of the Gresham Lane Subdivision. The City Engineer and Project Engineer have also reviewed this request and concurs that this abandonment is acceptable.

Staff recommends that the Planning Commission recommend approval of this request to the City Council subject to the following conditions:

1. If approved by City Council, the applicant will be responsible for providing the information necessary (including, but not limited to, any exhibits and legal descriptions) for the Legal Department to prepare legal instrument(s) to formally abandon the portion of the easement in question.
2. The legal instrument(s) will be subject to the final review and approval of the Legal Department.
3. The final plat for Gresham Lane Subdivision Section 2 shall be recorded simultaneously with the recording of the quit claim deed abandoning the easement.
4. The applicant will also be responsible for recording the legal instrument(s), including payment of the recording fee.



City of Murfreesboro
Mandatory Referral Application

111 W Vine Street • Murfreesboro, TN 37130 • 615-893-6441

Mandatory Referral Fees:

Mandatory Referral, INCLUDING abandonment of right-of-way.....	\$350.00
Mandatory Referral, NOT INCLUDING abandonment of right-of-way.....	\$150.00

Property Information:

Tax Map/Group/Parcel: 092J / A / 01801 | Address (if applicable): 452 Gresham Lane

Street Name (if abandonment of ROW): n/a

Type of Mandatory Referral: Drainage Easement

Applicant Information:

Name of Applicant: Eric Hensley

Company Name (if applicable): Hensley Group LLC

Street Address or PO Box: 319 W McKnight Drive

City: Murfreesboro

State: TN | Zip Code: 37128

Email Address: ryan@thehensleygrouptn.com (c/o Ryan Long)

Phone Number: 423-544-1213

Required Attachments:

- Letter from applicant detailing the request
- Exhibit of requested area, drawn to scale
- Legal description (if applicable)

5/16/2024

Applicant Signature

Date

May 16, 2024

Matthew Blomeley
Assistant Director of Planning
City of Murfreesboro Planning Department
111 W Vine Street
Murfreesboro, TN 37130

**RE: Request for Mandatory Referral
Gresham Lane Subdivision, Section 2
452 Gresham Lane, Murfreesboro, TN**

Dear Mr. Blomeley:

On behalf of our client, Hensley Group, LLC, we would like to request a Mandatory Referral for the abandonment of the existing drainage easement that extends into Lots 2 through 7 as highlighted on the final plat for Section 2 of Gresham Lane Subdivision, which accompanies this letter. The purpose of the existing drainage easement is to encompass the existing detention pond that was located on Lot 57 of the Glenndale Subdivision. This pond has been reconfigured to be located west of the lots on Lot 7 of Gresham Lane Subdivision. A drainage easement for the pond will be reestablished as part of the recording of the final plat for Section 2 of Gresham Lane Subdivision.

Feel free to give me a call (615-663-7678) or email me (nmelson@cia-engineers.com) if you have any additional questions or concerns.

Sincerely,

CIVIL INFRASTRUCTURE ASSOCIATES, LLC



Nathan Melson, PE

Project Manager

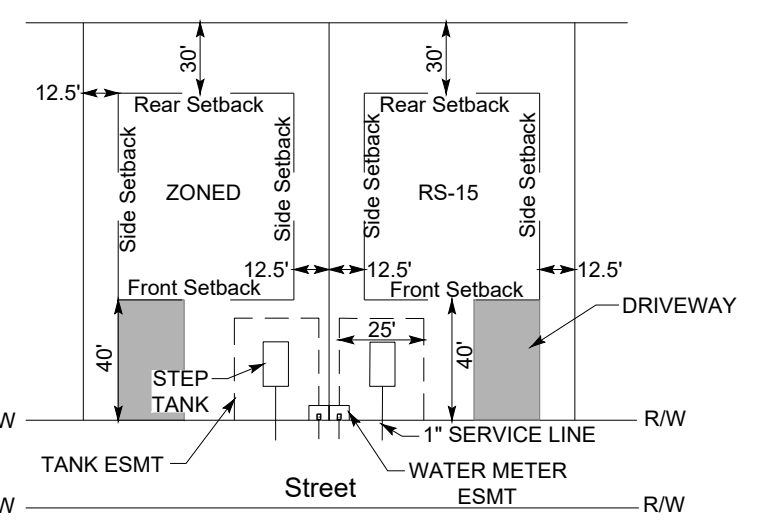
Attachments: Final Plat – Gresham Lane Subdivision, Section 2



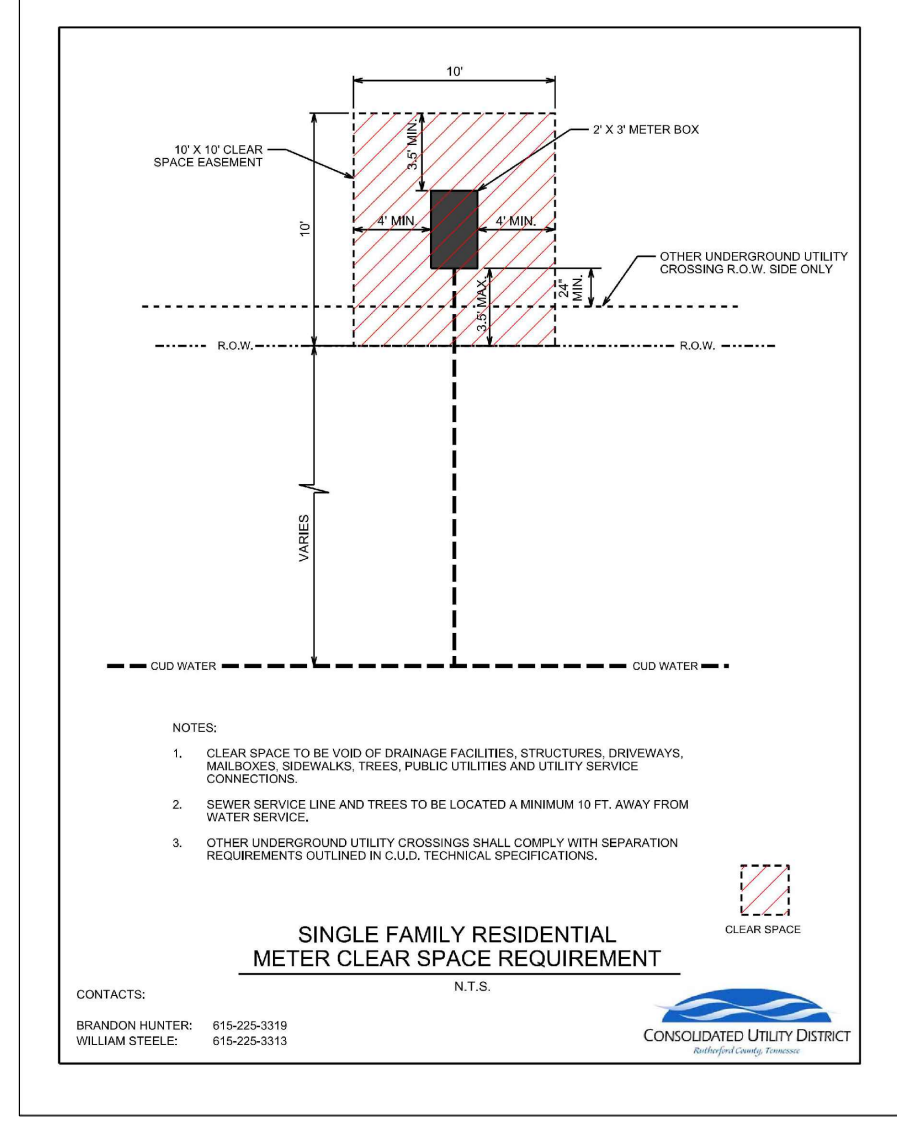
GPS SURVEY DATA	
Field Procedure	Fixed Station Network RTK
Horizontal Positional Accuracy	0.10± FT reported at the 95% Confidence Level
Vertical Positional Accuracy	0.20± FT reported at the 95% Confidence Level
Date of Field Survey	2/4/2021
Datum: Horizontal (Epoch) / Vertical	NAD 1983 (2002) / NAVD 1988
Fixed Control Station	TN 38
Control Station - Position	N35°53'45.97569" / W86°26'37.28761"
Control Station - Elevation (Ellipsoid)	141.407 m
Geoid Model Used	Geoid 03
Combined Scale Factor (Grid to Grid)	1.000076

PLAT NOTES:

- The purpose of this final plat is to subdivide an existing lot of record, to create 6 legal lots of record, and to record easements as shown.
- Parcels may be subject to additional easements, and / or restrictions, by record or prescription that a complete title search may reveal.
- Public Utility and Drainage Easements (PUE) where shown hereon are intended to indicate an easement for the construction, operation and maintenance of public utilities and drainage-ways; including, but not limited to sanitary sewers, force mains, water lines, telephone signal conduits, electric conductors, drainage pipes and natural gas lines. Easements may not have infrastructure constructed within them until some future time and there may be no notice or consultation with the individual owners of this construction.
- In Tennessee, it is a requirement per "The Underground Utility Protection Act" that anyone who engages in excavation must notify all known underground utility owners, no less than three nor more than ten working days of their intent to excavate. A list of these utilities may be obtained from the County Register of Deeds. Those utilities that participate in the "Tennessee One Call" system can be notified by calling toll free 1-800-351-1111.
- Underground utilities shown were located using available above-ground evidence, and also from information obtained from the respective utility companies. The existence or non-existence of the utilities shown and any other utilities which may be present on this site or adjacent sites should be confirmed with the utility owner prior to commencing any work.
- It is the responsibility of each residential builder to design and construct a suitable grading and drainage scheme which will convey surface water, without ponding in the lot or under the house, from his structure to the drainage system constructed by the subdivision developer.
- Water provided by Consolidated Utility District (C.U.D.).
- Per the City of Murfreesboro, the streets identified on the plat may be constructed or reconstructed in the future without consultation or notice to the owners of the parcels in the subdivision.
- Per the City of Murfreesboro, prior to issuance of a certificate of occupancy for any unit in this subdivision, the Owner shall post a building permit Surety in an amount to be determined by the City Engineer to assure construction of lot infrastructure, including but not limited to sidewalks, drainage improvements, or construction of water quality elements. Such construction shall be completed within nine months of issuance of certificate of occupancy.
- In accordance with TCA Section 7-59-310(b)(1), Competitive Cable and Video Services Act, in cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give all providers of cable or video serving the City of Murfreesboro dates on which open trenching will be available for the providers installation of conduit, pedestals or vaults, and laterals, referred to as "equipment" to be provided at each such owners expense.
- Each residence is required by CUD to have its own water service.
- A plot plan prepared by a licensed surveyor and drawn to scale must be submitted for review and approval of the Planning Department with the building permit application for the 6 residential lots of this subdivision. In addition, a licensed surveyor will be required to lay out the footing for each lot and provide written confirmation to the City that there are no encroachments into any easements or building setbacks. Plot plans, completed by a licensed surveyor, for all the lots will be required to ensure compliance with zoning requirements, from Section 26, Sub Section C, Points 1 - 4 of the Murfreesboro Zoning Ordinance regarding lots along minor arterials.
 - Access to one parking space through another parking space is permitted provided that the lot does not front upon a street identified as a major arterial, minor arterial or collector street in the Murfreesboro Major Transportation Plan as adopted and as may be amended from time to time.
 - Four required parking spaces per dwelling unit may be located in the required front yard provided that the lot does not front upon street identified as a major arterial, minor arterial or collector street in the Murfreesboro Major Transportation Plan as adopted and as may be amended from time to time.
 - Lots that front upon a street identified as a major arterial, minor arterial or collector street in the Murfreesboro Major Transportation Plan as adopted and as may be amended from time to time shall have parking located to the side or rear of the proposed structure, shall be permitted to have no more than one required parking space in the required front yard, and shall have the parking designed such that backing into the street is not required in order to exit the on-site parking. Provided further that backing from the street in order to gain access to required parking is prohibited.
- Plot plans must also be submitted to MWRD for each lot. The plot plan review fee of \$100 for each lot must be submitted to MWRD engineering for review along with the plan. The tank inspection fee of \$250 must be paid at the time the sewer connection fee is paid.
- Driveway locations depicted on this plat indicate the side of the lot where the driveway must be located. Final driveway locations to be determined by builder and must adhere to CUD clear space requirements. Actual width and precise location of the driveway may vary from what is depicted on the plat. Driveways must be of sufficient width and depth to accommodate parking for a minimum of four (4) vehicles.
- CUD access to the designated meter location area shall be unencumbered by driveways, sidewalks, fencing or landscaping. A permanent access easement exists on each lot at the meter location. This 10'x10' easement is intended to assure service and repair access to the meter(s) and service line(s). CUD will not be liable to repair or replace any removed or damaged encroachments within the easement and will not be financially liable for damages to any encroachments. See detail.
- The subdivision is served by a Step Tank Effluent Pump system (STEP) and is operated and maintained by the Murfreesboro Water Resources Department (MWRD).
- MWRD access to the step tank shall be unencumbered by fencing or landscaping. A permanent access easement exists on each lot at the step tank location. This easement is intended to assure service and repair access to the step tank. See step tank easement detail.
- Step tanks shall be set only after the building foundation has been started and finished yard grade at the tank can be determined. Tank risers shall be between 18" and 26" high from the top of the tank.
- The recording of this plat voids, vacates, and supersedes the recording of Lot 2, Gresham Lane Subdivision, Section 1 as recorded in Plat Book 48 and Page 73. All other information on said plat remains the same.



TYPICAL BUILDING SETBACK & STEP TANK EASEMENT DETAIL
NOT TO SCALE



SITE INFORMATION:

PROJECT NAME: GRESHAM LANE SUBDIVISION, SECTION 2 SUBDIVISION AND RESUBDIVISION OF LOT 2

ADDRESS: GRESHAM LANE MURFREESBORO, TN 37129

TAX MAP / GROUP / PARCEL NO.: 092J / A / 018.01
ZONED: RS-15

MINIMUM YARD REQUIREMENTS:
FRONT SETBACK: 40 FT
SIDE SETBACK: 12.5 FT
REAR SETBACK: 30 FT

MAXIMUM BUILDING HEIGHT: 35 FT

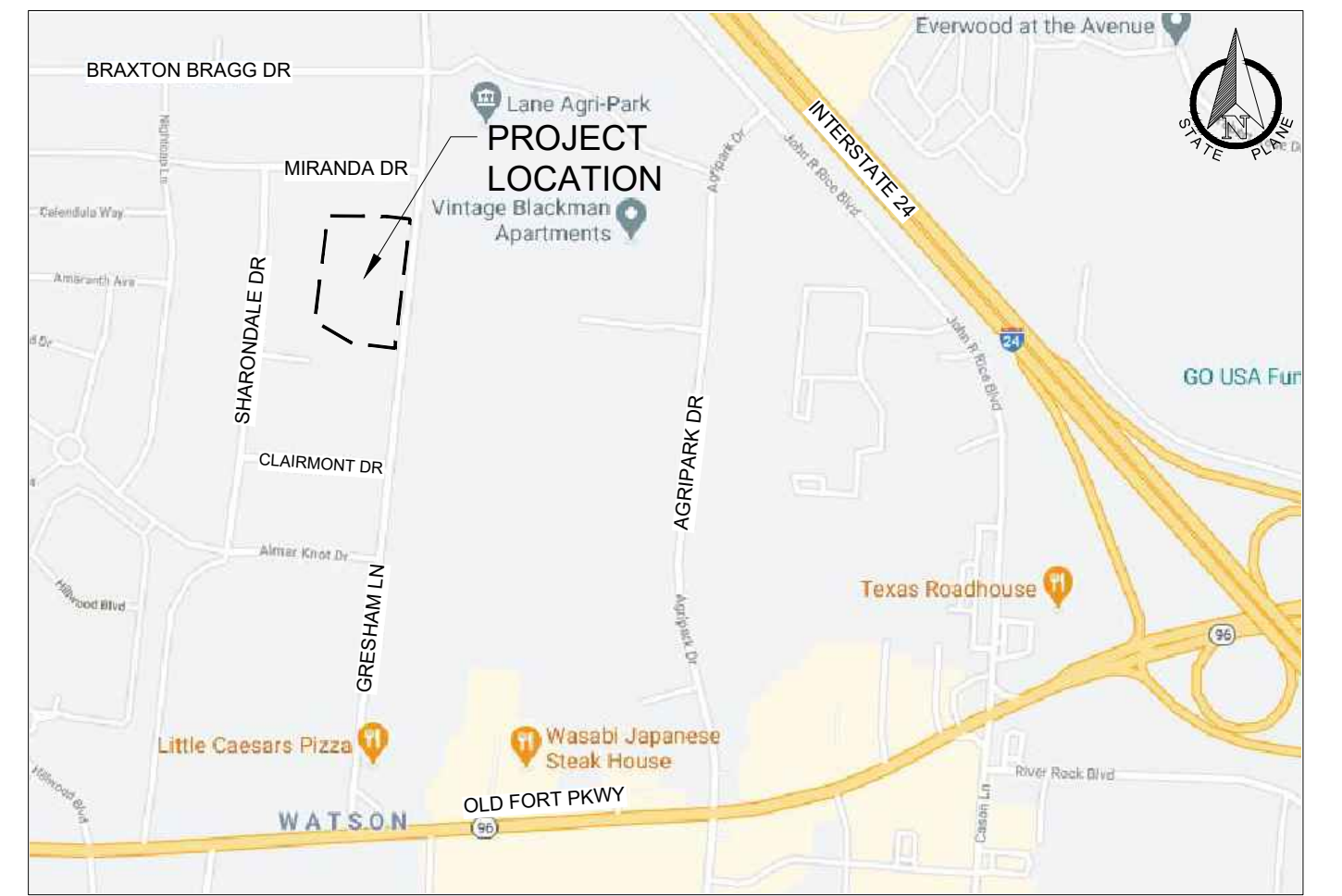
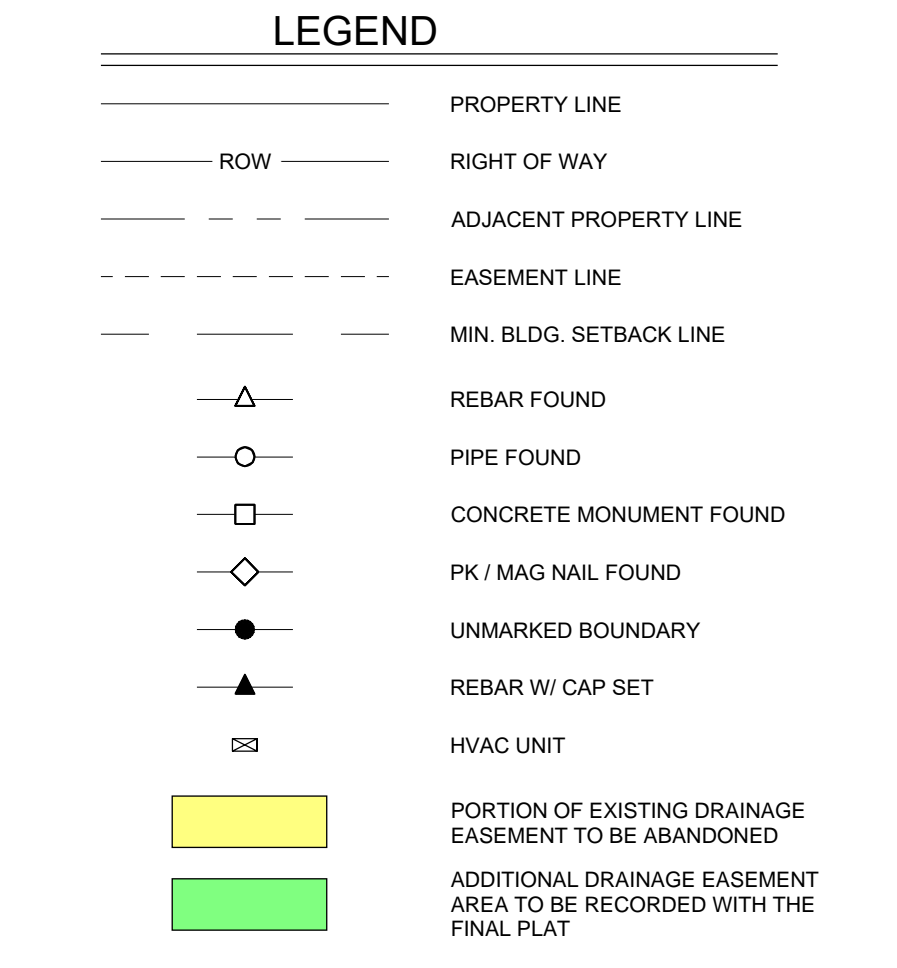
PROPOSED USE: SINGLE-FAMILY RESIDENTIAL
TOTAL LOTS: 6 LOTS

PROPERTY AREA: 212,209 SF (4.87 AC)

FEMA NOTE: THIS SITE LIES WITHIN ZONE X, OUTSIDE THE 500 YEAR FLOODPLAIN, PER COMMUNITY PANEL 47149C0255J, EFFECTIVE MAY 9, 2023.

DEED NOTE: THE PROPERTY SHOWN HEREON IS LOCATED ON GRESHAM LANE, TAX MAP 092J, GROUP A, PARCEL 18.01, 12TH CIVIL DISTRICT, AS RECORDED IN D.B. 2339, PG. 1036 AND P.B. 48, PG. 73 R.O.R.C.T.

APPLICANT: HENSLEY GROUP, LLC
5812 MANCHESTER PIKE
MURFREESBORO, TN 37127
CONTACT: ERIC HENSLEY
615-925-1296



VICINITY MAP
NOT TO SCALE

CERTIFICATE OF OWNERSHIP AND DEDICATION
I (we) hereby certify that I am (we are) the Owner(s) of the property shown and described hereon and that (we) hereby adopt this plan of subdivision with my (our) free consent and establish the minimum building restriction lines, and dedicate all streets, alleys, walks, and utilities therein, parks and other open spaces to public or private use as noted.

Date: _____ Eric Hensley, Member
The Hensley Group, LLC
PB 48, PG 73
RB 2339, PG 1036

CERTIFICATE OF ACCURACY
I hereby certify that this is a category 1 survey and the ratio of precision of the unadjusted survey is 1:10,000 as shown hereon. I also certify that the monuments have been or will be placed as shown hereon to the specifications of the City Engineer.

Date: _____ Ryan W. Beasley, RLS TN #2821

CERTIFICATE OF APPROVAL FOR RECORDING
I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations for the City of Murfreesboro, Tennessee with the exception of such variances, if any, as are noted in the minutes of the Planning Commission and that it has been approved for recording in the office of the Rutherford County Register Of Deeds provided that it is so recorded within one year of this date.

Date: _____ Planning Commission Secretary

CERTIFICATION FOR APPROVAL OF WATER SYSTEMS LOCATED IN THE WATER SERVICE JURISDICTION OF CONSOLIDATED UTILITY DISTRICT OF RUTHERFORD COUNTY
I hereby certify that: (1) the water lines and appurtenances for the water system of the subdivision shown hereon have been installed in accordance with city codes and specifications, or the specifications of the Consolidated Utility District of Rutherford County if they are more stringent and the Tennessee Department of Environment and Conservation, Community Public Water Systems Design Criteria, or (2) that a Surety for these improvements has been posted with the Consolidated Utility District of Rutherford County to assure completion of same.

Date: _____ Consolidated Utility District Official

CERTIFICATE OF APPROVAL OF SEWER SYSTEMS
I hereby certify that: (1) the sewer lines and appurtenances for the sewer system of the subdivision shown hereon have been installed in accordance with city codes and specifications and the requirements of the Tennessee Department of Environment and Conservation, Design Criteria for Sewage Works; (2) that a Surety for these improvements has been posted with the City of Murfreesboro to assure completion of same; or (3) that a subsurface sewage system will be permitted subject to the approval of the Rutherford County Health Department.

Date: _____ Murfreesboro Water Resources Official

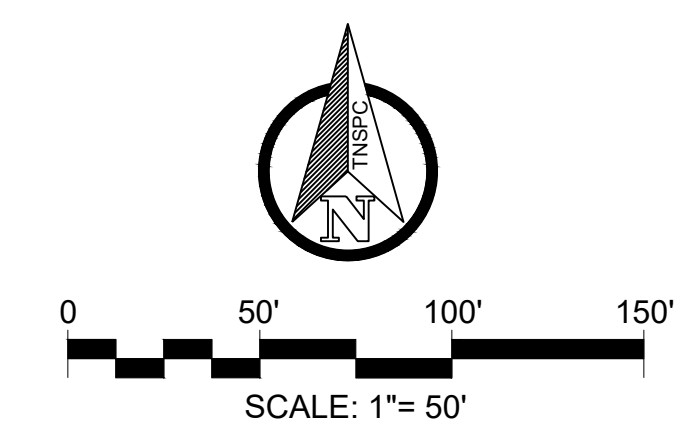
CERTIFICATE OF APPROVAL FOR ELECTRIC POWER
Middle Tennessee Electric Membership Corporation (MTEMC) will provide electric service to the subject property according to the normal operating practices of MTEMC as defined in the rules and regulations, by-laws, policy bulletins and operational bulletins of MTEMC, and in accordance with the plat approval check list, tree planting guidelines and other regulations contained on the MTEMC web site at www.MTEMC.com (Collectively the "Requirements"). No electric service will be provided until MTEMC's requirements have been met and approved in writing by an authorized representative of MTEMC. Any approval is, at all times, contingent upon continuing compliance with MTEMC's requirements.

Date: _____ MTEMC Official

CERTIFICATE OF APPROVAL OF STREETS AND DRAINAGE
I hereby certify: 1.) that the streets, drainage structures, drainage improvements, and stormwater quality controls for the subdivision shown hereon have been installed in accordance with city specifications, or 2.) that a Surety for those improvements has been posted with the City of Murfreesboro to assure completion of same.

Date: _____ City Engineer

RELEASE AND COVENANT NOT TO SUE
Under the current adopted plumbing code, the City of Murfreesboro requires the minimum floor elevation (M.F.E.) to be set at or above the top of casting elevation of the nearest manhole that is upstream of the sewer service connection. As an alternative, the homeowner shall install a backwater valve per the plumbing code and execute and record a release of indemnification against the City of Murfreesboro with regards to the sanitary connection. The builder and/or homeowner shall be responsible for compliance with this requirement.



PREPARED BY:
CIA CIVIL INFRASTRUCTURE ASSOCIATES
307 Hickerson Drive
Murfreesboro, TN 37129
Tel: 615-663-7678
www.cia-engineers.com
contact: Ryan Beasley, RLS

I hereby certify that this is a Category 1 survey and that the ratio of precision of the unadjusted survey is in excess of 1:10,000 using total station survey equipment by the method of random traverse and GPS RTK Survey as noted. This survey was performed in compliance with the current Tennessee Minimum Standards of Practice.

For Review
07/12/2024 10:38:47 AM

FINAL PLAT
GRESHAM LANE SUBDIVISION, SECTION 2 & RESUBDIVISION OF LOT 2
MURFREESBORO, TENNESSEE
PROJECT # 2022-043

DATE: 18 JUNE 2024 SCALE 1"=50' SH. 1 OF 1

UNLESS OTHERWISE NOTED, ALL NEW LOT CORNERS ARE CAPPED 18" LONG 1/2" REBAR SET

DATE OF RECORDING: _____
TIME OF RECORDING: _____
PLAT BOOK: _____ PAGE: _____

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Robert Rose Administration Building Renovations Contingency Allowance Allocation

Department: Project Development Department

Presented by: Scott Elliot, Project Development Manager

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Report of Robert Rose Administration Building Renovations contract contingency allowance.

Staff Recommendation

The contingency report of use of the allowance is provided as information only.

Background Information

The attached change control log identifies the change requests, through change control forms, and tracks the allowance allocations issued through field work change directives. Note that Change Directive No. 7 does not change the contract price or contract time. The final contract price and number of working days will be adjusted accordingly in the final balancing change order at the end of the project.

Council Priorities Served

Improve Economic Development

Relocating MWRD’s administration allows the Department to address its current needs and affords the City the opportunity to redevelop the land in its current location, thereby improving the amenities to the downtown area.




Fiscal Impact


The amount of the credit, \$513, is added back to the contingency allowance with no change in the total contract amount of \$2,206,937.

Attachments

Change Control Log and Forms.

CHANGE CONTROL FORM NO. 7

Date Issued:	June 17, 2024	Project:	MWRD -Admin Office Renovation
Project No.:	ITB-13-2024	Contractor:	Rock City Construction Company, LLC
This Document is a: <input type="checkbox"/> Request for Proposal <input type="checkbox"/> Field Order <input checked="" type="checkbox"/> Work Change Directive <input type="checkbox"/> Contractor Change Request			
Description of Change (<i>attach necessary supporting documentation</i>): ADD PCOs (65,66,67,68,69). Add the credit of \$513.29 to the Owner's Contingency leaving \$83,263.17 remaining in the Contingency allowance. See attached Change Control Log.			
Initiated By: <input checked="" type="checkbox"/> Contractor <input type="checkbox"/> Engineer <input type="checkbox"/> Owner <input type="checkbox"/> Resident Project Representative			
Drawing(s) Reference: N/A		Spec. Reference: N/A	
RFI Reference: N/A		Date of RFI: N/A	
Attachments: Change Control Log			
REQUEST FOR PROPOSAL/CHANGE REQUEST			
We propose to perform the Work or make the Claim described above for the following change in Contract Cost and Contract Times:			
<input checked="" type="checkbox"/> No Change in Contract Amount is Required		<input type="checkbox"/> A Change in Contract Amount is Required:	
<input checked="" type="checkbox"/> No Change in Contract Time is required		<input type="checkbox"/> A Change in Contract Time is Required:	
WORK CHANGE DIRECTIVE			
You are directed to proceed to make the changes to the Work described in this Work Change Directive. Any change in Contract Price or Contract Time will be determined in accordance with the General Conditions.			
FIELD ORDER			
This Field Order issued in accordance with the General Conditions for minor changes in the Work without changes in the Contract Price or Contract Time. If you consider that a change in Contract Price or Contract Times is required, notify the Engineer immediately and before proceeding with the proposed Work.			
AUTHORIZING SIGNATURES			
Architect: DocuSigned by:  _____ <small>AF646E5EE290490...</small> Brandon Harvey _____ (print name) Date: 6/25/2024	CONTRACTOR: DocuSigned by:  _____ <small>5E7A10DDBBE7488...</small> Florencia Fontela _____ (print name) Date: 7/1/2024	OWNER: DocuSigned by:  _____ <small>242A8A88DF6749B...</small> Craig Tindall _____ (print name) Date: 7/1/2024	RESIDENT PROJECT REPRESENTATIVE: _____ _____ _____ (print name) Date: _____

DocuSigned by:
 APPROVED AS TO FORM


48A2035E51F9401
 Adam P. Tucker, City Attorney

CHANGE CONTROL LOG

Owner: City of Murfreesboro
Project Name: MWRD-316 Robert Rose Office Renovation
Contract No.: ITB-13-2024
Arch/Eng: KDGi
Contractor: Rock City Construction Company, LLC

Original Contract Amount:	\$ 2,084,256.00
Adjusted Contract Amount:	\$ 2,206,937.10
Contingency Allowance Amount:	\$ 100,000.00
Adjusted Contingency Allowance Amount:	\$ 83,263.17
Tracked Against Contract Total:	\$ 2,123,673.93

CCF No.	Bried Description of Change Item	Change Type	Initial By	Status (Approved/ Pending/ Rejected)	Approved By:	Date From/ To Contractor	Date Submitted to Owner	Date Approved/ Rejected by Owner	Contract Time Extension (days)	Add/ Deduct (+/-) from Allowance	Cumulative Add/ Deduct (+/-) from contract	Adjusted Contingency Amount
1	Change order # 1 (structural additions)	WCD	OWNER	APPROVED	Council	2/9/2024	2/9/2024	3/8/2024	35	\$ -	\$ 49,992.71	\$ 100,000.00
2	Change Order # 2 (ASI #1 Critical path items)	WCD	OWNER	APPROVED	Council	2/29/2024	2/29/2024	3/8/2024	0	\$ -	\$ 72,688.39	\$ 100,000.00
3	PCOs (9,33,46,54)	WCD	OWNER	APPROVED	Darren Gore	1/2/2024	3/13/2024	3/15/2024	0	\$ (3,569.72)	\$ -	\$ 96,430.28
4	PCOs (1,2,3,4,5,6,7)	WCD	OWNER	APPROVED	Darren Gore	3/12/2024	3/12/2024	4/30/2024	0	\$ (5,592.00)	\$ -	\$ 90,838.28
5	PCOs (51)	WCD	OWNER	APPROVED	Council	3/12/2024	3/12/2024	5/9/2024	24	\$ (3,421.00)	\$ -	\$ 87,417.28
6	PCOs(44,45,49,52,55,57,59,60,63)	WCD	OWNER	APPROVED	Darren Gore	5/7/2024	5/8/2024	5/16/2024	0	\$ (4,667.40)		\$ 82,749.88
7	PCOs (65,66,67,68,69)	WCD	CONTRACTOR	APPROVED	Craig Tindall	6/3/2024	6/11/2024	7/1/2024	0	\$ 513.29		\$ 83,263.17
8												
9												
10												
11												
12												
13												
Totals									59	\$ (16,736.83)	\$ 122,681.10	\$ 83,263.17

A Contract Times
 Extension Requires
 City Council Approval

Abbreviations
 RFP = REQUEST FOR PROPOSAL
 FO = FIELD ORDER
 WCD = WORK CHANGE DIRECTIVE
 CCR = CONTRACTOR CHANGE REQUEST

Change Control Breakdown

CO #	CCD #	CCF #	PCO #	Description	Source	Change Origin	Change Amount	OH&P	Time Change
1	1	N/A		Structural Design	Bid Documents	Anex Space Structural Design (Columns, Piles & Beams)	\$ (27,953.78)	\$ -	
1	1	N/A		Structural Design	Revised Structural Jan '24	Anex Space Structural Proprietary System & Redesign	\$ 31,700.00	\$ 4,755.00	35
1	1	N/A		Structural Design	Bid Documents	Filing Cabinet Supports	\$ (10,000.00)	\$ -	0
1	1	N/A		Structural Design	Revised Structural Jan '24	Filing Cabinet Supports Proprietary System	\$ 28,100.00	\$ 4,215.00	0
1	1	N/A		Structural Design	Bid Documents	Shared Work Space (Beams & Stl Columns)	\$ (3,379.00)	\$ -	0
1	1	N/A		Structural Design	Revised Structural Jan '24	Shared Work Space (Beams & Stl Cols) Proprietary System	\$ 17,250.00	\$ 2,587.50	0
1	1	N/A		Structural Design	Revised Structural Jan '24	Dumbwaiter Area Structural Updates	\$ 2,363.47	\$ 354.52	0
						TOTAL	\$ 49,992.71	\$ -	35
2	N/A	N/A		Plumbing Fixtures	Plumbing Schedule (P1.2B)	RFI #1 - Fixtures not quantified in Plumbing Dwgs.	\$ 28,000.00	\$ 2,800.00	0
2	N/A	N/A		2x2 LED in offices	Arch & Elec drawings (A3.02)	Added 2x2 led lights in front reception areas	\$ 750.00	\$ 75.00	0
2	N/A	N/A		Accent Tile Wall Lights	Arch & Elec drawings (A3.02)	Added accent tile in lobby, added switch	\$ 1,766.00	\$ 176.60	0
2	N/A	N/A		Relocate (2) cameras		Relocate (2) cameras located in cashiers office	\$ 737.00	\$ 73.70	0
2	N/A	N/A		Add (6) cameras			\$ 1,566.00	\$ 156.60	0
2	N/A	N/A		Enlarged Trench Detail	BankPak Trench requirements	BankPak Trench requirements	\$ 3,705.00	\$ 370.50	0
2	N/A	N/A	13	ASI #1 & 1-A updates	A8.00	Interior painting C-1 added trim and millwork	\$ 16,877.00	\$ 1,687.70	0
2	N/A	N/A	35	Vector Fire Alarm items	Fire Alarm	(15) Flexible conduits and boxes for FA devices	\$ 4,629.00	\$ 462.90	0
2	N/A	N/A	36	Vector Fire Alarm items	Fire Alarm	Drywall patching	\$ 8,050.35	\$ 805.04	0
						TOTAL	\$ 72,688.39	\$ -	0
N/A	N/A	3	9	ASI #1 & 1-A updates	A2.02	Relocated door and changed swing at breakroom	\$ 1,047.54	\$ 157.13	0
N/A	N/A	3	33	ASI #1 & 1-A updates	ASI #1 additional finishes	Unisex Restroom Locks	\$ 299.98	\$ 45.00	0
N/A	N/A	3	46	Storage Rm Wire Relo	E2.2	Storage Room Relocation of Switches for room number 2	\$ 410.00	\$ 41.00	0
N/A	N/A	3	54	Screwoff existing floors	3,100 SF		\$ 1,426.43	\$ 142.64	0
						TOTAL	\$ 3,569.72	\$ -	0
N/A	N/A	4	1	Kitchen Tile Deduct			\$ (3,589.00)	\$ -	0
N/A	N/A	4	2	OG Crack Isolation Deduct			\$ (6,550.00)	\$ -	0
N/A	N/A	4	3	New Underlayment/Crack	ASI #1 & 1-A updates		\$ 8,150.00	\$ 815.00	0
N/A	N/A	4	4	Bridge Tile Deduct			\$ (5,850.00)	\$ -	0
N/A	N/A	4	5	ASI #1 & 1-A updates	A8.00	Rubber Stair tread ST-1 added, includes LVT deduct	\$ 4,165.00	\$ 416.50	0
N/A	N/A	4	6	T-1 Changes to T2 RR			\$ (100.00)	\$ -	0
N/A	N/A	4	7	T-2 Add in wing bathrooms			\$ 7,395.00	\$ 739.50	0
						TOTAL	\$ 5,592.00	\$ -	0
3	N/A	5	51	Vector Fire Alarm items	Fire Alarm	repriming 1st ct, for 43 additional fire alarm locations/Cabinet Procurement delays	\$ 3,110.00	\$ 311.00	24
						TOTAL	\$ 3,421.00	\$ -	24
N/A	N/A	6	44	Bank Pak Alts	Owner Request	Reuse of Safe-Credits	\$ (7,320.00)	\$ -	0
N/A	N/A	6	45	Bank Pak Alts	Owner Request	Pneumatic Systems & Night Drop Specifications	\$ 10,274.38	\$ 1,027.44	0
N/A	N/A	6	49	Door Credits	Re-use of existing doors	Reuse of existing door Allowance Credit	\$ (10,137.00)	\$ -	0
N/A	N/A	6	52	Site Credit	Site meeting with owner	Fire Hydrant relocation credit-removed from scope	\$ (2,500.00)	\$ -	0
N/A	N/A	6	55	Kiosk Camera Conduits	LV	Conduit and Boxes for Kiosk Cameras. Plans scope a #12 wire on a 20A circuit but a #10 wire on a 30A circuit was needed	\$ 5,098.00	\$ 509.80	0
N/A	N/A	6	57	Bank Pak trench sand	Bank Pak	Pneumatic tube required trench sand for bedding material	\$ 2,765.00	\$ 276.50	0
N/A	N/A	6	59	Window Allowance		Window Allowance credit	\$ (400.00)	\$ -	0
N/A	N/A	6	60	Floor Outlets in offices	Owner Request	Additional Floor outlets in shared offices	\$ 3,813.00	\$ 381.30	0
N/A	N/A	6	63		Owner Request	Cabinet pulls and Knobs change	\$ 799.07	\$ 79.91	0
						TOTAL	\$ 4,667.40	\$ -	0
N/A	N/A	7	65	Relocation of 2 Floor Plugs in the Board Room	Owner Request	Existing floor plugs in an unsable location.	\$ 872.00	\$ 87.20	0
N/A	N/A	7	66	Nightdrop wall modifications Interior/Exteriors	Night Drop Change	Brick	\$ 650.00	\$ 65.00	0
N/A	N/A	7	67	Nightdrop wall modifications Interior/Exteriors	Night Drop Change	Framing	\$ 1,300.00	\$ 130.00	0
N/A	N/A	7	68	Nightdrop wall modifications Interior/Exteriors	Night Drop Change	Paint	\$ 295.00	\$ 29.50	0
N/A	N/A	7	69	Nightdrop Credit & Envelope Change	Night Drop Change	Owner Credit	\$ (3,583.63)	\$ (358.36)	0
						TOTAL	\$ (513.29)	\$ -	0

COUNCIL COMMUNICATION

Meeting Date: 7/18/2024

Item Title: Change Order #4 511 Eventide Drive Housing Rehabilitation

Department: Community Development

Presented by: Robert Holtz, Director of Community Development

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Change order through the Community Development Housing Rehabilitation program.

Staff Recommendation

Approve the change order#4 for \$1,409.

Background Information

CDBG funded were used to repair a residence at 511 Eventide Drive to maintain its habitability. Change order #3 for replacement of roof decking had listed the incorrect amount for labor and material. The correct amount is \$7,520, an increase of \$1,409.

Council Priorities Served

Responsible Budgeting

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

Fiscal Impact

The expenditure, \$1,409, is fully funded by CDBG funds allocated to the City's Housing Rehabilitation Program.

Attachment

Change Order #4.

**CHANGE ORDER #4 TO
CONTRACT FOR REHABILITATION – CDBG
FOR MURFREESBORO COMMUNITY DEVELOPMENT DEPARTMENT**

This **Change Order #4** for Contract for Rehabilitation – CDBG for the City of Murfreesboro, acting through its Community Development Department, dated January 11, 2024 (“Contract”) is effective as of the date of the last party to sign below, by and between the City of Murfreesboro (“City”), a municipal corporation of the State of Tennessee, as Grantee; Monica Himes (“Owner”); and David Underhill (“Contractor”).

WHEREAS, Owner and Contractor, with City’s approval, entered into the Contract for certain rehabilitation services at 511 Eventide Drive, Murfreesboro, TN;

WHEREAS, pursuant to Section VIII and Exhibit B of the Contract, said Contract may be modified by written change order executed by all parties and approval by the City Council; and

WHEREAS, on March 14, 2024, Owner, Contractor, and City entered into Change Order #1; and

WHEREAS, on May 3, 2024, Owner, Contractor, and City entered into Change Order #2; and

WHEREAS, on June 13, 2024, Owner, Contractor, and City entered into Change Order #3; and

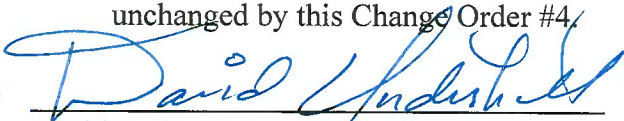
WHEREAS, due to an administrative error and miscalculation in the amount of OSB plywood needed for Change Order #3, the parties desire to amend the Contract to include the additional OSB plywood needed as listed below;

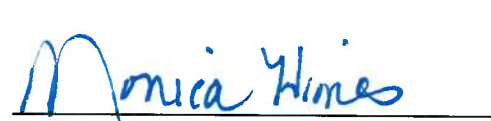
NOW, THEREFORE, Owner and Contractor hereby amend the Contract as follows:

- The parties agree to include the additional scope of work as follows as follows:

ITEM	COST
Original Project Cost	\$55,000.00
Change Order #1	\$7,200.00
Change Order #2	\$1,560.00
Change Order #3	\$4,961.00
Change Order #4 1. Revise Labor and Materials listed on Change Order #3 (\$6,111.00) to reflect the Correct Amount of \$7,520.00)	\$1,409.00
New Project Cost	\$70,130.00

- All other terms of the Contract, Change Order #1, Change Order #2, and Change Order #3, including automatic extensions thereof, remain in full force and effect and are otherwise unchanged by this Change Order #4.


David Underhill, Contractor


Monica Himes, Owner

Date: 7-9-2024

APPROVED BY CITY:

Name: Shane McFarland
Title: Mayor

Date: _____

APPROVED AS TO FORM:

Name: Adam Tucker
Title: City Attorney

Date: _____

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Second Amendment to SaaS Agreement with Utility Associates

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Second Amendment to SaaS Agreement with Utility Associates, Inc.

Staff Recommendation

Approve the amendment to SasS agreement with Utility Associates.

Background Information

Utility Associates has provided software services and hardware warranties for the communication devices that are installed in Police vehicles since 2018. These devices provide connectivity, vehicle location and wireless services for officers. This amendment will extend services for an additional year.

Council Priorities Served

Maintain Public Safety

Consistent, high-quality communication devices are a critical part of effective public safety.

Fiscal Impact

The expense, \$12,335, is funded by the Department's Operating Budget.

Attachments

Second Amendment to the Software as a Service and Hardware Warranty Agreement with Utility Associates, Inc.

**SECOND AMENDMENT
TO THE
SOFTWARE AS A SERVICE & HARDWARE WARRANTY AGREEMENT
BETWEEN
THE CITY OF MURFREESBORO
AND
UTILITY ASSOCIATES, INC.**

This Second Amendment (“Second Amendment”) to the Contract entered August 19, 2022, (“Contract”) by and between the City of Murfreesboro (“City”), a municipal corporation of the State of Tennessee and Utility Associates, Inc., a corporation of the state of Delaware, (“Contractor”) is effective as of July 1, 2024.

RECITALS

WHEREAS, on August 19, 2022, the City entered into a contract with Utility Associates, Inc. for equipment, software and services as set forth in Sales Quote #131743-R dated January 13, 2022; and,

WHEREAS Clause 2.1 states the Contract expires on June 30, 2023, unless extended annually by mutual agreement of the parties for up to four (4) additional one-year terms; and

WHEREAS, pursuant to the First Amendment, the term of the Contract expires June 30, 2024; and

WHEREAS the City and Contractor wish to extend the Contract term pursuant to Clause 2.1 of the current Contract for an additional term through June 30, 2025.

NOW THEREFORE, the City and Contractor mutually agree:

1. To extend the term of the current Contract, from July 1, 2024, until June 30, 2025, for the ROCKET Communications SaaS services as set forth in Quote 134189 dated March 20, 2024.
2. All other terms of the Contract shall remain the same.

IN WITNESS WHEREOF, the parties enter into this amendment as of _____, 2024.

CITY OF MURFREESBORO

UTILITY ASSOCIATES, INC.

By: _____
Shane McFarland, Mayor

By: _____
Amanda Havice, CFO

Approved as to form:

Adam F. Tucker, City Attorney



Quote

Utility Associates Inc
250 East Ponce De Leon Avenue
Suite 700
Decatur GA 30030
(800) 597-4707
www.utility.com

Customer: Murfreesboro TN Police
Date: 3/20/2024
Sales Quote#: 134189
Expires: 5/19/2024
Sales Rep: Dahlia Blake
PO#:
Terms: Net 30

Bill To

Chief Michael Bowen
Murfreesboro TN Police
1004 N Highland Avenue
Murfreesboro, TN 37130

Ship To

Murfreesboro TN Police
1004 N Highland Avenue
Murfreesboro, TN 37130

Item	Description	Quantity	Price Each	Amount
COM-H/S-1	Rocket High-Speed Data Communications System, POLARIS SaaS, Warranty, and 24/7 Technical Support, Training - 1 Year: The coverage period is 7/1/2024 through 6/30/2025 (12 mos.)	29		\$66,410.00
Signature Line	Signature: _____			
	Name: _____			
	Date: _____			
	PO: _____			

Subtotal	\$66,410.00
Discount	(\$54,075.00)
Subtotal	\$12,335.00
Sales Tax (%)	\$0.00
Total	\$12,335.00

This transaction is subject to the terms and conditions laid forth in the Client's executed Agreement with Utility Associates, Inc.
Please forward all inquiries to insidesales@utility.com

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Magnet Forensics License Agreements

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

GrayKey and Griffeye software license renewals.

Staff Recommendation

Approve the twelve-month renewal of the GrayKey and Griffeye software license with Magnet Forensics.

Background Information

The GrayKey and Griffeye software is used by the Criminal Investigation Division to extract digital files and information. The department has been using this software successfully since December 1, 2020.

Council Priorities Served

Maintain Public Safety

This software is crucial to the department's investigation teams to assist in solving and preventing crimes.

Fiscal Impact

The total cost, \$60,375, is provided by the department's FY25 operating budget.

Attachments

Magnet Forensics License Agreements

**ADDENDUM TO END USER LICENSE AGREEMENT
AND GOVERNING ALL AGREEMENTS
BETWEEN
MAGNET FORENSICS, LLC
AND
THE CITY OF MURFREESBORO, TENNESSEE**

This Addendum (herein "Addendum") amends the End User License Agreement ("Agreement") between Magnet Forensics, LLC ("Contractor"), a Delaware limited liability company, and the City of Murfreesboro, Tennessee ("City"), as well as any and all contracts and agreements for Products that the parties enter following the Effective Date of this Addendum (collectively "Agreements"). In consideration of using Contractor's form agreements, now and in the future, the mutual promises set out herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged the Agreements are amended as follows:

- 1. Precedence.** Notwithstanding any other provision in the Agreements, the language in this Addendum takes precedence over all other terms, conditions or language to the contrary or in conflict with the language herein, and the Agreements and this Addendum shall not be construed to create any ambiguity, it being the intent of the parties that this Addendum shall control it being acknowledged and agreed to by the parties that this Addendum shall be executed and entered into after execution of the Agreements regardless of what order the Agreements and this Addendum are actually executed. Unless defined herein, capitalized terms in this Addendum shall have the meaning set forth in the Agreement.
- 2. Termination for Convenience.** The Agreement may be terminated by City upon thirty (30) days written notice to Contractor. Such termination will not be deemed a breach of contract by either party.
- 3. Confidentiality.** The Agreement is a public record, and it, along with all documents or materials, in any format, including, but not limited to, paper, electronic, or virtual, that are public records pursuant to the Tennessee Open Records Act, set out in T.C.A. §10-7-503 et seq., are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, City must, upon proper request, release public documents and records as defined by T.C.A. §10-7-503 et seq., including, but not limited to, the Agreement and all records created and maintained related to the Agreement,
- 4. Indemnity and Limitation of Liability.** Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. Any indemnity or hold harmless provision contained in the Agreements requiring City to indemnify or hold harmless Contractor or any other person or entity and any limitation of liability in favor of Contractor is enforceable only to the extent permitted by Tennessee law provided City's monetary limits of liability under any such provision is limited to the monetary limits of liability as provided for in the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101 et seq. No provision of the Agreements shall act or be deemed a waiver

by City of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101 et seq.

- 5. Name and Logo.** City does not consent to the use of its name or logo in any advertising or promotional material or distributions or other commercial use by Contractor other than in connection with any events promoted through or for which tickets are sold through Contractor's services. Additionally, City does not waive any moral right to the use of the name submitted to Contractor.
- 6. Governing Law.** The Agreement and the rights and obligations of the parties are governed by the laws of the state of Tennessee, without regard to its conflict of laws principles.
- 7. Selection of Jurisdiction and Venue, Waiver of Jury Trial, Service of Process.** Pursuant to the Constitution and Laws of the State of Tennessee, City is a sovereign entity subject only to those courts with jurisdiction over City. Notwithstanding any other provision in the Agreements to the contrary if a dispute, claim, or cause of action should arise between the parties (hereinafter "claim") the claim shall be brought in the state courts in Rutherford County, Tennessee or in the U.S. District Court for the Middle District of Tennessee, and the parties hereby expressly waive any objections and thereby consent to the jurisdiction and venue of said courts. The parties waive their right to a jury trial. Service of process on City shall comply with the Tennessee Rules of Civil Procedure or applicable federal rules, and City does not agree to any other service of process procedure.
- 8. Responsibility for Litigation Costs, Expenses and Payment of Attorney's Fees.** Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. This prohibition extends to contractual provisions for the payment of attorney's fees, paralegal fees, investigator fees, court costs, or any other expenses related to litigation. In the event of litigation between City and Contractor each party shall be solely and exclusively responsible for the payment of litigation costs, expenses and attorney's fees excepting those costs which may be awarded by a court of competent jurisdiction as specified by Tennessee law or applicable rules of civil procedure.
- 9. Non-appropriation.** Contractor acknowledges that City is a governmental entity, and the validity of the Agreement is based upon the availability of public funding under its authority. In the event City fails to appropriate funds or make monies available for any fiscal year covered by the term of this Agreement for the services to be provided, this Agreement shall be terminated on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to City, such termination shall not be a breach of this Agreement. Furthermore, this provision shall extend to any and all obligations imposed upon City to reimburse Contractor for any reimbursements, refunds, chargebacks, penalties, fees, or other financial obligations to Contractor following the date of termination under this section.
- 10. No Taxes.** As a tax-exempt entity, City shall not be responsible for sales or use taxes incurred for products or services. City shall supply Contractor with its Sales and Use Tax Exemption Certificate upon Contractor's request.

11. Binding Effect. This agreement is the entire agreement between City, (including City's employees and other end users) and Contractor. No employee of City or any other person, without authorization of the board of mayor and aldermen of City can bind City to any contract or agreement and anything contrary contained in the Agreement, the Terms of Service or other agreements or understandings, whether electronic, click-through, or shrink-wrap, and whether verbal or written, with City's employees or other end users, to the contrary are null, void and without effect as it applies to City.

12. No Liability of City Officials and Employees. No member, official, or employee of City shall be personally liable to Contractor or any other person or entity, including a third-party beneficiary, in the event any provision of the Agreements are unenforceable, there is any default or breach by City, for any amount which may become due and the Agreements, or on any obligations under the terms of the Agreements.

13. Parties to Receive Notice: Any notices contemplated by the Agreement to City shall also be sent via certified United States mail or via overnight delivery addressed to:

City of Murfreesboro
ATTN: City Attorney
111 West Vine Street
Murfreesboro, TN 37128

14. Amendment. This Addendum and the Agreements shall not be modified or altered other than by written agreement executed by both parties. This includes any changes to pricing, fees, rates, and charges.

15. Continuing Validity; Survival; Non-Merger. So long as the parties maintain the Agreements or any subsequent agreement(s), or so long as Contractor provides a product or service to City, the provisions of this Addendum shall continue to be validly effective and enforceable with regard to the Agreements, subsequent agreements, products, and/or services. This Addendum shall survive the completion of or any termination of the Agreements or other document(s) which may accompany the Agreements or be incorporated by reference. Notwithstanding any provision in the Agreements, subsequent agreements, products, and/or services to the contrary, the subsequent execution of any agreement or the provision of a product or service shall not act as a merger against this Addendum, it being the express intent of the parties that this Addendum contains essential terms that shall be incorporated into any such agreement, product, and/or service.

16. No Presumption Against Drafter. This Addendum shall not be construed for or against any party because that party or that party's legal representative drafted any of its provisions. Accordingly, this Addendum shall be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences shall be drawn from the fact that the final, duly executed Addendum differs in any respect from any previous draft hereof.

17. Counterparts. This Addendum may be executed in one or more counterparts by City and Contractor. If so executed, the signer shall deliver an original to the other party and the collective counterparts shall be treated as the fully executed document.

18. Effective Date. This Addendum is effective as of the last date written below (“Effective Date”).

Magnet Forensics, LLC

DS
Reviewed by Legal
Jocelyn Ngo

City of Murfreesboro, Tennessee

DocuSigned by:
Peter Vreeswyk
000C1D460BF34DB...
Signature

Shane McFarland, Mayor

08-Jul-2024

Date

Date

Peter Vreeswyk

Printed Name

Approved as to form:

CFO

Title

DocuSigned by:
Adam Tucker
43A2035E81F9401...

Adam F. Tucker, City Attorney



END USER LICENSE AGREEMENT

This End User License Agreement (the “**Agreement**”) is a legal agreement between You and Magnet Forensics with respect to Your license, access and use of the Product. UNLESS YOU HAVE AN EXISTING AGREEMENT WITH MAGNET FORENSICS WHICH SPECIFICALLY GOVERNS YOUR LICENSE, ACCESS, AND USE OF THE PRODUCTS IDENTIFIED IN THE QUOTATION, THEN BY EITHER (A) SUBMITTING AN ORDER FOR THE PRODUCT IDENTIFIED IN THE QUOTATION PROVIDED BY MAGNET FORENSICS OR A MAGNET FORENSICS AUTHORISED RESELLER, (B) INDICATING YOUR ACCEPTANCE OF THE QUOTATION, (C) ACCEPTING DELIVERY OF THE PRODUCT; (D) DOWNLOADING AND/OR INSTALLING THE SOFTWARE, OR (E) USING THE SOFTWARE, YOU ARE REPRESENTING THAT (I) YOU HAVE AUTHORITY TO ACT ON BEHALF OF THE ORGANIZATION WHICH YOU REPRESENT, AND (II) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY, THE TERMS OF THIS AGREEMENT TO THE EXCLUSION OF ANY OTHER TERMS CONTAINED IN A PURCHASE ORDER OR ACKNOWLEDGEMENT OF ANY KIND TO THE QUOTATION BY YOU.

1 Definitions

- 1.1 “**Confidential Information**” means any information regardless of form or medium, whether tangible or intangible, including any copies or fixations made thereof that is disclosed by discloser, or to which the recipient is provided access by discloser, that is proprietary or confidential to discloser or its affiliated companies, including, without limitation, information that specifies, concerns or is related to discloser’s intellectual property, Software, Documentation, Product, trade secrets, business operations, finances, customers, technical know-how, prototypes, designs, processes, products, services, or the development, testing or commercial exploitation of any of the foregoing that is either specifically identified as confidential prior to or at the time of its disclosure or that would reasonably be considered by a person knowledgeable in the industry to be proprietary or confidential in nature because of legends or other markings on the information, the circumstances of disclosure or the nature of the information itself. **Confidential Information includes, without limitation, (i) information concerning the methods of use, internal components, features, functions and solutions of GrayKey and VeraKey Products, information found on the Magnet Forensics support website, and (ii) any copies, photographs, or other reproductions of the foregoing, whether or not marked as “confidential” or “proprietary.”**
- 1.2 “**Documentation**” means the electronic, printed or other form of documents that accompany delivery of the Product that provides information about installation, operation, and use of the Product.
- 1.3 “**Hardware**” means the physical components, devices, or equipment provided to you by Magnet Forensics used for the operation of the Software.
- 1.4 “**License Term**” means the time period identified in Your Quotation or if no such period is identified in Your Quotation then for one (1) year commencing on the date the Software is available to You.
- 1.5 “**Magnet Forensics**” has the meaning set out in Section 12.1.
- 1.6 “**Magnet Software**” means the proprietary software of Magnet Forensics.
- 1.7 “**Perpetual License**” means a license purchased with a perpetual License Term as identified in a Quotation.
- 1.8 “**Product**” means the Magnet Forensics supplied products identified in the Quotation, which may include, Hardware, Software, and Support Services.
- 1.9 “**Quotation**” means the quotation provided to You by Magnet Forensics or a Magnet Forensics authorised reseller outlining the terms, conditions, and pricing details for the licensing of Magnet Hardware, Software, and Support Services.
- 1.10 “**Software**” means the Magnet Software and Third Party Software.
- 1.11 “**Support Services**” means the support services included in the Term License or separately purchased as part of the Perpetual License as indicated on Your Quotation and, in each case, described further in Section 4.1.



END USER LICENSE AGREEMENT

- 1.12 “**Term License**” means a license purchased with a non-perpetual License Term as identified in a Quotation.
- 1.13 “**Third Party Software**” means the copyrighted, patented or otherwise legally protected software of third parties (including open-source code components) incorporated into the Software.
- 1.14 “**User**” means a single user who uses the Software as permitted by this Agreement or is otherwise provided access to the Software by You.
- 1.15 “**You**”, and “**Your**” means the entity that purchases the license for Software pursuant to this Agreement.

2 License Grant

- 2.1 License. The licensed rights to the Software granted to You by Magnet Forensics are as set out in Schedule A (Licensed Rights), Schedule B, and Schedule C to this Agreement, as applicable.

3 Fees, Taxes, and Delivery

- 3.1 Fees. You agree to pay Magnet Forensics all applicable fees identified in the Quotation within thirty (30) days from date of the invoice. Magnet Forensics shall invoice You upon the earlier of: (a) You issuing a purchase order to Magnet Forensics that relates to the Quotation; (b) Your signing the Quotation; and (c) Your written indication, by email or otherwise, of Your approval of the Quotation. If You fail to pay any amount under this Agreement that is due and payable, and such failure remains unremedied for a period of thirty (30) days following written notice of default by Magnet Forensics, in addition to any other rights and remedies available to Magnet Forensics, Magnet Forensics shall be entitled to charge interest on all outstanding amounts at the lesser of 1.5% per month or the maximum rate permitted by law.
- 3.2 Taxes. You are responsible for all taxes relating to Software and services identified in a Quotation (excluding any taxes based on the income of Magnet Forensics). Unless otherwise indicated, all amounts payable by You under this Agreement are exclusive of any tax, duty, levy, or similar government charge. If You are required to withhold any taxes from payments owed under this Agreement, the amount of payment due shall automatically be increased to offset such tax, so that the amount actually remitted to Magnet Forensics shall equal the amount invoiced or otherwise due.
- 3.3 Delivery. Software will be provided by electronic means. Title and risk of loss to tangible products such as Hardware pass to you upon delivery, which occurs when Magnet Forensics places them with a carrier for shipment to you, freight prepaid.

4 Support Services

- 4.1 Support Services. Details of support packages can be found at www.magnetforensics.com/legal/.
- 4.2 Magnet Forensics does not require Your personal data to provide Support Services. If, however, as part of an incident resolution, You wish to provide Magnet Forensics with Your data or information (i.e. video footage, screen shots, case file data), You are solely responsible and liable in connection with the provision of such data to Magnet Forensics, including, without limitation, ensuring that the collection, processing and transfer of such data is in compliance with all applicable laws. Any data You choose to provide to Magnet Forensics in connection with the licensing and/or support of the Software shall be processed and stored in accordance with the confidentiality provisions of this Agreement and the Magnet Forensics Privacy Policy available at <https://www.magnetforensics.com/legal/>.



END USER LICENSE AGREEMENT

5 Intellectual Property Rights

- 5.1 License Only. Except for the limited license set forth herein, You do not acquire any intellectual property rights to the Product or Documentation under this Agreement, including, without limitation, any right, title or interest in and to patents, copyrights, trademarks, trade names, industrial designs, Magnet Forensics Confidential Information, or trade secrets, whether registered or unregistered. The Software is licensed and not sold. Any rights not expressly granted under this Agreement are reserved by Magnet Forensics.
- 5.2 Feedback. Magnet Forensics shall own all feedback, comments, suggestions, ideas, and concepts that You provide or identify during Your use of the Product and Support Services, and all associated intellectual property rights (collectively the "**Feedback**"). You hereby assign to Magnet Forensics all of Your right, title and interest in Your Feedback. For certainty, Feedback shall not include any of Your data, Confidential Information, or intellectual property.

6 Confidentiality

- 6.1 Maintenance of Confidential Information. Subject to applicable law, each party agrees to: (a) keep confidential all Confidential Information disclosed by the other party; (b) only use, reproduce and disclose the Confidential Information to facilitate the use of the Software (in Your case) or support and develop the Software (in Magnet Forensics' case); and (c) protect the Confidential Information from unauthorized use, reproduction or disclosure in the same manner it protects the confidentiality of similar information of its own, but not less than a reasonable degree of care.
- 6.2 A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process shall not be considered a breach of this Agreement; provided that You promptly notify Magnet Forensics in writing, if notification is permitted by law, and use commercially reasonable efforts to assist Magnet Forensics, at Magnet Forensics' expense, in opposing such disclosure or obtaining a protective order or other reliable assurance preventing or limiting such disclosure and/or ensuring that confidential treatment will be accorded to any Confidential Information that is disclosed. Such disclosure does not remove the Confidential Information so disclosed from the protection of this Agreement. No further disclosure beyond the scope of such order is allowed.

7 Warranties, Exclusions, Disclaimer

- 7.1 Software Warranty. While Your Support Services are active, Magnet Forensics warrants that the Software shall materially conform to the Documentation. If the Software does not materially conform to the Documentation, and you give Magnet Forensics notice while Your Support Services are active, Magnet Forensics will, at its option, attempt to correct, repair, or replace the Software at no additional cost to You. If Magnet Forensics is unable to correct the Software to conform with the warranty stated herein within thirty (30) days, then upon Your request, Magnet Forensics shall, as your sole and exclusive remedy, refund You: (a) a prorated amount of any unused prepaid license fees if You purchased a Term License; or (b) a prorated amount of any unused prepaid Support Services fees if You purchased a Perpetual License.
- 7.2 Viruses, Licenses, Support Services. Magnet Forensics (a) has implemented testing practices consistent with industry standards designed to protect against viruses that may impede the Software; (b) includes fully paid-up licenses to any and all Third Party Software incorporated into the Software; and (c) will perform all Support Services in a good and workmanlike manner consistent with industry standards.
- 7.3 EXCLUSIONS. THE WARRANTIES SET FORTH IN THIS SECTION 7 ARE THE EXCLUSIVE WARRANTIES MADE BY MAGNET FORENSICS TO YOU REGARDING THE PRODUCT, AND YOUR SOLE AND EXCLUSIVE REMEDY RESPECTING ANY DEFECTS, NON-CONFORMITIES



END USER LICENSE AGREEMENT

OR PROBLEMS WITH THE PRODUCT. EXCEPT AS SET FORTH IN SECTION 7.1 AND 7.2, MAGNET FORENSICS DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, DURABILITY, ACCURACY, RELIABILITY, NON-INFRINGEMENT, OR ANY OTHER WARRANTY OR CONDITION ARISING BY STATUTE, CUSTOM OR USAGE OF TRADE RELATED TO THE PRODUCT PROVIDED HEREUNDER. To the maximum extent permitted by law, any implied warranties or conditions relating to the Software that cannot be excluded as set out above are limited to thirty (30) days from the date that the Software is delivered to You.

8 Limitation of Liability

- 8.1 NOTWITHSTANDING ANY OTHER SECTION OF THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY WHETHER IN AN ACTION IN CONTRACT, TORT, PRODUCT LIABILITY, STRICT LIABILITY, STATUTE, LAW, EQUITY, OR OTHERWISE ARISING FROM OR RELATED TO THIS AGREEMENT OR ANY ORDER FOR (A) INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES; (B) LOSS OF PROFITS OR REVENUE (OTHER THAN IN AN ACTION BY MAGNET FORENSICS TO RECOVER PAYMENT OF A PRICE OWED); OR (C) LOSS OF TIME, OPPORTUNITY OR ANY DAMAGES RELATING TO THE CORRUPTION OF DATA, LOSS OF THE USE OF DEVICES OR ANY PORTION THEREOF, AND DAMAGES CAUSED BY YOUR FILES, CONNECTED DEVICES, OR DATA COLLECTED BY YOU, EVEN IF THE OTHER PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (OTHER THAN IN AN ACTION BY MAGNET FORENSICS TO RECOVER PAYMENT OF A PRICE OWED) WILL NOT EXCEED THE AMOUNT PAID BY YOU FOR THE PRODUCT IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM GIVING RISE TO SUCH DAMAGES.
- 8.2 SECTION 8.1 SHALL NOT APPLY TO EITHER PARTY'S LIABILITY IN RELATION TO: (A) INDEMNIFICATION OBLIGATIONS OF EITHER PARTY UNDER SECTION 9 (INDEMNIFICATION) UNDER THIS AGREEMENT; (B) MISAPPROPRIATION OR INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY; (C) BREACHES OF CONFIDENTIALITY UNDER SECTION 6; AND (D) YOUR PAYMENT OBLIGATIONS TO MAGNET FORENSICS, PROVIDED, HOWEVER, THAT MAGNET FORENSICS' CUMULATIVE LIABILITY UNDER SECTION 9.2 RELATING TO THIRD PARTY SOFTWARE SHALL IN NO EVENT EXCEED THE LESSER OF: THREE TIMES (3X) THE AMOUNT PAID BY YOU FOR THE SOFTWARE IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM GIVING RISE TO SUCH DAMAGES AND ONE MILLION USD (\$1,000,000.00 USD).

9 Indemnification

- 9.1 Your Indemnification of Magnet Forensics. You will defend and indemnify Magnet Forensics from and against any third-party claim, cause of action, legal proceeding, cost, award of damages or any other judgment and legal expenses ("Claim") in relation to: (a) any Claim arising from the modification, combination or use of the Software with equipment, software, interfaces, or other materials that are not specifically authorized by Magnet Forensics; and (b) Your collection and use of data resulting from Your use of the Software and any actions You take as a result thereof; and (c) unauthorized use of the Product.
- 9.2 Magnet Forensics Indemnity. Magnet Forensics will defend You from and against any suit brought against you by a third party to the extent the suit alleges that your use of a Product infringes a valid patent in Canada or the United States (an "IP Claim"). Magnet will also pay the damages, costs, and attorneys' fees that are awarded against you in a final, non-appealable court judgment for the IP Claim, or required to be paid by you in a settlement of an IP Claim that Magnet has agreed to in writing. You agree to (i) give prompt notice of the IP Claim to Magnet Forensics; (ii) grant sole control of the defense and settlement of



END USER LICENSE AGREEMENT

the IP Claim to Magnet Forensics; and (iii) provide reasonable cooperation to Magnet Forensics and, at Magnet Forensics' request and expense, assistance in the defense or settlement of the IP Claim ("Your Indemnification Obligations") and Magnet Forensics shall not be liable to the extent an IP Claim, or portion thereof, is attributable to Your breach of Your Indemnification Obligations. In the event of an IP Claim, Magnet Forensics may, at its option and expense: (a) obtain for You the right to continue to use the Product; (b) substitute a substantially equivalent non-infringing product; (c) modify the Product to make it non-infringing; or if (a), (b), and (c) are not commercially feasible, then (d) terminate Your license and require that You no longer access and use the Product. If Your license is terminated, You must return or destroy the Product and within 30 days of receipt of all of the Product or certification of destruction thereof, Magnet Forensics shall refund You x) a prorated amount of any unused prepaid license fees if You purchased a Term License; or y) a prorated amount of any unused prepaid Support Services fees if You purchased a Perpetual License. The indemnity obligations under this clause do not extend to Claims arising from or relating to: (aa) any modification to the Product or use in combination with any equipment, software, data or any other materials not authorized by Magnet Forensics where the infringement would not have occurred but for such activity; (bb) use of the Product by You in a manner contrary to the terms of this Agreement where the infringement would not have occurred but for such use; (cc) the continued use of the infringing Product after Magnet Forensics has provided substantially equivalent non-infringing software, a non-infringing modification of the Product, or terminated Your license in accordance with this Agreement; or (dd) custom Product developed at Your request while utilizing Your specifications. NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS AGREEMENT, THE PROVISIONS OF THIS CLAUSE STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF MAGNET FORENSICS AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY ACTUAL OR ALLEGED MISAPPROPRIATION, VIOLATION AND/OR INFRINGEMENT OF ANY PROPRIETARY AND/OR INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

- 9.3 Mutual General Indemnity. Each party will defend and hold harmless the other from and against any Claim arising from any of the following: (a) gross negligence, willful misconduct, fraudulent misrepresentation and fraud by a party; (b) bodily injury or death caused by a party; and (c) breach of confidentiality obligations.

10 Term and Termination

- 10.1 Term of Agreement. This Agreement shall survive for one (1) year after the termination or expiry of Your License Term.
- 10.2 Termination for Convenience. You may terminate this Agreement and Your license for Software at any time upon written notice to Magnet Forensics but You will not be entitled to any refund.
- 10.3 Termination for Breach. Either party may terminate this Agreement and any License Term immediately upon notice to the other if: (a) the other party materially breaches a material term or condition of this Agreement which breach remains unremedied for thirty (30) days following written notice thereof by the other party, or immediately if such breach is not capable of remedy; (b) the other party becomes involved in any legal proceeding concerning its solvency, commences liquidation proceedings, has a receiver or administrator appointed for any of its assets, ceases or threatens to cease operations, or otherwise has a serious and reasonable doubt arise respecting its solvency; or (c) if Magnet Forensics determines in its sole discretion that licensing the Product to You would violate applicable laws. If Your License Term is terminated due to breach by Magnet Forensics under (a) above, where Magnet Forensics is the relevant party under (b) above, or by Magnet Forensics in accordance with (c) above, Magnet Forensics shall refund You: (i) a prorated amount of any unused prepaid License fees if You purchased a Term License; or (ii) a prorated amount of any unused prepaid Support Services fees if You purchased a Perpetual License.
- 10.4 Termination/Expiry Obligation. Upon termination or expiry of this Agreement, and, if earlier, termination or expiry of a Term License, free trial or any Beta Period, You shall immediately cease all use and access of the Software and destroy or permanently delete all copies of the Software in Your possession along with any Documentation delivered to You or derivative works made therefrom.



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10.5 Request for Information for Compliance. Upon request of Magnet Forensics, You agree to provide reasonable information on a timely basis to confirm Your compliance with the license rights and restrictions to the Product. Your failure to comply with this Section 10.5 will be deemed to be a material breach of this Agreement.

11 Compliance with Export Laws and Ethical Conduct

11.1 You shall not export any Product, Documentation, or Confidential Information unless You comply with all applicable international trade laws ("ITR"). Further, You warrant (a) You are not now and have never been on any Restricted Party List or any sanctions list in the countries in which You conduct business; and (b) You understand and abide by ITR laws administered by the country in which You conducts business. You agree not to engage in any action in any way that would cause Magnet Forensics to violate ITR laws of the country in which it conducts business, including providing Magnet Forensics Product, Documentation, or Confidential Information to any person in any country subject to comprehensive sanctions by the U.S., Canada, the UK, EU, the EU member state and Singapore or any person on a Restricted Party List. You agree to indemnify Magnet Forensics to the extent Your actions or inactions have caused Magnet Forensics to violate ITR laws and the ITR of the country in which it conducts business. You agree to maintain a sanctions compliance policy and controls to ensure compliance with the applicable economic sanctions and upon request provide a Magnet Forensics with a copy of such policy.

11.2 If the Software is being licensed by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), then, as a commercial item, the Government's rights in the Software will be only as set forth: (a) in this Agreement; or (b) as provided in FAR 12.212 (Computer Software) and (for Department of Defense use or disclosure) DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation), whichever set of rights provided in (a) or (b) are the more restrictive.

11.3 Throughout Your use of the Product, You agree to comply with the Magnet Forensics Business Code of Conduct found at <https://www.magnetforensics.com/legal>. Failure to comply with the Business Code of Conduct may result in the suspension or termination of access to the Software, as outlined in this Agreement.

12 Magnet Forensics Entity, Governing Law

12.1 "Magnet Forensics" means:

- a) Where Your "Bill To" address identified on the Quotation is in Canada, Magnet Forensics Inc., with an office at 2220 University Avenue East, Suite 300, Waterloo, Ontario, Canada N2K 0A8.
- b) Where Your "Bill To" address identified on the Quotation is in France, Magnet Forensics SAS, with an office at c/o WeWork 33 Rue La Fayette Paris, France 75009.
- c) Where Your "Bill To" address identified on the Quotation is in Germany, Magnet Forensics GmbH, with a registered office at c/o Eversheds Sutherland (Services) GmbH, Brienner Strabe 12, 80333 Munich, Germany.
- d) Where Your "Bill To" address identified on the Quotation is anywhere other than in Canada, France, and Germany, Magnet Forensics, LLC, with an office at c/o Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

12.2 Governing Law. This Agreement is governed by and construed under, excluding any body of law governing conflicts of laws, the laws of: (a) England, where Your "Bill To" address identified on the Quotation is in Europe, Greenland or the UK; (b) Ontario, Canada, where Your "Bill To" address identified on the Quotation is in Canada, or (c) Delaware, U.S., where Your "Bill To" address identified on the Quotation is anywhere else. You irrevocably waive any objection on the grounds of venue, forum non-



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conveniens or any similar grounds and irrevocably consent to service of process by mail or in any other manner permitted by applicable law. You also waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. You agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

13 General Provisions

- 13.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements, promises, assurances, warranties, representations, and understandings relating to the subject matter hereof. Your additional or different terms and conditions, whether on Your purchase order or otherwise, shall not apply.
- 13.2 Force Majeure. Neither party shall be deemed to be in default of this Agreement for failure to fulfill its obligations due to causes beyond its reasonable control. This provision shall not be construed as excusing any payment obligations.
- 13.3 Waiver. No waiver by either party of a breach or omission by the other party under this Agreement shall be binding on the waiving party unless it is expressly made in writing and signed by the waiving party. Any waiver by a party of a particular breach or omission by the other party shall not affect or impair the rights of the waiving party in respect of any subsequent breach or omission of the same or different kind.
- 13.4 Notices. Any notices, reports or other communications required or permitted to be given under this Agreement shall be in writing and shall be delivered by hand or sent by registered mail, courier, facsimile or electronic mail. For notices to You, Magnet Forensics shall send such notice to Your "Bill To" Address. For notice to Magnet Forensics, You shall send such notice to Attn: Legal Department, Magnet Forensics, with an office at 300 Colonial Center Pkwy, Suite 130, Roswell, GA 30076, United States.
- 13.5 Assignment. You shall not assign or transfer this Agreement (including, without limitation, by operation of law, merger, reorganization, or as a result of an acquisition or change of control) without the prior written consent of Magnet Forensics, which consent will not be unreasonably withheld, conditioned or delayed. This Agreement shall be binding upon the parties hereto and their respective lawful successors and permitted assigns. Any purported assignment in violation of this Section 13.5 shall be null and void.
- 13.6 Survival. Section 6 (Confidentiality), Section 8 (Limitation of Liability), Section 9 (Indemnification), and any other provision of this Agreement which by its nature would survive the termination or expiration of this Agreement shall do so.
- 13.7 Electronic Execution. The parties agree to the use of electronic communication in order to enter into this Agreement, Quotations, purchase orders and any other notices or records. You hereby waive any rights or requirements under any laws in any jurisdiction which require an original, non-electronic signature or delivery or retention of non-electronic records, to the extent permitted under applicable law.
- 13.8 Invalidity. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement shall continue in full force and effect.

END OF AGREEMENT



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Schedule A – Licensed Rights for All Products

1 Definitions.

- 1.1 “**Case License**” means the Software is subject to a license fee that is based on granting access to the Software for a single source (i.e. single hard drive or image file).
- 1.2 “**CLS License**” or “**LLS License**” means the Software is subject to a license fee that is calculated based on the number of concurrent usage virtual license Keys identified in the Quotation as available at any one time to be downloaded by Users. CLS (Cloud License Server) virtual license Keys are hosted in an online, cloud-based environment whereas LLS (Local License Server) virtual license Keys are hosted on Your premises.
- 1.3 “**Dongle**” means a USB device provisioned with the Software.
- 1.4 “**Dongle License**” means the Software is subject to a license fee that is calculated per Dongle.
- 1.5 “**Enterprise License**” means the Software is subject to a license fee that is calculated based on a maximum number of Software installs and/or concurrent Users as set out in the Quotation.
- 1.6 “**Instance**” means a copy of the Software that a User is authorized to use. The maximum number of Instances per User are stated in the Quotation.
- 1.7 “**Key**” means the license key provided to You by Magnet Forensics to permit access to and use of the Software to a User.
- 1.8 “**Machine**” means each hardware machine or hardware unit on which the Software is used.
- 1.9 “**Machine License**” means the Software is subject to a license fee that is calculated per Machine.

2 License Grant. Magnet Forensics hereby grants to You a limited, non-exclusive, revocable, non-transferable, non-sublicensable license to use the Software on Your internal business networks for the number of Users, installs, and/or Instances and License Term indicated in Your Quotation in accordance with the terms set forth in this Agreement and the Documentation. Your license only permits you to possess and use the Software in object code form. For certainty: (a) academic licenses are granted for academic, non-commercial use only; (b) licenses for Magnet AUTOMATE products are licensed on a per ‘control node’ and ‘agent node’ basis; (c) Machine Licenses are solely permitted for use of the Software on the Machine on which such Software is first installed and by the original User; and (d) Dongle Licenses are for use on Machines only (and not for use in cloud or other virtual environments), and cannot be shared between individual Users. For further certainty: (i) Enterprise Licenses, CLS Licenses and LLS Licenses allow for concurrent Users of the Software as indicated in Your Quotation; and (ii) a unique key code is issued for a Case License tied to the original single source, with requirements for additional single sources requiring an add-on purchase. It is Your responsibility to fully comply with all applicable laws in using and handling the Software and any additional third-party license terms applicable to Third Party Software.

3 Restrictions. You shall not and shall ensure that Users shall not:

- 3.1 copy, reproduce, or modify the Product or any part thereof, including, but not limited to, combining with other software or hardware other than as authorized by Magnet Forensics in writing;
- 3.2 enhance, improve, alter, create derivative works, reverse engineer, disassemble, deconstruct, impair, translate, decrypt, reverse compile or convert into human readable form the Software or any part thereof;
- 3.3 distribute, lend, assign, license, sublicense, lease, pledge, rent, transfer, sell or otherwise provide access to the Software, in whole or in part, to any third party;
- 3.4 use any Product on a time sharing, service bureau, application services provider (ASP), rental or other similar basis;



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- 3.5 remove, deface, cover or otherwise obscure any proprietary rights notice or identification on the Software;
- 3.6 circumvent or disable copyright protection mechanisms or license management mechanisms;
- 3.7 photograph or record any of the Product's components, whether internal, external or as digitally displayed;
- 3.8 use the Product to provide services to third parties (including technical or training services), or otherwise publicly display or market the Software, for the purposes of Your commercial gain;
- 3.9 use the Product in conjunction with other software or hardware, except as authorized in writing by Magnet Forensics;
- 3.10 use the Product in any unlawful manner or to violate any rights of a third party; or
- 3.11 authorise, permit or otherwise acquiesce in any other party engaging in any of the activities set forth in 3.1 – 3.10 above, or attempting to do so.

For the purposes of this provision "copy" and "reproduce" shall not include: (A) making additional copies of the Software for Your own use, as long as only one copy may be used at any one time in accordance with the Documentation; or (B) making one back-up copy of the Software.

4 Restrictions Applicable to Consultant Licenses. Notwithstanding Section 3.8, if Your license is identified in a Quotation as a "consultant license", You may use the Software in relation to Your provision of forensic analysis services to a third party for commercial gain, subject to Your compliance with all other terms of this Agreement and the payment of all applicable fees, provided that the following additional restrictions shall apply:

- 4.1 You shall be solely responsible for Your services, including any use or operation of the Software (both separately or in combination with any other software), to provide such services, and, as Magnet Forensics expressly disclaims all liability for any claims, losses or damages relating to Your services, You agree to indemnify Magnet Forensics against all such claims, losses and damages;
- 4.2 You shall not permit Your customers to use the Software (with the exception of using the Portable Case functionality);
- 4.3 You shall not use the Software to provide digital forensics training to third parties (including instructions on how to use the Software), unless You have first obtained Magnet Forensics' express written permission;
- 4.4 You shall not, whether in an agreement for Your services or otherwise, in any way modify, negate or override any terms and conditions of the protections afforded to Magnet Forensics under this Agreement;
- 4.5 You shall not engage in deceptive, misleading, illegal or unethical practices that might reasonably be detrimental to Magnet Forensics or its products or services;
- 4.6 You shall not make any representations, warranties or guarantees about Magnet Forensics or its products and services except as expressly set out in this Agreement; and
- 4.7 where You wish to publicize, market or otherwise promote the use of the Software in Your services, You must do so in a manner consistent with Magnet Forensics' External Marketing Policy (located at https://www.magnetforensics.com/wp-content/uploads/2022/11/MagnetForensics_BrandGuidelines.pdf) and any other marketing and trademark requirements set out by Magnet Forensics from time to time. Any use of Magnet Forensics' Trademarks shall remain unchanged and give legal notice of such trademark status.

5 Beta Software. If You have requested use of or have access to Software or features that are identified by Magnet Forensics as pre-commercial, preview release, evaluation, pilot, "alpha", or "beta" software ("Beta Software"), the license rights set out above with respect to Your use of such Beta Software apply



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only to the extent necessary to enable You and the Users to test and provide Feedback to Magnet Forensics regarding the Beta Software. You acknowledge and agree that Magnet Forensics may terminate Your use of Beta Software at any time and may include technical measures in the Beta Software that renders it inoperable and You agree that You will not circumvent such technical measures. You further acknowledge and agree that the Beta Software is provided "AS IS" with none of the representations, warranties, or indemnities provided in the Agreement. In consideration of the grant of license for the Beta Software, You agree that You will provide Magnet Forensics with Feedback on Beta Software as Magnet Forensics reasonably requests without any compensation.

- 6 Trial Licenses.** If Your License is indicated as a Trial License on the Quotation ("Trial License"), the license rights set out above with respect to Your use of such Trial License apply only for the time period authorized by Magnet Forensics ("Trial Period") and solely to the extent necessary to enable You and the Users to test the Product in order to identify if the Product is suitable for purchase from Magnet Forensics. Additionally, the Product underlying the Trial License or delivered to you as a Free Tool is provided "AS IS" with none of the representations, warranties or indemnities provided in the Agreement. Notwithstanding the Trial Period, Magnet Forensics may terminate Your Trial License at any time and require that You cease using the Software.



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Schedule B – Additional VeraKey Terms and Conditions

1 Definitions.

- 1.1 “**Authorized Country**” means a country in which Magnet Forensics has authorized use of the VeraKey as set out in the Documentation.
- 1.2 “**Authorized User(s)**” means employees who are authorized by You to access or use the Product and Software. You agree to limit the number of Authorized Users to those employees who perform extractions in the normal course of their employment.
- 1.3 “**Authorized Device**” means mobile devices (a) owned and controlled by you; (b) if you are retained to perform an Investigation by a third party, owned by such third party; or (c) owned by an individual that has expressly, voluntarily, and specifically authorized you in writing, without coercion or threat of reprisal, to perform an Extraction of their mobile device.
- 1.4 “**Extraction**” means the use of the Product to extract data from an Authorized Device.

2 License Restrictions. If You are licensing the VeraKey Product, as identified in Your Quotation, You agree to the following additional restrictions in addition to the license rights and restrictions set out in Schedule A of this Agreement:

- 2.1 You may only use the VeraKey Product in an Authorized Country for Extractions on Authorized Devices in aid of an official investigation of corporate malfeasance including (a) fraud, (b) bribery, (c) theft, (d) antitrust violation, (e) sabotage, (f) breach of confidentiality obligations, (g) securities violation, (h) IP infringement or misappropriation of intellectual property, (i) as part of or in response to an official government investigation or request for product of documentation (FDA, SEC, FTC, OSHA, etc.), (j) as part of a legally compelled production of documents by a court of competent jurisdiction, (k) in defense of a criminal charge filed in a court of competent jurisdiction, where such investigation is made in response to an official complaint supported by reasonable evidence (each, an “Investigation”) and for no other purpose (“Authorized Extraction(s)”). You agree not to use the Product to screen, audit, spot-check, or otherwise discover instances of corporate malfeasance or violation of corporate policy. Prior to performing an Extraction, Magnet Forensics may require that you or your Authorized User(s) certify that the contemplated Extraction meets the above definition of an Authorized Extraction. You warrant that any certification materials submitted as part of Your Authorized Extraction certification responsibilities are true and correct in all material respects.
- 2.2 To the extent legally practicable, Authorized Devices must remain in Your possession and control until after the software agent employed by the Product has been successfully uninstalled from such Authorized Devices.
- 2.3 Only Authorized Users who have obtained any necessary consents and approvals are permitted to access and use the Product or Software in connection with any Extractions. You shall notify Magnet Forensics in writing the name and user information associated with each Authorized User, and within thirty (30) calendar days following a change of an Authorized User’s employment status such that the Authorized User ceases to be authorized by You to access or use the Product and Software either through ceasing to be employed by You or a change in his or her position within the Your organization such that he or she is no longer authorized to access or use the Product and Software.
- 2.4 You agree to designate an employee with senior management and oversight responsibilities within your organization to act as Your “Primary Authorized User.” The Primary Authorized User will be notified each time an extraction is performed on the device and shall supervise use and security of the Product and Software. You agree to require the Primary Authorized User, as part of their employment obligations, to monitor the use of and ensure the security of the Product. The Primary Authorized User is not permitted to perform Extractions. You shall notify Magnet Forensics in writing the name and user information associated with the Primary Authorized User, and within thirty (30)



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calendar days following a change of the Primary Authorized User's employment status such that the Primary Authorized User ceases to be tasked by the Licensee to oversee the use and security of the Product and Software.

- 2.5 You will conduct, at your expense, background checks on your employees (including but not limited to Authorized Users) and those of your agents and subcontractors who will have access (whether physical, remote, or otherwise) to Magnet Products or Software. You will not permit your employees, agents, or subcontractors (including the personnel of any of its agents or subcontractors) that have been convicted of a felony crime or has agreed to or entered into a pretrial diversion or similar program in connection with a felony crime to have access to: (a) Magnet Forensics Confidential Information; (b) the secure environment in which the Product is stored; (c) the Product, the Software, or any associated materials.
- 2.6 You covenant and agree to keep the Product in a physically secure environment at all times, and to take all necessary precautions to restrict use of the Product to Authorized Users. You acknowledge and agree that for the Product to function properly in online mode, the Product must be connected to the Internet.
- 2.7 Magnet Forensics may use third-party monitoring tools to ensure that You comply with the foregoing restrictions. You acknowledge that Your use of the Product may be subject to additional terms and conditions as set by the third-party responsible for such tools.

3 Warranty Disclaimer. Notwithstanding Section 7.1 of the Agreement, You acknowledge and agree that the Software is provided AS-IS and without any warranty of any kind. Further, You acknowledge that all case stakeholders are aware of and understand the associated risk that the Authorized Device may become damaged and/or Authorized Device data may be unrecoverable when used with the Product or Software, in particular for Authorized Devices (a) with aftermarket repairs or hardware and nonstandard software builds; (b) that boot loop or are otherwise unable to boot normally; (c) that have preexisting damage, defects, or faults that may or may not be detectable; or (d) with software, software builds, states, or usage profiles not identified on the applicable support matrix. You further understand that not all permutations of Authorized Device software, software builds, states, and usage profiles have been tested by Magnet Forensics. Before utilizing the Product and Software on an Authorized Devices under any of the above conditions, please consult Magnet Forensics through the customer support portal. You release Magnet Forensics from all liability associated with damage to a mobile device or corruption of mobile device data resulting from the use of the Software or the Product.

4 Violations of License Restrictions.

- 4.1 Section 8.1 of the Agreement (Limitation of Liability) shall not apply to damages arising from Your violation(s) of Schedule A - Section 3 and this Schedule B.
- 4.2 In addition to the termination rights set out in Section 10 of the Agreement (Termination), Magnet Forensics may terminate this Agreement and suspend Your License, at its sole discretion and option, without notice and without refund or reimbursement if You violate any material term or condition of this Agreement.

5 Heightened Confidentiality Obligations. The VeraKey Product, along with its associated Documentation, are sensitive technologies whose Confidential Information requires the highest duty of care. You, Your employees, Your agents who require access in order to perform hereunder, and all final users of the VeraKey Product (collectively, "Receiving Party") shall not disclose, use, sell, transmit, inform or make available to any entity, person or body any of the Confidential Information nor shall it copy, photograph, or otherwise reproduce any Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and Magnet Forensics' rights therein,



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at all times exercising the highest duty of care. Receiving Party agrees to restrict access to VeraKey Confidential Information to those Authorized Users who require access in order to perform hereunder, and, except as otherwise provided, the Receiving Party shall not make Confidential Information available to any other person or entity without the prior written consent of Magnet Forensics. Further, Receiving Party acknowledges and agrees that due to the unique nature of the VeraKey Products, there can be no adequate remedy at law for any breach of its obligations under this Section 5 related to such Products, that any such breach will cause irreparable and continuing damage to Magnet Forensics and, therefore, that upon any such breach or any threat thereof, Magnet Forensics shall be entitled to whatever remedies it might have by law and equity, including injunctive relief, a decree for specific performance, and all other relief as may be proper (including money damages, if appropriate). The Receiving Party further acknowledges and agrees that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope.

- 6 Excess Use of Licenses.** If You use the Product in excess of the license quantities or levels stated in Your Quote, Magnet Forensics reserves the right to invoice You for such excess use based on the then current list price of the minimum add-on package required to bring Your use into compliance and you agree to pay such invoice in accordance with Section 3 of the Agreement.



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Schedule C – Additional GrayKey Terms and Conditions

1 Definitions.

- 1.2 “**Authorized Location**” means the authorized physical locations specified in the Quotation or that Licensee has otherwise registered with Magnet Forensics and that Magnet Forensics has approved in writing.
- 1.3 “**Authorized User(s)**” means collectively, employees, agents or contractors who are authorized by You to access or use the Product and Software.
- 1.4 “**Device**” means a mobile device.
- 1.5 “**Extraction**” means the use of the Product to extract data from a Device.

2 License Restrictions. If You are licensing the GrayKey Product, as identified in Your Quotation, You agree to the following additional restrictions in addition to the license rights and restrictions set out in Schedule A of this Agreement:

- 2.1 Only Authorized Users who have obtained any necessary consents and approvals are permitted to access and use the Product or Software in connection with any Extractions. You shall notify Magnet Forensics in writing the name and user information associated with each Authorized User, and within thirty (30) calendar days following a change of an Authorized User’s employment status such that the Authorized User ceases to be authorized by You to access or use the Product and Software either through ceasing to be employed by You or a change in his or her position within the Your organization such that he or she is no longer authorized to access or use the Product and Software.
- 2.2 To the extent legally practicable, Devices must remain in Your possession and control until after the software agent employed by the Product has been successfully uninstalled from such Devices.
- 2.3 If Your use of the Product is restricted to the Authorized Location identified in Your Quotation, You covenant and agree to keep the Product in a physically secure environment within the Authorized Location at all times, and to take all necessary precautions to restrict use of the Product to Authorized Users. You acknowledge and agree that for the Product to function properly in online mode, the Product must be connected to the Internet.
- 2.4 Magnet Forensics may use third-party monitoring tools to ensure that You are in compliance with the foregoing restrictions. You acknowledge that Your use of the Product may be subject to additional terms and conditions as set by the third-party responsible for such tools.

3 Warranty Disclaimer. Notwithstanding Section 7.1 of the Agreement, You acknowledge and agree that the Software is provided AS-IS and without any warranty of any kind. Further, You acknowledge that all case stakeholders are aware of and understand the associated risk that a Device may become damaged and/or Device data may be unrecoverable when used with the Product or Software, in particular for Devices (a) with aftermarket repairs or hardware and nonstandard software builds; (b) that boot loop or are otherwise unable to boot normally; (c) that have preexisting damage, defects, or faults that may or may not be detectable; or (d) with software, software builds, states, or usage profiles not identified on the applicable support matrix. You further understand that not all permutations of Device software, software builds, states, and usage profiles have been tested by Magnet Forensics. Before utilizing the Product and Software on a Devices under any of the above conditions, please consult Magnet Forensics through the customer support portal. You release Magnet Forensics from all liability associated with damage to a mobile device or corruption of mobile device data resulting from the use of the Software or the Product.



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4 Violations of License Restrictions.

- 4.1 Section 8.1 of the Agreement (Limitation of Liability) shall not apply to damages arising from Your violation(s) of Schedule A - Section 3 and this Schedule C.
- 4.2 In addition to the termination rights set out in Section 10 of the Agreement (Termination), Magnet Forensics may terminate this Agreement and suspend Your License, at its sole discretion and option, without notice and without refund or reimbursement if You violate any material term or condition of this Agreement.

5 Heightened Confidentiality Obligations. The GrayKey Product, along with its associated Documentation, are sensitive technologies whose Confidential Information requires the highest duty of care. You, Your employees, Your agents who require access in order to perform hereunder, and all final users of the GrayKey Products (collectively, "Receiving Party") shall not disclose, use, sell, transmit, inform or make available to any entity, person or body any of the Confidential Information nor shall it copy, photograph, or otherwise reproduce any Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and Magnet Forensics' rights therein, at all times exercising the highest duty of care. Receiving Party agrees to restrict access to GrayKey Confidential Information to those Authorized Users who require access in order to perform hereunder, and, except as otherwise provided, the Receiving Party shall not make Confidential Information available to any other person or entity without the prior written consent of Magnet Forensics. Further, Receiving Party acknowledges and agrees that due to the unique nature of the GrayKey Products, there can be no adequate remedy at law for any breach of its obligations under this Section 5 related to such Products, that any such breach will cause irreparable and continuing damage to Magnet Forensics and, therefore, that upon any such breach or any threat thereof, Magnet Forensics shall be entitled to whatever remedies it might have by law and equity, including injunctive relief, a decree for specific performance, and all other relief as may be proper (including money damages, if appropriate). The Receiving Party further acknowledges and agrees that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope.

Q-317268 - USD 54,390.00



Quotation

Address:

Magnet Forensics, LLC
931 Monroe Drive NE
Suite A102-340
Atlanta, Georgia 30308
United States

Phone: 519-342-0195**E-Mail:** sales@magnetforensics.com

Quote #: Q-317268-2
Issue Date: 28 May, 2024
Expires On: 31 Jul, 2024

Bill To

Kenneth Collins
Murfreesboro Police Department (TN)
1004 N. Highland Ave.
Murfreesboro, 37130
United States
(615) 971-6353
0862@murfreesborotn.gov

Ship To

Kenneth Collins
Murfreesboro Police Department (TN)
1004 N. Highland Ave.
Murfreesboro, Tennessee 37130
United States
(615) 971-6353
0862@murfreesborotn.gov

End User

Kenneth Collins
Murfreesboro Police Department (TN)
1004 N. Highland Ave.
Murfreesboro Tennessee 37130
United States
(615) 971-6353
0862@murfreesborotn.gov

PREPARED BY	PHONE	EMAIL	PAYMENT TERM
Amber Soukup		amber.soukup@magnetforensics.com	Net 30

ITEM #	PRODUCT NAME	SMS DATES	UNIT SELLING PRICE	QTY	EXTENDED PRICE
GKL-ONF-PR	GrayKey License - Premier Unlimited iOS and Android Extractions Excursion Credits Included: 2 Renewal for Serial Numbers: 82c21ff2d4810709 b93f61d9d4a1151e	15 Jul, 2024 to 14 Jul, 2025	USD 54,390.00	1	USD 54,390.00

Sub-Total USD 54,390.00
Taxes USD 0.00
Grand Total USD 54,390.00

Prices subject to change upon quote expiry. Accurate sales tax will be calculated at the time of invoicing when applicable. If your company is tax exempt, please provide appropriate support with your signed quote. Hardware may be subject to additional fees related to delivery, import and export.

Terms & Conditions

Unless you have an existing written agreement with Magnet Forensics for the products and/or services listed in this quotation, by: (a) signing below, (b) submitting an Order to Magnet Forensics referencing this quotation, or (c) making payment for the products and/or related services listed in this quotation, you agree to the terms and conditions at <http://magnetforensics.com/legal/> applicable to such products and/or services listed in this quotation to the exclusion of any differing or additional terms which may be found on your purchase order or similar document. By signing, you certify that you have the authority to bind your organization.

Q-317268 - USD 54,390.00

Magnet Forensics may adjust the software term start and/or end date, without increasing the total software license price, based on the date Magnet Forensics activates the software and provided that the total software license term length does not change.

Signature: _____

Date: ____/____/____

Name (Print): _____

Title: _____

Please sign and email to Amber Soukup at amber.soukup@magnetforensics.com

DocuSigned by:
APPROVED AS TO FORM
Adam Tucker
Adam Tucker, City Attorney

**ADDENDUM TO END USER LICENSE AGREEMENT
AND GOVERNING ALL AGREEMENTS
BETWEEN
MAGNET FORENSICS, LLC
AND
THE CITY OF MURFREESBORO, TENNESSEE**

This Addendum (herein "Addendum") amends the End User License Agreement ("Agreement") between Magnet Forensics, LLC ("Contractor"), a Delaware limited liability company, and the City of Murfreesboro, Tennessee ("City"), as well as any and all contracts and agreements for Products that the parties enter following the Effective Date of this Addendum (collectively "Agreements"). In consideration of using Contractor's form agreements, now and in the future, the mutual promises set out herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged the Agreements are amended as follows:

- 1. Precedence.** Notwithstanding any other provision in the Agreements, the language in this Addendum takes precedence over all other terms, conditions or language to the contrary or in conflict with the language herein, and the Agreements and this Addendum shall not be construed to create any ambiguity, it being the intent of the parties that this Addendum shall control it being acknowledged and agreed to by the parties that this Addendum shall be executed and entered into after execution of the Agreements regardless of what order the Agreements and this Addendum are actually executed. Unless defined herein, capitalized terms in this Addendum shall have the meaning set forth in the Agreement.
- 2. Termination for Convenience.** The Agreement may be terminated by City upon thirty (30) days written notice to Contractor. Such termination will not be deemed a breach of contract by either party.
- 3. Confidentiality.** The Agreement is a public record, and it, along with all documents or materials, in any format, including, but not limited to, paper, electronic, or virtual, that are public records pursuant to the Tennessee Open Records Act, set out in T.C.A. §10-7-503 et seq., are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, City must, upon proper request, release public documents and records as defined by T.C.A. §10-7-503 et seq., including, but not limited to, the Agreement and all records created and maintained related to the Agreement,
- 4. Indemnity and Limitation of Liability.** Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. Any indemnity or hold harmless provision contained in the Agreements requiring City to indemnify or hold harmless Contractor or any other person or entity and any limitation of liability in favor of Contractor is enforceable only to the extent permitted by Tennessee law provided City's monetary limits of liability under any such provision is limited to the monetary limits of liability as provided for in the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101 et seq. No provision of the Agreements shall act or be deemed a waiver

by City of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101 et seq.

- 5. Name and Logo.** City does not consent to the use of its name or logo in any advertising or promotional material or distributions or other commercial use by Contractor other than in connection with any events promoted through or for which tickets are sold through Contractor's services. Additionally, City does not waive any moral right to the use of the name submitted to Contractor.
- 6. Governing Law.** The Agreement and the rights and obligations of the parties are governed by the laws of the state of Tennessee, without regard to its conflict of laws principles.
- 7. Selection of Jurisdiction and Venue, Waiver of Jury Trial, Service of Process.** Pursuant to the Constitution and Laws of the State of Tennessee, City is a sovereign entity subject only to those courts with jurisdiction over City. Notwithstanding any other provision in the Agreements to the contrary if a dispute, claim, or cause of action should arise between the parties (hereinafter "claim") the claim shall be brought in the state courts in Rutherford County, Tennessee or in the U.S. District Court for the Middle District of Tennessee, and the parties hereby expressly waive any objections and thereby consent to the jurisdiction and venue of said courts. The parties waive their right to a jury trial. Service of process on City shall comply with the Tennessee Rules of Civil Procedure or applicable federal rules, and City does not agree to any other service of process procedure.
- 8. Responsibility for Litigation Costs, Expenses and Payment of Attorney's Fees.** Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. This prohibition extends to contractual provisions for the payment of attorney's fees, paralegal fees, investigator fees, court costs, or any other expenses related to litigation. In the event of litigation between City and Contractor each party shall be solely and exclusively responsible for the payment of litigation costs, expenses and attorney's fees excepting those costs which may be awarded by a court of competent jurisdiction as specified by Tennessee law or applicable rules of civil procedure.
- 9. Non-appropriation.** Contractor acknowledges that City is a governmental entity, and the validity of the Agreement is based upon the availability of public funding under its authority. In the event City fails to appropriate funds or make monies available for any fiscal year covered by the term of this Agreement for the services to be provided, this Agreement shall be terminated on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to City, such termination shall not be a breach of this Agreement. Furthermore, this provision shall extend to any and all obligations imposed upon City to reimburse Contractor for any reimbursements, refunds, chargebacks, penalties, fees, or other financial obligations to Contractor following the date of termination under this section.
- 10. No Taxes.** As a tax-exempt entity, City shall not be responsible for sales or use taxes incurred for products or services. City shall supply Contractor with its Sales and Use Tax Exemption Certificate upon Contractor's request.

11. Binding Effect. This agreement is the entire agreement between City, (including City's employees and other end users) and Contractor. No employee of City or any other person, without authorization of the board of mayor and aldermen of City can bind City to any contract or agreement and anything contrary contained in the Agreement, the Terms of Service or other agreements or understandings, whether electronic, click-through, or shrink-wrap, and whether verbal or written, with City's employees or other end users, to the contrary are null, void and without effect as it applies to City.

12. No Liability of City Officials and Employees. No member, official, or employee of City shall be personally liable to Contractor or any other person or entity, including a third-party beneficiary, in the event any provision of the Agreements are unenforceable, there is any default or breach by City, for any amount which may become due and the Agreements, or on any obligations under the terms of the Agreements.

13. Parties to Receive Notice: Any notices contemplated by the Agreement to City shall also be sent via certified United States mail or via overnight delivery addressed to:

City of Murfreesboro
ATTN: City Attorney
111 West Vine Street
Murfreesboro, TN 37128

14. Amendment. This Addendum and the Agreements shall not be modified or altered other than by written agreement executed by both parties. This includes any changes to pricing, fees, rates, and charges.

15. Continuing Validity; Survival; Non-Merger. So long as the parties maintain the Agreements or any subsequent agreement(s), or so long as Contractor provides a product or service to City, the provisions of this Addendum shall continue to be validly effective and enforceable with regard to the Agreements, subsequent agreements, products, and/or services. This Addendum shall survive the completion of or any termination of the Agreements or other document(s) which may accompany the Agreements or be incorporated by reference. Notwithstanding any provision in the Agreements, subsequent agreements, products, and/or services to the contrary, the subsequent execution of any agreement or the provision of a product or service shall not act as a merger against this Addendum, it being the express intent of the parties that this Addendum contains essential terms that shall be incorporated into any such agreement, product, and/or service.

16. No Presumption Against Drafter. This Addendum shall not be construed for or against any party because that party or that party's legal representative drafted any of its provisions. Accordingly, this Addendum shall be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences shall be drawn from the fact that the final, duly executed Addendum differs in any respect from any previous draft hereof.

17. Counterparts. This Addendum may be executed in one or more counterparts by City and Contractor. If so executed, the signer shall deliver an original to the other party and the collective counterparts shall be treated as the fully executed document.

18. Effective Date. This Addendum is effective as of the last date written below (“Effective Date”).

Magnet Forensics, LLC

DS
Reviewed by Legal
Jocelyn Ngo

City of Murfreesboro, Tennessee

DocuSigned by:
Peter Vreeswyk
000C1D460BF34DB...
Signature

08-Jul-2024

Date

Date

Peter Vreeswyk

Printed Name

Approved as to form:

CFO

Title

DocuSigned by:
Adam Tucker
43A2033E51F8401...

Adam F. Tucker, City Attorney



END USER LICENSE AGREEMENT

This End User License Agreement (the “**Agreement**”) is a legal agreement between You and Magnet Forensics with respect to Your license, access and use of the Product. UNLESS YOU HAVE AN EXISTING AGREEMENT WITH MAGNET FORENSICS WHICH SPECIFICALLY GOVERNS YOUR LICENSE, ACCESS, AND USE OF THE PRODUCTS IDENTIFIED IN THE QUOTATION, THEN BY EITHER (A) SUBMITTING AN ORDER FOR THE PRODUCT IDENTIFIED IN THE QUOTATION PROVIDED BY MAGNET FORENSICS OR A MAGNET FORENSICS AUTHORISED RESELLER, (B) INDICATING YOUR ACCEPTANCE OF THE QUOTATION, (C) ACCEPTING DELIVERY OF THE PRODUCT; (D) DOWNLOADING AND/OR INSTALLING THE SOFTWARE, OR (E) USING THE SOFTWARE, YOU ARE REPRESENTING THAT (I) YOU HAVE AUTHORITY TO ACT ON BEHALF OF THE ORGANIZATION WHICH YOU REPRESENT, AND (II) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY, THE TERMS OF THIS AGREEMENT TO THE EXCLUSION OF ANY OTHER TERMS CONTAINED IN A PURCHASE ORDER OR ACKNOWLEDGEMENT OF ANY KIND TO THE QUOTATION BY YOU.

1 Definitions

- 1.1 “**Confidential Information**” means any information regardless of form or medium, whether tangible or intangible, including any copies or fixations made thereof that is disclosed by discloser, or to which the recipient is provided access by discloser, that is proprietary or confidential to discloser or its affiliated companies, including, without limitation, information that specifies, concerns or is related to discloser’s intellectual property, Software, Documentation, Product, trade secrets, business operations, finances, customers, technical know-how, prototypes, designs, processes, products, services, or the development, testing or commercial exploitation of any of the foregoing that is either specifically identified as confidential prior to or at the time of its disclosure or that would reasonably be considered by a person knowledgeable in the industry to be proprietary or confidential in nature because of legends or other markings on the information, the circumstances of disclosure or the nature of the information itself. **Confidential Information includes, without limitation, (i) information concerning the methods of use, internal components, features, functions and solutions of GrayKey and VeraKey Products, information found on the Magnet Forensics support website, and (ii) any copies, photographs, or other reproductions of the foregoing, whether or not marked as “confidential” or “proprietary.”**
- 1.2 “**Documentation**” means the electronic, printed or other form of documents that accompany delivery of the Product that provides information about installation, operation, and use of the Product.
- 1.3 “**Hardware**” means the physical components, devices, or equipment provided to you by Magnet Forensics used for the operation of the Software.
- 1.4 “**License Term**” means the time period identified in Your Quotation or if no such period is identified in Your Quotation then for one (1) year commencing on the date the Software is available to You.
- 1.5 “**Magnet Forensics**” has the meaning set out in Section 12.1.
- 1.6 “**Magnet Software**” means the proprietary software of Magnet Forensics.
- 1.7 “**Perpetual License**” means a license purchased with a perpetual License Term as identified in a Quotation.
- 1.8 “**Product**” means the Magnet Forensics supplied products identified in the Quotation, which may include, Hardware, Software, and Support Services.
- 1.9 “**Quotation**” means the quotation provided to You by Magnet Forensics or a Magnet Forensics authorised reseller outlining the terms, conditions, and pricing details for the licensing of Magnet Hardware, Software, and Support Services.
- 1.10 “**Software**” means the Magnet Software and Third Party Software.
- 1.11 “**Support Services**” means the support services included in the Term License or separately purchased as part of the Perpetual License as indicated on Your Quotation and, in each case, described further in Section 4.1.



END USER LICENSE AGREEMENT

- 1.12 “**Term License**” means a license purchased with a non-perpetual License Term as identified in a Quotation.
- 1.13 “**Third Party Software**” means the copyrighted, patented or otherwise legally protected software of third parties (including open-source code components) incorporated into the Software.
- 1.14 “**User**” means a single user who uses the Software as permitted by this Agreement or is otherwise provided access to the Software by You.
- 1.15 “**You**”, and “**Your**” means the entity that purchases the license for Software pursuant to this Agreement.

2 License Grant

- 2.1 License. The licensed rights to the Software granted to You by Magnet Forensics are as set out in Schedule A (Licensed Rights), Schedule B, and Schedule C to this Agreement, as applicable.

3 Fees, Taxes, and Delivery

- 3.1 Fees. You agree to pay Magnet Forensics all applicable fees identified in the Quotation within thirty (30) days from date of the invoice. Magnet Forensics shall invoice You upon the earlier of: (a) You issuing a purchase order to Magnet Forensics that relates to the Quotation; (b) Your signing the Quotation; and (c) Your written indication, by email or otherwise, of Your approval of the Quotation. If You fail to pay any amount under this Agreement that is due and payable, and such failure remains unremedied for a period of thirty (30) days following written notice of default by Magnet Forensics, in addition to any other rights and remedies available to Magnet Forensics, Magnet Forensics shall be entitled to charge interest on all outstanding amounts at the lesser of 1.5% per month or the maximum rate permitted by law.
- 3.2 Taxes. You are responsible for all taxes relating to Software and services identified in a Quotation (excluding any taxes based on the income of Magnet Forensics). Unless otherwise indicated, all amounts payable by You under this Agreement are exclusive of any tax, duty, levy, or similar government charge. If You are required to withhold any taxes from payments owed under this Agreement, the amount of payment due shall automatically be increased to offset such tax, so that the amount actually remitted to Magnet Forensics shall equal the amount invoiced or otherwise due.
- 3.3 Delivery. Software will be provided by electronic means. Title and risk of loss to tangible products such as Hardware pass to you upon delivery, which occurs when Magnet Forensics places them with a carrier for shipment to you, freight prepaid.

4 Support Services

- 4.1 Support Services. Details of support packages can be found at www.magnetforensics.com/legal/.
- 4.2 Magnet Forensics does not require Your personal data to provide Support Services. If, however, as part of an incident resolution, You wish to provide Magnet Forensics with Your data or information (i.e. video footage, screen shots, case file data), You are solely responsible and liable in connection with the provision of such data to Magnet Forensics, including, without limitation, ensuring that the collection, processing and transfer of such data is in compliance with all applicable laws. Any data You choose to provide to Magnet Forensics in connection with the licensing and/or support of the Software shall be processed and stored in accordance with the confidentiality provisions of this Agreement and the Magnet Forensics Privacy Policy available at <https://www.magnetforensics.com/legal/>.



END USER LICENSE AGREEMENT

5 Intellectual Property Rights

- 5.1 License Only. Except for the limited license set forth herein, You do not acquire any intellectual property rights to the Product or Documentation under this Agreement, including, without limitation, any right, title or interest in and to patents, copyrights, trademarks, trade names, industrial designs, Magnet Forensics Confidential Information, or trade secrets, whether registered or unregistered. The Software is licensed and not sold. Any rights not expressly granted under this Agreement are reserved by Magnet Forensics.
- 5.2 Feedback. Magnet Forensics shall own all feedback, comments, suggestions, ideas, and concepts that You provide or identify during Your use of the Product and Support Services, and all associated intellectual property rights (collectively the "**Feedback**"). You hereby assign to Magnet Forensics all of Your right, title and interest in Your Feedback. For certainty, Feedback shall not include any of Your data, Confidential Information, or intellectual property.

6 Confidentiality

- 6.1 Maintenance of Confidential Information. Subject to applicable law, each party agrees to: (a) keep confidential all Confidential Information disclosed by the other party; (b) only use, reproduce and disclose the Confidential Information to facilitate the use of the Software (in Your case) or support and develop the Software (in Magnet Forensics' case); and (c) protect the Confidential Information from unauthorized use, reproduction or disclosure in the same manner it protects the confidentiality of similar information of its own, but not less than a reasonable degree of care.
- 6.2 A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process shall not be considered a breach of this Agreement; provided that You promptly notify Magnet Forensics in writing, if notification is permitted by law, and use commercially reasonable efforts to assist Magnet Forensics, at Magnet Forensics' expense, in opposing such disclosure or obtaining a protective order or other reliable assurance preventing or limiting such disclosure and/or ensuring that confidential treatment will be accorded to any Confidential Information that is disclosed. Such disclosure does not remove the Confidential Information so disclosed from the protection of this Agreement. No further disclosure beyond the scope of such order is allowed.

7 Warranties, Exclusions, Disclaimer

- 7.1 Software Warranty. While Your Support Services are active, Magnet Forensics warrants that the Software shall materially conform to the Documentation. If the Software does not materially conform to the Documentation, and you give Magnet Forensics notice while Your Support Services are active, Magnet Forensics will, at its option, attempt to correct, repair, or replace the Software at no additional cost to You. If Magnet Forensics is unable to correct the Software to conform with the warranty stated herein within thirty (30) days, then upon Your request, Magnet Forensics shall, as your sole and exclusive remedy, refund You: (a) a prorated amount of any unused prepaid license fees if You purchased a Term License; or (b) a prorated amount of any unused prepaid Support Services fees if You purchased a Perpetual License.
- 7.2 Viruses, Licenses, Support Services. Magnet Forensics (a) has implemented testing practices consistent with industry standards designed to protect against viruses that may impede the Software; (b) includes fully paid-up licenses to any and all Third Party Software incorporated into the Software; and (c) will perform all Support Services in a good and workmanlike manner consistent with industry standards.
- 7.3 EXCLUSIONS. THE WARRANTIES SET FORTH IN THIS SECTION 7 ARE THE EXCLUSIVE WARRANTIES MADE BY MAGNET FORENSICS TO YOU REGARDING THE PRODUCT, AND YOUR SOLE AND EXCLUSIVE REMEDY RESPECTING ANY DEFECTS, NON-CONFORMITIES



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OR PROBLEMS WITH THE PRODUCT. EXCEPT AS SET FORTH IN SECTION 7.1 AND 7.2, MAGNET FORENSICS DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, DURABILITY, ACCURACY, RELIABILITY, NON-INFRINGEMENT, OR ANY OTHER WARRANTY OR CONDITION ARISING BY STATUTE, CUSTOM OR USAGE OF TRADE RELATED TO THE PRODUCT PROVIDED HEREUNDER. To the maximum extent permitted by law, any implied warranties or conditions relating to the Software that cannot be excluded as set out above are limited to thirty (30) days from the date that the Software is delivered to You.

8 Limitation of Liability

- 8.1 NOTWITHSTANDING ANY OTHER SECTION OF THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY WHETHER IN AN ACTION IN CONTRACT, TORT, PRODUCT LIABILITY, STRICT LIABILITY, STATUTE, LAW, EQUITY, OR OTHERWISE ARISING FROM OR RELATED TO THIS AGREEMENT OR ANY ORDER FOR (A) INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES; (B) LOSS OF PROFITS OR REVENUE (OTHER THAN IN AN ACTION BY MAGNET FORENSICS TO RECOVER PAYMENT OF A PRICE OWED); OR (C) LOSS OF TIME, OPPORTUNITY OR ANY DAMAGES RELATING TO THE CORRUPTION OF DATA, LOSS OF THE USE OF DEVICES OR ANY PORTION THEREOF, AND DAMAGES CAUSED BY YOUR FILES, CONNECTED DEVICES, OR DATA COLLECTED BY YOU, EVEN IF THE OTHER PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (OTHER THAN IN AN ACTION BY MAGNET FORENSICS TO RECOVER PAYMENT OF A PRICE OWED) WILL NOT EXCEED THE AMOUNT PAID BY YOU FOR THE PRODUCT IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM GIVING RISE TO SUCH DAMAGES.
- 8.2 SECTION 8.1 SHALL NOT APPLY TO EITHER PARTY'S LIABILITY IN RELATION TO: (A) INDEMNIFICATION OBLIGATIONS OF EITHER PARTY UNDER SECTION 9 (INDEMNIFICATION) UNDER THIS AGREEMENT; (B) MISAPPROPRIATION OR INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY; (C) BREACHES OF CONFIDENTIALITY UNDER SECTION 6; AND (D) YOUR PAYMENT OBLIGATIONS TO MAGNET FORENSICS, PROVIDED, HOWEVER, THAT MAGNET FORENSICS' CUMULATIVE LIABILITY UNDER SECTION 9.2 RELATING TO THIRD PARTY SOFTWARE SHALL IN NO EVENT EXCEED THE LESSER OF: THREE TIMES (3X) THE AMOUNT PAID BY YOU FOR THE SOFTWARE IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM GIVING RISE TO SUCH DAMAGES AND ONE MILLION USD (\$1,000,000.00 USD).

9 Indemnification

- 9.1 Your Indemnification of Magnet Forensics. You will defend and indemnify Magnet Forensics from and against any third-party claim, cause of action, legal proceeding, cost, award of damages or any other judgment and legal expenses ("Claim") in relation to: (a) any Claim arising from the modification, combination or use of the Software with equipment, software, interfaces, or other materials that are not specifically authorized by Magnet Forensics; and (b) Your collection and use of data resulting from Your use of the Software and any actions You take as a result thereof; and (c) unauthorized use of the Product.
- 9.2 Magnet Forensics Indemnity. Magnet Forensics will defend You from and against any suit brought against you by a third party to the extent the suit alleges that your use of a Product infringes a valid patent in Canada or the United States (an "IP Claim"). Magnet will also pay the damages, costs, and attorneys' fees that are awarded against you in a final, non-appealable court judgment for the IP Claim, or required to be paid by you in a settlement of an IP Claim that Magnet has agreed to in writing. You agree to (i) give prompt notice of the IP Claim to Magnet Forensics; (ii) grant sole control of the defense and settlement of



END USER LICENSE AGREEMENT

the IP Claim to Magnet Forensics; and (iii) provide reasonable cooperation to Magnet Forensics and, at Magnet Forensics' request and expense, assistance in the defense or settlement of the IP Claim ("Your Indemnification Obligations") and Magnet Forensics shall not be liable to the extent an IP Claim, or portion thereof, is attributable to Your breach of Your Indemnification Obligations. In the event of an IP Claim, Magnet Forensics may, at its option and expense: (a) obtain for You the right to continue to use the Product; (b) substitute a substantially equivalent non-infringing product; (c) modify the Product to make it non-infringing; or if (a), (b), and (c) are not commercially feasible, then (d) terminate Your license and require that You no longer access and use the Product. If Your license is terminated, You must return or destroy the Product and within 30 days of receipt of all of the Product or certification of destruction thereof, Magnet Forensics shall refund You x) a prorated amount of any unused prepaid license fees if You purchased a Term License; or y) a prorated amount of any unused prepaid Support Services fees if You purchased a Perpetual License. The indemnity obligations under this clause do not extend to Claims arising from or relating to: (aa) any modification to the Product or use in combination with any equipment, software, data or any other materials not authorized by Magnet Forensics where the infringement would not have occurred but for such activity; (bb) use of the Product by You in a manner contrary to the terms of this Agreement where the infringement would not have occurred but for such use; (cc) the continued use of the infringing Product after Magnet Forensics has provided substantially equivalent non-infringing software, a non-infringing modification of the Product, or terminated Your license in accordance with this Agreement; or (dd) custom Product developed at Your request while utilizing Your specifications. NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS AGREEMENT, THE PROVISIONS OF THIS CLAUSE STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF MAGNET FORENSICS AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY ACTUAL OR ALLEGED MISAPPROPRIATION, VIOLATION AND/OR INFRINGEMENT OF ANY PROPRIETARY AND/OR INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

- 9.3 Mutual General Indemnity. Each party will defend and hold harmless the other from and against any Claim arising from any of the following: (a) gross negligence, willful misconduct, fraudulent misrepresentation and fraud by a party; (b) bodily injury or death caused by a party; and (c) breach of confidentiality obligations.

10 Term and Termination

- 10.1 Term of Agreement. This Agreement shall survive for one (1) year after the termination or expiry of Your License Term.
- 10.2 Termination for Convenience. You may terminate this Agreement and Your license for Software at any time upon written notice to Magnet Forensics but You will not be entitled to any refund.
- 10.3 Termination for Breach. Either party may terminate this Agreement and any License Term immediately upon notice to the other if: (a) the other party materially breaches a material term or condition of this Agreement which breach remains unremedied for thirty (30) days following written notice thereof by the other party, or immediately if such breach is not capable of remedy; (b) the other party becomes involved in any legal proceeding concerning its solvency, commences liquidation proceedings, has a receiver or administrator appointed for any of its assets, ceases or threatens to cease operations, or otherwise has a serious and reasonable doubt arise respecting its solvency; or (c) if Magnet Forensics determines in its sole discretion that licensing the Product to You would violate applicable laws. If Your License Term is terminated due to breach by Magnet Forensics under (a) above, where Magnet Forensics is the relevant party under (b) above, or by Magnet Forensics in accordance with (c) above, Magnet Forensics shall refund You: (i) a prorated amount of any unused prepaid License fees if You purchased a Term License; or (ii) a prorated amount of any unused prepaid Support Services fees if You purchased a Perpetual License.
- 10.4 Termination/Expiry Obligation. Upon termination or expiry of this Agreement, and, if earlier, termination or expiry of a Term License, free trial or any Beta Period, You shall immediately cease all use and access of the Software and destroy or permanently delete all copies of the Software in Your possession along with any Documentation delivered to You or derivative works made therefrom.



END USER LICENSE AGREEMENT

10.5 Request for Information for Compliance. Upon request of Magnet Forensics, You agree to provide reasonable information on a timely basis to confirm Your compliance with the license rights and restrictions to the Product. Your failure to comply with this Section 10.5 will be deemed to be a material breach of this Agreement.

11 Compliance with Export Laws and Ethical Conduct

11.1 You shall not export any Product, Documentation, or Confidential Information unless You comply with all applicable international trade laws ("ITR"). Further, You warrant (a) You are not now and have never been on any Restricted Party List or any sanctions list in the countries in which You conduct business; and (b) You understand and abide by ITR laws administered by the country in which You conducts business. You agree not to engage in any action in any way that would cause Magnet Forensics to violate ITR laws of the country in which it conducts business, including providing Magnet Forensics Product, Documentation, or Confidential Information to any person in any country subject to comprehensive sanctions by the U.S., Canada, the UK, EU, the EU member state and Singapore or any person on a Restricted Party List. You agree to indemnify Magnet Forensics to the extent Your actions or inactions have caused Magnet Forensics to violate ITR laws and the ITR of the country in which it conducts business. You agree to maintain a sanctions compliance policy and controls to ensure compliance with the applicable economic sanctions and upon request provide a Magnet Forensics with a copy of such policy.

11.2 If the Software is being licensed by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), then, as a commercial item, the Government's rights in the Software will be only as set forth: (a) in this Agreement; or (b) as provided in FAR 12.212 (Computer Software) and (for Department of Defense use or disclosure) DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation), whichever set of rights provided in (a) or (b) are the more restrictive.

11.3 Throughout Your use of the Product, You agree to comply with the Magnet Forensics Business Code of Conduct found at <https://www.magnetforensics.com/legal>. Failure to comply with the Business Code of Conduct may result in the suspension or termination of access to the Software, as outlined in this Agreement.

12 Magnet Forensics Entity, Governing Law

12.1 "Magnet Forensics" means:

- a) Where Your "Bill To" address identified on the Quotation is in Canada, Magnet Forensics Inc., with an office at 2220 University Avenue East, Suite 300, Waterloo, Ontario, Canada N2K 0A8.
- b) Where Your "Bill To" address identified on the Quotation is in France, Magnet Forensics SAS, with an office at c/o WeWork 33 Rue La Fayette Paris, France 75009.
- c) Where Your "Bill To" address identified on the Quotation is in Germany, Magnet Forensics GmbH, with a registered office at c/o Eversheds Sutherland (Services) GmbH, Brienner Strabe 12, 80333 Munich, Germany.
- d) Where Your "Bill To" address identified on the Quotation is anywhere other than in Canada, France, and Germany, Magnet Forensics, LLC, with an office at c/o Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

12.2 Governing Law. This Agreement is governed by and construed under, excluding any body of law governing conflicts of laws, the laws of: (a) England, where Your "Bill To" address identified on the Quotation is in Europe, Greenland or the UK; (b) Ontario, Canada, where Your "Bill To" address identified on the Quotation is in Canada, or (c) Delaware, U.S., where Your "Bill To" address identified on the Quotation is anywhere else. You irrevocably waive any objection on the grounds of venue, forum non-



END USER LICENSE AGREEMENT

conveniens or any similar grounds and irrevocably consent to service of process by mail or in any other manner permitted by applicable law. You also waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. You agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

13 General Provisions

- 13.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements, promises, assurances, warranties, representations, and understandings relating to the subject matter hereof. Your additional or different terms and conditions, whether on Your purchase order or otherwise, shall not apply.
- 13.2 Force Majeure. Neither party shall be deemed to be in default of this Agreement for failure to fulfill its obligations due to causes beyond its reasonable control. This provision shall not be construed as excusing any payment obligations.
- 13.3 Waiver. No waiver by either party of a breach or omission by the other party under this Agreement shall be binding on the waiving party unless it is expressly made in writing and signed by the waiving party. Any waiver by a party of a particular breach or omission by the other party shall not affect or impair the rights of the waiving party in respect of any subsequent breach or omission of the same or different kind.
- 13.4 Notices. Any notices, reports or other communications required or permitted to be given under this Agreement shall be in writing and shall be delivered by hand or sent by registered mail, courier, facsimile or electronic mail. For notices to You, Magnet Forensics shall send such notice to Your "Bill To" Address. For notice to Magnet Forensics, You shall send such notice to Attn: Legal Department, Magnet Forensics, with an office at 300 Colonial Center Pkwy, Suite 130, Roswell, GA 30076, United States.
- 13.5 Assignment. You shall not assign or transfer this Agreement (including, without limitation, by operation of law, merger, reorganization, or as a result of an acquisition or change of control) without the prior written consent of Magnet Forensics, which consent will not be unreasonably withheld, conditioned or delayed. This Agreement shall be binding upon the parties hereto and their respective lawful successors and permitted assigns. Any purported assignment in violation of this Section 13.5 shall be null and void.
- 13.6 Survival. Section 6 (Confidentiality), Section 8 (Limitation of Liability), Section 9 (Indemnification), and any other provision of this Agreement which by its nature would survive the termination or expiration of this Agreement shall do so.
- 13.7 Electronic Execution. The parties agree to the use of electronic communication in order to enter into this Agreement, Quotations, purchase orders and any other notices or records. You hereby waive any rights or requirements under any laws in any jurisdiction which require an original, non-electronic signature or delivery or retention of non-electronic records, to the extent permitted under applicable law.
- 13.8 Invalidity. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement shall continue in full force and effect.

END OF AGREEMENT



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Schedule A – Licensed Rights for All Products

1 Definitions.

- 1.1 “**Case License**” means the Software is subject to a license fee that is based on granting access to the Software for a single source (i.e. single hard drive or image file).
- 1.2 “**CLS License**” or “**LLS License**” means the Software is subject to a license fee that is calculated based on the number of concurrent usage virtual license Keys identified in the Quotation as available at any one time to be downloaded by Users. CLS (Cloud License Server) virtual license Keys are hosted in an online, cloud-based environment whereas LLS (Local License Server) virtual license Keys are hosted on Your premises.
- 1.3 “**Dongle**” means a USB device provisioned with the Software.
- 1.4 “**Dongle License**” means the Software is subject to a license fee that is calculated per Dongle.
- 1.5 “**Enterprise License**” means the Software is subject to a license fee that is calculated based on a maximum number of Software installs and/or concurrent Users as set out in the Quotation.
- 1.6 “**Instance**” means a copy of the Software that a User is authorized to use. The maximum number of Instances per User are stated in the Quotation.
- 1.7 “**Key**” means the license key provided to You by Magnet Forensics to permit access to and use of the Software to a User.
- 1.8 “**Machine**” means each hardware machine or hardware unit on which the Software is used.
- 1.9 “**Machine License**” means the Software is subject to a license fee that is calculated per Machine.

2 License Grant. Magnet Forensics hereby grants to You a limited, non-exclusive, revocable, non-transferable, non-sublicensable license to use the Software on Your internal business networks for the number of Users, installs, and/or Instances and License Term indicated in Your Quotation in accordance with the terms set forth in this Agreement and the Documentation. Your license only permits you to possess and use the Software in object code form. For certainty: (a) academic licenses are granted for academic, non-commercial use only; (b) licenses for Magnet AUTOMATE products are licensed on a per ‘control node’ and ‘agent node’ basis; (c) Machine Licenses are solely permitted for use of the Software on the Machine on which such Software is first installed and by the original User; and (d) Dongle Licenses are for use on Machines only (and not for use in cloud or other virtual environments), and cannot be shared between individual Users. For further certainty: (i) Enterprise Licenses, CLS Licenses and LLS Licenses allow for concurrent Users of the Software as indicated in Your Quotation; and (ii) a unique key code is issued for a Case License tied to the original single source, with requirements for additional single sources requiring an add-on purchase. It is Your responsibility to fully comply with all applicable laws in using and handling the Software and any additional third-party license terms applicable to Third Party Software.

3 Restrictions. You shall not and shall ensure that Users shall not:

- 3.1 copy, reproduce, or modify the Product or any part thereof, including, but not limited to, combining with other software or hardware other than as authorized by Magnet Forensics in writing;
- 3.2 enhance, improve, alter, create derivative works, reverse engineer, disassemble, deconstruct, impair, translate, decrypt, reverse compile or convert into human readable form the Software or any part thereof;
- 3.3 distribute, lend, assign, license, sublicense, lease, pledge, rent, transfer, sell or otherwise provide access to the Software, in whole or in part, to any third party;
- 3.4 use any Product on a time sharing, service bureau, application services provider (ASP), rental or other similar basis;



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- 3.5 remove, deface, cover or otherwise obscure any proprietary rights notice or identification on the Software;
- 3.6 circumvent or disable copyright protection mechanisms or license management mechanisms;
- 3.7 photograph or record any of the Product's components, whether internal, external or as digitally displayed;
- 3.8 use the Product to provide services to third parties (including technical or training services), or otherwise publicly display or market the Software, for the purposes of Your commercial gain;
- 3.9 use the Product in conjunction with other software or hardware, except as authorized in writing by Magnet Forensics;
- 3.10 use the Product in any unlawful manner or to violate any rights of a third party; or
- 3.11 authorize, permit or otherwise acquiesce in any other party engaging in any of the activities set forth in 3.1 – 3.10 above, or attempting to do so.

For the purposes of this provision "copy" and "reproduce" shall not include: (A) making additional copies of the Software for Your own use, as long as only one copy may be used at any one time in accordance with the Documentation; or (B) making one back-up copy of the Software.

4 Restrictions Applicable to Consultant Licenses. Notwithstanding Section 3.8, if Your license is identified in a Quotation as a "consultant license", You may use the Software in relation to Your provision of forensic analysis services to a third party for commercial gain, subject to Your compliance with all other terms of this Agreement and the payment of all applicable fees, provided that the following additional restrictions shall apply:

- 4.1 You shall be solely responsible for Your services, including any use or operation of the Software (both separately or in combination with any other software), to provide such services, and, as Magnet Forensics expressly disclaims all liability for any claims, losses or damages relating to Your services, You agree to indemnify Magnet Forensics against all such claims, losses and damages;
- 4.2 You shall not permit Your customers to use the Software (with the exception of using the Portable Case functionality);
- 4.3 You shall not use the Software to provide digital forensics training to third parties (including instructions on how to use the Software), unless You have first obtained Magnet Forensics' express written permission;
- 4.4 You shall not, whether in an agreement for Your services or otherwise, in any way modify, negate or override any terms and conditions of the protections afforded to Magnet Forensics under this Agreement;
- 4.5 You shall not engage in deceptive, misleading, illegal or unethical practices that might reasonably be detrimental to Magnet Forensics or its products or services;
- 4.6 You shall not make any representations, warranties or guarantees about Magnet Forensics or its products and services except as expressly set out in this Agreement; and
- 4.7 where You wish to publicize, market or otherwise promote the use of the Software in Your services, You must do so in a manner consistent with Magnet Forensics' External Marketing Policy (located at https://www.magnetforensics.com/wp-content/uploads/2022/11/MagnetForensics_BrandGuidelines.pdf) and any other marketing and trademark requirements set out by Magnet Forensics from time to time. Any use of Magnet Forensics' Trademarks shall remain unchanged and give legal notice of such trademark status.

5 Beta Software. If You have requested use of or have access to Software or features that are identified by Magnet Forensics as pre-commercial, preview release, evaluation, pilot, "alpha", or "beta" software ("Beta Software"), the license rights set out above with respect to Your use of such Beta Software apply



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only to the extent necessary to enable You and the Users to test and provide Feedback to Magnet Forensics regarding the Beta Software. You acknowledge and agree that Magnet Forensics may terminate Your use of Beta Software at any time and may include technical measures in the Beta Software that renders it inoperable and You agree that You will not circumvent such technical measures. You further acknowledge and agree that the Beta Software is provided "AS IS" with none of the representations, warranties, or indemnities provided in the Agreement. In consideration of the grant of license for the Beta Software, You agree that You will provide Magnet Forensics with Feedback on Beta Software as Magnet Forensics reasonably requests without any compensation.

- 6 Trial Licenses.** If Your License is indicated as a Trial License on the Quotation ("Trial License"), the license rights set out above with respect to Your use of such Trial License apply only for the time period authorized by Magnet Forensics ("Trial Period") and solely to the extent necessary to enable You and the Users to test the Product in order to identify if the Product is suitable for purchase from Magnet Forensics. Additionally, the Product underlying the Trial License or delivered to you as a Free Tool is provided "AS IS" with none of the representations, warranties or indemnities provided in the Agreement. Notwithstanding the Trial Period, Magnet Forensics may terminate Your Trial License at any time and require that You cease using the Software.



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Schedule B – Additional VeraKey Terms and Conditions

1 Definitions.

- 1.1 “**Authorized Country**” means a country in which Magnet Forensics has authorized use of the VeraKey as set out in the Documentation.
- 1.2 “**Authorized User(s)**” means employees who are authorized by You to access or use the Product and Software. You agree to limit the number of Authorized Users to those employees who perform extractions in the normal course of their employment.
- 1.3 “**Authorized Device**” means mobile devices (a) owned and controlled by you; (b) if you are retained to perform an Investigation by a third party, owned by such third party; or (c) owned by an individual that has expressly, voluntarily, and specifically authorized you in writing, without coercion or threat of reprisal, to perform an Extraction of their mobile device.
- 1.4 “**Extraction**” means the use of the Product to extract data from an Authorized Device.

2 License Restrictions. If You are licensing the VeraKey Product, as identified in Your Quotation, You agree to the following additional restrictions in addition to the license rights and restrictions set out in Schedule A of this Agreement:

- 2.1 You may only use the VeraKey Product in an Authorized Country for Extractions on Authorized Devices in aid of an official investigation of corporate malfeasance including (a) fraud, (b) bribery, (c) theft, (d) antitrust violation, (e) sabotage, (f) breach of confidentiality obligations, (g) securities violation, (h) IP infringement or misappropriation of intellectual property, (i) as part of or in response to an official government investigation or request for product of documentation (FDA, SEC, FTC, OSHA, etc.), (j) as part of a legally compelled production of documents by a court of competent jurisdiction, (k) in defense of a criminal charge filed in a court of competent jurisdiction, where such investigation is made in response to an official complaint supported by reasonable evidence (each, an “Investigation”) and for no other purpose (“Authorized Extraction(s)”). You agree not to use the Product to screen, audit, spot-check, or otherwise discover instances of corporate malfeasance or violation of corporate policy. Prior to performing an Extraction, Magnet Forensics may require that you or your Authorized User(s) certify that the contemplated Extraction meets the above definition of an Authorized Extraction. You warrant that any certification materials submitted as part of Your Authorized Extraction certification responsibilities are true and correct in all material respects.
- 2.2 To the extent legally practicable, Authorized Devices must remain in Your possession and control until after the software agent employed by the Product has been successfully uninstalled from such Authorized Devices.
- 2.3 Only Authorized Users who have obtained any necessary consents and approvals are permitted to access and use the Product or Software in connection with any Extractions. You shall notify Magnet Forensics in writing the name and user information associated with each Authorized User, and within thirty (30) calendar days following a change of an Authorized User’s employment status such that the Authorized User ceases to be authorized by You to access or use the Product and Software either through ceasing to be employed by You or a change in his or her position within the Your organization such that he or she is no longer authorized to access or use the Product and Software.
- 2.4 You agree to designate an employee with senior management and oversight responsibilities within your organization to act as Your “Primary Authorized User.” The Primary Authorized User will be notified each time an extraction is performed on the device and shall supervise use and security of the Product and Software. You agree to require the Primary Authorized User, as part of their employment obligations, to monitor the use of and ensure the security of the Product. The Primary Authorized User is not permitted to perform Extractions. You shall notify Magnet Forensics in writing the name and user information associated with the Primary Authorized User, and within thirty (30)



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calendar days following a change of the Primary Authorized User's employment status such that the Primary Authorized User ceases to be tasked by the Licensee to oversee the use and security of the Product and Software.

- 2.5 You will conduct, at your expense, background checks on your employees (including but not limited to Authorized Users) and those of your agents and subcontractors who will have access (whether physical, remote, or otherwise) to Magnet Products or Software. You will not permit your employees, agents, or subcontractors (including the personnel of any of its agents or subcontractors) that have been convicted of a felony crime or has agreed to or entered into a pretrial diversion or similar program in connection with a felony crime to have access to: (a) Magnet Forensics Confidential Information; (b) the secure environment in which the Product is stored; (c) the Product, the Software, or any associated materials.
- 2.6 You covenant and agree to keep the Product in a physically secure environment at all times, and to take all necessary precautions to restrict use of the Product to Authorized Users. You acknowledge and agree that for the Product to function properly in online mode, the Product must be connected to the Internet.
- 2.7 Magnet Forensics may use third-party monitoring tools to ensure that You comply with the foregoing restrictions. You acknowledge that Your use of the Product may be subject to additional terms and conditions as set by the third-party responsible for such tools.

3 Warranty Disclaimer. Notwithstanding Section 7.1 of the Agreement, You acknowledge and agree that the Software is provided AS-IS and without any warranty of any kind. Further, You acknowledge that all case stakeholders are aware of and understand the associated risk that the Authorized Device may become damaged and/or Authorized Device data may be unrecoverable when used with the Product or Software, in particular for Authorized Devices (a) with aftermarket repairs or hardware and nonstandard software builds; (b) that boot loop or are otherwise unable to boot normally; (c) that have preexisting damage, defects, or faults that may or may not be detectable; or (d) with software, software builds, states, or usage profiles not identified on the applicable support matrix. You further understand that not all permutations of Authorized Device software, software builds, states, and usage profiles have been tested by Magnet Forensics. Before utilizing the Product and Software on an Authorized Devices under any of the above conditions, please consult Magnet Forensics through the customer support portal. You release Magnet Forensics from all liability associated with damage to a mobile device or corruption of mobile device data resulting from the use of the Software or the Product.

4 Violations of License Restrictions.

- 4.1 Section 8.1 of the Agreement (Limitation of Liability) shall not apply to damages arising from Your violation(s) of Schedule A - Section 3 and this Schedule B.
- 4.2 In addition to the termination rights set out in Section 10 of the Agreement (Termination), Magnet Forensics may terminate this Agreement and suspend Your License, at its sole discretion and option, without notice and without refund or reimbursement if You violate any material term or condition of this Agreement.

5 Heightened Confidentiality Obligations. The VeraKey Product, along with its associated Documentation, are sensitive technologies whose Confidential Information requires the highest duty of care. You, Your employees, Your agents who require access in order to perform hereunder, and all final users of the VeraKey Product (collectively, "Receiving Party") shall not disclose, use, sell, transmit, inform or make available to any entity, person or body any of the Confidential Information nor shall it copy, photograph, or otherwise reproduce any Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and Magnet Forensics' rights therein,



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at all times exercising the highest duty of care. Receiving Party agrees to restrict access to VeraKey Confidential Information to those Authorized Users who require access in order to perform hereunder, and, except as otherwise provided, the Receiving Party shall not make Confidential Information available to any other person or entity without the prior written consent of Magnet Forensics. Further, Receiving Party acknowledges and agrees that due to the unique nature of the VeraKey Products, there can be no adequate remedy at law for any breach of its obligations under this Section 5 related to such Products, that any such breach will cause irreparable and continuing damage to Magnet Forensics and, therefore, that upon any such breach or any threat thereof, Magnet Forensics shall be entitled to whatever remedies it might have by law and equity, including injunctive relief, a decree for specific performance, and all other relief as may be proper (including money damages, if appropriate). The Receiving Party further acknowledges and agrees that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope.

- 6 Excess Use of Licenses.** If You use the Product in excess of the license quantities or levels stated in Your Quote, Magnet Forensics reserves the right to invoice You for such excess use based on the then current list price of the minimum add-on package required to bring Your use into compliance and you agree to pay such invoice in accordance with Section 3 of the Agreement.



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Schedule C – Additional GrayKey Terms and Conditions

1 Definitions.

- 1.2 “**Authorized Location**” means the authorized physical locations specified in the Quotation or that Licensee has otherwise registered with Magnet Forensics and that Magnet Forensics has approved in writing.
- 1.3 “**Authorized User(s)**” means collectively, employees, agents or contractors who are authorized by You to access or use the Product and Software.
- 1.4 “**Device**” means a mobile device.
- 1.5 “**Extraction**” means the use of the Product to extract data from a Device.

2 License Restrictions. If You are licensing the GrayKey Product, as identified in Your Quotation, You agree to the following additional restrictions in addition to the license rights and restrictions set out in Schedule A of this Agreement:

- 2.1 Only Authorized Users who have obtained any necessary consents and approvals are permitted to access and use the Product or Software in connection with any Extractions. You shall notify Magnet Forensics in writing the name and user information associated with each Authorized User, and within thirty (30) calendar days following a change of an Authorized User’s employment status such that the Authorized User ceases to be authorized by You to access or use the Product and Software either through ceasing to be employed by You or a change in his or her position within the Your organization such that he or she is no longer authorized to access or use the Product and Software.
- 2.2 To the extent legally practicable, Devices must remain in Your possession and control until after the software agent employed by the Product has been successfully uninstalled from such Devices.
- 2.3 If Your use of the Product is restricted to the Authorized Location identified in Your Quotation, You covenant and agree to keep the Product in a physically secure environment within the Authorized Location at all times, and to take all necessary precautions to restrict use of the Product to Authorized Users. You acknowledge and agree that for the Product to function properly in online mode, the Product must be connected to the Internet.
- 2.4 Magnet Forensics may use third-party monitoring tools to ensure that You are in compliance with the foregoing restrictions. You acknowledge that Your use of the Product may be subject to additional terms and conditions as set by the third-party responsible for such tools.

3 Warranty Disclaimer. Notwithstanding Section 7.1 of the Agreement, You acknowledge and agree that the Software is provided AS-IS and without any warranty of any kind. Further, You acknowledge that all case stakeholders are aware of and understand the associated risk that a Device may become damaged and/or Device data may be unrecoverable when used with the Product or Software, in particular for Devices (a) with aftermarket repairs or hardware and nonstandard software builds; (b) that boot loop or are otherwise unable to boot normally; (c) that have preexisting damage, defects, or faults that may or may not be detectable; or (d) with software, software builds, states, or usage profiles not identified on the applicable support matrix. You further understand that not all permutations of Device software, software builds, states, and usage profiles have been tested by Magnet Forensics. Before utilizing the Product and Software on a Devices under any of the above conditions, please consult Magnet Forensics through the customer support portal. You release Magnet Forensics from all liability associated with damage to a mobile device or corruption of mobile device data resulting from the use of the Software or the Product.



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LICENSE AGREEMENT**

4 Violations of License Restrictions.

- 4.1 Section 8.1 of the Agreement (Limitation of Liability) shall not apply to damages arising from Your violation(s) of Schedule A - Section 3 and this Schedule C.
- 4.2 In addition to the termination rights set out in Section 10 of the Agreement (Termination), Magnet Forensics may terminate this Agreement and suspend Your License, at its sole discretion and option, without notice and without refund or reimbursement if You violate any material term or condition of this Agreement.

5 Heightened Confidentiality Obligations. The GrayKey Product, along with its associated Documentation, are sensitive technologies whose Confidential Information requires the highest duty of care. You, Your employees, Your agents who require access in order to perform hereunder, and all final users of the GrayKey Products (collectively, "Receiving Party") shall not disclose, use, sell, transmit, inform or make available to any entity, person or body any of the Confidential Information nor shall it copy, photograph, or otherwise reproduce any Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and Magnet Forensics' rights therein, at all times exercising the highest duty of care. Receiving Party agrees to restrict access to GrayKey Confidential Information to those Authorized Users who require access in order to perform hereunder, and, except as otherwise provided, the Receiving Party shall not make Confidential Information available to any other person or entity without the prior written consent of Magnet Forensics. Further, Receiving Party acknowledges and agrees that due to the unique nature of the GrayKey Products, there can be no adequate remedy at law for any breach of its obligations under this Section 5 related to such Products, that any such breach will cause irreparable and continuing damage to Magnet Forensics and, therefore, that upon any such breach or any threat thereof, Magnet Forensics shall be entitled to whatever remedies it might have by law and equity, including injunctive relief, a decree for specific performance, and all other relief as may be proper (including money damages, if appropriate). The Receiving Party further acknowledges and agrees that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope.

Q-348937 - USD 5,985.00



Quotation

Address:
 Magnet Forensics, LLC
 931 Monroe Drive NE
 Suite A102-340
 Atlanta, Georgia 30308
 United States

Phone: 519-342-0195
E-Mail: sales@magnetforensics.com

Quote #: Q-348937-1
Issue Date: 28 May, 2024
Expires On: 31 Jul, 2024

Bill To
 Jennifer West
 Murfreesboro Police Department (TN)
 1004 N. Highland Ave.
 Murfreesboro, TN 37130
 US
 615-893-2717
 0320@murfreesborotn.gov

Ship To
 Jennifer West
 Murfreesboro Police Department (TN)
 1004 N. Highland Ave.
 Murfreesboro, Tennessee 37130
 United States
 615-893-2717
 0320@murfreesborotn.gov

End User
 Jennifer West
 Murfreesboro Police Department (TN)
 1004 N. Highland Ave.
 Murfreesboro Tennessee 37130
 United States
 615-893-2717
 0320@murfreesborotn.gov

PREPARED BY	PHONE	EMAIL	PAYMENT TERM
Amber Soukup		amber.soukup@magnetforensics.com	Net 30

ITEM #	PRODUCT NAME	SMS DATES	UNIT SELLING PRICE	QTY	EXTENDED PRICE
GRAS-01551	Magnet Griffeye Advanced Machine License Renewal for Serial Numbers: DI-AZDB-X7KJ-2NHX-8W4H	1 Aug, 2024 to 31 Jul, 2025	USD 1,995.00	1	USD 1,995.00
GRAS-01551	Magnet Griffeye Advanced Machine License Renewal for Serial Numbers: DI-V3QJ-3GSS-SU9P-JBC2	1 Aug, 2024 to 31 Jul, 2025	USD 1,995.00	1	USD 1,995.00
GRAS-01551	Magnet Griffeye Advanced Machine License Renewal for Serial Numbers: DI-UJMM-KPGH-A3ZR-DA7R	1 Aug, 2024 to 31 Jul, 2025	USD 1,995.00	1	USD 1,995.00

Sub-Total USD 5,985.00
 Taxes USD 0.00
Grand Total USD 5,985.00

Prices subject to change upon quote expiry. Accurate sales tax will be calculated at the time of invoicing when applicable. If your company is tax exempt, please provide appropriate support with your signed quote. Hardware may be subject to additional fees related to delivery, import and export.

Terms & Conditions

Unless you have an existing written agreement with Magnet Forensics for the products and/or services listed in this quotation, by: (a) signing below, (b) submitting an Order to Magnet Forensics referencing this quotation, or (c) making payment for the products and/or related services listed in this quotation, you agree to the terms and conditions at <http://magnetforensics.com/legal/> applicable to such products and/or services listed in this quotation to the exclusion of any differing or additional terms which may be found on your purchase order or similar document. By signing, you certify that you have the authority to bind your organization.

Q-348937 - USD 5,985.00

Magnet Forensics may adjust the software term start and/or end date, without increasing the total software license price, based on the date Magnet Forensics activates the software and provided that the total software license term length does not change.

Signature: _____

Date: ____/____/____

Name (Print): Shane McFarland

Title: Mayor

Please sign and email to Amber Soukup at amber.soukup@magnetforensics.com

APPROVED AS TO FORM
Adam Tucker
43A2035E51F9401
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Asphalt Purchases Report

Department: Water Resources

Presented by: Valerie Smith

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 FY25 operating budget.

Attachments

Asphalt Purchases Report

**OPERATIONS & MAINTENANCE
ASPHALT QUOTES | FY 2024**

	Wire Grass Const Co.		Hawkins		Vulcan		Notes
	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	
Jul	\$73.05	\$85.54	\$77.82	\$84.45	\$72.00	\$83.50	
Aug	\$72.71	\$85.11	\$77.38	\$83.85	\$72.00	\$83.50	
Sep	\$72.63	\$85.01	\$77.38	\$83.85	\$72.00	\$83.50	
Oct	\$72.63	\$85.01	\$77.38	\$83.85	\$72.00	\$83.50	
Nov	\$72.63	\$85.01	\$77.38	\$83.85	\$72.00	\$83.50	
Dec	\$72.63	\$85.01	\$77.38	\$83.85	\$72.00	\$83.50	
Jan	\$72.63	\$85.01	\$77.38	\$83.35	\$72.00	\$83.50	
Feb	\$77.48	\$86.82			\$72.00	\$83.50	Hawkins Closed till March 2024
Mar	\$78.00	\$95.00	\$79.60	\$85.97	\$73.58	\$84.61	
Apr	\$77.77	\$94.71	\$79.60	\$85.97	\$73.51	\$84.51	
May							
Jun							

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: LJA 2023-24 Sewer Rehab Task Order Amendment No. 1

Department: Water Resources

Presented by: Valerie Smith

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

To approve Task Order (TO) Amendment No. 1 to reimburse for time spent submitting required information for the American Rescue Plan (ARP) Grant as well as CSX and TDEC Permitting not in the original scope of work.

Staff Recommendation

Approve the LJA 2023-24 Sewer Rehab TO Amendment No 1.

Background Information

The Department was awarded \$10,115,421.57 in grant funds for the 2021 and 2023/24 Sewer Rehabilitation projects as well as the Hobas Pipe Rehabilitation project. To date funds have not been received despite LJA and Staffs effort to meet the ARP grant requirements. LJA uploaded the last piece of information required for reimbursement of the completed 2021 Sewer Rehabilitation project on April 29, 2024. Since then, Ernst & Young has had additional RFIs. LJA has responded, and the GMS shows 'Approved.'

Up to this point, the time that LJA has spent on grant management has been paid from the Construction Administration (CA) and Resident Project Representative (RPR) budgets. In addition, the TO Amendment also includes CA and RPR funds for additional work added to the project immediately prior to bidding, additional CSX permitting for work within CSX right of way, map book revisions, and RPR app revisions.

Council Priorities Served

Responsible budgeting

Applying for the ARP Grant and submitting the required information to receive ARP funding will reimburse the Departments Working Capital Reserves.

Expand infrastructure

Continual sewer rehabilitation will reduce infiltration and inflow (I/I) of ground water into the sewer system and free up capacity for future development.

Fiscal Impact

The 2023-24 Sewer Rehab task order amendment expense, or \$60,250, will be funded from working capital reserves.

Attachments

LJA 2023-24 Sewer Rehab TO Amendment No. 1



June 18, 2024

TASK ORDER-AMENDMENT NO. 1

Ms. Valerie Smith, PE
Executive Director
Murfreesboro Water Resources Department
220 NW Broad Street
Murfreesboro, Tennessee 37130

RE: Amendment to the Engineering Services as Related to the
2023 Sanitary Sewer Rehabilitation Project
Murfreesboro Water Resources Department
City of Murfreesboro, Tennessee
LJA Task Order No. 20220919

Dear Ms. Smith,

LJA Engineering, Inc. ("LJA") submits this proposed contract amendment (Amendment No. 1) for engineering services associated with the 2023 Sanitary Sewer Rehabilitation Project for Murfreesboro Water Resources Department ("Client"). This amendment to the task order is made pursuant to the terms and conditions of the Professional Services Agreement ("PSA") entered into on March 4, 2021, by and between LJA Engineering, Inc. and the City of Murfreesboro ("Client").

Background

The project has been previously bid and awarded to a contractor with construction activities recently commencing. As part of this project, LJA staff has been performing activities outside of the original scope of the project related to permitting, American Rescue Plan (ARP) funding, and the additional design of added warranty items to facilitate ongoing work.

LJA staff has been facilitating approvals and submission of required documentation relating to and required by TDEC for the ARP funding. This project will be receiving approximately \$2,482,285 of grant funds and requires submittal of procurement and disbursement documentation throughout the project.

The original scope of this contract did not include ARP grant management and administration and the effort to-date has been (per MWRD staff) invoiced through the 'Additional Services' phase. (Note: The budget for the 'Additional Services' phase was moved from the Resident Project Representation (RPR) phase temporarily to facilitate work). Since all future ARP related efforts will be performed as part of a separate and specific task order, there will be no additional scope added to this task order related to ARP funding; however, fees expended as part of efforts already billed would be restored back to the original fee structure to complete the project as originally budgeted.

The permitting effort was related to CSX Railroad permitting associated with a pipe segment (070U0100_070U009A) which crosses under the railroad. LJA staff has been responding to RFIs from CSX regarding the trenchless repair (CIPP lining) of the pipeline. As part of the RFI process and submittal of documentation, CSX requested additional information regarding the overall agreement with MWRD which includes other pipeline segments (not a part of the rehabilitation project) in the vicinity of the pipeline being repair. In discussions with MWRD staff, it was

June 18, 2024

Page 2

determined that a contract amendment should be considered to facilitate the remaining permitting effort. The original scope of this contract did not include CSX Permitting and the effort to-date has been (per MWRD staff) invoiced through the 'Additional Services' phase (Note: The budget for the 'Additional Services' phase was moved from the RPR phase temporarily to facilitate work).

In addition to the CSX permitting, it is now a requirement for plans and specifications for ARP related projects to be submitted to TDEC for plans and specifications review and approval, which would also include ARAP, SWPPP and GCP permits as required. This has not been a previous requirement and was not included in the original scope of this task order.

The following Scope of Services more specifically define the phases and associated tasks related to the project.

Scope of Services

6.0 Permitting

- 6.1 - CSX Railroad
 - Based on our current understanding of requirements communicated by CSX, LJA will provide the following services:
 - Develop and submit As-builts/Agreement exhibits to CSX for eight (8) pipe segments (seven manholes) within the railroad Right-of-Way (ROW) inside the project area.
 - Facilitate finalization and approval of CSX agreement with MWRD.
 - Respond to associated RFIs.
 - Develop design drawing with plan & profile of pipe segment being repaired and submit to CSX for review and approval.
 - Coordinate with CSX representatives for associated RFIs
 - Coordinate with CSX representatives for required flagging and inspection.

Note: Should CSX permitting require additional design changes, a contract amendment for associated design scope and fee may be required. Additional survey would require a Right-of-Entry permit from CSX and is not included in the scope of this project. LJA does have an existing general Surveying Task as part of the original scope of services that could be used to facilitate the work upon development of a specific scope/work area.

Client's Responsibilities

Client shall be responsible for the following items related to the additional tasks above:

- Provide information to facilitate approvals.
- Provide Surveying along railroad for CSX permitting.
- Provide associated permitting fees as required:
 - CSX (Review Fee, License Fee, Right of Entry Permit, Flagging Fees)
 - TDEC (Review, ARAP, GCP/SWPPP)

June 18, 2024

Page 3

Compensation

We propose to provide the specific services described above to be billed as follows:

The fee for Task 6 – Permitting, will be billed hourly on a cost-plus max basis at standard rates without prior authorization as outlined below.

Task Number	Task Description	Original Contract Value	Internal Redistribution of Fees	Contract Amendment No. 1	Revised Total Contract Fee
1	Design, Advertise, Bidding	\$ 148,750.00	\$ -		\$ 148,750.00
2	Construction Administration	\$ 102,000.00	\$ -		\$ 102,000.00
3	Resident Project Representation	\$ 215,000.00	\$ (50,000.00)	\$ 50,000.00	\$ 215,000.00
4	Surveying	\$ 9,750.00	\$ -	\$ (9,750.00)	\$ -
5	Additional Services	\$ -	\$ 50,000.00		\$ 50,000.00
6	Permitting			\$ 20,000.00	\$ 20,000.00
		\$ 475,500.00	\$ -	\$ 60,250.00	\$ 535,750.00

Total Revised Not-to-Exceed Contract Fee = \$535,750.

Any work not authorized within three (3) months of the date of this agreement will be subject to renegotiations based on current rates.

Schedule

LJA staff will continue to perform required services to facilitate ongoing work.

Reimbursables and additional services

Included in the above fees are reimbursable expenses incurred on the project's behalf, including: mileage, printing, plotting, photocopies, reproduction, express mail, and/or courier services. Any regulatory agency review fees associated with plan reviews shall be the responsibility of the Client. Reimbursable expenses will be billed at cost plus ten percent (10%). LJA will bill monthly for all work performed and expenses incurred on the project's behalf. Unpaid invoices after thirty (30) days will accrue service charges at 1-1/2% per month and include any costs of collections and reasonable attorney's fees.

June 18, 2024

Page 4

Authorization

If this proposed contract amendment is acceptable, please provide the required signatures below. We appreciate the opportunity to submit this Task Order Amendment No. 1 and look forward to working with you on this project. If you have any questions, please contact me at your convenience.

Sincerely,

Travis E. Wilson, PE
Vice President

Accepted By:
**CITY OF MURFREESBORO/
MURFREESBORO WATER RESOURCES
DEPARTMENT**

By: _____

Name: Mayor Shane McFarland

Title: Mayor

Date: _____

APPROVED AS TO FORM:

DocuSigned by:
Adam Tucker
By: _____
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Name: Adam Tucker

Title: City Attorney

Date: 6/20/2024

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: LJA Hobas Rehab Task Order Amendment No. 2

Department: Water Resources

Presented by: Valerie Smith

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Engineering services task order amendment no. 2 to reimburse the consultant for time spent submitting required information for the American Rescue Plan (ARP) Grant as well as CSX and TDEC Permitting not in the original scope of work.

Staff Recommendation

Approve the LJA Hobas Rehab TO Amendment No. 2.

Background Information

The Department was awarded \$10,115,421.57 in grant funds for the 2021 and 2023/24 Sewer Rehabilitation projects as well as the Hobas Pipe Rehabilitation project. To date funds have not been received despite LJA and Staffs effort to meet the ARP grant requirements. LJA uploaded the last piece of information required for reimbursement of the completed 2021 Sewer Rehabilitation project on April 29, 2024. Since then, Ernst & Young has had additional RFIs. LJA has responded, and the GMS shows 'Approved.'

LJA has incurred expenses not only in grant management but also in additional TDEC ARAP permitting for manhole installations next to the rivers/creeks and additional CSX permitting for work within CSX right of way.

Council Priorities Served

Responsible budgeting

Applying for the ARP Grant and submitting the required information to receive ARP funding will reimburse the Departments Working Capital Reserves.

Expand infrastructure

Continual sewer rehabilitation will reduce infiltration and inflow (I/I) of ground water into the sewer system and free up capacity for future development.

Fiscal Impact

The Hobas task order amendment No. 2 expense, or \$78,515, will be funded from working capital reserves.

Attachments

LJA Hobas Rehab TO Amendment No. 2



June 18, 2024

TASK ORDER – AMENDMENT NO. 2

Ms. Valerie Smith, PE
Executive Director
Murfreesboro Water Resource Department
220 NW Broad Street
Murfreesboro, Tennessee 37130

RE: Amendment to the Engineering Services as Related to the
Hobas Rehabilitation Project
Murfreesboro Water Resource Department
City of Murfreesboro, Tennessee
LJA Project No. 2963-0006

Dear Ms. Smith,

LJA Engineering, Inc. (“LJA”) is pleased to provide this contract amendment (Amendment No. 2) for additional engineering services associated with the Hobas Rehabilitation Project for the City of Murfreesboro. The amendment to this task order is made pursuant to the terms and conditions of the Professional Services Agreement (“PSA”) entered into on March 4, 2021, by and between LJA Engineering, Inc. and the City of Murfreesboro (“Client”).

Background

Throughout the course of construction, a number of activities required engineering services not originally included within the scope of services as outlined below.

During initial construction activities, it was determined by the contractor that additional manholes would need to be installed to facilitate the CIPP lining of the large diameter pipelines. The installation of the additional manholes resulted in the review of additional submittals, bypass layout plans, performing associated constructability review, and the update of the associated plans and RPR field application to document work. The construction period was increased by 112 calendar days due to the additional work which would require additional associated CA and RPR services.

With the additional excavation, CSX permits were required at three locations. The permitting process included the following:

- Development and submittal of As-builts/Agreement exhibits to CSX for associated pipe segments within the railroad Right-of-Way (ROW).
- Facilitate update and approval of the existing CSX agreement with MWRD.
- Respond to associated RFIs.
- Develop design drawings with plan & profile of pipe segments being repaired and submit to CSX for review and approval.
- Coordinate with CSX representatives for associated RFIs
- Coordinate with CSX representatives for required flagging and inspection.

June 18, 2024

Page 2

This project required an ARAP permit from TDEC be obtained relating to a manhole installation along Stones River inside the Indian Hills Golf Course. It is anticipated that additional ARAPs may need to be obtained to facilitate work.

LJA staff has been facilitating approvals and submission of required documentation relating to and required by TDEC for the ARP funding. This project will be receiving approximately \$3,555,906 of grant funds and requires submittal of procurement and disbursement documentation throughout the project.

The original scope of this contract did not include ARP grant management and administration and the effort to-date has been (per MWRD staff) invoiced through the Construction Administration phase. Since all future ARP related efforts will be performed as part of a separate and specific task order, there will be no additional scope added to this task order related to ARP funding; however, fees expended as part of efforts already billed would be restored back to the original fee structure to complete the project as originally budgeted.

Scope of Services

5.0 Permitting

- There are three (3) potential locations where additional TDEC permitting may be required due to bypass piping which would include a submittal of an ARAP as listed below:
 - Bypass set up from 070UU080 to 070M0030
 - Bypass set up from 039GG090 to 035D0020
 - Bypass set up from 0072BH150 to 039GG010

Compensation

We propose to provide the specific services described above to be billed as follows:

Task	Fee Type	Original Contract Fee	Contract Amendment No. 1	Contract Amendment No. 2	Total Revised Contract Fee
Task 1: Design, Advertise, & Bidding Services (Additional)	Lump Sum (LS)	\$ 139,500	\$ 28,550	\$ -	\$ 168,050
Task 2: Construction Administration	Cost Plus Max Hourly	\$ 72,000	\$ -	\$ 47,265	\$ 119,265
Task 3: Resident Project Representation	Cost Plus Max Hourly	\$ 173,500	\$ -	\$ 16,250	\$ 189,750
Task 4: Surveying	Cost Plus Max Hourly	\$ 7,500	\$ -	\$ -	\$ 7,500
Task 5: Permitting	Cost Plus Max Hourly	\$ -	\$ -	\$ 15,000	\$ 15,000
Total Fee		\$ 392,500	\$ 28,550	\$ 78,515	\$ 499,565

Total Revised Not-to-Exceed Contract Fee = \$499,565

Any work not authorized within three (3) months of the date of this agreement will be subject to renegotiations based on current rates.

June 18, 2024

Page 3

Schedule

LJA staff will continue to perform required services to facilitate ongoing work.

Reimbursables and additional services

Included in the above fees are reimbursable expenses incurred on the project's behalf, including: mileage, printing, plotting, photocopies, reproduction, express mail, and/or courier services. Any regulatory agency review fees associated with plan reviews shall be the responsibility of the Client. Reimbursable expenses will be billed at cost plus ten percent (10%). LJA will bill monthly for all work performed and expenses incurred on the project's behalf. Unpaid invoices after thirty (30) days will accrue service charges at 1-1/2% per month and include any costs of collections and reasonable attorney's fees.

Authorization

If this contract amendment meets with your approval, your signature below will be sufficient authorization for LJA to commence the stated work as indicated in the above Scope of Services. We appreciate the opportunity to submit this Task Order and look forward to working with you on this project. If you have any questions, please contact me at 931.273.8999.

Sincerely,

Travis E. Wilson, PE
Vice President

Accepted By:
CITY OF MURFREESBORO
MURFREESBORO WATER RESOURCE
DEPARTMENT

By: _____

Name: Mayor Shane McFarland

Title: Mayor

Date: _____

APPROVED AS TO FORM:

DocuSigned by:
Adam Tucker
By: _____
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Name: Adam Tucker

Title: City Attorney

Date: 6/20/2024

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Itron Annual Support

Department: Water Resources

Presented by: Valerie Smith

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Software support for Water Resources Advanced Metering Infrastructure (AMI) utilized in wireless cellular water meter reading system and early leak detection notification.

Staff Recommendation

Approve annual support for Itron AMI software and Software as a Service (SaaS).

Background Information

Between December 2015 and June 2017, MWRD implemented AMI. The installation consisted of over 26,000 meters and Electronic Read Transmitters (ERTs), 50+ data repeaters, six data collectors and all corresponding software.

MWRD houses the main application software and consumption data on our VxRail servers. Itron hosts analytics data (for staff and customers) and the leak detection system. Staff uses analytics to review customers' usage when there is a question about consumption. Customers can set up their own portal account to receive usage alerts, set usage budgets, or monitor usage.

As part of their contract, United Software Systems (USS) covered all maintenance for the first five years after installation and WRD is responsible for maintenance beyond that period.

Council Priorities Served

Responsible budgeting

Proper maintenance of MWRD AMI software ensures timely and accurate billing to our customers, detection of system leaks, and access to consumption data for customers.

Fiscal Impact

The annual software cost (including Software as a Service) is \$61,845 and annual equipment support is \$19,979. Funding is in MWRD's FY25 operating budget.

Attachments

Itron Cellular Contract and Invoices



(800) 635-5461
www.itron.com

#10947

INVOICE

Invoice Number	681559
Invoice Date	11-JUN-24
Customer Number	81292
Itron Contract No.	SC00007911

Terms and Conditions:

Absent a written agreement between us to the contrary, the purchase of goods or services described herein is governed by the terms of sale at www.itron.com/termsofsale. Receipt of this document, without written objection within 7 days, constitutes acceptance of these terms.

TO: Murfreesboro Water and Sewer Attn: Randy Mccullough 300 NW Broad St Merfreesboro, TN 37130-3543 United States	SEND TO: Murfreesboro Water and Sewer 300 NW Broad St Merfreesboro, TN 37130-3543 United States
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Regular Invoice

3101 151002 WP 22
3101 151002 WP 24

Terms	Customer PO	Contract Term - FROM	Contract term - TO
Net 30		01-JUL-24	30-JUN-25

Billing Period From: 01-JUL-24 To :30-JUN-25

Hosting Services

Product Description	Quantity	Taxable Amt	Ext. Amount
MLOGONLINE - HOSTED SERVICE 6,000+ Serial Number Start Date End Date Amt Sub Qty 01-JUL-24 30-JUN-25 10,848.12 1	1		10,848.12
ITRON ANALYTICS CUSTOMER PORTAL SOFTWARE-AS-A-SERVICE Serial Number Start Date End Date Amt Sub Qty 01-JUL-24 30-JUN-25 7,797.49 1	1		7,797.49
Hosting Services Subtotal:			18,645.61

Product Description	Quantity	Taxable Amt	Ext. Amount
ITRON ANALYTICS SOFTWARE-AS-A-SERVICE Serial Number Start Date End Date Amt Sub Qty 01-JUL-24 30-JUN-25 43,198.96 1	1		43,198.96
Subtotal:			43,198.96



INVOICE

(800) 635-5461
www.itron.com

Invoice Number	681559
Invoice Date	11-JUN-24
Customer Number	81292
Itron Contract No.	SC00007911

Terms and Conditions:

Absent a written agreement between us to the contrary, the purchase of goods or services described herein is governed by the terms of sale at www.itron.com/termsofsale. Receipt of this document, without written objection within 7 days, constitutes acceptance of these terms.

TO:	Murfreesboro Water and Sewer Attn: Randy McCullough 300 NW Broad St Merfreesboro, TN 37130-3543 United States	SHIP TO:	Murfreesboro Water and Sewer 300 NW Broad St Merfreesboro, TN 37130-3543 United States
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Terms	Customer PO	Contract Term - FROM	Contract Term - TO
Net 30		01-JUL-24	30-JUN-25

Banking Information: Please include Your Invoice Number On Check.		Subtotal Amount	61,844.57
Wire payment to:	Remit-to:	Tax Amount	0.00
Itron, Inc.	Itron, Inc.	Total Amount	61,844.57
Wells Fargo Bank	P.O. Box 200209	Currency	USD
420 Montgomery Street	Dallas, TX 75320-0209		
San Francisco, CA 94105			
ABA # 121000248			
ACCOUNT # 4375688983			

(800) 635-5461
www.itron.com

Invoice Number	681493
Invoice Date	11-JUN-24
Customer Number	81292
Itron Contract No.	SC00008482

Terms and Conditions:

Absent a written agreement between us to the contrary, the purchase of goods or services described herein is governed by the terms of sale at www.itron.com/termsofsale. Receipt of this document, without written objection within 7 days, constitutes acceptance of these terms.

TO:	Murfreesboro Water and Sewer Attn: Randy Mccullough 300 NW Broad St Merfreesboro, TN 37130-3543 United States	SEN D TO:	Murfreesboro Water and Sewer 300 NW Broad St Merfreesboro, TN 37130-3543 United States
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Regular Invoice

3101 151002 WP24

Terms	Customer PO	Contract Term - FROM	Contract term - TO
Net 30		01-JUL-24	30-JUN-25

Billing Period From: 01-JUL-24 To :30-JUN-25

Hardware Maintenance

Product Description	Quantity	Taxable Amt	Ext. Amount
CCU 100	4		726.86

Serial Number	Start Date	End Date	Amt	Sub Qty
74047105	01-JUL-24	30-JUN-25	190.85	1
74047106	01-JUL-24	30-JUN-25	190.87	1
74047654	01-JUL-24	30-JUN-25	183.53	1
74048711	01-JUL-24	30-JUN-25	161.61	1

REPEATER 100	62		6,944.48
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Serial Number	Start Date	End Date	Amt	Sub Qty
66004394	01-JUL-24	30-JUN-25	114.53	1
66004395	01-JUL-24	30-JUN-25	114.53	1
66004396	01-JUL-24	30-JUN-25	114.53	1
66004397	01-JUL-24	30-JUN-25	114.53	1
66004398	01-JUL-24	30-JUN-25	114.53	1
66004399	01-JUL-24	30-JUN-25	114.53	1
66004400	01-JUL-24	30-JUN-25	114.53	1
66004401	01-JUL-24	30-JUN-25	114.53	1
66004402	01-JUL-24	30-JUN-25	114.53	1
66004403	01-JUL-24	30-JUN-25	114.53	1
66004404	01-JUL-24	30-JUN-25	114.53	1
66004405	01-JUL-24	30-JUN-25	114.53	1
66004406	01-JUL-24	30-JUN-25	114.53	1
66004407	01-JUL-24	30-JUN-25	114.53	1
66004408	01-JUL-24	30-JUN-25	114.53	1
66004409	01-JUL-24	30-JUN-25	114.53	1
66004410	01-JUL-24	30-JUN-25	114.53	1
66004411	01-JUL-24	30-JUN-25	114.53	1
66004412	01-JUL-24	30-JUN-25	114.53	1
66004413	01-JUL-24	30-JUN-25	114.53	1
66004414	01-JUL-24	30-JUN-25	114.53	1
66004415	01-JUL-24	30-JUN-25	114.53	1
66004416	01-JUL-24	30-JUN-25	114.53	1
66004417	01-JUL-24	30-JUN-25	114.53	1
66004430	01-JUL-24	30-JUN-25	114.53	1
66004431	01-JUL-24	30-JUN-25	114.53	1
66004432	01-JUL-24	30-JUN-25	114.53	1
66004433	01-JUL-24	30-JUN-25	114.53	1
66004434	01-JUL-24	30-JUN-25	114.53	1



(800) 635-5461
www.itron.com

INVOICE

Invoice Number	681493
Invoice Date	11-JUN-24
Customer Number	81292
Itron Contract No.	SC00008482

Terms and Conditions:

Absent a written agreement between us to the contrary, the purchase of goods or services described herein is governed by the terms of sale at www.itron.com/termsofsale. Receipt of this document, without written objection within 7 days, constitutes acceptance of these terms.

TO:	Murfreesboro Water and Sewer Attn: Randy Mccullough 300 NW Broad St Merfreesboro, TN 37130-3543 United States	SEN D TO:	Murfreesboro Water and Sewer 300 NW Broad St Merfreesboro, TN 37130-3543 United States
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Regular Invoice

Terms	Customer PO	Contract Term - FROM	Contract term - TO
Net 30		01-JUL-24	30-JUN-25

Product Description **Quantity** **Taxable Amt** **Ext. Amount**

Serial Number	Start Date	End Date	Amt	Sub Qty
66004435	01-JUL-24	30-JUN-25	114.53	1
66004436	01-JUL-24	30-JUN-25	114.53	1
66004437	01-JUL-24	30-JUN-25	114.53	1
66004438	01-JUL-24	30-JUN-25	114.53	1
66004439	01-JUL-24	30-JUN-25	114.53	1
66004440	01-JUL-24	30-JUN-25	114.53	1
66004441	01-JUL-24	30-JUN-25	114.53	1
66004442	01-JUL-24	30-JUN-25	114.53	1
66004443	01-JUL-24	30-JUN-25	114.53	1
66004444	01-JUL-24	30-JUN-25	114.53	1
66004445	01-JUL-24	30-JUN-25	114.53	1
66004446	01-JUL-24	30-JUN-25	114.53	1
66004447	01-JUL-24	30-JUN-25	114.53	1
66004448	01-JUL-24	30-JUN-25	114.53	1
66004449	01-JUL-24	30-JUN-25	114.53	1
66004450	01-JUL-24	30-JUN-25	114.53	1
66004451	01-JUL-24	30-JUN-25	114.53	1
66004452	01-JUL-24	30-JUN-25	114.53	1
66004453	01-JUL-24	30-JUN-25	114.53	1
66004454	01-JUL-24	30-JUN-25	114.53	1
66004455	01-JUL-24	30-JUN-25	114.53	1
66004456	01-JUL-24	30-JUN-25	114.53	1
66004457	01-JUL-24	30-JUN-25	114.53	1
66004672	01-JUL-24	30-JUN-25	110.12	1
66004673	01-JUL-24	30-JUN-25	110.12	1
66004674	01-JUL-24	30-JUN-25	110.12	1
66005852	01-JUL-24	30-JUN-25	101.81	1
66005853	01-JUL-24	30-JUN-25	101.81	1
66006231	01-JUL-24	30-JUN-25	96.96	1
66006232	01-JUL-24	30-JUN-25	96.96	1
66006556	01-JUL-24	30-JUN-25	92.35	1
66006557	01-JUL-24	30-JUN-25	92.35	1
66009076	01-JUL-24	30-JUN-25	76.32	1

ITRON MOBILE RADIO MAINTENANCE 3 540.50

Serial Number	Start Date	End Date	Amt	Sub Qty
66033450	01-JUL-24	30-JUN-25	193.93	1
66033459	01-JUL-24	30-JUN-25	193.93	1
66039259	01-JUL-24	30-JUN-25	152.64	1

CCU100 TOWER 4 743.72



(800) 635-5461
www.itron.com

INVOICE

Terms and Conditions:

Absent a written agreement between us to the contrary, the purchase of goods or services described herein is governed by the terms of sale at www.itron.com/termsofsale. Receipt of this document, without written objection within 7 days, constitutes acceptance of these terms.

Invoice Number	681493
Invoice Date	11-JUN-24
Customer Number	81292
Itron Contract No.	SC00008482

TO:	Murfreesboro Water and Sewer Attn: Randy Mccullough 300 NW Broad St Merfreesboro, TN 37130-3543 United States	SEND TO:	Murfreesboro Water and Sewer 300 NW Broad St Merfreesboro, TN 37130-3543 United States
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Regular Invoice

Terms	Customer PO	Contract Term - FROM	Contract term - TO
Net 30		01-JUL-24	30-JUN-25

Product Description	Quantity	Taxable Amt	Ext. Amount																									
<table border="0"> <tr> <td>Serial Number</td> <td>Start Date</td> <td>End Date</td> <td>Amt</td> <td>Sub Qty</td> </tr> <tr> <td>74047139</td> <td>01-JUL-24</td> <td>30-JUN-25</td> <td>190.85</td> <td>1</td> </tr> <tr> <td>74047144</td> <td>01-JUL-24</td> <td>30-JUN-25</td> <td>200.39</td> <td>1</td> </tr> <tr> <td>74047145</td> <td>01-JUL-24</td> <td>30-JUN-25</td> <td>190.87</td> <td>1</td> </tr> <tr> <td>74048842</td> <td>01-JUL-24</td> <td>30-JUN-25</td> <td>161.61</td> <td>1</td> </tr> </table>	Serial Number	Start Date	End Date	Amt	Sub Qty	74047139	01-JUL-24	30-JUN-25	190.85	1	74047144	01-JUL-24	30-JUN-25	200.39	1	74047145	01-JUL-24	30-JUN-25	190.87	1	74048842	01-JUL-24	30-JUN-25	161.61	1			
Serial Number	Start Date	End Date	Amt	Sub Qty																								
74047139	01-JUL-24	30-JUN-25	190.85	1																								
74047144	01-JUL-24	30-JUN-25	200.39	1																								
74047145	01-JUL-24	30-JUN-25	190.87	1																								
74048842	01-JUL-24	30-JUN-25	161.61	1																								

TOWER BOX 3 486.72

Serial Number	Start Date	End Date	Amt	Sub Qty
72504111	01-JUL-24	30-JUN-25	162.24	1
72504112	01-JUL-24	30-JUN-25	162.24	1
72504113	01-JUL-24	30-JUN-25	162.24	1

Hardware Maintenance Subtotal: 9,442.28

Software Maintenance and Other

Product Description	Quantity	Taxable Amt	Ext. Amount										
NETWORK SOFTWARE,25,001-50,000 <table border="0"> <tr> <td>Serial Number</td> <td>Start Date</td> <td>End Date</td> <td>Amt</td> <td>Sub Qty</td> </tr> <tr> <td></td> <td>01-JUL-24</td> <td>30-JUN-25</td> <td>4,771.90</td> <td>1</td> </tr> </table>	Serial Number	Start Date	End Date	Amt	Sub Qty		01-JUL-24	30-JUN-25	4,771.90	1	1		4,771.90
Serial Number	Start Date	End Date	Amt	Sub Qty									
	01-JUL-24	30-JUN-25	4,771.90	1									

FCS SFTW MAINTENANCE, 25001-50000 ENDPOINTS, ELECTRONIC DELIVERY 3,340.33

Serial Number	Start Date	End Date	Amt	Sub Qty
	01-JUL-24	30-JUN-25	3,340.33	1

Software Maintenance and Other Subtotal: 8,112.23

Product Description	Quantity	Taxable	Ext. Amount
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(800) 635-5461
www.itron.com

INVOICE

Terms and Conditions:

Absent a written agreement between us to the contrary, the purchase of goods or services described herein is governed by the terms of sale at www.itron.com/termsofsale. Receipt of this document, without written objection within 7 days, constitutes acceptance of these terms.

Invoice Number	681493
Invoice Date	11-JUN-24
Customer Number	81292
Itron Contract No.	SC00008482

TO:	Murfreesboro Water and Sewer Attn: Randy Mccullough 300 NW Broad St Merfreesboro, TN 37130-3543 United States	SHIP TO:	Murfreesboro Water and Sewer 300 NW Broad St Merfreesboro, TN 37130-3543 United States
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Terms	Customer PO	Contract Term - FROM	Contract Term - TO
Net 30		01-JUL-24	30-JUN-25

IMA DRIVEBY, 25001-50000
ENDPOINTS,
SUBSCRIPTION

Amt 2,424.11

1

Serial Number	Start Date	End Date	Amt	Sub Qty
	01-JUL-24	30-JUN-25	2,424.11	1

Subtotal:

2,424.11

Banking Information: Please include Your Invoice Number On Check.		Subtotal Amount	19,978.62
Wire payment to:	Remit-to:	Tax Amount	0.00
Itron, Inc.	Itron, Inc.	Total Amount	19,978.62
Wells Fargo Bank	P.O. Box 200209	Currency	USD
420 Montgomery Street	Dallas, TX 75320-0209		
San Francisco, CA 94105			
ABA # 121000248			
ACCOUNT # 4375688983			



NORTH AMERICAN

CELLULAR AMI (WATER & GAS) SOLUTION AGREEMENT

THIS NORTH AMERICAN CELLULAR AMI (WATER & GAS) SOLUTION AGREEMENT (THIS "AGREEMENT") GOVERNS YOUR USE OF AND ACCESS TO THE SERVICES AND EQUIPMENT DESCRIBED IN A QUOTE THAT ARE PROVIDED BY ITRON, INC. OR ANY OF ITS SUBSIDIARIES (EACH "ITRON"). THE TERMS "SERVICES", "EQUIPMENT" AND "QUOTE" ARE DEFINED IN THE DEFINITIONS SECTION BELOW.

This Agreement is effective as of the latest signed date below (the "**Effective Date**"). If you are accepting on behalf of your employer or another entity, you represent and warrant that: (a) you have full legal authority to bind your employer, or the applicable entity, to this Agreement, (b) you have read and understand this Agreement, and (c) you agree, on behalf of the party that you represent to this Agreement.

1. Definitions.

Affiliate means any legal entity that directly or indirectly controls, is controlled by, or is under common control with, a Party to this Agreement, where "control" means ownership of at least fifty (50) percent of the equity having the power to vote on or direct the affairs of the entity.

Annual Adjustment means Itron's annual price increase.

Billing Cycle means a period of one year beginning on the Service Offering Commencement Date or any anniversary thereof.

Claim means an unaffiliated third-party claim, action, cause of action, or demand for damages, cost, or expense (including reasonable attorney's fees) or other relief.

Channel Partner means a third-party authorized by Itron to distribute Services and/or Equipment to Customer.

Client Services Guidelines Documents means the following documents as they may be updated by Itron from time to time: "Product Contact Information Sheet", "After Hours Support", "Itron Equipment Repair Center Locations", and "Working Effectively with Itron Global Services". Copies of the Client Services Guidelines Documents may be obtained by calling (877) 487-6602 or such other number or process provided by Itron to Customer.

Confidential Information means any confidential, trade secret or other proprietary information disclosed by a Party or a Party's Affiliate related to its business that is designated as "confidential" or which a reasonable person knows or should understand to be confidential regardless of the form of disclosure and whether of a technical, business or financial nature including but not limited to processes and methods, product design and details of operation, product plans, prototypes, schedules, results, reports, computer programs, databases, compilations of data, engineering activity, manufacturing activity, analytical methods, strategies, and the like, but excluding information that: (i) is now or becomes generally available to the public through no fault or breach of the receiving Party; (ii) is rightfully in the receiving Party's possession, or known by it, prior to its receipt from the disclosing Party; (iii) is rightfully disclosed to the receiving Party by a third-party, free of any obligation of confidentiality; (iv) is developed by the receiving Party independently and without reference to the disclosing Party's Confidential Information, or (v) is rightfully disclosed pursuant to the applicable laws or regulations, or rules of any stock exchange, or orders of the court or other government authorities with notice to the disclosing Party.

Covered Itron Equipment means Itron Equipment for which Customer has purchased Maintenance Services.

Covered Third-Party Equipment means Third-Party Equipment for which Customer has purchased Maintenance Services.

Covered Products mean Software, Covered Itron Equipment and Third-Party Covered Equipment.

Customer means you or, if you are accepting on behalf of your employer or another entity, such employer or entity.

Customer Data means all data about Customer's existing or prospective end users that Itron acquires, develops, or derives in connection with performance under this Agreement. Such customer data may include, without limitation, any personally identifying information relating to a Customer's existing or prospective end user, or any other information that, either individually or when combined with other information, could be used to identify a particular Customer end user or a prospective Customer end user, which information is not generally available to the public.

Defended Party means a Party entitled to defense and indemnification from the other Party under Section 12 ("Third-Party Claims") of this Agreement.

Defending Party means a Party obligated to provide defense and indemnification to the other Party under Section 12 ("Third Party Claims") of this Agreement.

Documentation means user manuals, training materials, product descriptions and specifications, technical manuals, supporting materials and other information relating to Services and Equipment provided by Itron, which Itron customarily makes available to its customers.

Endpoint means an electric meter, gas or water endpoint receiver-transmitter, battery-powered device, or any other device from which Customer Data will be collected and managed as part of a Service Offering.

Error means a material failure of Software to comply with applicable published Itron specifications.

Equipment means Itron Equipment and Third-Party Equipment.

Equipment Maintenance Fees mean the annual fees identified in a Quote or, if no Quote, Itron's then-current list price at the time of Purchase Order acceptance by Itron, for each category of Covered Itron Equipment and Covered Third-Party Equipment, plus the Annual Adjustment, if any.

Fees means all amounts payable to Itron by Customer for Services and Equipment provided under this Agreement, as set forth in a Quote or, if no Quote, Itron's then-current list price at the time of Purchase Order acceptance by Itron.

Fix means a correction or workaround for an Error.

Global Support Services means those support services provided by Itron technical representatives via telephone, email, website or other means to assist Customer's Primary Service Contacts with questions or issues related to the operation of Covered Products.

Improvement means an update, modification, enhancement and/or extension to Software functionality that is included in a Release.

Intellectual Property and **Intellectual Property Rights** mean all industrial and intellectual property including, without limitation, patents, patent applications, invention registrations, and all other rights in inventions, copyrights in published and unpublished works, whether registered or unregistered, know-how, trade secrets, and confidential and proprietary information, whether such intellectual property has been created, applied for or obtained anywhere throughout the world.

Itron Equipment means equipment listed on a Purchase Order for sale to Customer under this Agreement that is manufactured by or on behalf of Itron.

M&S Commencement Date means the date upon and after which a Covered Product will be entitled to receive Maintenance Services purchased by Customer, which unless otherwise specified in a Quote provided by Itron, will be as follows:

Covered Product

M&S Commencement Date

Covered Software provided as a Service Offering	Service Offering Commencement Date
Covered Itron Equipment	End of warranty period
Third Party Covered Products	Per applicable third-party service provider terms and conditions

Maintenance Services means maintenance and support services described in Section 8 ("Maintenance Services") of this Agreement.

Mobile Device Software means Itron's Temetra Mobile application.

One-Time Setup Fee means the one-time setup fee(s) for each Service Offering identified in the applicable Quote or, if no Quote, Itron's then-current list price at the time of Purchase Order acceptance by Itron.

Operating Condition means performance in accordance with applicable published Itron specifications.

Party means Customer or Itron and **Parties** means Customer and Itron.

Primary Services Contacts means Customer's primary support staff who provides internal support to Customer's operations personnel and who are key interface to Itron for all Maintenance Services.

Quote means a quote for Services and/or Equipment provided to Customer by Itron or a Channel Partner.

Release means a collection of Fixes and/or Improvements made available by Itron to Customer.

Service Offering means the Temetra software-as-a-service offering identified on the applicable Purchase Order whereby Itron or its designated provider hosts and provides Customer with access to SaaS Software on Servers via the internet.

SaaS Software means the Itron proprietary data collection and management computer program(s) for the Service Offering(s) purchased by Customer.

Servers means the physical computer hardware owned by Itron or its designated provider on which SaaS Software will be installed, operated, and maintained by or on behalf of Itron.

Service Offering Commencement Date means, with respect to each Service Offering, the date Itron makes access credentials for the Service Offering available to Customer.

Service Levels means the defined level of impact and associated response time, effort level, and escalation path procedures and guidelines described in Attachment A to this Agreement.

Services mean the Service Offering(s) and Maintenance Services.

Software means Mobile Device Software and SaaS Software.

Subscription Fees means annual fees identified in the applicable Quote or, if no Quote, Itron's then-current list price at the time of Purchase Order acceptance by Itron, for each Service Offering, plus the Annual Adjustment, if any.

Subscription Term means the subscription term purchased by Customer for each Service Offering, which begins upon the applicable Service Offering Commencement Date.

Territory means the country in which Itron provides Services and/or Equipment to Customer.

Third-Party Equipment means equipment listed on a Purchase Order for sale to Customer under this Agreement that is not manufactured by or on behalf of Itron.

2. Purchase Order Requirement. Customer shall purchase Services and any Equipment by issuing a purchase order or similar ordering document accepted by Itron ("Purchase Order") indicating specific Services and Equipment, Itron part numbers, quantity, unit price, total purchase price, shipping instructions, requested shipping dates, bill-to and ship-to addresses, tax exempt certifications, if applicable, and contract reference. No contingency contained on any Purchase Order shall be binding upon Itron. The terms of this Agreement shall apply regardless of any additional or conflicting terms of any Purchase Order or other correspondence or documentation submitted by Customer to Itron, and any such additional or conflicting terms are deemed rejected by Itron.

3. Term. The initial term of this Agreement begins on the Effective Date and expires one (1) year following the Effective Date. Thereafter the term of this Agreement will automatically renew for successive one-year periods, unless either Party provides the other with written notice of its intent not to renew at least ninety (90) days prior to commencement of the next renewal period. Any accepted Purchase Orders as of the expiration date of this Agreement shall be completed by the Parties and the term of this Agreement will be extended solely for that purpose until completion. This Section is subject to Section 15 ("Termination") of this Agreement.

4. Fees, Invoicing, Taxes and Payment.

4.1. Fees. Initial fees for Services and Equipment are set forth in the Quote or, if no Quote, Itron's then-current list price at the time of Purchase Order acceptance by Itron. If the Territory is the United States, Customer will issue its Purchase Order to Itron, Inc. and pay Fees to such entity in USD. If the Territory is Canada, Customer will issue its Purchase Order to Itron Canada, Inc. and pay Fees to such entity in CAD.

4.2. Invoicing.

4.2.1. Customer shall pay Subscription Fees in advance for each Billing Cycle for which it has purchased a Service Offering. Itron will invoice Customer for the One-Time Setup Fee and initial Subscription Fees for each Service Offering upon the Service Offering Commencement Date. During deployment, Itron will invoice Subscription Fees quarterly beginning on the Effective Date and each subsequent period of three months. Beginning on the anniversary of the Effective Date immediately following completion of deployment, Itron will invoice Subscription Fees annually in advance. Deployment is considered complete when Customer installs the quantity of devices specified in an applicable purchase Order or pricing document.

4.2.2. Equipment. Itron will invoice Customer for Equipment and related shipping costs on or after the date of shipment.

4.2.3. Maintenance Services. Fees for Software Maintenance Services are included in the Subscription Fee for the applicable Service Offering. As compensation for Maintenance Services for Equipment, Customer shall in advance pay Equipment Maintenance Fees for each Billing Cycle in which it receives such Maintenance Services. Itron shall invoice Customer for Equipment Maintenance Services to be provided during the first Billing Cycle as soon as practicable following the M&S Commencement Date. For Equipment Maintenance Services provided during any subsequent Billing Cycle, Itron shall provide Customer with a renewal notice at least 120 days prior to the commencement of each Billing Cycle. Customer may discontinue Maintenance Services for any Covered Itron Equipment or Covered Third-Party Equipment by providing Itron with written notice of non-renewal for such Covered Product(s) no less than 90 days prior to the commencement of any subsequent Billing Cycle. Otherwise, approximately 20 days prior to the commencement of each subsequent Billing Cycle, Itron shall provide Customer with an invoice for Equipment Maintenance Fees payable by Customer for the forthcoming Billing Cycle. Itron may, in its discretion, invoice Customer for Maintenance Services for Covered Itron Equipment or Covered Third-Party that is added during any Billing Cycle as soon as such Maintenance Services have been added (at a prorated amount) or at the beginning of the next Billing Cycle. The Equipment Maintenance Fee for any partial Billing Cycle (i.e., for Covered Itron Equipment or Covered Third-Party Equipment with a M&S Commencement Date falls after the beginning of the Billing Cycle) shall be prorated based on the applicable M&S Commencement Date and the remaining number of months Customer is to receive Maintenance Services during the Billing Cycle.

4.3. Payment. Customer must pay each invoice within thirty (30) days of the invoice issuance date. Payment must be made by electronic transfer to a bank account designated by Itron.

4.4. Invoice Disputes. Customer shall notify Itron in writing of any dispute with any invoice (along with substantiating documentation and a reasonably detailed description of the dispute) within ten (10) days from the original invoice date. Invoices for which no such timely notification is received shall be deemed accepted by Customer as true and correct, and Customer shall pay all

amounts due under such invoices within the period set forth in Section 4.3. The Parties shall seek to resolve all such disputes expeditiously and in good faith in accordance with the dispute resolution provisions set forth in Section 18 ("Disputes"). Notwithstanding anything to the contrary, each Party shall continue performing its obligations under this Agreement during any such dispute including, without limitation, payment by Customer of all undisputed amounts due and payable under this Agreement.

4.5. Late Payment. Except for invoiced payments that Customer has timely disputed, all late payments shall bear interest at the lesser of the rate of one percent (1%) per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall also reimburse Itron for all reasonable costs incurred in collecting any late payments, including without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at law (which Itron does not waive by the exercise of any rights hereunder) Itron shall be entitled to suspend the provision of any Services and/or delivery of any Equipment if Customer fails to pay any undisputed amounts when due hereunder and such failure continues for fifteen (15) days following written notice thereof.

4.6. No Setoff. Customer shall not withhold payment of any amounts due and payable under this Agreement by reason of any setoff of any claim or dispute with Itron, whether relating to Itron's breach, bankruptcy, or otherwise.

4.7. Taxes. All prices are exclusive of any taxes, however designated, including without limitation value added, sales and withholding taxes which are levied or based upon the prices, charges or upon this Agreement. Customer shall pay any taxes related to products and services provided pursuant to this Agreement (except for taxes based on Itron's net income) or shall present an exception certificate acceptable to all relevant taxing authorities. Applicable taxes shall to the extent practical be billed as a separate item on the invoice. The Parties agree to fully cooperate with one another regarding taxes and any related issues arising from this Agreement. Customer will reimburse Itron for sales and use tax liability assessed against Itron but rightfully owed by Customer arising from or related to transactions set forth herein.

5. Documentation. Subject to Customer's compliance with this Agreement, including payment of all applicable Fees, Itron hereby grants to Customer a non-exclusive, non-transferable, non-assignable, limited right to access and use the Documentation with the Services and Equipment for its internal business purposes in the Territory. Itron will make its standard Documentation available via download. Itron will provide Customer with download instructions.

6. Service Offerings

6.1. Access Rights and Restrictions.

6.1.1. Access Rights. Subject to Customer's compliance with this Agreement, including payment of all applicable Fees, Itron hereby grants to Customer, for the Subscription Term(s) purchased, a non-exclusive, non-transferable, non-assignable, limited right to access and use the Service Offering(s) for its internal business purposes in the Territory.

6.1.2. Restrictions on Use. Customer and its authorized users may not (a) modify, translate or create derivative works of any Service Offering or related Documentation, (b) copy, reproduce, distribute, republish, download, display, post or transmit any portion of a Service Offering or related Documentation in any form or by any means, (c) sell, assign, transfer, lease or sublicense any Service Offering, (d) allow any third party other than authorized users to access any Service Offering or related Documentation without Itron's prior written consent, (e) use any Service Offering or related Documentation to provide services to third parties or otherwise use any Service Offering on a "service bureau" or "timesharing" or subscription basis, (f) reverse engineer, disassemble, decrypt, extract or otherwise reduce any Service Offering to a human perceivable form or otherwise attempt to determine the source code or algorithms of any Service Offering (except to the extent the foregoing restriction is expressly prohibited by applicable law), (g) infringe any of Itron's or its providers' Intellectual Property Rights, (h) publicly publish the results of any benchmark tests run on any Service Offering, (i) use any Service Offering or related Documentation to engage in any fraudulent, illegal or unauthorized act, (j) introduce into or transmit through any Service Offering any material containing software viruses, worms, trap doors, back doors, Trojan horses or other harmful or malicious computer code files, scripts, agents or programs, (k) remove, alter or obscure any titles, product logo or brand name, trademarks, copyright notices, proprietary notices or other indications of Itron's or its providers' Intellectual Property Rights, whether such notice or indications are affixed on, contained in or otherwise connected to a Service Offering, (l) attempt to gain unauthorized access to a Service Offering or Itron's or its providers' systems or networks, (m) merge any Service Offering with any other product or service.

without Itron's prior written consent and the payment of any additional fees, or (n) access or use any Service Offering or related Documentation to build or support and/or assist a third-party in building or supporting products or services competitive to Itron or its providers.

6.1.3. Content Restrictions. Customer may not distribute, download, or place on any Itron or its providers' website or Server, or use with any Service Offering any content that: (a) Customer knows or has reason to believe infringes the Intellectual Property Rights of any third party or violates any rights of publicity or privacy, (b) violates any applicable law, statute, ordinance, (c) is defamatory, trade libelous, unlawfully threatening or unlawfully harassing, or (d) is obscene, pornographic or indecent (items (a) – (d) are collectively referred to as "**Prohibited Content**") Itron reserves the right to remove any Prohibited Content from the Server without prior notice to Customer. To the extent not prohibited by law, Customer will indemnify, defend and hold Itron and its providers harmless for any claims, liabilities, losses, causes of action, damages, settlements, and costs and expenses (including, without limitation, attorneys' fees and costs) arising from any third-party claims related to or generated by any Prohibited Content distributed, downloaded, or placed on any Itron or its providers' website or Server or used with any Service Offering by Customer.

6.2. Breach of Restrictions. Customer's breach of the restrictions set forth in [Section 6.1.2](#) ("Restrictions on Use") or [Section 6.1.3](#) ("Content Restrictions") shall constitute a material breach of this Agreement and shall result in revocation and immediate suspension or termination, as determined by Itron in its sole discretion, of all rights and licenses granted under this Agreement with respect to the Service Offerings. Revocation does not preclude Itron from pursuing any legal and equitable remedies for Customer's breach of these restrictions.

6.3. SaaS Software Availability. Itron will endeavor to make the SaaS Software available to Customer through the Service Offering(s) purchased by Customer at least 99.5% of the time, excluding any downtime resulting from maintenance or circumstances beyond Itron's reasonable control.

6.4. Third-Party Radio Devices. Customer may use a Service Offering to collect Customer Data from Endpoints equipped with radio communication devices not manufactured or provided by Itron ("Third-Party Radio Device"). Itron makes no representations or warranties whatsoever, directly or indirectly, express or implied, as to the suitability, durability, and fitness for use, merchantability, condition, quality, performance or non-infringement of, and disclaims all liability with respect to, Third-Party Radio Devices. Without limiting the foregoing, Itron shall have no liability (a) if a Third-Party Radio Device is not responding or communicating or (b) for unread Endpoints due to defective or unreachable Third-Party Radio Devices. Customer shall contact the supplier of such device for support.

6.5. Sizing of Software-as-a-Service. Itron will size Service Offerings, Servers, and systems for Customer's specific deployment. System sizing depends upon the Service Offering and types of devices and sensors and may be a factor in determining Subscription Fees. Sizing criteria may include number of system endpoints, number of network devices, residential meter configuration, commercial and industrial meter configuration, desired data collection intervals, storage duration for historical data, and the number of concurrent and total users of the application. Any sizing changes during a Subscription Term will require a written agreement of the Parties and may result in a change in Subscription Fees.

6.6. Application Upgrade and Fixes. SaaS Software is updated regularly using a continuous delivery method.

6.7. Conditions on Use of Service. Customer will use of the Service Offerings only in accordance with the Documentation, this Agreement, and applicable laws and government regulations. The rights of any user to access and use the Service Offerings cannot be shared or used by more than one individual (unless such license is reassigned in its entirety to another authorized user) and Customer shall make every reasonable effort to prevent unauthorized third parties from accessing the Service Offerings.

6.8. Suspension or Restriction of Service. Itron may suspend or restrict all or part of the Service Offerings at any time to protect the integrity and functionality of the Software, Servers, platforms, and systems, or for a breach of [Section 6.1.2](#) ("Restrictions on Use"), [Section 6.1.3](#) ("Content Restrictions") or [Section 6.7](#) ("Conditions on Use of Service"), until such breach is cured to Itron's reasonable satisfaction.

6.9. Incident Management. Itron will provide Customer support and incident and problem management services, which include responding to alerts, tracking the issue, troubleshooting the problem and escalating to Itron subject matter experts or third-party

providers.

6.10. Customer Technical Responsibilities. Customer is responsible for selecting, acquiring, securing, and maintaining all equipment and ancillary services needed to connect to, access, or otherwise use and maintain compatibility with the Service Offerings at Customer's sole expense. For the avoidance of doubt, Customer is responsible for providing WAN connectivity.

6.11. User IDs and Passwords. Itron shall provide Customer with a user identification and password ("User ID") to access each Service Offering. Customer shall be solely responsible for all use of Customer's subscriptions and accounts. Customer shall maintain the confidentiality of all User IDs assigned to or created by Customer. User IDs may not be shared or used by more than one user.

6.12. Maintenance. System maintenance, whenever reasonably practicable, will be performed during off-business hours based on the regions covered by the Service Offering. Itron will minimize Service Offering disruptions to the extent reasonably practical.

6.13. Business Continuity. Itron uses streaming replication to keep a hot failover database always available, with automatic switch over in the event of failure. Application data is automatically backed up every night.

6.14. Recovery of Customer Data. Prior to the end of the Subscription Term or earlier termination of this Agreement or applicable Order Document (the "Recovery Request Deadline") Customer may request to Itron in writing to recover system data relating to this Service Offering ("Recovery Request"). Provided that Itron has received the Recovery Request from Customer prior to the Recovery Request Deadline, Itron will maintain Customer's access to this Service Offering for a period of three (3) months from Recovery Request Deadline (the "Recovery Period") for the sole purpose of enabling Customer to retrieve the following system data: access account information, meter details, history of index reading data and photographs. Customer may, at no additional cost, export said system data in the standard file format used by this Service Offering or the format already supported by this Service Offering. At the end of the Recovery Period, the system data will be permanently deleted and will no longer be recoverable. Notwithstanding the foregoing, if Customer fails to pay undisputed amounts due, Itron will have no obligation to maintain system data or Customer's access to this Service Offering following the Recovery Request Deadline. Itron may restore system data (if recoverable) and reinstate Customer's access to this Service Offering upon payment of Itron's then current reinstatement fee.

7. Mobile Device Software License

7.1. License Grant. Subject to the terms of this Agreement, Itron grants Company a limited, non-exclusive and non-transferrable license to download, install, and use the Mobile Device Software on Itron-approved mobile devices owned or otherwise controlled by Customer (each a "Mobile Device") strictly in accordance with the Documentation.

7.2. License Restrictions. Customer shall not: (a) copy the Mobile Device Software; (b) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Mobile Device Software; (c) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Mobile Device Software or any part thereof; (d) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Mobile Device Software, including any copy thereof; or (e) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Mobile Device Software, or any features or functionality of the Mobile Device Software, to any third party for any reason.

7.3. Updates. Itron may from time to time in its sole discretion develop and provide Mobile Device Software updates, which may include upgrades, bug fixes, patches, other error corrections, and/or new features (collectively, including related documentation, "Updates"). Based on Customer's Mobile Device settings, when Customer's Mobile Device is connected to the internet either: (a) the Mobile Device Software will automatically download and install all available Updates, or (b) Customer may receive notice of or be prompted to download and install available Updates. Customer shall promptly download and install all Updates and acknowledge and agree that the Mobile Device Software, the Service Offering, or portions thereof may not properly operate should Customer fail to do so. Customer further agrees that all Updates will be deemed part of the Mobile Device Software and be subject to all terms and conditions of this Agreement.

7.4. Compatible Mobile Devices. Mobile Device Software is designed to work in connection with Mobile Devices that meet Itron minimum requirements. Itron will provide the minimum specifications to Customer. Itron is not required to make Mobile Device

Software work with any other mobile devices.

7.5. Disclaimer of Liability. Mobile Device Software requires Internet connectivity, which Customer is solely responsible for procuring. Itron accepts no responsibility for any internet services failure, Mobile Device failure, or for any loss or damage of any kind caused by such failure.

8. Equipment

8.1. Ordering, Lead Time & Ship Date. Scheduled shipping dates will be assigned by Itron as close as possible to Customer's requested date based on Itron's then-current lead times for the Equipment. Upon Customer's request, Itron will communicate current lead times. Itron will also communicate scheduled shipping dates in the order acknowledgment or on Itron's customer portal.

8.2. Order Cancellation & Rescheduling. Purchase Orders for Equipment may not be canceled or rescheduled by Customer, unless agreed to by Itron.

8.3. Shipment, Title & Risk of Loss. For shipments within the United States, Itron will ship Equipment FOB Origin, production facility. Customer must pay for all costs associated with delivery of Equipment to the final destination. Title and risk of loss of Equipment will pass to Customer upon tender to the carrier at the production facility. For shipments outside the United States, Itron will ship Equipment FCA Origin (Incoterms 2020). Equipment will be delivered export cleared to Customer at the production facility. Customer will act as the Importer of Record (IOR) for Equipment and assumes all costs associated with delivery of Equipment to the final destination, including transportation after delivery to carrier and any licensing, certifications, permits, customs fees, import/local taxes, provincial/national tax, and value added tax related to importation of Equipment. Itron will provide all necessary information required for Customer to import Equipment. Title to and risk of loss for Equipment passes to Customer upon tender to the carrier at the production facility.

8.4. Itron Equipment Warranty. Itron warrants solely to Customer that Itron Equipment will be free from defects in materials and workmanship and will conform in all material respects to the applicable Itron published specifications for one (1) year following the original shipment date. As Customer's sole and exclusive remedy for a breach of the foregoing warranty, Itron will, at its option and expense: (i) repair or replace faulty Itron Equipment under warranty after it has been returned to an Itron-designated repair facility during the Warranty Period in accordance with Itron's then-current RMA policy and procedures; (ii) provide Customer with a Firmware or software fix to correct the nonconformity; or (iii) if Itron determines (in its reasonable judgment) that it is unable to provide a remedy specified in item (i) or (ii) of this section, Itron will provide Customer with a depreciated refund of the purchase price for the applicable Itron Equipment. Customer will pay the cost of returning Itron Equipment to the Itron designated repair facility and Itron will pay the cost of returned repaired or replacement Itron Equipment to Customer. Customer is responsible for any labor costs associated with removal or reinstallation of Itron Equipment. Repaired and replacement Itron Equipment will be warranted for the remainder of the Warranty Period or sixty (60) days from the ship date of the repaired or replaced Itron Equipment, whichever is longer.

8.5. Itron Equipment Warranty Exclusions. The above warranty does not cover Itron Equipment in poor operating condition due to: (a) changes made to Itron Equipment without Itron's prior written consent; (b) use with cables, mounting kits, antennas, battery backups, and other devices, third party software, or firmware that Itron has not provided to Customer or approved in writing for use with Itron Equipment; (c) Customer's or a third party's misuse, abuse, negligence, or failure to install, test, handle, or operate Itron Equipment in accordance with its Documentation; (d) a Force Majeure event; or (e) incorrect data, or data entry or output by Customer or a third party not under Itron's control. Additional warranty exclusions for specific Itron Equipment may be specified in the attached Itron Equipment Warranty Table. Customer may request that Itron repair Itron Equipment damaged by any of the foregoing, if Itron agrees to make such repairs. Customer may be charged additional Fees.

8.6. Third-Party Equipment Warranty. Itron is not the manufacturer of the Third-Party Equipment and makes no representations or warranties whatsoever, directly or indirectly, express or implied, as to the suitability, durability, fitness for use, merchantability, condition, quality, performance, or non-infringement of Third-Party Equipment. Third-Party Equipment shall be subject to any warranties provided by the Third-Party Equipment manufacturer. Itron will pass through to Customer, or make commercially reasonable efforts to enforce on Customer's behalf, any warranties and remedies received from the Third-Party Equipment

manufacturer.

9. Maintenance Services

9.1. Primary Services Contacts.

9.1.1. Designation by Customer. Customer shall designate a minimum of one and not more than two Primary Services Contacts for each Covered Product line, to serve as administrative liaisons for all matters pertaining to Maintenance Services for such Covered Product line and shall provide their contact information to Itron's customer account representative. Primary Services Contacts shall promptly report problems with Covered Products by submitting a Service Request for entry into Itron's support tracking system. Although it is Customer's sole right to choose its Primary Services Contacts, Customer and Itron acknowledge that each Primary Services Contact must have the appropriate technical skills and training for the position. If Customer replaces a Primary Services Contact, Customer will provide updated contact information to Itron's customer account representative and the new Primary Services Contact will be properly trained prior to interfacing with Itron support personnel.

9.1.2. Training of Principal Services Contacts. Before a Primary Services Contact interfaces with Itron support personnel, he/she will attend training sessions offered by Itron, an Itron-approved trainer, or Customer's training program approved by Itron to ensure that the Primary Services Contact is (i) knowledgeable about operation of the applicable Covered Products and (ii) qualified to perform problem determination and remedial functions with respect to such Covered Products. Customer may perform Itron-approved training or may engage Itron to perform training of Primary Services Contacts at Itron's then current rates. Itron will make training sessions available by remote video conference or training will be made available at a location or in a manner mutually agreed by the Parties. Customer shall be responsible for all Customer's associated travel-related expenses and, if the Parties agree that training will be provided at a location other than an Itron-designated facility (e.g., at a Customer-proposed facility), Customer will also reimburse Itron's travel-related expenses. The Primary Services Contacts must have the skills and capabilities to train other Customer personnel on Covered Products. Itron may update Covered Product training from time to time and, upon receiving notice of such updates from Itron, Customer shall promptly provide such training to its Primary Services Contacts in accordance with this Section.

9.2. Global Support Services & Service Requests.

9.2.1. Global Support Services. Itron will make support representatives available to provide technical support during its then current normal business hours as set forth in the Product Contact Information Sheet included within the Client Services Guidelines Document. Global Support Services include troubleshooting & problem diagnosis relating to Covered Products, release or system management consulting, and recommendations for fully utilizing Covered Products. Customer acknowledges and agrees that Global Support Services are not intended as a substitute for training of Customer personnel, field support, or Itron professional services. Nor will Customer use Global Support Services in lieu of having qualified and trained support personnel of its own.

9.2.2. Service Request Process. Customer shall submit Service Requests in the manner required by the Client Services Guidelines Documents and Service Levels. Customer may submit Service Requests on a 24/7/365 basis and Itron will respond to such Service Requests in accordance with the Service Levels. When Customer submits a Service Request, Customer will reasonably assess its urgency according to the appropriate Severity Level in Attachment A to this Agreement. Itron will designate the initial Severity Level and the Parties will resolve any perceived gap regarding the Severity Level designation as soon as is reasonably practical.

9.2.3. Field Support. At Customer's request and Itron's approval, Itron will dispatch support personnel to Customer's location to provide onsite Global Support Services ("Requested Field Support") related to a reported problem which cannot be addressed remotely. Requested Field Support will be billed at Itron's then-current rates, and Customer will reimburse Itron's travel-related expenses, unless the cause of the reported problem is found to be the fault of Itron.

9.3. Software Maintenance

9.3.1. Fixes. Itron shall provide Fixes in accordance with the Service Levels. Itron's obligations with respect to Service Levels are contingent upon Customer (i) devoting the same level of effort to resolving the Error as is required of Itron, (ii) responding to requests made by Itron within the applicable Response Time, (iii) assigning only qualified personnel to help Itron address the Error,

and (iv) providing all information, access and assistance reasonably requested by Itron to address the Error.

9.3.2. Improvements. Itron shall provide Improvements if any, at no charge to Customer if such Improvements are made within the current product specifications and are made available to Itron customers generally at no charge. Improvements created as new add-on modules/features and not part of the products original specifications will be created at Itron's discretion and will be billable at Itron's then current rates. Access to new add-on modules may also require additional licensing and subscription fees.

9.3.3. Exclusions. Itron shall have no obligation to provide Maintenance Services for, or liability to Customer for Software adversely affected by (i) use of Software by anyone other than Itron in combination with software, equipment or communications networks not referenced in the Documentation as being compatible with the Software (ii) failure to perform customer responsibilities describe in this Agreement, (iii) viruses introduced through no fault of Itron.

9.3.4. Customer Responsibilities. Customer will support Itron investigation and restoration efforts as defined in the Service Level table and will act upon / implement support solutions and workarounds recommended by Itron in a timely fashion. When escalating a Service Request with Itron, Customer's Primary Service Contact shall collect and provide all data logs, findings, analysis and any relevant forensic information pertaining to the issue as outlined in Client Services Guideline Documents.

9.4. Equipment Maintenance.

9.4.1. Preventive and Corrective Maintenance. Upon receipt of an item of Covered Itron Equipment Itron shall (i) perform preventative Maintenance Services necessary to maintain the Covered Itron Equipment in Operating Condition, and (ii) diagnose and correct any failure in the Covered Itron Equipment as necessary to meet Operating Condition, excluding minor cosmetic deficiencies such as blemishes, dents or scratches.

9.4.2. Maintenance Procedures. Customer shall initiate a request for Maintenance Services for Covered Itron Equipment by delivering the Covered Itron Equipment to the applicable Itron Certified Repair Center identified on the Itron Equipment Repair Table. Return of Covered Equipment shall be at Customer's expense and in accordance with Itron's then-current Return Material Authorization ("RMA") procedures. Upon receipt of Covered Itron Equipment (with the required information) under Itron's RMA procedures, Itron shall assess the item to determine (a) whether it is in fact Covered Itron Equipment and (b) whether the maintenance requested is included within the Maintenance Services ordered by Customer and not otherwise excluded from coverage. If the returned equipment is determined to be Covered Itron Equipment and the maintenance requested is included in the Maintenance Services ordered by Customer, Itron shall provide the applicable Maintenance Services and return the item of Covered Itron Equipment to Customer at Itron's expense within the applicable turnaround time identified on the Itron Equipment Repair Table. If Itron determines that returned equipment is not Covered Itron Equipment or is excluded from the Maintenance Services ordered by Customer, then Itron will proceed in accordance with the estimation fees section below.

9.4.3. Exclusions Covered Itron Equipment Maintenance Services do not include repairs related to: (i) damage due to accident, abuse, misuse, inadequate maintenance, problems caused by electrical power surges or acts of God outside of the tolerances set forth in the applicable published Itron specifications, (ii) service or repair processes (including installation or de-installation of equipment, parts or firmware/software) not performed or authorized by Itron, (iii) use of parts, configurations or repair depots not certified or authorized by Itron, or (iv) Customer's failure to perform material Customer responsibilities in accordance with this Addendum, including caring for Covered Itron Equipment in accordance with applicable Documentation.

9.4.4. Estimation Fees. Itron will provide Customer with a price quote for the estimated cost (including current inspection fees) including labor, materials and shipping, for any repairs to equipment that are requested, which Itron determines are excluded from or not included within the Maintenance Services ordered by Customer. If Customer elects not to proceed with the requested repair, Itron will return the item of equipment at Customer's expense and Itron may charge Customer its then-current inspection fee.

9.4.5. Adding/Restoring Equipment to Maintenance Services. Following the Effective Date, additional Covered Itron Equipment purchased by Customer, of a similar type and model already covered under this Agreement, shall automatically be deemed to be Covered Itron Equipment following the M&S Commencement Date. If Customer declines or discontinues Maintenance Services for any Covered Itron Equipment and thereafter wishes to add or restore such equipment as Covered Itron Equipment, Itron may, prior to such equipment being included as Covered Itron Equipment, inspect such equipment at Itron's then current

rates to determine whether it is in Operating Condition and/or charge Itron's then current re-certification fee in addition to prorated Equipment Maintenance Fees for the then-current Billing Cycle (the "Re-initiation Costs"). At Customer's request, Itron will provide Customer with a quote for estimated Re-initiation Costs for equipment that Customer wishes to add or restore as Covered Itron Equipment under this section.

9.4.6. Equipment Responsibilities Itron shall make available and Customer shall obtain a copy of the Documentation for Covered Itron Equipment and Customer will be responsible to perform preventive maintenance for each such item in accordance with such Documentation. Customer shall also keep accurate records of Covered Itron Equipment serial numbers and locations to assist Itron with performing Maintenance Services.

9.4.7. Support for Third Party Equipment. Itron shall provide first tier Global Support Services for Third Party Covered Equipment by handling all Customer inquiries attempting to identify the component involved in the problem and obtaining appropriate documentation of such inquiry or problem. In addition, Itron shall make commercially reasonable efforts to facilitate Customer's receipt of maintenance and support for such Third-Party Covered Equipment consistent with the third-party maintenance terms made available to Customer by Itron. Notwithstanding anything else to the contrary, Itron's sole obligation under this Addendum with respect to Third Party Covered Equipment shall be as set forth in this section.

9.5. End of Support. Itron may discontinue Maintenance Services for any Covered Itron Equipment effective as of the end of the applicable Billing Cycle, by giving Customer written notice of such discontinuance no less than one hundred eighty (180) days prior to the end of such Billing Cycle. The end of support date for a Covered Third-Party Equipment shall be the date specified by the applicable third-party service provider, which date will be promptly communicated by Itron to Customer following the date of receipt. If the end of support date is scheduled within a subsequent Billing Cycle, Equipment Maintenance Fees for that subsequent Billing Cycle will be pro-rated through the end of support date. At Customer's request, Itron may elect to provide custom support for Equipment for which Maintenance Services have been discontinued at Itron's then-current rates. Unless otherwise agreed by the Parties in accordance with the foregoing sentence, Itron shall have no obligation to provide Maintenance Services with respect to Equipment for which Itron has discontinued Maintenance Services. Periodically, Itron will make available product plan publications, including product information letters (PIL), product newsletters or written technology roadmaps which outline Itron's general plans for continued support and end of support of applicable Covered Products. Product publications are used as general guidelines for Customer communications and planning, which may be updated from time to time.

10. Warranty Disclaimer. EXCEPT FOR THE LIMITED ITRON EQUIPMENT WARRANTIES SET FORTH IN SECTION 8.4 ("ITRON EQUIPMENT WARRANTY"), ITRON MAKES NO WARRANTY OF ANY KIND RELATING TO SERVICES AND EQUIPMENT AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, (I) IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, (II) WARRANTIES OF TITLE AND AGAINST INFRINGEMENT, AND (III) WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. TO THE EXTENT ANY IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD. ITRON AND ITS SUPPLIERS DO NOT WARRANT OR REPRESENT THAT SERVICES OR EQUIPMENT WILL BE FREE FROM BUGS, ERRORS OR THAT THEIR USE WILL BE UNINTERRUPTED OR ERROR-FREE. ITRON ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY INTERRUPTION OR CESSATION OF TRANSMISSION VIA CUSTOMER OR THIRD PARTY WAN, CELLULAR OR OTHER PUBLIC COMMUNICATIONS OR BROADBAND SYSTEMS (INCLUDING OUTAGES, DISCONTINUANCE, DEVICE NON-REACHABILITY, LOSS OR INACCURATE READING) OR FOR ANY CONSEQUENCES, LOSSES OR DAMAGES ARISING FROM CHANGES MADE BY CUSTOMER TO THE CONTENT OR PROGRAMMING OF EQUIPMENT (UNLESS CAUSED BY A DEFECTIVE PRODUCT). THESE DISCLAIMERS WILL APPLY NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED UNDER THIS AGREEMENT.

11. Intellectual Property.

11.1. Reservation of Intellectual Property. Subject to the limited rights expressly granted by Itron to Customer under this Agreement, (i) Itron reserves all rights, title and interest in and to all of its Intellectual Property, and (ii) as between the Parties, Itron owns all rights, title and interest in and to its Confidential Information and the products, services and related deliverables provided by Itron under this Agreement. Subject to the limited rights expressly granted by Customer to Itron under this Agreement, Customer reserves all rights, title and interest in and to all of its Intellectual Property, and (ii) as between the Parties, Customer owns all right.

title and interest in and to its Confidential Information and Customer Data. All rights, titles and interests not specifically and expressly granted by either Party hereunder are hereby reserved.

11.2. Customer Suggestions. Itron shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into any products and services any suggestions, enhancement requests, recommendations or other feedback provided by Customer.

12. Third-Party Claims.

12.1. General Claims. The Defending Party will defend the Defended Party from and against Claims arising from personal bodily injury, death or damage to tangible personal property or real property and will indemnify the Defended Party from resulting settlements approved by the Defending Party and final judgments entered against the Defended Party, to the extent caused by the negligence of the Defending Party.

12.2. Infringement Claims. Itron, as the Defending Party, will defend Customer, as the Defended Party, from and against Claims alleging that any Itron-branded products or services, as delivered to Customer, infringe upon any third party's Intellectual Property Rights within the Territory ("**IP Claims**"). Itron will also indemnify Customer for settlements approved by Itron and final judgments entered against Customer to the extent resulting from IP Claims. If Itron receives notice of an alleged infringement by any products or services provided to Customer under this Agreement, or if Itron reasonably believes that an IP Claim is likely, Itron may stop delivery of the affected products or services without liability for failure to deliver them. Itron will have the right, at its sole option, to obtain the right for Customer to continue use of the affected products or services, or to replace or modify the affected products or services so that they are no longer alleged or believed to infringe, if it can be done without significant loss of functionality. If neither of the foregoing options are available to Itron on commercially reasonable terms, Itron may terminate Customer's use of the affected products or Services without further liability under this section, in which case Itron will refund to Customer the depreciated value of the affected product and any prepaid unused portion of the service.

12.3. Conditions to Defense. As a condition to the Defending Party's obligations under Section 12.1 or Section 12.2 above, the Defended Party must: (i) promptly notify the Defending Party in writing of the Claim; (ii) give the Defending Party all reasonably requested information and assistance in connection with the Claim in a timely manner; and (iii) give the Defending Party the sole right to control the defense and settle of the Claim. The Defending Party shall not enter into any settlement of a Claim against a Defended Party without the Defended Party's prior written consent unless: (a) there is no admission of fault of the Defended Party; (b) there is no injunctive or other non-monetary relief against the Defended Party; and (c) the settlement includes the claimant's or plaintiff's release of the Defended Party from all liability in respect of the Claim.

12.4. Exclusions to Infringement Claim Defense. Itron will have no obligation under Section 12.2 above for any infringement Claim in which infringement is alleged or caused by (i) the combination, operation or use of any product or service provided by Itron with any product or service (including third-party software and equipment) not provided by Itron; (ii) any modification to products or services made either without Itron's prior written consent or by a person other than Itron or an authorized representative of Itron; (iii) failure to use updated or modified products or services as provided by Itron; (iv) use of any release of Itron software or any firmware other than the most current release made available to Customer; (v) use of products or services not in accordance with this Agreement and applicable Documentation; (vi) Itron's compliance with any designs, specifications, or instructions provided by Customer; or (vii) use of any Customer or third-party wireless data services. In addition, Itron shall not be liable for enhanced or punitive damages that could have been avoided or reduced by actions within the control of Customer.

12.5. EXCLUSIVE REMEDY. THIS SECTION 12 CONSTITUTES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO THIRD PARTY CLAIMS BROUGHT AGAINST CUSTOMER.

13. Data Protection. The Parties must implement and establish reasonable security protocols for the protection and retention of Customer Data. As between Customer and Itron, Customer will retain its rights in Customer Data, provided, however, Customer hereby grants Itron a non-exclusive, royalty-free, perpetual, worldwide license to copy, modify, use, sublicense, distribute, display, create derivative works of all Customer Data for the purposes of (i) providing products and services to Customer, (ii) testing, troubleshooting, and optimizing performance and quality of Itron's products and services, and (iii) so long as Customer is not identifiable and all personally identifiable information is either removed or anonymized, developing new products and services. Itron assumes no responsibility for Customer or third-party content carried on Customer's or Itron's systems. Customer warrants and represents that:

during the term of this Agreement (a) it has the legal right and authority to grant Itron access to view, store, and use the Customer Data to provide products and services and (b) Itron's transmission, use and storage of any such Customer Data in accordance with this Agreement will not violate any applicable laws or regulations or cause a breach of any agreement or obligation between Customer and any third-party.

14. Confidentiality. Each Party receiving, possessing, accessing or otherwise acquiring Confidential Information of the other Party acknowledges that the disclosing Party's Confidential Information is the property of and confidential to, or a trade secret of, the disclosing Party. The receiving Party (a) must keep the disclosing Party's Confidential Information confidential and may not directly or indirectly disclose, divulge or communicate that Confidential Information to, or otherwise place that Confidential Information at the disposal of, any other person without the disclosing Party's prior written approval; (b) must take all reasonable steps to secure and keep secure all disclosing Party's Confidential Information coming into its possession or control; (c) may not disclose any Confidential Information to anyone other than the receiving Party's employees, agents, contractors or subcontractors and professional advisors or those of its Affiliates who have a need to know such Confidential Information; (d) must use the Confidential Information solely for purposes related to the subject matter of this Agreement or for potential future commercial transactions between the Parties not otherwise covered by a separate agreement, and (e) must ensure that any person to whom it discloses Confidential Information in accordance with this provision is subject to binding confidentiality obligations that are at least as restrictive as those set forth in this Agreement.

15. Termination. Either Party may terminate this Agreement by providing the other Party with written notice if the other Party (i) becomes insolvent, executes a general assignment for the benefit of creditors or becomes subject to bankruptcy or receivership proceedings, or (ii) commits a material breach of this Agreement that remains uncured for thirty (30) days following delivery of written notice of such breach. Any notice of breach must specify (a) the nature of the breach, and (b) the specific act or acts that the non-breaching Party contends would correct such breach. For the avoidance of doubt, Customer's failure to pay invoices timely will be deemed a material breach of this Agreement.

16. Survival. The following sections of this Agreement shall survive termination or expiration of this Agreement: 1 ("Definitions"), 3 ("Term"), 4 ("Fees, Invoicing, Taxes and Payment"), 10 ("Warranty Disclaimer"), 11 ("Intellectual Property"), 14 ("Confidentiality"), 16 ("Survival"), 17 ("Limitation of Liability"), 18 ("Disputes"), 19 ("Governing Law"), and 25 ("Miscellaneous").

17. Limitation of Liability. Except for Customer's violation of Itron's Intellectual Property Rights, neither Party will be liable to the other Party for any consequential, indirect, special, incidental, punitive or exemplary damages arising out of this Agreement or products or services provided hereunder (including but not limited to damages for loss of data, goodwill, profits, other than amounts payable by Customer to Itron hereunder, investments, use of money or facilities, interruption in use or availability of data, stoppage of other work or impairment of other assets) whether or not foreseeable and even if such Party has been advised of the possibility of such damages. Except for Customer's payment obligations hereunder or violation of Itron's Intellectual Property Rights, neither Party's total, aggregate liability to the other Party arising out of or related to this Agreement or any products or services provided hereunder shall exceed the amounts paid and payable by Customer under the applicable Order Document or Statement of Work during the twelve month period immediately preceding the date upon which the liability arose, regardless of whether any action or claim is based on contract, warranty, indemnity, negligence, strict liability or other tort or otherwise.

18. Disputes. The Parties shall resolve any dispute, controversy, or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity hereof (each, a "**Dispute**") in accordance with this Section. A Party shall send written notice to the other Party of any Dispute ("**Dispute Notice**"). The Parties shall first attempt in good faith to resolve any Dispute set forth in the Dispute Notice by negotiation and consultation between themselves. In the event that such Dispute is not resolved on an informal basis within thirty (30) Business Days after one Party delivers the Dispute Notice to the other Party, either Party may, by written notice to the other Party ("**Escalation to Executive Notice**"), refer such Dispute to the executives of each Party designated by such Party in a written notice to the other Party ("**Executive(s)**"). If the Executives cannot resolve any Dispute during the period ending thirty (30) Business Days after the date of the Escalation to Executive Notice (the last day of such time period, the "**Escalation to Mediation Date**"), either Party may submit the Dispute to any mutually agreed to mediation service for mediation by providing to the mediation service a joint, written request for mediation setting forth the subject of the dispute and the relief requested. The Parties shall cooperate with one another in selecting a mediation service and shall cooperate with the mediation service and with one another in selecting a neutral mediator and in scheduling the mediation proceedings. The Parties covenant that they will use commercially reasonable efforts in participating in the

mediation. The Parties agree that the mediator's fees and expenses and the costs incidental to the mediation will be shared equally between the Parties. If the Parties cannot resolve any Dispute for any reason, including, but not limited to, the failure of either Party to agree to enter into mediation or agree to any settlement proposed by the mediator, within sixty (60) Business Days after the Escalation to Mediation Date, either Party may initiate legal proceedings in a court of competent jurisdiction. Notwithstanding the foregoing, nothing in this Section shall be construed as preventing a Party from seeking available equitable relief, including without limitation, specific performance and injunctive relief in a court of competent jurisdiction.

19. Governing Law. This Agreement and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by, and construed in accordance with, the laws of the jurisdiction where Customer's primary business address is located, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any other jurisdiction. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

20. Legal Compliance. Each Party must comply with all applicable laws. Itron's products and services delivered under this Agreement are subject to the U.S. Export Administration Regulations ("EAR", 15 CFR part 730 et seq.) and any applicable laws and regulations of the particular country to which such items are shipped or received. Customer shall comply with all applicable export control laws and shall not cause, directly or indirectly, the export, re-export, or transfer of any such items or services to destinations or persons without obtaining any required prior authorization from the U.S. Government and any other applicable local authorities. Customer shall not do anything to cause Itron to violate such export control laws, including, but not limited to, requesting support for a product that has been unlawfully re-exported or requesting delivery of a product or service intended for a U.S. sanctioned region or person. Each party represents that it is not listed on a U.S. Government restricted party list for export control or trade sanctions purposes and is not 50% or more owned, in the aggregate, by one or more restricted parties. Customer shall maintain any required export records related to Itron's products or services and make such records available to Itron upon request. The Parties must comply with all anti-bribery laws and may not make any payments or transfer any item of any value for the purpose of bribing any individual or group, or accepting or participating in any extortion, kickbacks, or other unlawful or improper means to obtain business related to this Agreement or products and services orderable under this Agreement.

21. Publicity. Neither Party may issue a press release related to this Agreement or their relationship without the other Parties' prior written consent. The Parties will create and approve for publication a press release announcing their relationship under this Agreement. Itron may use Customer's name and logo as a part of Itron's normal marketing materials.

22. Sub-contractor and Outsourcer. Itron may hire, engage, or retain the services of one or more subcontractors and/or outsourcing providers to perform any or all of its obligations related to its product development, network operations, and/or any portion of services provided under this Agreement. Subcontractors and outsourcing providers that have access to Customer Data will be bound by written obligations of confidentiality and data security requirements as restrictive as those required under this Agreement.

23. Independent Contractor. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties. The Parties are independent contractors. Neither Party has any authority to act on behalf of, or to bind the other to any obligation.

24. Force Majeure. Neither Party (the "Impacted Party") shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for Customer's obligations to make payments to Itron under this Agreement), when and to the extent such failure or delay is caused by or results from acts or omissions (whether in effect on or after the Effective Date of this Agreement) beyond the Impacted Party's reasonable control and without the Impacted Party's negligence, including, without limitation: (a) acts of God, (b) severe weather, flood, fire, earthquake, or explosion, (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, (d) changes in applicable laws or regulations, (e) embargoes or blockades, (f) action or inaction by any governmental authority, (g) national or regional emergency, (h) strikes, labor stoppages, or slowdowns or other industrial disturbances, (i) shortage of adequate materials, qualified labor, power, or transportation, (j) epidemics, pandemics, or quarantines, and (k) other similar or dissimilar circumstances outside the Impacted Party's reasonable control and without the Impacted Party's negligence (each a "Force Majeure").

25. Miscellaneous. (a) If any provision of this Agreement is found to be unenforceable by a court of competent jurisdiction or arbitration panel, such provision will be deleted and the remaining terms will be construed so as to give maximum lawful effect to any

such deleted terms. (b) Section numbers and captions are provided for convenience of reference and do not constitute a part of this Agreement. Any references to a particular section of this Agreement will be deemed to include reference to any and all subsections thereof. (c) No waiver by either Party of any breach under this Agreement will constitute a waiver of any other breach. (d) This Agreement is not made for the benefit of any third parties. (e) All notices under this Agreement must be sent to such other address as such Party has notified the other in writing will be effective on the date received (unless the notice specifies a later date) and must be sent by a courier service that confirms delivery in writing or by certified or registered mail, postage prepaid, return receipt requested. All communications and notices to be made or given pursuant to this Agreement must be in English. (f) Customer may not assign this Agreement or any of its rights hereunder without Itron's prior written consent. Subject to the foregoing this Agreement will bind and inure to the benefit of the Parties and their respective successors and permitted assigns, but any assignment in violation of this provision will be void.

26. Cellular AMI Use Restrictions.

26.1. Limitations. Customer's use of Cellular AMI (Water & Gas) shall be permitted as follows:

26.1.1. Conventional AMI Use Cases. Unless otherwise approved in writing by Itron in accordance with Section 26.1.2 below, Customer will use Cellular AMI (Water & Gas) only for the following conventional AMI use cases: (a) up to four reads per day of the following available read types: no more than twice daily retrieval of interval data, daily reading of meter registers, on-demand reads, meter pings, and (b) up to five Firmware upgrades for the life of the Endpoint. Usage beyond conventional use cases could result in premature battery failure.

26.1.2. New Use Cases. If Customer requests additional use cases, Itron or its designee will review any request for new use cases, study the impact on network capacity and functionality and render a decision within 90 days of the request. Itron reserves the right to charge additional fees for any new use cases.

27. Service Levels.

This Section 27 sets forth the read rate service levels for Cellular AMI (Water & Gas). The read rate service level commitments are outlined below and are contingent upon Customer's purchase of (and ongoing right to receive) Cellular AMI (Water & Gas) in accordance with this Agreement. The service level commitments do not apply to pilot deployments of Cellular AMI (Water & Gas).

27.1. Service Level Definitions. The following defined terms are applicable to Cellular AMI (Water & Gas) service levels:

Available Endpoint is an Endpoint that meets the following criteria: (a) the Endpoint has been properly installed, operated, and maintained according to Itron published policies and procedures; (b) Customer has provided all necessary and correct information for Itron to properly provision the Endpoint in Itron's data collection platform; (c) adequate cellular coverage signal quality is measured, as defined by applicable product specifications; (d) cellular coverage is not affected by temporary or permanent obstructions or other conditions outside of Itron's control; (e) there are no wireless carrier interruptions or gaps in cellular coverage. An Endpoint will not be considered an Available Endpoint under any of these conditions: (1) if an exception is detected by Itron or reported by Customer, but the exception cannot be resolved remotely, or (2) the Endpoint is under field investigation.

Billing Window means a rolling three-day period during which register read data is collected.

Billing Window Read Rate means the percentage of Available Endpoints from which register read data has been collected by Temetra during the Billing Window or the twenty-four (24) hours immediately preceding the Billing Window.

27.2. Service Level Report. Itron will deliver a monthly service level report that identifies performance against service levels. If Itron does not meet a service level, the report will give the reason the service level was not achieved and describe the corrective actions taken.

27.3. Service Level Commitment. Provided Customer has paid all SaaS Subscription Fees, the average monthly Billing Window Read Rate of Available Endpoints during the Subscription Term of this Service Offering will meet or exceed 98.5%. Itron records and data will be the sole basis for all Billing Read Rate measurements and calculations.

Signature page to follow

Agreed to:

Itron, Inc.
DocuSigned by:

9F6BEA338A474F6

Signature

Joel Vach

Printed Name

VP TAX AND CORPORATE TREASURER

Title

5/1/2024

Date

Customer
DocuSigned by:

A2E6A4BE7CD74E7

Signature

Shane McFarland

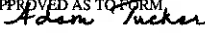
Printed Name

Mayor

Title

6/7/2024

Date

DocuSigned by:
APPROVED AS TO FORM

A3A2036E51E9401
Adam P. Tucker, City Attorney

– Software Maintenance & Support Service Levels –

Severity Level	Response Times	Effort Level and Restoration	Escalation
<p>Business Impact: Critical Impact / System Down. A Production System Error for which there is no work-around, which causes Software or a critical business function / process of said product to be unavailable such that system operation cannot continue.</p> <p>Example: a) Billing cannot be completed b) Major documented function not working c) System hung or completely down</p>	<p>During regular business-hours Itron will begin the Service Request process during Customer's initial call.</p> <p>During after-hour periods, Itron will respond to a critical support voice messages within 15 minutes by a return call to Customer, to validate receipt of the critical support call and begin the Service Request process.</p> <p>Following the start of the Service Request process Itron will respond to Customer's Service Request within two (2) business hours with an investigation response.</p> <p>Itron will update Customer at three (3) hour intervals during each day the Service Request remains unresolved or as otherwise agreed by the Parties.</p> <p>Customer will respond to an Itron inquiry or request within three (3) hours.</p>	<p>Itron will make diligent efforts on a 24x7 basis or as otherwise agreed by the Parties. to:</p> <p>i) restore Software with a change to eliminate root cause, ii) provide a workaround which restores Software and downgrades the Severity Level to S2, S3, S4.</p> <p>Customer Support Staff must be available 24x7 to work cooperatively with Itron continuously until such time restoration is achieved.</p>	<p>An unresolved Service Request shall be escalated to Itron management as follows:</p> <p>After 30 minutes: Technical Customer Support Team Lead</p> <p>After 8 hours: Manager, Technical Client Services</p> <p>After 16 hours: Director, Global Support Services</p> <p>After 48 hours: Service Request, Vice President, Services and Delivery</p> <p>After 72 hours: President Itron</p>

<p>Severity Level 2* Business Impact:Major impact, degraded Operation. An Error other than a Severity Level 1 Error, for which there is no work-around, which degrades or limits operation of major system functions causing Software to miss required business interface or deadlines. Software remains available for operation but in a highly restricted fashion.</p> <p>Example: a) Billing cannot be completed on time b) Major function is operating outside documented timing / term. c) Software operating slow, missing data, data delivery, daily mission</p>	<p>During regular business-hours Itron will respond to Customer regarding Service Request within one (1) business day.</p> <p>While Service Request remains unresolved, Itron will update the Customer and the Service Request at least every other business day, or as otherwise agreed by the parties.</p> <p>Customer will respond to an Itron inquiry or request within one (1) business day.</p>	<p>Itron will make diligent efforts during normal business hours to:</p> <p>i) restore Software with a change to eliminate root cause ii) a workaround which restores Software and downgrade the Severity Level to S3, S4.</p>	<p>An unresolved Service Request shall be escalated to Itron management as follows:</p> <p>After 1 hours: Technical Customer Support Team Lead</p> <p>After 8 hours: Manager, Technical Client Services</p> <p>After 24 hours: Director, Global Support Services</p> <p>After 30 Days: Vice President, Services and Delivery</p>
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Severity Level 3**

Business Impact: Minor Business Impact, compromised operations. An Error other than a Severity Level 1 or Severity Level 2 Error that has moderate impact on use of or access with low business impact, but not preventing Customer from performing daily activities.

Example: The Service Request affects use by Software users allowing Customer's functions to continue to meet daily business needs.

During regular business-hours Itron will respond to Customer regarding Service Request within two (2) business days.

While Service Request remains unresolved Itron will update the Service Request weekly or as otherwise agreed by the parties.

Customer will respond to an Itron inquiry or request within two (2) business days.

Itron will work during normal business hours to:

- i) restore Software with a change to eliminate root cause
- ii) a workaround which restores Software and downgrades the Severity Level to S4

<p>Severity Level 4</p> <p>Business Impact: Standard Operations intact. A low or no-impact Error other than a Severity Level 1, Severity Level 2 or Severity Level 3 Error, or a request for enhancement / new functionality</p> <p>Example:</p> <p>Generally, a cosmetic Error or an Error which does not degrade Customer's use of the product or system.</p>	<p>During regular business-hours Itron will respond to Customer regarding Service Request within three (3) business days.</p>	<p>Itron GSS Management Team will make commercially reasonable efforts during normal business hours to understand the Service Request and provide applicable recommendations as to when a Fix may be schedule in a future release, or how to proceed with a formal enhancement request to Itron's product and delivery teams.</p>	
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* Severity Level 1 and Severity Level 2 must be reported by phone to insure they are addressed under the appropriate severity level response process. Service Requests entered by email or Web access are generally addressed as a Severity Level 3.

** Service Request opened on Non-production servers / environments are entered as a Severity Level 3.

**ADDENDUM TO ITRON, INC. NORTH AMERICAN CELLULAR AMI
(WATER & GAS) SOLUTION AGREEMENT
WITH THE CITY OF MURFREESBORO**

This Addendum (herein "Addendum") amends the Itron, Inc. North American Cellular AMI (Water & Gas) Solution Agreement ("AMI Agreement") for the City of Murfreesboro on behalf of the Murfreesboro Water Resources Department, as well as all attachments, exhibits, any physical or virtual documents or writings, referenced therein, and any click through, clickwrap, shrink-wrap, or other such virtual agreements (all of which are herein "Agreement") between Itron, Inc. ("Seller" or "Itron") and the City of Murfreesboro, Tennessee ("City"). In consideration of using Itron's form agreement, the mutual promises set out herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged the Agreement is amended as follows:


1. **Precedence.** Notwithstanding any other provision in the AMI Agreement or the Agreement, the language in this Addendum takes precedence over all other terms, conditions or language to the contrary or in conflict with the language herein, and the Agreement and this Addendum shall not be construed to create any ambiguity, it being the intent of the parties that this Addendum shall control it being acknowledged and agreed to by the parties that this Addendum shall be executed and entered into after execution of the Agreement regardless of what order the Agreement and this Addendum are actually executed. Unless defined herein, capitalized terms in this Addendum shall have the meaning set forth in the Agreement.
2. **Term.** Notwithstanding any other provision in the AMI Agreement or the Agreement, the term of the Agreement shall begin on the effective date of the Agreement and shall terminate one (1) year from the date thereof.
3. **Termination for Convenience.** The Agreement may be terminated by City upon thirty (30) days written notice to Itron. Such termination will not be deemed a breach of contract by either party. Should City exercise this provision, City will compensate Itron for all satisfactory and authorized services completed as of the termination date and for the cost of equipment purchased by Itron to be delivered for such service to City, but only to the extent such equipment cannot be returned to the seller or used for another Itron customer. In addition, Itron will refund to City any funds paid by City in excess of the cost of services and equipment delivered to City. Upon such termination, and except as set forth above, neither party shall be entitled to recovery of incidental, consequential, or lost-profit damages.
4. **Payment Terms.** Notwithstanding any other provision in the AMI Agreement or the Agreement, payment terms are Net 30, payable in U.S. Dollars.
5. **Indemnity and Limitation of Liability.**
 - a. Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. Any indemnity or hold harmless provision contained in the Agreement requiring City to indemnify or hold harmless Itron or any other person or entity and any limitation of liability in favor of Itron is enforceable only to the extent permitted by Tennessee law provided City's monetary limits of liability under any such provision is limited to the monetary limits of liability as provided for in the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101 et seq. No provision of this Agreement shall act or be deemed a waiver by City of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act, T.C.A. section 29-20-101 et seq.
 - b. Notwithstanding any other provision in the Agreement to the contrary, Itron's liability in connection with the Agreement, other than Itron's liability for indemnification, under the Agreement shall be the greater of: (i) the total amount of available proceeds recoverable from Itron's insurance for any covered event or occurrence; (ii) One Hundred Thousand Dollars (\$100,000.00); or (iii) two-times (2x) the value of the Agreement.

6. **Confidentiality.** The Agreement is a public record, and it, along with all documents or materials, in any format, including, but not limited to, paper, electronic, or virtual, that are public records pursuant to the Tennessee Public Records Act, set out in T.C.A. §10-7-503 et seq., are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, City must, upon proper request, release public documents and records as defined by T.C.A. §10-7-503 et seq., including, but not limited to, the Agreement and all records created and maintained related to the Agreement, without any requirement to disclose such request to Itron or provide Itron with notice or the time to obtain a protective order. City does not have the burden of establishing that information is not confidential information or that its release is authorized to release the records. This section 5 serves to meet such burden and authorization of disclosure.
7. **Governing Law.** The Agreement and the rights and obligations of the parties are governed by the laws of the state of Tennessee, without regard to its conflict of laws principles. City rejects and disclaims any provision of the Agreement that limit the rights of City beyond those rights, obligations, and limitations provided in Tennessee state law.
8. **Selection of Jurisdiction and Venue, Waiver of Jury Trial, Service of Process.** Pursuant to the Constitution and Laws of the State of Tennessee, City is a sovereign entity subject only to those courts with jurisdiction over City. Notwithstanding any other provision in the Agreement to the contrary, if a dispute, claim, or cause of action should arise between the parties (hereinafter "claim") the claim shall be brought in the state courts in Murfreesboro, Rutherford County, Tennessee or the Federal court for the Middle District of Tennessee, and the parties hereby expressly waive any objections and thereby consent to the jurisdiction and venue of said courts. However, neither party shall be obligated to provide any type of pre-suit notice before initiating a cause of action. The parties waive their right to a jury trial. Service of process on City shall comply with the Tennessee Rules of Civil Procedure or applicable federal rules, and City does not agree to any other service of process procedure.
9. **Responsibility for Litigation Costs, Expenses and Payment of Attorney's Fees.** Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private entities and, therefore, prohibits an agreement by City to indemnify a third party or agree to a limitation of liability provision. This prohibition extends to contractual provisions for the payment of attorney's fees, paralegal fees, investigator fees, court costs, or any other expenses related to litigation. In the event of litigation between City and Itron each party shall be solely and exclusively responsible for the payment of litigation costs, expenses and attorney's fees excepting those costs which may be awarded by a court of competent jurisdiction as specified by Tennessee law or applicable rules of civil procedure.
10. **Non-appropriation.** Itron acknowledges that City is a governmental entity, and the validity of the Agreement is based upon the availability of public funding under its authority. In the event City fails to appropriate funds or make monies available for any fiscal year covered by the term of this Agreement for the services to be provided, this Agreement shall be terminated on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to City, such termination shall not be a breach of this Agreement. Furthermore, this provision shall extend to any and all obligations imposed upon City to reimburse Itron for any reimbursements, refunds, chargebacks, penalties, fees, or other financial obligations to Itron following the date of termination under this section 10.
11. **No Taxes.** As a tax-exempt entity, City shall not be responsible for sales or use taxes incurred for products or services. City shall supply Itron with its Sales and Use Tax Exemption Certificate upon Itron's request.
12. **Binding Effect.** This agreement is the entire agreement between City, (including City's employees and other end users) and Itron. No employee of City or any other person, without authorization of the Murfreesboro City Council can bind City to any contract or agreement and anything contrary contained in the Agreement, the Terms of Service or other agreements or understandings, whether electronic, click-through, or shrink-wrap, and whether verbal or written, with City's employees or other end users, to the contrary are null, void and without effect as it applies to City.

- 13. **No Liability of City Officials and Employees.** No member, official, or employee of City shall be personally liable to Itron or any other person or entity, including a third-party beneficiary, in the event any provision of the Agreement is unenforceable, there is any default or breach by City, for any amount which may become due and the Agreement, or on any obligations under the terms of the Agreement.
- 14. **Parties to Receive Notice:** Any notices contemplated by the agreement to City shall also be sent via certified United States mail addressed to:

 City of Murfreesboro
 Legal Department
 111 West Vine Street
 Murfreesboro, TN 37130
- 15. **Amendment.** This Addendum and the Agreement shall not be modified or altered other than by written agreement executed by both parties. This includes any changes to pricing, fees, rates and charges.
- 16. **Survival.** This Addendum shall survive the completion of or any termination of the Agreement or other document which may accompany the Agreement or be incorporated by reference.
- 17. **No Presumption Against Drafter.** This Addendum shall not be construed for or against any party because that party or that party's legal representative drafted any of its provisions. Accordingly, this Addendum shall be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences shall be drawn from the fact that the final, duly executed Addendum differs in any respect from any previous draft hereof.
- 18. **Counterparts.** This Addendum may be executed in one or more counterparts by City and Itron. If so executed, the signer shall deliver an original to the other party and the collective counterparts shall be treated as the fully executed document.
- 19. **Effective Date.** This Addendum shall be effective immediately after the Agreement is effective.

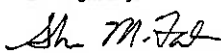
Itron, Inc.

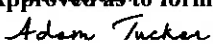
DocuSigned by:

 9F8BEA33BA474F6...
 Signature
 Date: 5/1/2024

Joel Vach

VP Tax, Treasury, MD&A
Title

City of Murfreesboro, Tennessee

DocuSigned by:

 486A4BF7C074E7...
 Shane McFarland, Mayor
 Date: 6/7/2024

Approved by to form:

 43A2035E51F0401...
 Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Zoning for property along Butler Drive
[Second Reading]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Zoning of approximately 8.54 acres located along Butler Drive north of Joe B Jackson Parkway simultaneous with annexation.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the zoning request.

Background Information

Eric Dill presented to the City a zoning application [2024-405] for approximately 8.54 acres located along the west side of Butler Drive to be zoned L-I (Light Industrial District) simultaneous with annexation. During its regular meeting on May 1, 2024, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On June 20, 2024, Council held a public hearing and approved this matter on First Reading.

Council Priorities Served

Improve Economic Development

The proposed zoning will enable light industrial development, which will create jobs for the community and generate tax revenue for the City.

Expand Infrastructure

The annexation includes the right-of-way for the proposed realigned Butler Drive, putting the new roadway entirely within the City's jurisdiction.

Attachments:

Ordinance 24-OZ-16

ORDINANCE 24-OZ-16 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect to zone approximately 8.54 acres located on Butler Drive as Light Industrial (L-I) District, simultaneous with annexation; Eric Dill, applicant [2024-405].

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

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to zone the territory indicated on the attached map.

SECTION 2. That from and after the effective date hereof the area depicted on the attached map be zoned and approved Light Industrial (L-I) District, as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

Amanda DeRosia
Interim City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

43A2035E51F9401...
Adam F. Tucker
City Attorney

SEAL

Ordinance 24-OZ-16

H-I

City Limits

Area zoned L-I simultaneous with annexation

I-24

BUTLER DR

G-I

City Limits

H-I

RS-15



G-I

JOE B JACKSON PKWY



COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Plan of Services and Annexation for property along New Salem Highway
[Public Hearing Required]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Annexation of approximately 10.33 acres located south of New Salem Highway.

Staff Recommendation

Conduct a public hearing and approve the Plan of Services and annexation.

The Planning Commission recommended approval of the plan of services and annexation.

Background Information

Phillip and Tammy Dodd and Cornerstone Free Will Baptist Church initiated petitions of annexation [2024-505] for approximately 10.33 acres located south of New Salem Highway. The City developed its plan of services for this area. During its regular meeting on June 5, 2024, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

Council Priorities Served

Expand Infrastructure

This annexation is in conjunction with TDOT's widening of New Salem Highway. The proposed road construction project will conflict with the existing septic systems on these two properties, and, as a result, they both need to connect to City sanitary sewer. Annexation is required in order for these properties to connect to City sewer.

Attachments:

1. Resolution 24-R-PS-22
2. Resolution 24-R-A-22
3. Maps of the area
4. Planning Commission staff comments from the 06/05/2024 meeting

5. Planning Commission minutes from 06/05/2024 meeting
6. Plan of services
7. Other miscellaneous exhibits

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
JUNE 5, 2024
PROJECT PLANNER: RICHARD DONOVAN**

5.a. Annexation petition and plan of services [2024-505] for approximately 10.33 acres located at 3061 and 3071 New Salem Highway, Phillip and Tammy Dodd and Corner Stone Free Will Baptist Church applicants.

The study area consists of two parcels located on the south side of New Salem Highway, just west of Veterans Parkway. Written petitions requesting annexation has been filed with the City by the owners of the subject properties requesting their property be annexed into the City of Murfreesboro. The 5.23 acre parcel at 3061 New Salem Highway is owned by Phillip and Tammy Dodd and currently developed with a single-family residence with a large accessory structure. The 5.10 acre parcel at 3071 New Salem Highway is owned by Corner Stone Freewill Baptist Church and currently developed as an existing institutional use (church). TDOT's New Salem Highway Widening Phase 3 project will overtake the septic fields serving the subject properties, and City Staff has recommended to the two property owners that they request annexation, so that they can connect to City sanitary sewer. TDOT will be extending sewer and connecting the properties in the study area as a part of the widening project.

The total annexation study area is approximately 10.33 acres and includes no additional right-of-way.

The annexation study area consist of two parcels:

Owner: Phillip and Tammy Dodd

Tax Map 115, Parcels 28.03 (5.23 acres)

Owner: Corner Stone Freewill Baptist Church

Tax Map 115, Parcel 28.04 (5.10 acres)

The property owners have not submitted a companion zoning application. Upon annexation, the subject properties will be zoned RS-15 per Section 17 of the Zoning Ordinance.

The annexation study area is located within the City of Murfreesboro's Urban Growth Boundary. The subject parcels are contiguous with the City Limits along their western, northern, and eastern boundaries. The study area is also located within the City's Service Infill Area, as indicated on the adopted Murfreesboro 2035 Comprehensive Plan future land use map.

Staff has drafted a plan of services, which is included in the agenda packet. It details how and when services can be extended to the property, if annexed. Due to its close proximity to the existing City limits, it will be relatively easy to extend services to the subject property, with the exception of fire and emergency service. A fire hydrant will need to be added along the common property line of the subject properties so that water availability is consistent with the city's Insurance Safety Office (ISO) standards. The fire hydrant will be installed with the relocation of CUDs water main, which is estimated to be complete in late 2025. The closest hydrant is over 700' from the entrance to the properties.

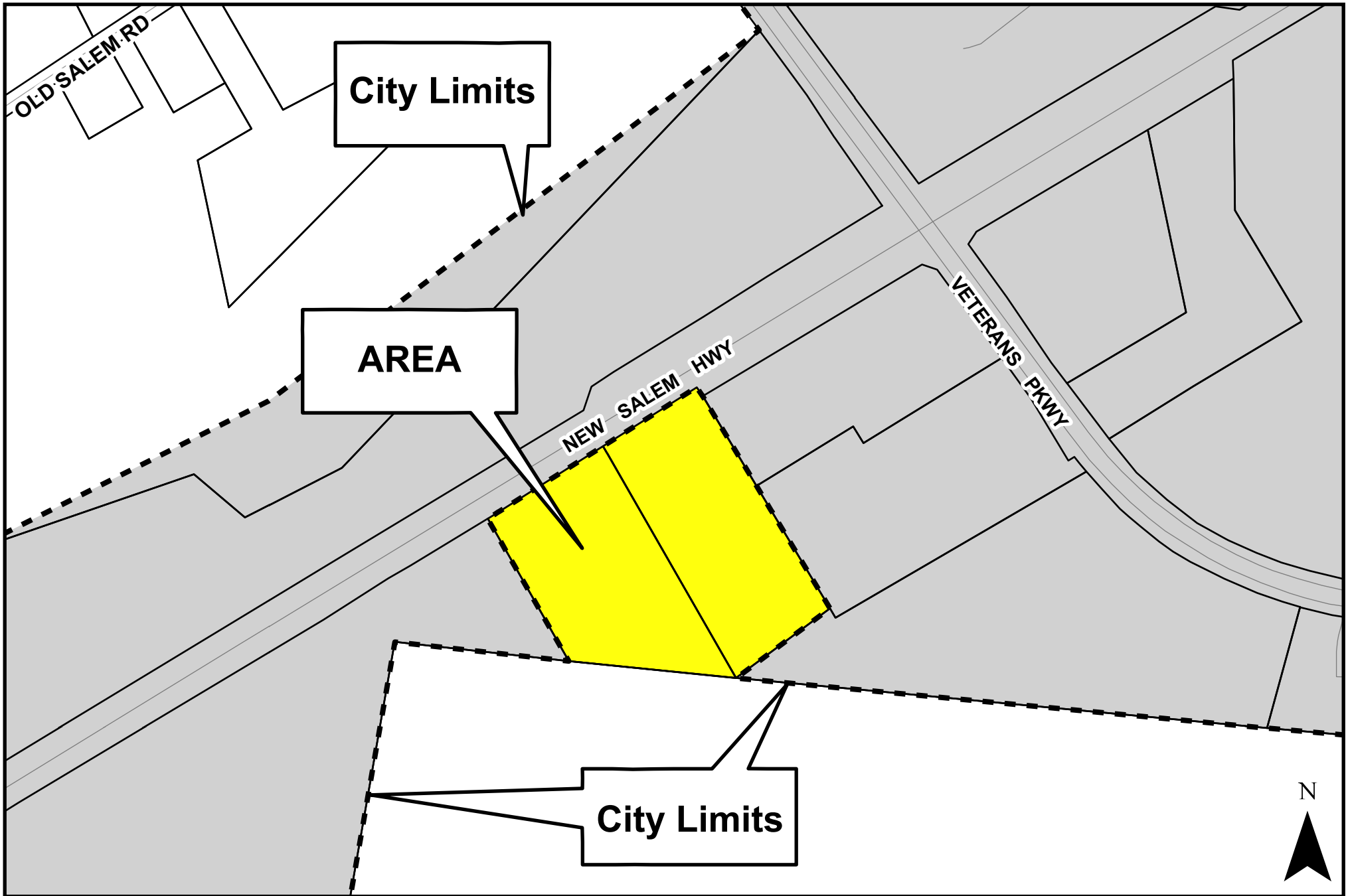
Staff recommendation:

Staff is supportive of this annexation request for the following reasons:

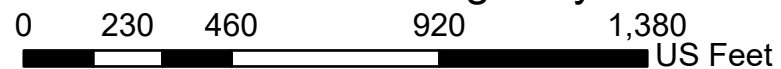
- 1) The subject property is contiguous with the existing City Limits.
- 2) It is located within the Urban Growth Boundary and within the Service Infill Area.
- 3) Services can be extended to the subject property upon annexation.
- 4) The properties will be served by City sanitary sewer with the New Salem Highway road construction project.

Action Needed:

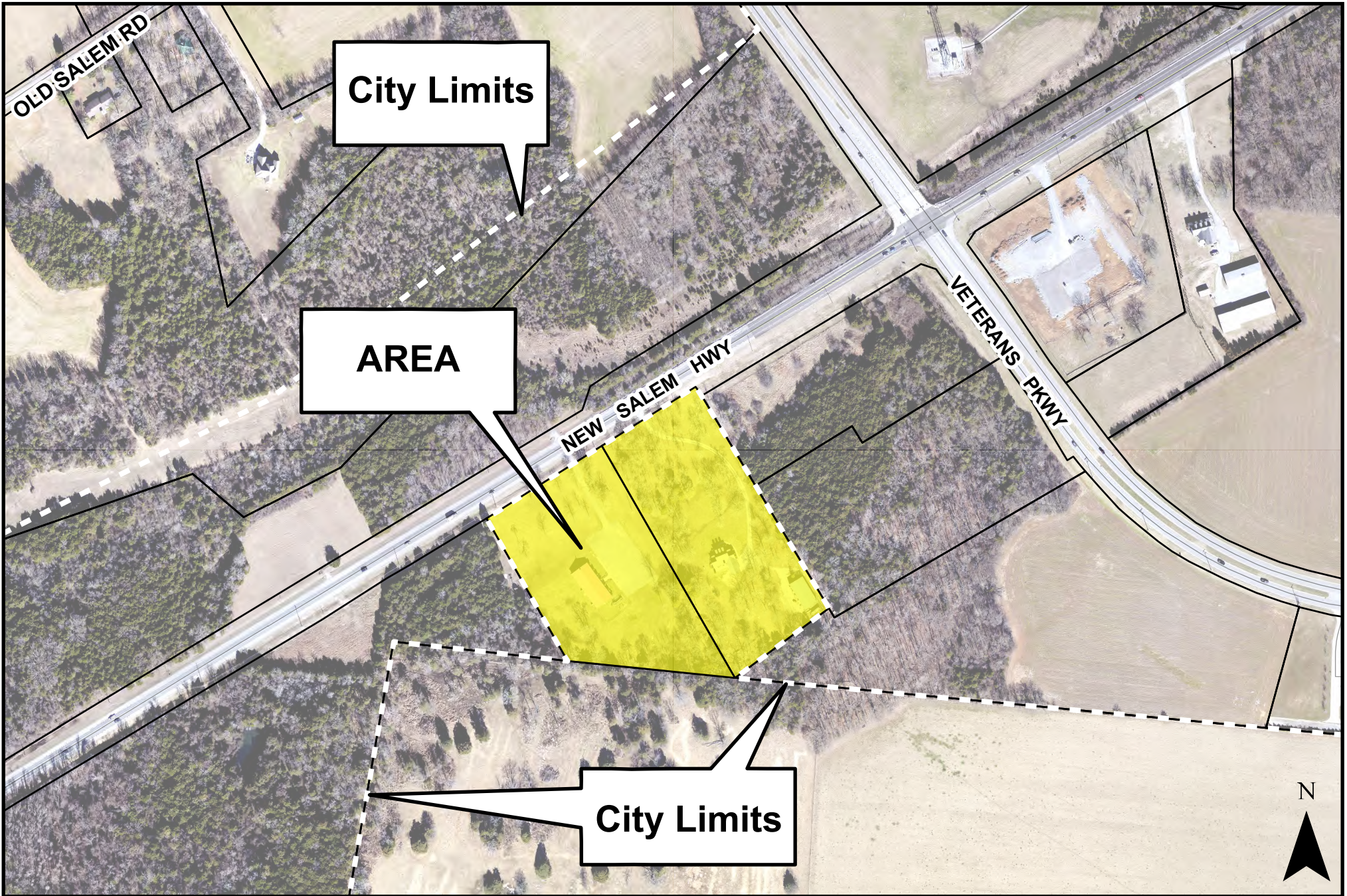
The Planning Commission will need to conduct a public hearing on this matter, after which it will need to formulate a recommendation for City Council.



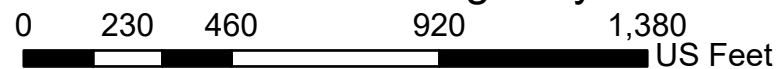
Annexation request for property along
New Salem Highway



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



Annexation request for property along
New Salem Highway



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

**WRITTEN CONSENT
TO ANNEXATION BY THE CITY OF MURFREESBORO**

The undersigned is the only owner / are all of the owners of the property identified in the attached legal description (including street address and tax map / parcel number), and hereby consent(s) to the annexation of such property into the City.

Signatures must be by owners or those with an appropriate written Power of Attorney from an owner. If the owner is not an individual (eg. corporation, trust, etc.), list the entity's name, the name of the individual signing on behalf of the entity and the status of the individual (eg. president, trustee, partner). If you are signing this Petition based on a Power of Attorney, you must also attach a copy of the Power of Attorney.

1. Phillip W Dodd

Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: Phillip W. Dodd Status: _____ Date: March 17, 2024

Mailing Address (if not address of property to be annexed)

2. Tammy A Dodd

Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: Tammy A Dodd Status: _____ Date: March 17, 2024

Mailing Address (if not address of property to be annexed)

3.

Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

4.

Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

(Attach additional signature pages if necessary)

Legal Description is attached: Yes
Power of Attorney applies and is attached: Yes No

CHK# 3330
Receipt 274996
\$ 250.00

**WRITTEN CONSENT
TO ANNEXATION BY THE CITY OF MURFREESBORO**

The undersigned is the only owner / are all of the owners of the property identified in the attached legal description (including street address and tax map / parcel number), and hereby consent(s) to the annexation of such property into the City.

Signatures must be by owners or those with an appropriate written Power of Attorney from an owner. If the owner is not an individual (eg. corporation, trust, etc.), list the entity's name, the name of the individual signing on behalf of the entity and the status of the individual (eg. president, trustee, partner). If you are signing this Petition based on a Power of Attorney, you must also attach a copy of the Power of Attorney.

1. CORNER STONE FREE Will BAPTIST CHURCH - ANTHONY POTT, TREASURER
Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: Anthony Pott Status: TREASURER Date: 3/17/2024

1516 SADDLE DRIVE MURFREESBORO, TN 37130
Mailing Address (if not address of property to be annexed)

2. _____
Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

3. _____
Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

4. _____
Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

(Attach additional signature pages if necessary)

Legal Description is attached: Yes
Power of Attorney applies and is attached: Yes No

CHK# 1044
Receipt 274997
\$ 250.00

MINUTES OF THE MURFREESBORO PLANNING COMMISSION JUNE 5, 2024

6:00 PM

CITY HALL

Members Present

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Bryan Prince
Shawn Wright

Staff Present

Greg McKnight, Exec. Dir. of Dev't Services
Ben Newman, Dir. of Land Mngt. & Planning
Richard Donovan, Principal Planner
Brad Barbee, Principal Planner
Joel Aguilera, Planner
Katie Noel, Project Engineer
Jennifer Knauf, Project Engineer
Holly Smyth, Principal Planner
Carolyn Jaco, Recording Assistant
Roman Hankins, Deputy City Attorney
John Tully, Assistant City Attorney
Rachel Singer, Parks and Rec. Asst. Director

1. Call to order.

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

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Public Comments.

Chair Kathy Jones announced three individuals signed up to speak regarding Item 6.D. - Mandatory Referral [2024-714] to consider the abandonment of a portion of a drainage easement located on property along Gresham Lane, Civil Infrastructure Associates on behalf of Hensley Group applicant.

1. Mr. John Marshall, 119 Nutcracker Ct., Eagleville, TN – serves as Chair of the Rutherford County Conservation Board. This board oversees the Lane Agri-Park facilities and properties. He expressed concerns regarding the potential drainage

**MINUTES OF THE MURFREESBORO
PLANNING COMMISSION
JUNE 5, 2024**

5. Public Hearings and Recommendations to Council

Annexation petition and plan of services [2024-505] for approximately 10.33 acres located at 3061 and 3071 New Salem Highway, Phillip and Tammy Dodd and Corner Stone Free Will Baptist Church applicants. Mr. Richard Donovan presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the annexation petition and plan of services; therefore, Chair Kathy Jones closed the public hearing.

There being no further discussion, Vice-Chairman Ken Halliburton moved approve the annexation petition and plan of services subject to all staff comments; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

- Aye: Kathy Jones
- Ken Halliburton
- Jami Averwater
- Bryan Prince
- Shawn Wright

Nay: None

Consideration of [2024-S-101] City of Murfreesboro Greenways, Blueways, and Bikeways Master Plan, City of Murfreesboro Parks and Recreation Department applicant. Ms. Rachel Singer, Assistant Director for Murfreesboro Parks and Recreation Department, presented the Staff Comments regarding this item, a copy of which is

RESOLUTION 24-R-PS-22 to adopt a Plan of Services for approximately 10.33 acres located at 3061 and 3071 New Salem Highway, Phillip and Tammy Dodd and Corner Stone Free Will Baptist, applicants [2024-505].

WHEREAS, the Owner(s) of the territory identified on the attached map as the “Area to be Annexed” have either petitioned for annexation or given written consent to the annexation of such territory; and

WHEREAS, a proposed Plan of Services for such territory was prepared and published as required by T.C.A. §6-51-102 and T.C.A. §6-51-104; and

WHEREAS, the proposed Plan of Services was submitted to the Murfreesboro Planning Commission on June 5, 2024 for its consideration and a written report, at which time the Planning Commission held a public hearing and thereafter recommended approval of the Plan of Services to the City Council; and,

WHEREAS, a Public Hearing on the proposed Plan of Services was held before the City Council of the City of Murfreesboro, Tennessee on July 18, 2024, as set by City Manager, and notice thereof published in The Murfreesboro Post, a newspaper of general circulation in said City, on June 25, 2024; and,

WHEREAS, the Plan of Services for the territory identified on the attached map as the “Area to be Annexed” establishes the scope of services to be provided and the timing of such services and satisfies the requirements of T.C.A. §6-51-102.

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

SECTION 1. That, pursuant to authority conferred by T.C.A. Sections 6-51-101, et seq., the Plan of Services attached hereto for the territory identified on the attached map as the “Area to be Annexed” is hereby adopted as it is reasonable with respect to the scope of services to be provided and the timing of such services.

SECTION 2. That this Resolution shall take effect upon the effective date of the Annexation Resolution with respect to the territory, **Resolution 24-R-A-22**, the public welfare and the welfare of the City requiring it.

Passed: _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Amanda DeRosia
Interim City Recorder

DocuSigned by:
Adam F. Tucker

43A2035E51F9201...
Adam F. Tucker
City Attorney

SEAL

Resolution 24-R-PS-22

OLD SALEM RD

VETERANS PKWY

NEW SALEM HWY

City Limits

Area to be annexed

City Limits

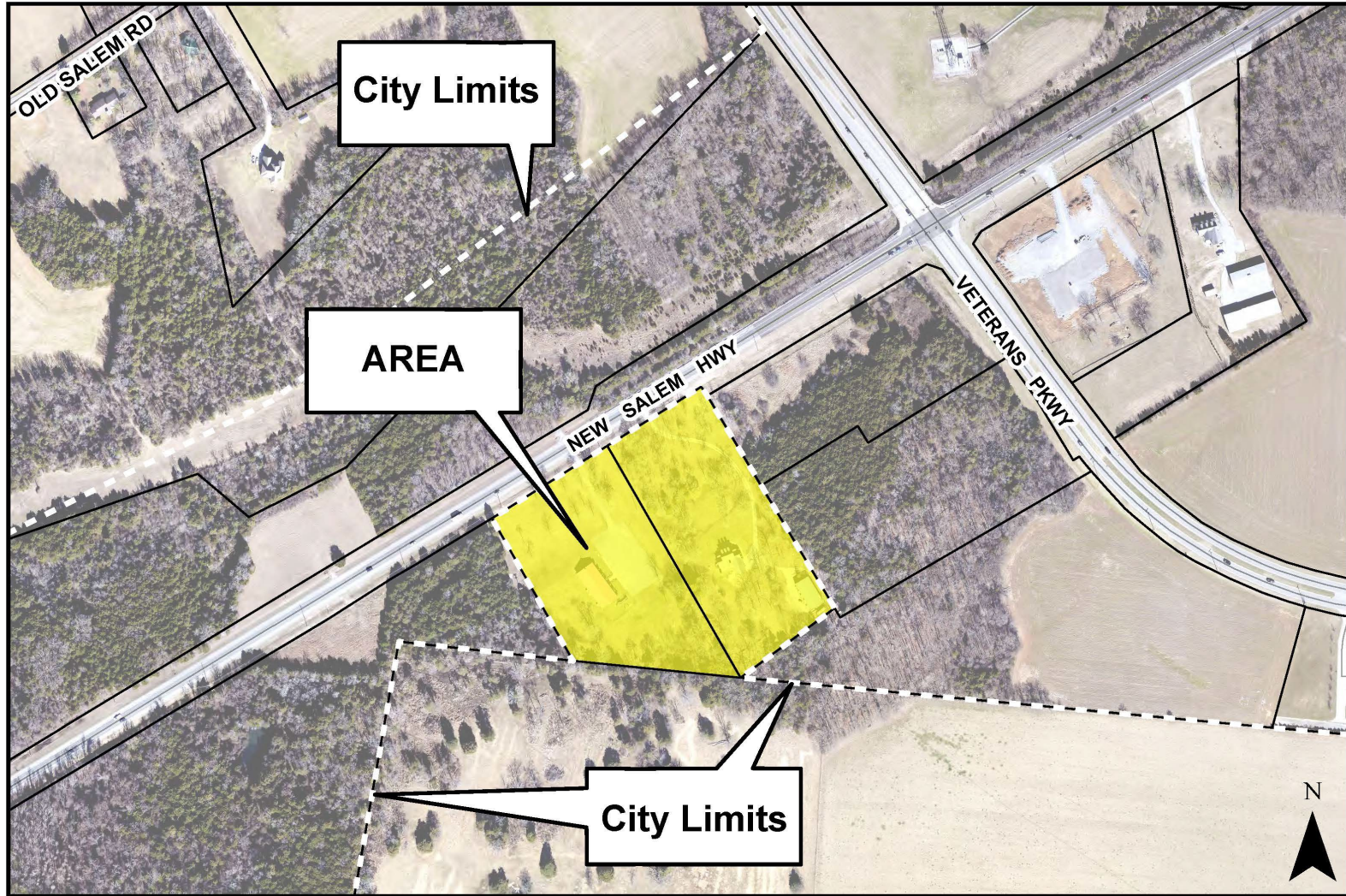


24-R-PS-22

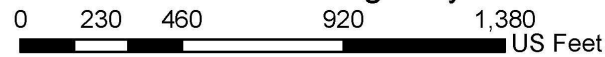
**ANNEXATION REPORT FOR PROPERTY
LOCATED AT 3061 AND 3071 NEW SALEM HIGHWAY
INCLUDING PLAN OF SERVICES
(FILE 2024-505)**



**PREPARED FOR THE
MURFREESBORO PLANNING COMMISSION
June 5, 2024**



Annexation request for property along
New Salem Highway



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

INTRODUCTION

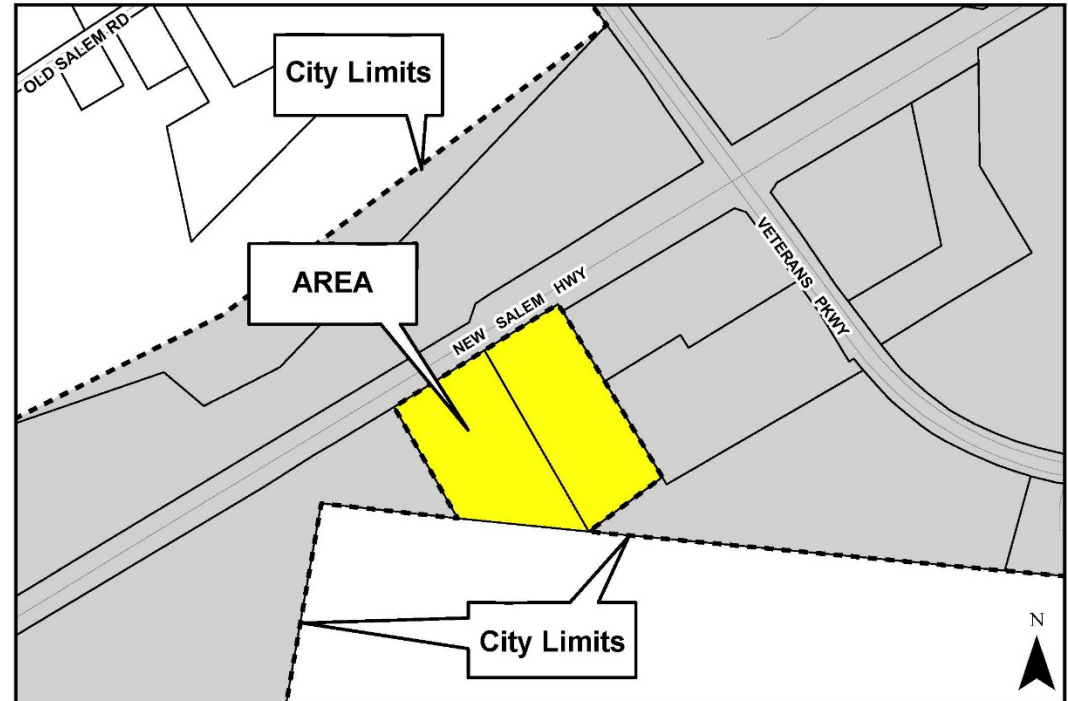
OVERVIEW

The property owners, Phillip and Tammy Dodd and Cornerstone Freewill Baptist Church, submitted petitions requesting their properties be annexed into the City of Murfreesboro. The annexation study area includes the following properties:

- Tax Map 115, Parcel 28.03 (5.23 acres)
- Tax Map 115, Parcel 28.04 (5.10 acres)

No right-of-way (ROW) is included in the annexation study area. The total annexation study area is approximately 10.33 acres.

The annexation study area is located within the City's Urban Growth Boundary and is contiguous to the existing City limits along its northern, eastern, and western boundaries, as depicted on the adjacent map.



Annexation request for property along
New Salem Highway

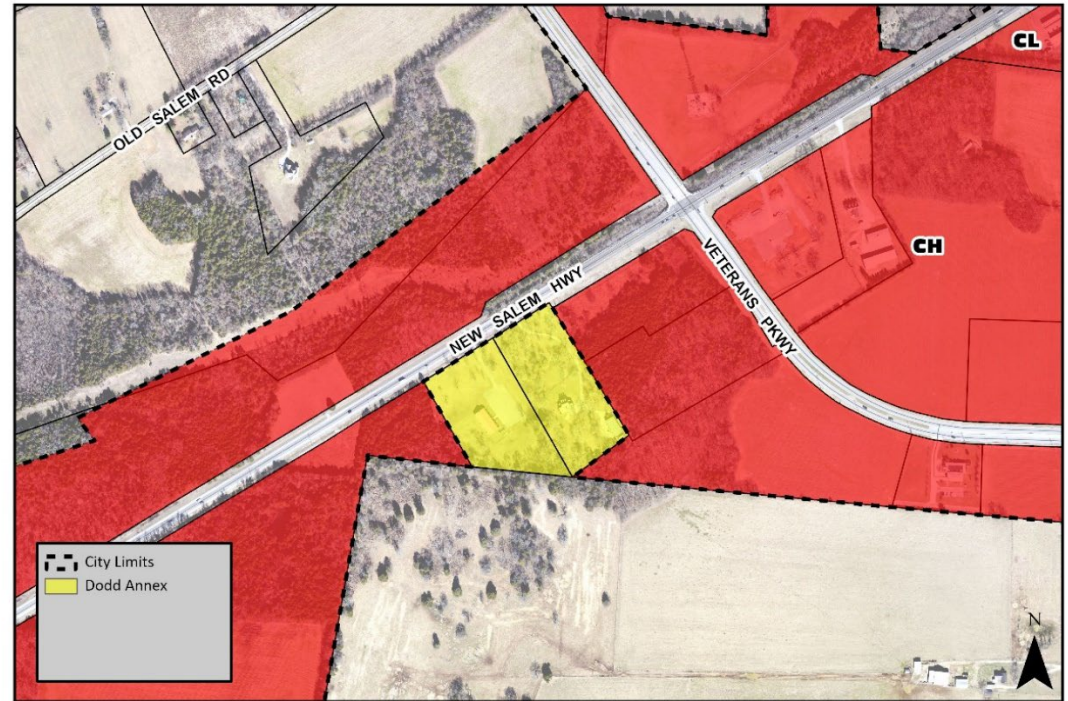
0 230 460 920 1,380
US Feet

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CITY ZONING

The study area consists of two parcels located at 3061 and 3071 New Salem Highway, just west of Veterans Parkway. The property at 3061 New Salem Highway is developed with a single-family house with a large accessory structure, and the property at 3071 New Salem Highway is developed as an institutional group assembly (church). The annexation petitions are not accompanied by a rezoning request. The subject properties are currently zoned RM (Medium Density Residential in the unincorporated county and will be zoned RS-15 per Section 17 of the Zoning Ordinance. The existing single-family house and church are allowed uses in the RS-15 zoning district.

The properties to the west, north, and east of the annexation area are zoned CH (Commercial Highway). The property to the south is in unincorporated Rutherford County and zoned RM (Medium Density Residential).



Annexation request for property along
New Salem Highway

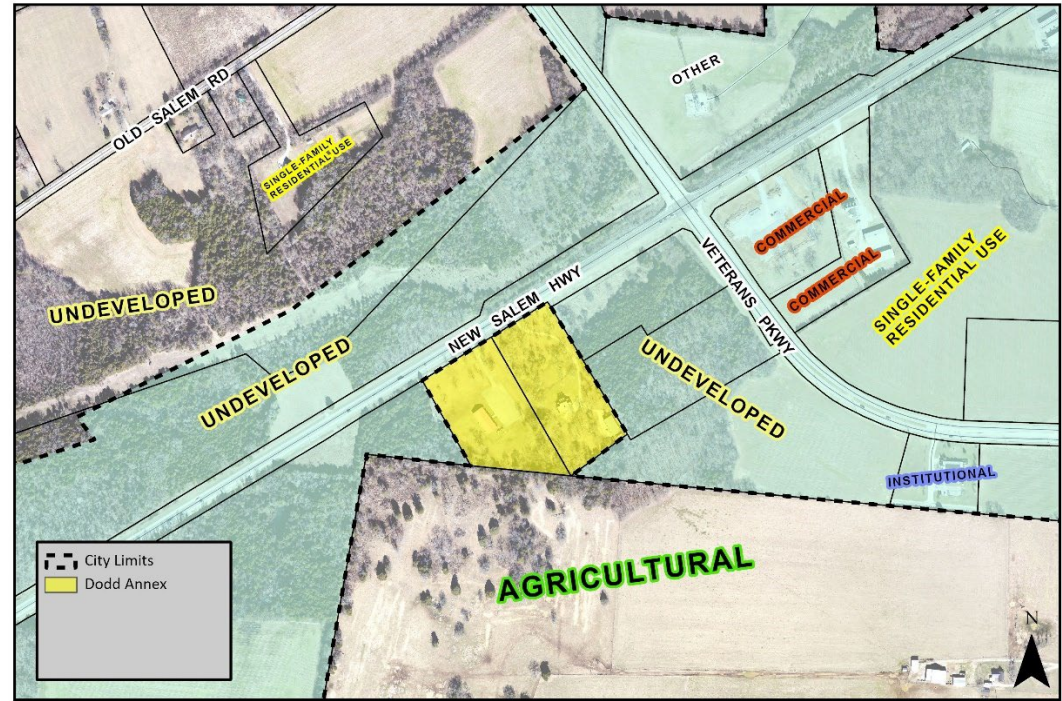
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US Feet

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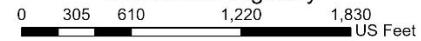
SURROUNDING LAND USE

The area being considered for annexation is two parcels totaling 10.33 acres. The property at 3061 New Salem Highway is developed with a single-family residential house and a large accessory structure. The property at 3071 New Salem Highway is developed as an institutional use (church).

The area surrounding the parcel is mainly undeveloped or agricultural land. The properties across New Salem Highway and to the southwest are undeveloped, agricultural is to the south, and WaWa is proposed to the northwest. Accesses to the study area are directly onto New Salem Highway.



Annexation request for property along
New Salem Highway



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TAXES AND REVENUE

The first City tax bill for all property annexed during the calendar year of 2024 will be due on December 31, 2025. City taxes are calculated upon the property appraisal and assessment of the Rutherford County Property Assessor's Office. The current tax rate for the City of Murfreesboro is \$0.9526/\$100 assessed value. Residential property is assessed at a rate of 25% of its appraised value and commercial property is assessed at a rate of 40% of its appraised value. Table I below shows total assessment and estimated City taxes that would be collected, if the property were to be annexed in its present state.

*Table I
Estimated Taxes from Site*

Owner of Record	Acres	Land Value	Improvements Value	Total Assessment	Estimated City Taxes
Phillip and Tammy Dodd	5.23	\$108,700	\$365,800	\$118,625	\$1,130.02
Corner Stone Freewill Baptist Church	5.10	\$107,300	\$558,900	\$0	\$0

These figures are for the property in its current state and assessed at the residential rate of 25 percent.

The City of Murfreesboro is also projected to receive additional revenue from state-shared taxes. Table II below shows the 2023-2024 per capita state revenue estimates for the City of Murfreesboro based upon the existing development of one single-family dwelling.

Table II
Per Capita State Revenue Estimates

General Fund	Per Capita Amount
State Sales Tax	\$89.00
State Beer Tax	\$0.50
Special Petroleum Products Tax (Gasoline Inspection Fee)	\$2.00
Gross Receipts (TVA in-lieu taxes)	\$11.80
<i>Total General Revenue Per Capita</i>	\$103.30
State Street Aid Funds	Per Capita Amount
Gasoline and Motor Fuel Taxes	\$38.50
<i>Total Per Capita (General and State Street Aid Funds)</i>	\$141.80
Total State-Shared Revenues (based on 2.58 persons in the existing single-family house)	\$365.84

The per capita state revenue estimates apply only to new residents and will only be available after a certified census takes place.

PLAN OF SERVICES

POLICE PROTECTION

At present, the study area receives police service through the Rutherford County Sheriff's Department. If annexed, the Murfreesboro Police Department will begin providing services such as patrol, criminal investigation, community policing, traffic operations, canine, DARE and other community crime prevention programs to the subject parcels immediately upon the effective date of annexation. This annexation will have no negative impact on the Murfreesboro Police Department. No additional costs to the department are expected. This property is located in Police Zone #4.

ELECTRIC SERVICE

The study area is currently served by Middle Tennessee Electric (MTE). MTE has existing facilities on each parcel that provide service to the existing buildings.

STREET LIGHTING

There are currently no plans to install streetlights on the south side of New Salem Highway. MTE will study the installation of streetlights in the future if requested by the City. The cost to install will be borne by the City and approval to install them in the State ROW must be given by TDOT.

SOLID WASTE COLLECTION

The City will provide weekly curbside solid waste collection service for the existing house and church immediately upon the effective date of annexation, as well as brush/debris removal every two to three weeks. In its current state, no additional equipment or

manpower other than a solid waste cart for each parcel (\$69.66 each) will be needed to serve the study area.

RECREATION

Murfreesboro's Parks and Recreation facilities will be immediately available to residents of the study area. Currently Murfreesboro has two multi-purpose facilities, one community center, a wilderness facility, over 1,000 acres of parks, a network of greenways, and recreational sports. These facilities and programs are wholly funded by the Murfreesboro taxpayers. Children who are residents of the City of Murfreesboro, attend Murfreesboro Elementary Schools, and receive free or reduced lunches also receive free or reduced recreational fees.

CITY SCHOOLS

The Murfreesboro City School (MCS) system serves grades kindergarten through sixth and is offered to students who are within the jurisdiction of the City of Murfreesboro. The study area will be within the Salem Elementary school zone. With one existing single-family home on the property, impact to Salem Elementary and to MCS will be minimal. If children reside at the residence at 3061 New Salem Hwy, they would have access to the school.

BUILDING AND CODES

The property will come within the City's jurisdiction for code enforcement immediately upon the effective date of annexation. The City's Building and Codes Department will begin issuing building and construction permits and enforcing the codes and inspecting new construction for compliance with the City's construction codes immediately upon the effective date of

annexation. The Building and Codes Department will also ensure that any new signs associated with the development of the property comply with the Sign Ordinance. No additional costs are expected.

PLANNING, ENGINEERING, AND ZONING SERVICES

The property will come within the City's jurisdiction for planning and engineering code enforcement immediately upon the effective date of annexation. As new development occurs, the Planning Commission will review all site plans, preliminary plats, and final plats. Among other duties, the Planning and Engineering Departments will inspect and monitor new construction of streets and drainage structures for compliance with the City's development regulations.

GEOGRAPHIC INFORMATION SYSTEMS

The property is within the area photographed and digitized as part of the City's Geographic Information Systems (G.I.S.) program.

STREETS AND ACCESS

The annexation study area does not include any existing public ROW or roadway. The annexation study area has access to existing New Salem Hwy. Any new connections must be approved by TDOT and the City Engineer.

No additional public roadways are included in the study area. Any new public roadways to serve the study area must be constructed to City Standards.

REGIONAL TRAFFIC & TRANSPORTATION

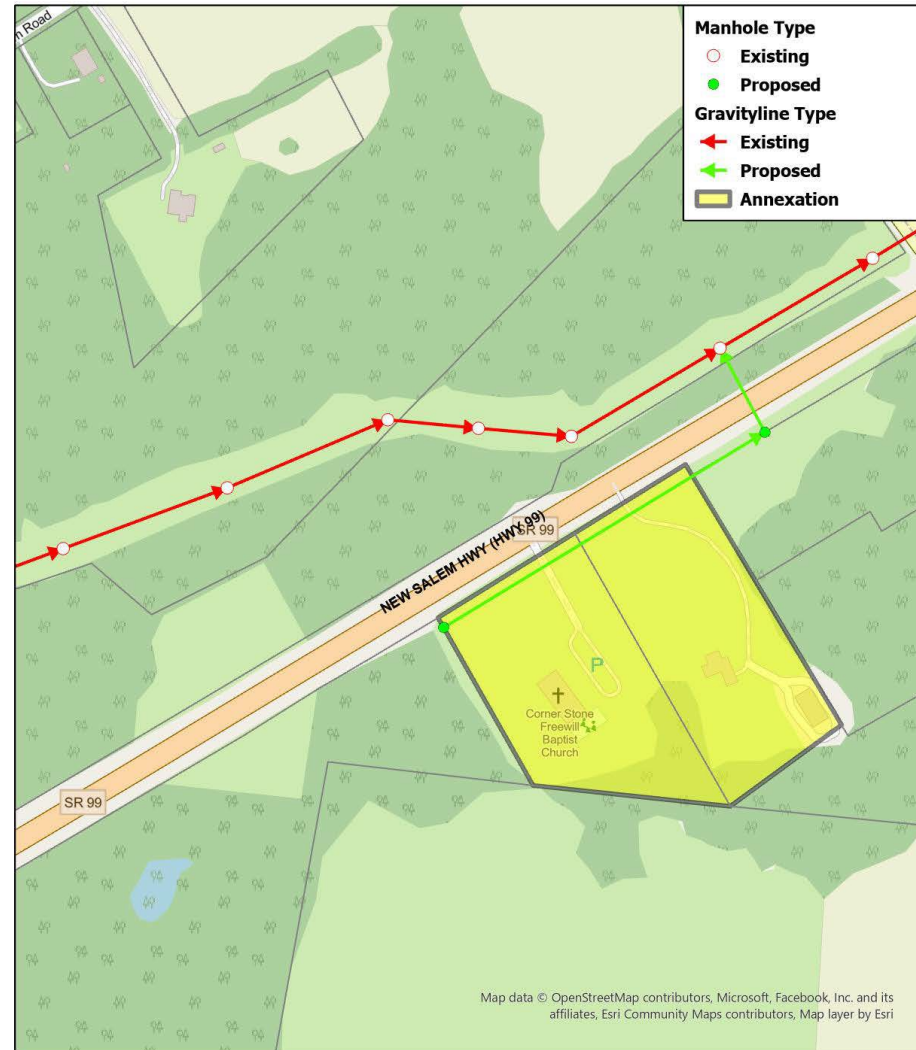
The study area has access to New Salem Hwy. The 2014 Level of Service Model in the 2040 Major Transportation Plan shows New Salem Hwy to be operating at a Level of Service B in the study area using average daily traffic (ADT) counts. The 2040 Level of Service Model indicates that New Salem Hwy operates at a Level of Service of F without the proposed improvements recommended in the 2040 Plan. The 2040 Plan proposes that New Salem Road be widened from its existing 2 lanes to 5 lanes from Veterans Parkway to a proposed southwest loop road.

SANITARY SEWER SERVICE

The properties requesting annexation will be served by an 8” gravity sewer main to be installed with the New Salem Highway Widening Phase 3 project. TDOT is extending the sewer and connecting these properties because the widening is going to overtake the septic fields. Until this time, the properties will utilize their existing septic systems.

These properties are within the Overall Creek and Rockvale Sanitary Sewer Assessment Districts and will be charged \$1000 and \$1550 respectively in addition to the standard and customary sewer connection fee of \$2550 per single family unit (sfu).

Regarding the Sewer Allocation Ordinance (SAO), these properties will be under the density per acre allotted for RS-15 therefore will not be required to request a variance.



MURFREESBORO WATER RESOURCES DEPARTMENT

**New Salem Highway
Annexation Request**

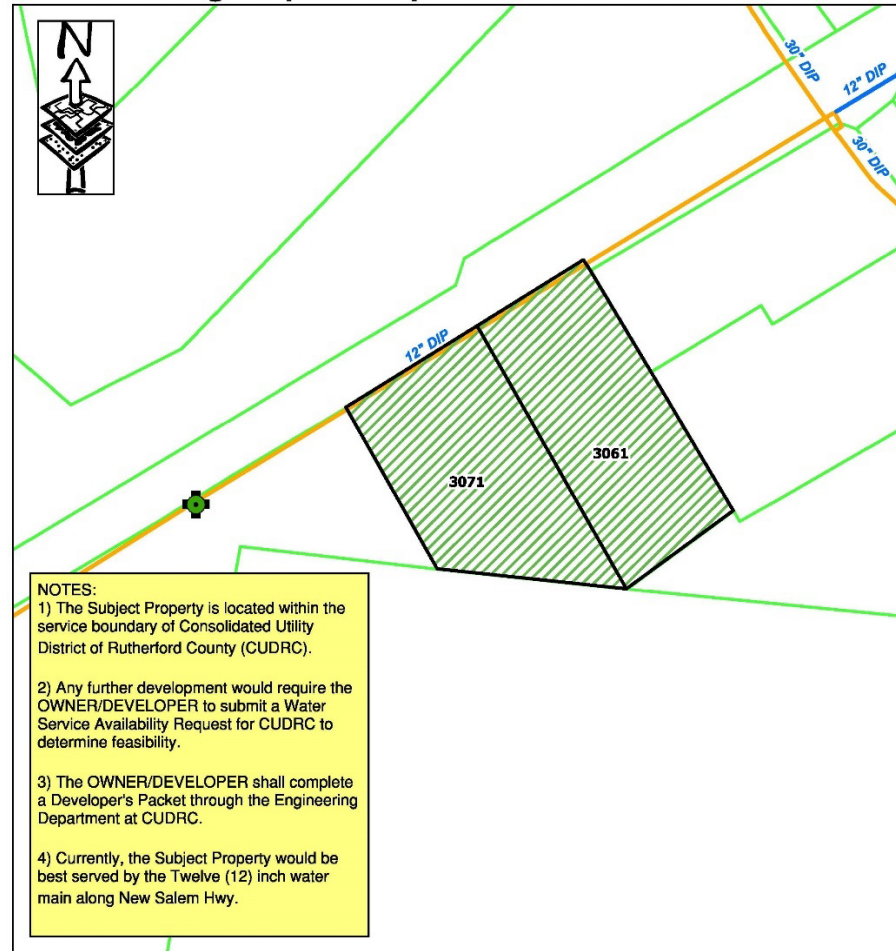


WATER SERVICE

The study area is located within Consolidated Utility District of Rutherford County’s (CUDRC) service area. A 12-inch ductile iron water main (DIP) is located along New Salem Highway, as depicted on the map to the right. The existing 12-inch main serves the existing structures and will be upgraded to a 16-inch main as part of the TDOT project.

Prior to any future development, the developer of the property will be required to submit a Water Availability Application to determine feasibility and to complete CUDRC’s Developer Packet through CUDRC’s Engineering Department prior to entering the construction phase. Any new water line development must be done in accordance with CUDRC’s development policies and procedures.

**3061 & 3071 New Salem Hwy
Rezoning Request Map 115 Parcels 028.03 & 028.04**



SUBJECT PROPERTY

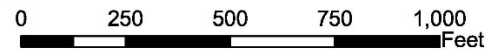
CUD HYDRANT

CUD WATER MAIN

CUD WATER MAIN

April 29, 2024

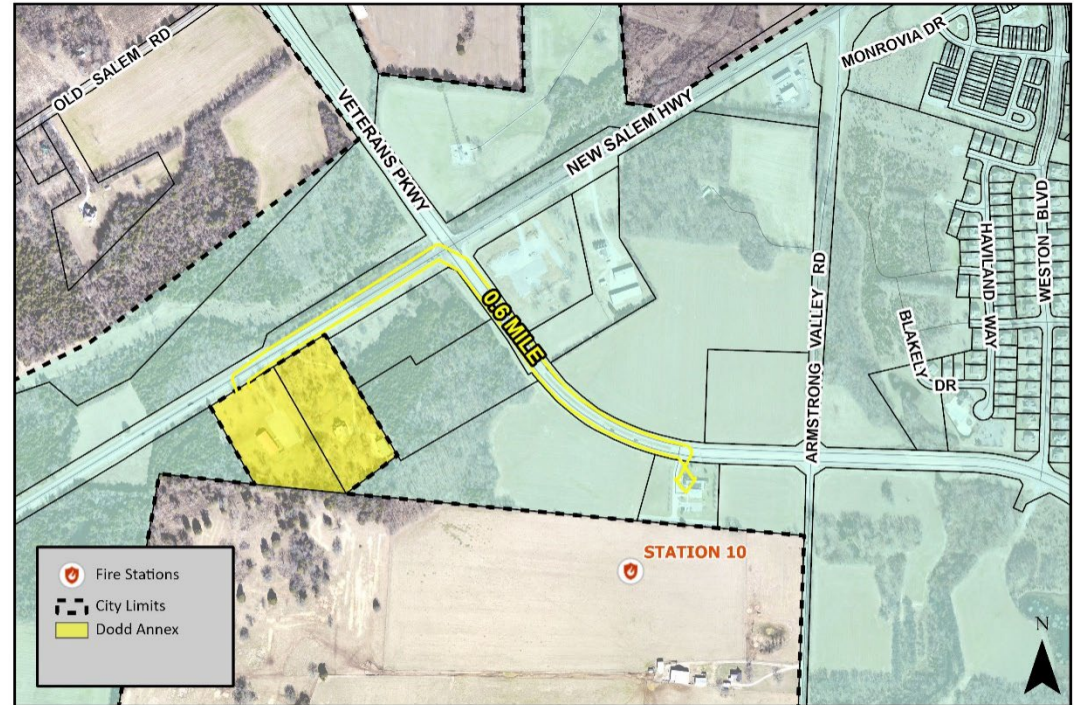
**TAX MAP: 115
PARCELS: 028.03 & 028.04**



FIRE AND EMERGENCY SERVICE

The study area contains one single-family residence and one existing institutional use (church). The Murfreesboro Fire and Rescue Department (MFRD) can provide service, fire and medical response, to the study area immediately upon the effective date of annexation. A fire hydrant will need to be added along the common property line of the subject properties so that water availability is consistent with the city's Insurance Safety Office (ISO). The fire hydrant will be installed with the relocation of CUDs water main, which is estimated to be complete in late 2025. The closest hydrant is over 700' from the entrance to the properties.

Currently the study area is located approximately 0.6 miles from Fire Station #10 located at 2563 Veterans Parkway. The yellow line on the adjacent map represents the linear distance range from the nearest fire station.



Annexation request for property along
New Salem Highway

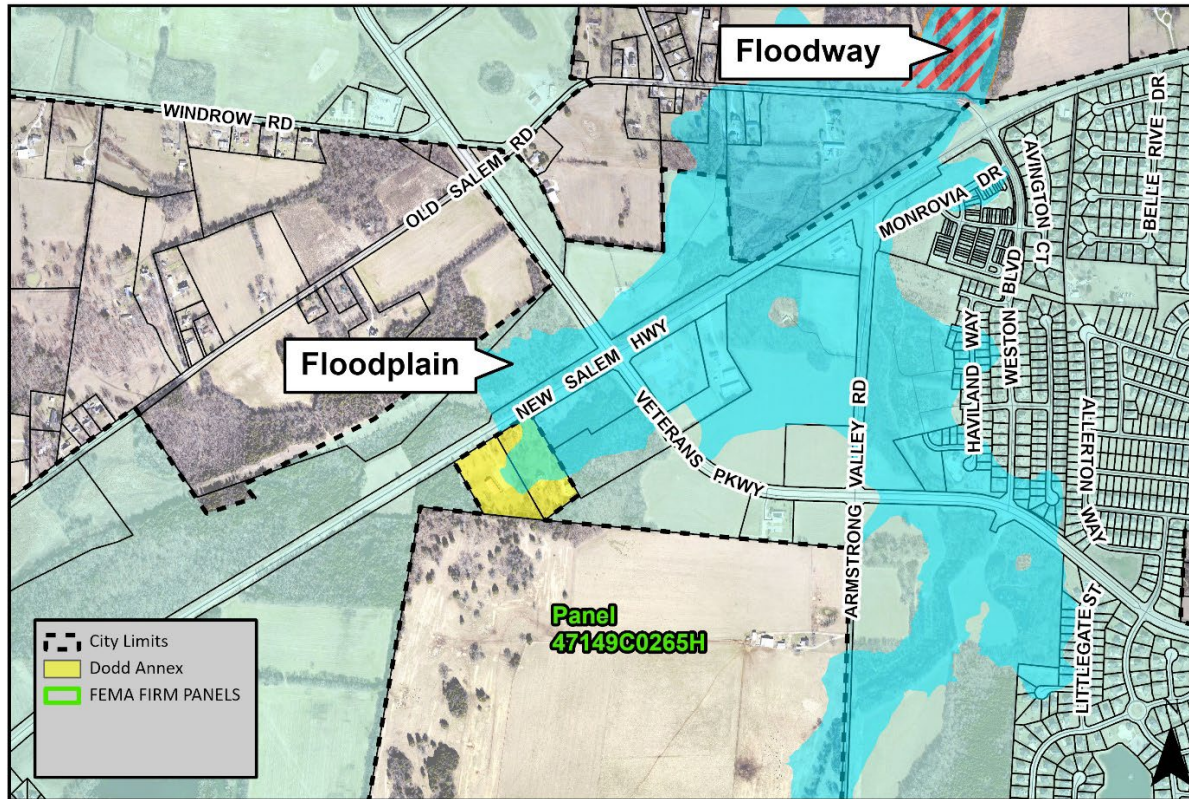
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US Feet

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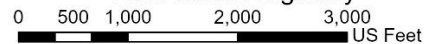
Floodway

A portion of the study area is within the 100-year floodplain boundary according to the Flood Insurance Rate Maps (FIRM) developed by the Federal Emergency Management Agency (FEMA). The study area is not included in the floodway boundary. The study area is included in the flood study currently being conducted along Puckett Creek from Veterans Parkway to Old Salem Road.

The adjacent map shows the floodway boundary in pink hatching and the 100-year floodplain boundary in blue.



Annexation request for property along
New Salem Highway



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DRAINAGE

Public Drainage System

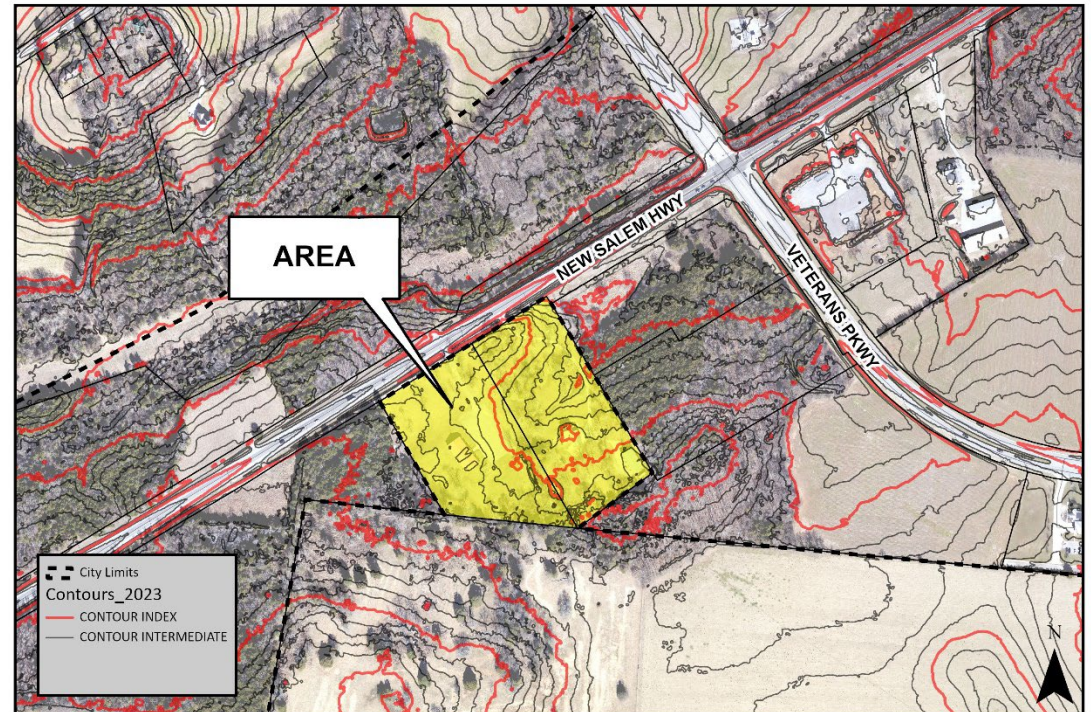
Public drainage facilities available to the study area are located within the ROW of New Salem Hwy. No additional public drainage facilities are included in the study area. Any new public drainage facilities proposed to serve the study area in the future must meet City standards.

Regional Drainage Conditions

A review of the regional drainage patterns indicates that most of the study area drains to a low spot within the study area which then overtops to the property to the east and eventually to the right-of-way of New Salem Hwy.

Stormwater Management and Utility Fees

Upon annexation, stormwater management services provided by the City of Murfreesboro will be available to the study area and existing and new improvements will be subject to the Stormwater Utility Fee. The property currently has 1 single family residence and will generate approximately \$39 per year in revenue for the Stormwater Utility Fee.



Annexation request for property along
New Salem Highway

0 230 460 920 1,380
US Feet

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

PROPERTY AND DEVELOPMENT

New development should comply with the City's Stormwater Quality Regulations by providing stormwater quality, streambank protection, and detention.

New Salem Highway is on the Major Transportation plan to be improved to a 5-lane cross section.

ANNEXATION FOLLOW-UP

The Murfreesboro City Council will be responsible for ensuring that this property will receive City services described in this plan. According to Public Chapter 1101 passed by the Tennessee Legislature, six months following the effective date of annexation, and annually thereafter until all services have been extended, a progress report is to be prepared and published in a newspaper of general circulation. This report will describe progress made in providing City services according to the plan of services and any proposed changes to the plan. A public hearing will also be held on the progress report.

RESOLUTION 24-R-A-22 to annex approximately 10.33 acres located at 3061 and 3071 New Salem Highway (Tax Map 115, Parcel 28.03 (5.23 acres) and Tax Map 115, Parcel 28.04 (5.10 acres)), and to incorporate the same within the corporate boundaries of the City of Murfreesboro, Tennessee, Phillip and Tammy Dodd and Corner Stone Free Will Baptist, applicants [2024-505].

WHEREAS, the Owner(s) of the territory identified on the attached map as the “Area Annexed” have either petitioned for annexation or given written consent to the annexation of such territory; and

WHEREAS, a Plan of Services for such territory was adopted by **Resolution 24-R-PS-22** on July 18, 2024; and

WHEREAS, the Planning Commission held a public hearing on the proposed annexation of such territory on June 5, 2024 and recommended approval of the annexation; and

WHEREAS, the annexation of such territory is deemed beneficial for the welfare of the City of Murfreesboro as a whole.

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

SECTION 1. That, pursuant to authority conferred by T.C.A. Sections 6-51-101, et seq., the territory identified on the attached map as the “Area Annexed” is hereby annexed to the City of Murfreesboro, Tennessee and incorporated within the corporate boundaries thereof.

SECTION 2. That this Resolution shall take effect upon its passage, the public welfare and the welfare of the City requiring it.

Passed: _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Amanda DeRosia
Interim City Recorder

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

SEAL

Resolution 24-R-A-22

OLD SALEM RD

City Limits

VETERANS PKWY

NEW SALEM HWY

Area annexed

City Limits



COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Ordinance 24-O-23, Amendment to Murfreesboro City Code, Chapter 3, Airport [1st Reading]

Sec. 3-51 and Sec. 3-53

Department: Airport

Presented by: Chad Gehrke, Airport Director

Requested Council Action:

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

Summary

Amend Murfreesboro City Code, Chapter 3, Airport, Sec. 3-51 and Sec. 3-53.

Staff Recommendation

Approve amendment to Murfreesboro City Code, Chapter 3, Airport Sec. 3-51 Composition; term of office; compensation; removal from office and Sec. 3-53 Purposes.

Background Information

Since Chapter 3 of the Murfreesboro City Code was written, several changes have occurred at the Murfreesboro Municipal Airport. These changes include the City's organizational structure, including staffing at the Airport. Middle Tennessee State University has made several changes as well, including operating their own flight training program. This commercial operation has successfully grown to a point that the University has announced the future relocation of the flight training program and aircraft maintenance labs to allow for continued growth of these programs. The proposed amendments to the City Code Chapter 3 reflect these changes and will continue to enhance the Airport Commission's ability to efficiently and effectively serve as the Airport's recommending board for the Murfreesboro City Council. This proposed change to Chapter 3 was discussed with representatives of the MTSU Aerospace Department Dr. Greg Van Patton and Dr. Chaminda Prelis with no objections. The Airport Commission recommended this revision at its June 17, 2024 meeting.

Council Priorities Served

Improve economic development

It is prudent that City Council review and update its City Codes, also known as the Airport Rules, Regulations, and Minimum Standards, making modifications and adjustments that reflect the current status of the airport.

Attachments

Ordinance 24-O-23

ORDINANCE 24-O-23 amending Murfreesboro City Code, Chapter 3, Airport, Section 3-51, Composition; Term of Office; Compensation; Removal from Office and Section 3-53, Purposes, regarding the Airport Commission.

WHEREAS, the City engages the Airport Commission to oversee the operations, maintenance, and leasing arrangements of the Murfreesboro Municipal Airport; and

WHEREAS, the Airport Commission consists of seven members and two ex-officio non-voting members; and

WHEREAS, one ex-officio member is the City Manager who as City staff has the ability to address the Commission at any time; and

WHEREAS, one ex-officio member is a representative of Middle Tennessee State University, a community partner that has commercially operated flight training and aircraft maintenance labs at the Airport; and

WHEREAS, Middle Tennessee State University has announced the relocation of its flight training and aircraft maintenance labs at or before the term of their Lease Agreement with the City of Murfreesboro; and

WHEREAS, the City Council believes it is in the best interests of the community to enhance the ability of the Airport Commission to further its designated purpose by changing the composition of the Airport Commission to eliminate the ex-officio non-voting member positions.

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

SECTION 1. Murfreesboro City Code Section 3-51, Composition; term of office; compensation; removal from office is amended as follows:

- (i) The first sentence of the first paragraph is amended by deleting the language “and two ex-officio non-voting members” from the end of the sentence; and
- (ii) The seventh sentence of the first paragraph, “The City Manager and a representative of Middle Tennessee State University shall serve as non-voting ex-officio members” shall be deleted entirely.

SECTION 2. Murfreesboro City Code Section 3-53, Purposes, is amended at subsection (E) by deleting the existing language and replacing it with the following sentence:

“(E) cooperate with all commercial operators in the development and implementation of their businesses and the aeronautical services provided to the community and flying public;”

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST:

APPROVED AS TO FORM:

Amanda DeRosia
Interim City Recorder

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

SEAL

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Ordinance 24-O-25 – Ethics Code

Department: Legal

Presented by: Adam F. Tucker

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Ordinance 24-O-25 would codify as part of the Murfreesboro City Code a new ethics code for City officials and employees and establish an ethics commission

Staff Recommendation

Adopt Ordinance 24-O-25

Background Information

The City’s ethical standards for City officials and employees are currently spread across multiple sections of the Employee Handbook. The proposed ordinance would consolidate the standards in these various policies into a single article within the Murfreesboro City Code and provide greater clarity regarding the application of these standards, as well as add additional standards consistent with those adopted by other municipalities in Tennessee.

A notable weakness of the City’s current ethical policies is that there are not well-defined procedures for investigating ethics complaints. Moreover, there is no clear mechanism for handling complaints against City officials. The ordinance seeks to remedy both issues by establishing clear procedures for handling ethics complaints and by creating an ethics commission to investigate and decide ethics complaints against the City officials and certain employees and to recommend remedial and corrective actions to City Council. The ethics commission would have jurisdiction over ethics complaints brought against the mayor and members of the city council; the city manager, the city judge, the city attorney, the city recorder, and the city treasurer; and all members of any city boards, commissions, committees, and authorities. The ethics commission would not have the authority to impose any remedial or corrective action. That authority and responsibility is vested with City Council.

The proposed ordinance draws on various sources, including: MTAS’s Model Code of Ethics and ethics policies of Metro Nashville, Franklin, Clarksville, and Knoxville.

Council Priorities Served

Establish strong City brand

Trust and confidence in government requires that government officials and employees act with honesty, integrity, and impartiality, and it is the responsibility of all City officials and employees to perform their jobs in a manner that fosters this public trust.

Operational Issues

None

Fiscal Impact

None

Attachments

Ordinance 24-O-25

ORDINANCE 24-O-25 amending the Murfreesboro City Code, Chapter 2, Administration, Article XV, adopting an ethics code for City official and employees and establishing the City of Murfreesboro Ethics Commission.

WHEREAS, honesty, integrity, impartiality, and ethical conduct on the part of government officials and employees are essential to effective government and to maintaining the public's trust and confidence in government; and

WHEREAS, it is, therefore, the responsibility of all City officials and employees to perform their jobs in a manner that fosters this public trust by providing quality service, avoiding conflicts of interest or use of their position for personal gain, or by remaining accountable to the City's residents; and

WHEREAS, it is the will of City Council to establish an ethics code establishing ethical standards for City officials and employees; and

WHEREAS, City Council further believes it is prudent and wise to establish an ethics commission to receive, hear, and issue findings and recommendations with regard to ethics complaints made against any member of City Council, including the mayor; the city manager, the city judge, the city attorney, the city recorder, and the city treasurer; and any member of any city boards, commissions, committees, authorities, or other like body established by the City.

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

SECTION 1. Chapter 2, Administration, Article XV of the Murfreesboro City Code is hereby amended by changing the title of Article XV from "Reserved" to "Ethics Code" and replacing the current reserved sections as follows:

Section 2-315 Declaration of Policy

Honesty, integrity, impartiality, and ethical conduct on the part of government officials and employees are essential to effective government and to maintaining the public's trust and confidence in government. It is, therefore, the responsibility of all City officials and employees to perform their jobs in a manner that fosters this public trust by providing quality service, avoiding conflicts of interest or use of their position for personal gain, or by remaining accountable to the City's residents.

Section 2-316 Applicability and interpretation

(A) The article sets forth the ethics code for the City of Murfreesboro ("Ethics Code"). Except as otherwise provided in this article, the Ethics Code applies to all full time and part time elected or appointed officials and employees, whether compensated or not, including to officials serving on or employed by any board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City.

(B) Acts or omissions proscribed by the Ethics Code may also violated state or federal law. This chapter is not intended to supersede any such law. Moreover, in any

situation in which act or omission constitutes a conflict of interest under state law, the more restrictive provision shall apply.

(C) The interpretations of the Tennessee Ethics Commission shall serve as guidance in interpreting this chapter. In the absence of applicable guidance, the Ethics Code shall be interpreted and enforced from the standpoint of a reasonable person evaluating all the relevant facts and circumstances.

Section 2-317 Definitions

For purposes of this chapter, the following terms shall have the meanings ascribed to them in this section:

Censure means an expression of severe criticism or reproach.

City means the City of Murfreesboro, Tennessee, and includes, without limitation, the City Council and any board, commission, committee, authority, corporation, department, or other instrumentality appointed or created by the City Council.

Conflict of interest means a direct or indirect interest, financial or otherwise, that conflicts, or appears to conflict, with an official's or employee's governmental duties or responsibilities.

Decision means a decision, approval, disapproval, recommendation, investigation, or rendering of advice by or on behalf of the City or any of its boards, commissions, committees, or departments.

De minimis value means a fair market value of less than one hundred dollars (\$100);

Direct interest and *directly interested* shall have the same meanings as such terms are defined in T.C.A. § 6-54-107 and § 12-4-101, respectively.

Employment interest means a situation in which an official or employee or an immediate family member is employed by or is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised by the City.

Ethics commission refers to the City of Murfreesboro's Ethics Commission.

Gift means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. A gift shall be further defined in this chapter and includes a subscription, membership, loan, forgiveness of debt, advance or deposit of money, or anything of value conveyed or transferred. It does not include the solicitation, making, or acceptance of a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. It does not include the waiver of a registration fee for a conference or educational seminar.

Giver means that person, firm, entity, or institution that gives for the purpose of lobbying a gift, honorarium or other thing of value that meets the definition of lobbyist, as these terms are found in T.C.A. § 3-6-301.

Honorarium means payment of money or anything of value for an appearance, speech, or article, but does not include actual and necessary travel expenses, meals and lodging associated with such appearance, speech, or article.

Immediate family includes an official's or employee's spouse, parents, parents-in-law, stepparents, grandparents, siblings, children, stepchildren, grandchildren, and the spouses thereof.

Indirect interest and *indirectly interested* shall have the same meanings as such terms are defined in T.C.A. § 6-54-107 and § 12-4-101, respectively.

Material or *materially* means something that a reasonable person would consider important in assessing or determining how to act in a matter.

Matter includes, but is not limited to, a legislative, judicial, quasi-judicial, or administrative matter, proposal, proceeding, application, request for ruling or determination, contract or claim involving the City.

Officer or *official* means the mayor, members of the City council, and any individual appointed by the City council to a city boards, commissions, committees, authorities, or instrumentalities established by law or this article. For purposes of this article, the terms officer or do not include the city manager, city recorder, city treasurer, city attorney, city judge, or any other city employee.

Personal interest means:

- (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's immediate family.

Reasonable or *reasonably* when used in relation to conduct by an official or employee denotes the conduct of a reasonably prudent and competent public servant.

Section 2-318 Standards of conduct

(A) *General Standards.* City officials and employees shall not:

(1) Accept or solicit, for personal financial gain, any benefit that might reasonably tend to influence them to act improperly in the course of discharging their official duties whether in the form of a vote or other action;

(2) Accept or solicit bribery;

(3) Accept or solicit money or anything of value, other than in compliance with election campaign laws and fully reported pursuant to the same, irrespective of the payor's intent, if such payment or solicitation is in any way directly or indirectly related to their official duties or position;

(4) Accept or solicit any promise of any benefit, direct or indirect, to themselves, immediate family members, or their employer (if the employer is other than the City) that the official or employee believes or should reasonably believe was intended to influence action taken in their official capacity;

(5) Receive or use any City property, service, or funds for their personal gain or advantage or that of any immediate family member, except as permitted by law, where the use of City property or service is made available to such officials and employees on the same terms as the general public, or where use of such property or service is made available to such officials and employees as a benefit of employment;

(6) Use for personal gain or advantage, or that of an immediate family member or employer, information pertaining to the City government that is not a matter of common public knowledge, or use their position to secure information about any person or entity for any purpose other than the performance of their official duties;

(7) Use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reason of their positions;

(8) Use their position with the City to obtain personal financial gain or otherwise to secure unwarranted privileges or exemptions for themselves, immediate family members, or others that is not authorized by the charter, general law, or ordinance or policy of the City, provided, however, that this provision does not preclude City officials and employees from acting in a manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them;

(9) Make or attempt to make private purchases, for cash or otherwise, in the name of the municipality;

(10) Participate in making or influencing any decision or action on behalf of the City in which they know that they have a material financial interest distinguishable from that of the public generally or from that of other City officials or employees generally;

(11) Conduct themselves in such a way as to create a reasonable impression that a person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position, or influence of any person;

(12) Solicit, approve by vote or otherwise, oversee, or supervise in any manner or any contract in which the official or employee has a direct interest;

(13) Solicit, approve by vote or otherwise, oversee, or supervise in any manner any work or any contract in which the official or employee has an indirect interest without disclosing as required by state law and the Ethics Code;

(14) Violate the requirements established by state law regulating the conduct of municipal officials and employees, including, without limitation, statutes and rules related to direct or indirect conflicts of interest, consulting, and lobbying;

(16) Fail or refuse to file in a timely manner any disclosure statement required by the Ethics Code or any other law or ordinance; and

(17) Act in violation of any other provision of the Ethics Code.

(B) *Obligation to avoid appearance of impropriety.* All officials and employees shall avoid any action, whether or not such actions are specifically prohibited by statute, regulation, or the Ethics Code, that might result in or create the appearance of using their position with the City for private gain, giving preferential treatment to any person or organization that is not permitted by law, acting without independence or impartiality, making government decisions outside the process required by law, or adversely affecting the confidence of the public in the integrity of the City's government.

Section 2-319 Conflicts of interests in voting matters

(A) No official or employee may participate, directly or indirectly, through decision, approval, disapproval, recommendation or in any other manner, upon the following, each of which is deemed to be a conflict of interest:

(1) Any proceeding, application, vote, request for ruling, claim, controversy, contract, or any other matter involving an immediate family member; or

(2) Any matter in which the official or employee or a member of their immediate family has a financial interest, a fiduciary interest, a corporate interest, or an employment interest.

(B) Except as otherwise provided by law, no official or employee shall, in such capacity, participate in the discussion, debate, or vote, or otherwise take part in the decision-making process on any item in which the officer or employee has a conflict of interest as defined in subsection (A).

(C) Where an official's personal interest in a matter does not constitute an actual conflict of interest as defined in subsection (A) or applicable state law but may lead a reasonable person to believe that such interest might affect the official's vote on the matter, the official may vote on and participate in the discussion and debate of such matter if and only if the official first discloses the nature of the official's personal interest during the meeting at which the vote takes place, before such vote is taken, and so it appears in the minutes of the meeting. In the alternative, an official may recuse themselves from voting on the matter with or without disclosing any such personal interest.

(D) Nothing in this section intended to preclude the City from conducting business with an entity which employs an immediate family member of an official or employee, provided that:

(1) Provided the official or employee plays no role in the proceedings that led to the business relationship or in overseeing that relationship;

(2) Such business relationship does not violate this chapter;

(3) Such business relationship is fully disclosed in writing; and

(4) Where applicable, the affected business entity shall be required to fulfill all public bidding requirements when conducting business with the City.

(E) This section shall not preclude participants in the City's Pension Plan who serve on the City's Pension Board from voting on any matters related to benefits the participant might be eligible for under the City's Pension Plan.

Section 2-320 Conflicts of interest in nonvoting matters

(A) No City official or employee may play any role in soliciting, approving, overseeing, or in any manner supervising work under any contract in which the City has an interest if the official or employee has a direct interest in such work or contract.

(B) No City official or employee may play any role in soliciting, approving, overseeing, or in any manner supervising work under any contract in which the City has an interest if the official or employee has an indirect interest in such work or contract unless the official or employee first, before taking any action with respect to the work or contract, publicly acknowledges their interest in the work or contract. Such disclosure shall be made on a form provided by and filed with the city recorder.

(C) In addition to the prohibitions set forth in subsections (A) and (B), an official or employee whose official duties require them to exercise discretion on a matter, in a manner other than by casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of discretion shall disclose the interest on a form provided by and filed with the city recorder. Whenever feasible such disclosure shall be made before the officer or employee exercises their discretion in the matter. Where disclosure is not possible before exercising such discretion, the official or employee shall disclose the interest on the same form and file with the city recorder as soon as reasonably possible after the exercise of discretion. In the alternative, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse themselves from the exercise of discretion in the matter. It is the intent of City Council that the disclosure requirement set forth in this subsection (C) apply to any matter and, thus, apply more broadly than the requirements set forth in subsection (A) and (B) and in T.C.A. § 6-54-107 and § 12-4-101 with respect to contractual matters.

Section 2-321 Acceptance of gifts, gratuities, honoraria; etc.; exceptions

(A) Except as provided in this section, no official or employee shall solicit or accept, directly or indirectly, on behalf of themselves or an immediate family member, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan guarantee or any other item of monetary value, from any person or entity that:

- (1) Has, or is seeking to obtain, contractual or other business or financial relations with the City;
- (2) Conducts business, operations, or other activities with the City; or
- (3) Has interests that may be substantially affected by the performance or non-performance of the employee's official duties.

(B) Except as provided as provided in this section, no official or employee shall accept, direct or indirectly, on behalf of themselves or an immediate family member any gift that might reasonably be interpreted as an attempt to influence the officer's or employee's discretion in performing their official duties or to reward the officer or employee for their past exercise of discretion in performing their official duties.

(C) The following are not subject to the prohibitions in subsections (A) and (B):

- (1) Gifts, gratuities, honoraria, and other things listed in the Tennessee Ethics Commission Act (specifically but not exclusively T.C.A. § 3-6-305(b));
- (2) Gifts of di minimis value that are shared equally by members of an office or department; and
- (3) Gifts that are solely decorative reflect an action or project that benefits the community; and
- (4) Gifts from the City itself.

(D) This section does not prohibit an official or campaign from soliciting or accepting political campaign donations made in compliance with election campaign laws and fully reported pursuant to such laws.

Section 2-322 Non-City work and employment

(A) *Officials.*

- (1) An official may not:
 - (a) Accept or continue any employment by a person or entity other than the City or provide goods or services to a private interest for financial gain if such employment or action unreasonably inhibits the performance of any affirmative duty of the official's position or conflicts with any provision of the Charter or any City ordinance or policy;
 - (b) Provide services for compensation, directly or indirectly, to a person or entity that is requesting approval, action, or a determination by the City;
 - (c) Provide services for compensation, directly or indirectly, to a person or entity in connection with a contract, development, project, or other matter that received approval from the City for a period of one year from such approval if the official voted for or otherwise participated in deliberations related to the contract, development, project, or other matter;
 - (d) Accept or continue employment or engage in outside activities that might impair their independent judgment in the performance of their public duty; or

(e) Participate personally in the deliberation and decision of an official matter if the official is negotiating or has an arrangement concerning prospective employment with a person or organization that has a financial interest in a matter under consideration by or within the City's jurisdiction.

(2) The prohibitions in this subsection (A) do not apply to an official:

(a) who is appointed to a regulatory or licensing board pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to it;

(b) whose government duties are ministerial, if the private employment or financial interest does not create a conflict of interest; or

(c) who abstains from voting on a matter to avoid the conflict of interest.

(B) *Employees*

(1) City employees may have outside employment, provided such employment does not interfere with their employment by the City and is approved in writing by the employee's department director.

(2) City employees shall not engage in private employment or render service for private interest when such employment or service is incompatible with the proper discharge of the employee's official duties, would tend to impair the employee's independent judgment or action in the performance of those official duties, or would prevent the employee from being available for required overtime work.

(3) An employee may not participate personally in the deliberation and decision of an official matter if the employee is negotiating or has an arrangement concerning prospective employment with a person or organization that has a financial interest in a matter under consideration by or within the City's jurisdiction

Section 2-323 Representing Private Interests Before City Agencies

(A) No officer or employee shall personally represent or appear on behalf of a private interest of another person before the City Council or any City board, commission, committee, department, or authority.

(B) No officer or employee shall personally represent or appear on behalf of a person, whose interests are adverse to those of the City, in any quasi-judicial proceeding involving the City or in any judicial proceeding to which the City is a party.

(C) Nothing in subsection (A) and (B), however, shall preclude:

(1) An officer or employee from speaking or appearing on their own behalf before the City Council or any City board, commission, committee, department, or authority;

(2) An officer or employee from representing a personal interest consistent with state law and the Ethics Code;

(3) An officer or employee from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding;

(4) An employee who is a registered lobbyist from representing or appearing before City Council or any board, commission, committee, department, or authority on behalf of the interests of the person(s) or organizations(s) for which the employee is lobbying;

(5) A member of City Council or any other board, commission, or committee who is licensed attorney from representing or appearing on behalf of a private interest of another, provided the client's interests are neither adverse to the City nor pertain to any matter before or that may come before the official body on which the attorney serves; or

(6) Members of City Council from appearing before City Council or any other board, commission, committee, department, or authority to express the opinions and/or wishes of their constituents, provided the member of council is not acting in a representative capacity and does not receive anything of value in exchange for such appearance.

Section 2-324 Annual Disclosures

(A) The disclosure requirements contained in this section shall apply to the following officials and employees: (1) the mayor; (2) all members of City Council; (3) all members of the Planning Commission; and (4) the City Manager, the City Recorder, the City Treasurer, the City Attorney, and the City Judge.

(B) On or before February 15th of each year, each official and employee included in subsection (a) of this section shall file with the City Recorder an annual disclosure statement setting forth the information requested therein as of and for the year ended December 31st of the preceding year.

(C) Officials and employees shall amend their current disclosure statement within thirty days of the occurrence of any material change to the disclosures.

(D) All disclosure statements filed pursuant to this section, and amendments thereto, shall be maintained by the City Recorder and be readily available for inspection by the public.

(E) The annual disclosure statement shall require disclosure of the following information:

- (1) All of the official's or employee's sources of income for the preceding calendar year (excluding gifts from immediate family members);
- (2) To the best the official's or employee's knowledge, all sources of income for the official's or employee's spouse for the preceding year (excluding gifts from immediate family members);
- (3) Financial interests of the official/employee or the official's/employee's spouse of at least 5% of any business with operations, offices, or interests in Rutherford County;
- (4) Direct or indirect financial interests of the official/employee or the official's/employee's spouse in real property (other than primary residence) located in City;
- (5) Paid or unpaid positions held by the official or employee with any for-profit entity, non-profit entity, or educational or other institution that has not otherwise been disclosed;
- (6) Debts, guarantees, or endorsements of debts (excluding liabilities owed to an immediate family member, and excluding loans from established financial institutions made in the ordinary course of business on usual and customary terms) aggregating over \$5,000 owed by official/employee or official's/employee's spouse to any one creditor;

(7) Debts owed by the official/employee or the official's/employee's spouse in excess of \$5,000 that are secured by a guarantee or collateral of any individual other than an immediate family member; and

(8) Anything of value received in the preceding calendar year by the official or employee that is in any way, directly or indirectly, related to the person's service as a City official or employee

Section 2-325 Advisory ethics opinions.

- (A) Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based on the Ethics Code and other applicable law.
- (B) If, in the city attorney's sole discretion, the city attorney determines that a conflict of interest or other circumstance might reasonably impair the city attorney's ability to render an objective opinion, the city attorney may engage outside legal counsel to prepare and render such an opinion. The city attorney shall advise the City council of the engagement of outside legal counsel and may approve any payments to such legal counsel up to the amount authorized under the City's procurement code and policies without seeking additional authorization from the city manager or city council.

Section 2-326 Duty to report potential ethics violations.

A city official or employee who has knowledge of a possible violation of any of the provisions of the Ethics Code shall report this violation by filing a complaint as provided in this article within a reasonable time after the person has knowledge of a violation. City officials and employees shall not delegate to, or rely on, another person to make the report.

Section 2-327 Procedures for filing and evaluation of ethics complaints.

(A) Any natural person may submit an ethics complaint alleging that a city official or employee has violated the Ethics Code.

(B) All ethics complaints shall be filed with the city recorder; provided, however, in the event the complaint concerns the city recorder, a copy of the complaint shall be simultaneously sent to the mayor and city attorney.

(C) All ethics complaints must be in writing, signed and sworn to by the complainant, under oath, as properly evidenced by a notary public, and shall contain the following:

- (1) The complainant's legal name, current mailing address, phone number, and email address, if any;
- (2) The name of the person or persons who are alleged violation;
- (3) A summary of the facts giving rise to the alleged ethics complaint; and
- (4) An explanation of why the alleged facts constitute a violation of the Ethics Code.

(D) Upon receiving a complaint, the city recorder shall annotate the date and time of receipt on the ethics complaint, and log the receipt of the complaint into a running journal kept for the purpose of keeping track of the receipt of ethics complaints. The

city recorder will thereupon provide a copy of the ethics complaint to the person or persons against whom the ethics complaint is made, and to the city attorney.

(E) Unless a complaint complies with the requirements of this article, the complaint is not valid for consideration, and no action may be taken to investigate or determine the disposition of the complaint.

(F) Upon receiving a copy of the complaint, the city attorney shall first determine whether the complaint complies with requirements of this article. In the event the city attorney determines that a complaint is technically deficient or incomplete, the city attorney shall send a copy of the Ethics Code to the complainant and offer the complainant the opportunity to correct the deficiencies and refile the complaint within seven days. If the complainant fails to refile the complaint within seven days or refiles the complaint without correcting the technical deficiencies, the city attorney shall send a letter to the complainant informing the complainant that the complaint has been administratively dismissed due to its failure to comply with the requirements of this article. A copy of such letter shall be sent to the mayor, city recorder, and chair of the ethics commission. The administrative dismissal of a complaint shall not preclude the complainant or any other person from filing a subsequent complaint alleging the same or similar violations against the same official or employee.

(G) *Jurisdiction for hearing complaints.*

(1) If a complaint complying with the requirements of this article alleges violations against a person within the jurisdiction of the ethics commission, the city attorney shall inform the city recorder of this determination, and the city recorder shall send the ethics complaint to the ethics commission to take action as set forth in Section 2-43. The ethics commission shall have jurisdiction over all ethics complaints made against any member or members of the City council, including the mayor, the city manager, the city judge, the city attorney, the city recorder, and the city treasurer, and all members of any city boards, commissions, committees, authorities, or other like body established by the City, including entities having a separate corporate or other legal existence other than those that have their own ethics policy.

(2) Except as otherwise provided herein, if a complaint complying with the requirements of this article does not allege violations against an employee not within the jurisdiction of the ethics commission, then the complaint shall be handled as provided in Section 2-330. If, however, a complaint alleges violations by both an individual referenced in subsection (G)(1) and an employee not referenced in subsection (G)(1), the complaint shall be sent to the ethics commission to take further appropriate action, if in the opinion of the city attorney considering the allegations against all the individuals named in the complaint in separate proceedings could reasonably yield to inconsistent results.

(H) If at any point following the filing of an ethics complaint, the city attorney determines that a conflict of interest or other circumstance might reasonably impair the city attorney's ability to conduct an objective investigation, the city attorney may engage outside legal counsel to prepare and render such an opinion. The city attorney shall advise the city manager and city council of the engagement of outside legal counsel and may approve any payments to such legal counsel up to the amount authorized under the City's procurement code and policies without seeking additional authorization from the city manager or city council. Furthermore, in the event an ethics complaint is filed against the city attorney or another attorney within the City's legal department, the responsibilities and duties of the city attorney set forth in this article shall be performed by outside legal counsel selected by city council.

(I) Any person who files a false complaint may be subject to the penalties of perjury, in accordance with T.C.A. § 39-16-702 et seq.

Section 2-328 Evaluation of ethics complaints against city employees

(A) Upon receiving the complaint against an employee outside the jurisdiction of the ethics commission, the city attorney or the City’s designated outside legal counsel shall forward a copy of the complaint to the city manager as soon as practicable.

(B) Except as otherwise provided in subsection (C), the city attorney or designated outside legal counsel shall investigate the complaint and make recommendations to the city manager for action to end or seek remedies for any activity that, in the attorney's judgment, constitutes a violation of this article. Any disciplinary action taken against an employee found to have violated this article shall be made in accordance with the City Charter and the City’s disciplinary policies.

Section 2-329 Reporting; whistleblower protection; abuse of process

(A) It is the intent of this article to encourage employees and officials to report suspected ethical violations.

(B) No officer or employee shall use or threaten to use any official authority or influence to discourage, restrain, or interfere with any other person for the purpose of preventing such person from acting in good faith to report information relating to an ethics violation of investigation.

(C) No official or employee shall file an ethics complaint against another official or employee absent a good faith basis for their allegations based on first-hand knowledge.

(D) No official or employee shall falsely accuse another official or employee of failing to comply with this article.

Sections 2-330 – 2-359 Reserved.

SECTION 2. Chapter 2, Administration, Article II of the Murfreesboro City Code is hereby amended by changing the title of Article II from “Reserved” to “Ethics Commission” and replacing the current reserved sections as follows:

Section 2-36 Ethics commission – creation

There is hereby created an ethics commission for the City of Murfreesboro. The Ethics Commission shall be composed five members recommended by the mayor and approved by city council.

Section 2-37 Member qualifications, terms, compensation, vacancy, removal.

(A) *Membership qualifications.* A person is eligible to serve as a member of the ethics commission if the person:

- (1) Resides in and is registered to vote in the City;
- (2) Is not a City employee;
- (3) Neither holds nor is a candidate for any elected or appointed office of the United States, the State of Tennessee, or the City; and
- (4) Is not engaged in any political activity prohibited under section 2-38.

(B) *Term.*

(1) Terms for each member shall be for a period of three years, except for initially appointed members, whose initial terms shall be as provided below to allow for staggered terms. No member may serve more than two consecutive terms.

(2) With regard to initial terms for members, two such members shall serve an initial term of three years each; two other such members shall serve an initial term of two years each; and one other such member shall serve an initial term of one year.

(C) *Compensation.* Members of the ethics commission shall serve without monetary compensation.

(D) *Vacancy.* Should any vacancies on the commission occur, the mayor shall appoint, subject to city council approval, an individual to serve the remainder of the form member's unexpired term. Serving during any unexpired term shall count as a term for the purpose of computing the limit on consecutive terms.

(E) *Removal.* The city council, by a two-thirds majority vote of the whole membership of city council, may remove a member of the ethics commission in cases of misfeasance, malfeasance, or nonfeasance in relation to their duties as a member of the commission, death, a mental or physical disability that renders the member unable to discharge the powers and duties of the office, failure to meet the qualifications for membership on the commission, or for other just cause. Prior to any such vote on removal, the commission member whose removal is sought shall have an opportunity to be heard on the issue of their removal in person, through counsel, and/or by submission of relevant written or other evidentiary materials, and may cross examine any witnesses against them who shall be required to testify under oath, and may request the City council to issue a subpoena compelling the attendance and testimony under oath of any witnesses with relevant knowledge as to any material issue. The date, time, and place for said hearing, and the requirements for submission of the resolution for removal to the City council, shall be the same as and in accordance with the requirements for consideration of other legislative matters as set forth in the City Code.

Section 2-38 Prohibited political activity.

(A) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Member of the ethics commission* means an individual who occupies the position of a member of the ethics commission or a prospective new member of the ethics commission.

(2) *Political party* means a national political party, a state political party, a political action committee and/or any affiliated organization.

(3) *Election* includes a primary, special, and general election.

(4) *Nonpartisan election* means:

(a) An election at which none of the candidates is to be nominated or elected as representing a political party, any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; and

(b) An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a governmental ordinance, or any question or issue of a similar character.

(5) *Partisan* when used as an adjective, refers to a political party.

(6) *Contribution* means any gift, subscription, loan, advance, deposit of money, allotment of money or anything of value given or transferred by one person to another, including in cash, by check, by draft, through a payroll deduction or allotment plan, by pledge or promise, whether enforceable, or otherwise.

(B) *Permissible activities.* All members of the ethics commission are free to engage in political activity to the widest extent consistent with the restrictions imposed in this chapter. Each member of the ethics commission retains the right to:

(1) Register and vote in any election;

(2) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization or of a similar organization;

(3) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;

(4) Attend a political convention, rally, fundraising function, or other political gathering;

(5) Sign a political petition as an individual;

(6) Make a financial contribution to a political party or organization;

(7) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election;

(8) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a governmental ordinance or any other question or issue of a similar character;

(9) Serve as an election judge or clerk or in a similar position to perform nonpartisan duties as prescribed by state or local law; and

(10) Otherwise participate fully in public affairs in a manner which does not materially compromise the person's efficiency or integrity as a member of the ethics commission or the neutrality, efficiency, or integrity of the ethics commission.

(C) *Prohibited activities.*

(1) A member of the ethics commission may not take an active part in political management or in a political campaign, except as permitted by subsections (B) and (D) of this section.

(2) A member of the ethics commission shall not take part in or be permitted to do any of the following activities:

(a) Serve as an officer of a political party, a member of a national, state, or local committee of a political party, an officer or member of a committee of a partisan political club, or be a candidate for any of these positions;

(b) Organize or reorganize a political party organization or political club or political action committee operating in the City;

(c) Directly or indirectly solicit, receive, collect, handle, disburse or account for assessments, contributions, or other funds for a candidate for city office;

(d) Organize, sell tickets to, promote or actively participate in a fundraising activity of a candidate in a city election;

(e) Take an active part in managing the political campaign of a candidate for city office;

(f) Become a candidate for, or campaign for, a city election;

(g) Solicit votes in support of or in opposition to a candidate for city office in a city election;

(h) Drive voters to the polls on behalf of any candidate in a city election;

(i) Endorse or oppose a candidate for city office in an election or a candidate for city office in a political advertisement, broadcast, campaign literature, or similar material;

(j) Address a convention, caucus, rally, or similar gathering of a political party in support of or in opposition to a partisan candidate for a city office.

(D) Nothing contained in this section shall prohibit activity in political management or in a political campaign by any member of the ethics commission connected with a nonpartisan issue of any type or a nonpartisan election other than a city election.

Section 2-39 Organization

(A) *Officers.* The members of the ethics commission shall elect officers for the commission. One member shall be elected to serve as chair of the commission and one member to serve as vice-chair of the commission. Officers may not hold more than one office on the commission at the same time. Officers shall hold office for one-year periods. The city recorder shall serve as custodian of records for the commission, and the city recorder, or the recorder's designee shall serve as the commission's secretary.

(B) *Legal counsel.* The city attorney shall provide legal advice to the commission as may be required; provided, however, if, in the city attorney's sole discretion, the city attorney determines that a conflict of interest or other circumstance might reasonably impair the city attorney's ability to provide objective legal advice or that the circumstances of the matter are likely to lead a reasonable person to believe that a conflict of interest exists, the city attorney shall engage outside legal counsel to advise the commission.

(B) *Meetings.* The ethics commission shall hold at least one regular meeting and may be convened in special session upon call of the chair or whenever in the judgment of a majority of the commission it may be deemed necessary and proper. All meetings of the commission shall comply with the Tennessee "Open Meetings" Law, T.C.A. § 8-44-101, et seq., as same may be amended from time to time.

(C) *Quorum; voting.* A majority of the commission members shall constitute a quorum for the transaction of business. All matters shall be decided by a majority vote of the members present.

(D) *Minutes; records.* The ethics commission shall keep or cause to be kept by the secretary minutes of proceedings and records of its examinations, hearings, and other official actions. All records of the ethics commission shall be open and subject to public inspection in accordance with the Tennessee "Open Records" Law, T.C.A. § 10-7-503, et seq., as same may be amended from time to time.

Section 2-40 Adherence to ethics code; disqualification of a member

The ethics commission, its secretary, and its attorney shall be governed by and subject to the Ethics Code. If members of the ethics commission have a conflict of interest or must disqualify themselves under the City's Ethics Code or by law, the remaining members shall at that time choose an alternative person or persons mutually agreed upon by the remaining members to fulfill the role of the disqualified member to hear the matter.

Section 2-41 Jurisdiction.

(A) The ethics commission shall have jurisdiction over ethics complaints made under the City's Ethics Code against any member or members of the City council, including the mayor, the city manager, the city judge, the city attorney, the city recorder, and the city treasurer, and all members of any city boards, commissions, committees, authorities, or other like body established by the City, including entities having a separate corporate or other legal existence other than those that have their own ethics policy.

(B) The ethics commission shall also have jurisdiction over an ethics complaint alleges violations by an individual listed in subsection (A) and a City employee not listed in subsection (A), where the city attorney or legal counsel designated by the city attorney or City Council has determined that considering the allegations against all the individuals named in the complaint in separate proceedings could reasonably yield to inconsistent results.

(C) The ethics commission shall not investigate any ethics complaint, conduct any ethics complaint proceedings, or hear any ethics complaint:

(1) Which has been submitted by any person that has a pending lawsuit against the City or against any city official or employee who is the subject of the ethics complaint; or

(2) Which alleges facts, or which concerns, is connected to, arises out of, or which deals with any situation or circumstance that is the subject of an ongoing criminal investigation, if such ongoing criminal investigation is known by the ethics commission, or which deals with, pertains to, or is concerned with any pending criminal case or charges in federal or state court.

(D) The ethics commission shall cease any ongoing ethics investigation or ethics hearing or proceedings involving an ethics complaint if at any time during the pendency of such ethics investigation or ethics hearing, the person who filed the complaint files a lawsuit against the City or files a lawsuit against any city official or employee that is in any way connected to their office with or employment by the City.

Section 2-42 Duties and powers.

The ethics commission shall have the following duties and powers:

(A) To establish procedures, rules, and regulations governing its internal organization and conduct of its affairs, including, but not limited to scheduling meetings as needed;

(B) To receive and hear complaints of violations of the ethics code over which it has jurisdiction and to hold hearings and conduct investigations in connection therewith as may be required by this article;

- (C) To make recommendations to the City Council regarding any alleged ethics violations within its jurisdiction;
- (D) To make recommendations to the City Council for the adoption of any revisions or amendments to the ethics code; and
- (E) To take any action authorized by the Ethics Code.

Section 2-43 Procedures for evaluating ethics complaints.

(A) Preliminary procedures.

(1) If the city attorney or the outside legal counsel designated by the city attorney or city council determines that an ethics complaint alleges an ethics violation against any person within the jurisdiction of the ethics commission, then the ethics commission, upon receipt of the ethics complaint from the city recorder, shall thereupon take action as provided herein.

(2) The chair of the ethics commission shall call a meeting of the commission, which meeting shall be open to and noticed to the public and occur within fifteen days of the date the city recorder forwarded the complaint to the ethics commission. The city recorder shall also provide notice of the meeting to the complainant, and to the person(s) alleged to be in violation of the ethics code and named in the ethics complaint.

(3) At its preliminary meeting on the complaint, the commission shall evaluate the allegations of the ethics complaint and decide whether the allegations would constitute an ethics violation, if the facts alleged in the ethics complaint were true. If the commission determines that the alleged facts, even if true, would not violate the Ethics Code, the commission shall dismiss the complaint. In the alternative, the commission may request additional information from the complainant, or any other person the commission deems to have material information, in its sole discretion, to determine whether a hearing should be held to determine the merits of the ethics complaint. In addition, the commission may request legal counsel to investigate the complaint and provide the ethics commission with a written report of the attorney's findings. Any additional information or reports shall be submitted to the commission within thirty days; provided, the commission may extend the period for submitting such materials, information, or reports for up to an additional thirty days, upon good cause shown. The ethics commission shall meet within five business days of the deadline for submitting any additional information or reports to determine whether the allegations would constitute an ethics violation, if the facts alleged in the ethics complaint were true. If the commission determines that the alleged facts, if true, would constitute a violation of the ethics code, then the commission shall hold a hearing to determine whether the ethics complaint has merit. Such hearing shall be held within thirty days of such determination, unless the person(s) named in the complaint request the hearing to be extended for up to an additional thirty days.

(B) Hearing procedures.

(1) If the ethics commission determines that a hearing should be held on an ethics complaint, the hearing shall be conducted as follows:

- (a) The hearing shall be noticed to and open to the public.
- (b) Notice of the hearing shall be provided to the complainant and to the elected or appointed official(s) named in the complaint (together, the "parties").

(c) The parties may, but are not required to, submit evidentiary material to the commission. If a party does wish to submit such evidentiary material to the commission, the party must file the material with the city recorder, with a copy to the commission's legal counsel, and provide a copy of the same to the other parties, at least seven (7) calendar days prior to the hearing, unless, for good cause shown, the commission amends the time requirement. The city recorder shall provide a copy of all evidentiary materials to the commission members.

(d) The parties shall have a full and fair opportunity, but are not required, to present their positions and facts to the commission at the hearing. Each party shall be allotted a reasonable amount of time to make its presentation to the board.

(e) Each party shall have the right to represent themselves, and to have the assistance of legal counsel at their own expense but may not be represented by non-attorneys. If the ethics committee determines that an ethics violation has not occurred with respect to any alleged violation, the City council may, upon request of the City employee or official, reimburse such employee or official for such person's legal and other related expenses.

(f) All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses shall be subject to cross-examination.

(g) Each party must file with the city recorder and provide a copy of same to the city attorney, a list of the witnesses that the party intends to call at the hearing and provide a copy of the same to the other parties, at least seven (7) calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the commission may permit such an unlisted witness to be called by a party, if in the commission's discretion, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

(h) Commission members may ask questions of any party, counsel, or witness at any time during the hearing, but the chair shall conduct the hearing and determine the order in which commission members may pose questions.

(i) The commission may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party, and upon majority vote of the members, may cause the city recorder to issue subpoenas for documents and things or for testimony of persons within the jurisdiction of the City to the maximum extent permitted by law.

(j) The commission may continue any hearing to a later date.

(k) The commission's legal counsel shall be present during the hearing to advise the commission as may be necessary on all legal issues.

(C) *Decision to be in writing.* Whether or not the commission holds a hearing on the ethics complaint, or dismisses the complaint, it shall issue a decision in writing. If the commission holds a hearing on the ethics complaint, it shall state in writing whether it finds the ethics complaint to have merit, and if so, which section and subsection as applicable of the ethics code has been violated and by whom.

(D) *Vote required to find violation; burden of proof.* Any decision of the commission finding an ethics complaint to have merit shall require the affirmative vote of at least three (3) members of the commission. The complainant shall bear the burden of proof to prove a violation by a preponderance of the evidence, and the person alleged to have violated the ethics code shall not be required to prove the absence of a violation.

(E) *Prohibition on outside communications.* Once an ethics complaint has been received by the members of the commission, and until a written decision has been issued by the commission, no member of the commission shall participate in any communication regarding the allegations or merits of the complaint, outside of the commission's public meetings or hearings.

(F) *Effect of criminal charges against subject of an ethics complaint.* If at any time during the pendency of an ethics investigation or hearing by the ethics commission, the subject of an ethics complaint is arrested or charged with any criminal offense under the laws of the united states or any state or territory thereof, the ethics commission shall temporarily suspend or pause the resolution of the ethics investigation or hearing, pending final adjudication of any such criminal charges through a direct appeal, whereupon, should the subject be convicted, the ethics commission may resume the ethics investigation or hearing to conclusion.

Section 2-44 Commission action upon finding of violation.

(A) *Report of decision.* The decision of the commission shall be submitted to the mayor, the City council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

(B) *Recommendation of commission.* If the ethics commission decides that an official or an employee within its jurisdiction has violated the Ethics Code, then the ethics committee shall take one or more of the following actions, as decided by affirmative vote of at least three of its members:

(1) Report to the City council that a determination has been made that the Ethics Code has been violated, setting forth which sections of the ethics code have been violated and by whom. The ethics commission may also make recommendations to the city council regarding any appropriate remedial or disciplinary action that city council should consider, including, but not limited to, censure, termination of employment, or removal from office as permitted under the Charter; and/or

(2) Make a recommendation to the violator that he or she resign from their respective position; and/or

(3) Make a recommendation to city council as to any action to be taken: (i) to stop the conduct, if still occurring; (ii) to prevent the conduct from occurring in the future; and/or (iii) to remedy any harm or recover any loss that may have occurred; and/or

(4) Request that the city attorney refer the matter to the local district attorney general, or other state or federal law enforcement authority, for appropriate action under general criminal law.

Section 2-45 Judicial review of final decisions.

(A) A person who is aggrieved by a final decision of the ethics commission may obtain judicial review of the decision by writ of certiorari; provided, however, no decision of the ethics commission that included a recommendation that city council take further action against an officer or employee found to have violated the Ethics Code shall be considered a final decision until city council takes action on such recommendation or until thirty days after the ethics commission delivered such recommendation to city council, whichever occurs first.

(B) The application for the writ must be filed within 30 days from the date of the final decision. Judicial review shall be based upon the record. No party shall be entitled to a de novo appeal.

(C) Upon failure to timely request judicial review of the decision by writ of certiorari as provided in this section, the decision shall be binding and final upon all parties.

Section 2-46 – 2-47 Reserved.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST:

APPROVED AS TO FORM:

Amanda DeRosia
Interim City Recorder

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

SEAL

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Ordinance 24-O-24 City Code Ch. 27.5 Amendment
[1st Reading]

Department: Water Resources

Presented by: Valerie Smith

Requested Council Action:

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

Summary

Staff is requesting to amend Chapter 27.5 of City Code to make the chapter compliant with a new state stormwater permit and incorporate much needed updates.

Staff Recommendation

Approve the amendment to Chapter 27.5 of City Code by Ordinance 24-O-24. The Water Resources Board recommended approval of these revisions on June 25, 2024.

Background Information

In 2022, the State issued a new NPDES stormwater permit requiring staff to revise Chapter 27.5 of City Code. Particularly, revisions pertain to streamside buffers and the design of stormwater control measures (SCM's). Additional changes include clerical updates and best practices for improving stormwater quality and drainage.

To encourage public input, staff offered two stakeholder meetings, created a webpage for revision information, and engaged the engineering and development community with email updates.

Council Priorities Served

Establish strong City brand

Having clean streams and keeping compliant with the State of Tennessee stormwater permit strengthens the City brand.

Attachments

1. Ordinance 24-O-24
2. Table of Revisions

ORDINANCE 24-O-24 amending the Murfreesboro City Code, Chapter 27.5, Stormwater Management, replacing it in its entirety.

WHEREAS, the City of Murfreesboro has the authority to manage stormwater within its jurisdiction pursuant to the United States Environmental Protection Agency under the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987; and,

WHEREAS, the City of Murfreesboro is authorized to discharge stormwater runoff into waters of the State of Tennessee in accordance with the National Pollutant Discharge Elimination System; and,

WHEREAS, the City of Murfreesboro endeavors to comply with Federal, State, and Local authority in the management of stormwater by its own municipal storm sewer system; and

WHEREAS, the City Council finds it is in the best interest of the City to codify an updated a stormwater management program consistent with current law.

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

SECTION 1. Chapter 27.5, Stormwater Management, of the Murfreesboro City Code is hereby amended by deleting it in its entirety and substituting in lieu thereof the attached Chapter 27.5, Stormwater Management.

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:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

Amanda DeRosia
Interim City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

SEAL

Chapter 27.5 STORMWATER MANAGEMENT¹

ARTICLE I. STORMWATER MANAGEMENT

Section 27.5-1 Purpose.

This chapter is intended to manage the manner in which stormwater is addressed in areas of new development and redevelopment through the course of construction, post-construction stabilization, and permanently to maintain or benefit water quality, to provide measures against stream bank erosion and flooding, and thereby to benefit the quality of life and character of the City. This chapter sets general policy and stormwater management program direction and is supported and enforced through other more detailed regulations, which may be adopted by the City Council and relevant City departments.

This chapter shall be known and may be cited as the Stormwater Management Ordinance of the City. The purpose of this chapter is to accomplish the following:

- (A) Improve stormwater management;
- (B) Control the discharge of pollutants to the stormwater system;
- (C) Provide measures against stream bank erosion and flooding;
- (D) Improve public safety;
- (E) To comply with the City's NPDES permit; and,
- (F) Allow the City to exercise the powers granted in T.C.A. § 68-221-1105, which provides that, among the other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:
 - (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the City, whether or not owned and operated by the City;
 - (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - (3) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
 - (4) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
 - (5) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
 - (6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
 - (7) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and,
 - (8) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

¹Editor's note(s) – Ordinance No. 88RS60 contained two sections designated as Section 3; hence, beginning with the second Section 3, the sections were renumbered as sections 4 through 8. Ordinance No. 04-O-69, adopted 12-09-04, replaced Chapter 27.5 in its entirety.

Cross reference – Ch. 7, buildings; Ch. 22, Planning Commission; Ch. 29, subdivisions, maps and plats; Ch. 33, water and sewers.

(Ord. No. 88-60 § 1, 12-15-88; Ord. No. 04-O-69 § 1, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07; Ord. No. 08-O-17 §§ 1-2, 06-05-08)

Section 27.5-2 Definitions.

For this chapter, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive. The following definitions shall apply in the interpretation of this chapter and in any regulations promulgated hereunder, unless specifically stated otherwise:

"100-year flood event." See *Base flood*.

"Active channel." The area of the stream channel that is subject to frequent flows (approximately once per one and one-half years) and that includes the portion of the channel below where the floodplain flattens.

"Appeal." A request for a review of the City's interpretation of any provision of these regulations.

"Analytical monitoring." Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304 (h) of the Clean Water Act (the "Act"), as amended, under which such procedures may be required. Pollutant parameters shall be determined using sufficiently sensitive methods in Title 40 C.F.R. § 136, as amended, and promulgated pursuant to Section 304 (h) of the Act. The chosen methods must be sufficiently sensitive as required in state rule 0400-40-03-.05(8).

"Aquatic Resource Alteration Permit" or ARAP. A permit issued pursuant to T.C.A. § 69-3-108 of the Act, which authorizes the alteration of properties of waters of the state that result from activities other than discharges of wastewater through a pipe, ditch, or other conveyance. The Tennessee-issued ARAP is often associated with a §401 Water Quality Certification (§401 certification).

"As-built plans." Drawings depicting structures, facilities, systems, landscaping, and site conditions as they were installed and constructed.

"Base flood." The flood having a 1% chance of being equaled or exceeded in any given year; for the City the base flood is the 100-year frequency flood. While this statistical event may occur more frequently, it may also be known as the "100-year flood event."

"Best Management Practice (BMP)." This may refer collectively or specifically to a structural or non-structural practice intended to address water quantity or quality as best available.

"Board." A City board or committee specifically designated by the City Council to perform one or more functions under this chapter. Such functions may include: approving policies, rules, guidelines, plans or agreements; hearing appeals of administrative decisions; determining exemptions; or, granting waivers or variances. If no other City board or committee has been so specifically designated, the Construction Board of Adjustments and Appeals shall be deemed the Board.

"Borrow pit." An excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site.

"Bridge." A man-made conveyance over stormwater flows.

"Buffer zone." See *Water quality riparian buffer*.

"Building." Any structure built for support, shelter, or enclosure for any occupancy or storage.

"Channel." A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is that water which is flowing within the limits of the defined channel.

"Chronic violator." Persons or business operations that have violated provisions of this chapter repeatedly and without good cause, as shown by City's records (enforcement actions, outstanding bonds, etc.).

"City." The City of Murfreesboro, Tennessee.

"City Engineer." The City Engineer or the Executive Director of Public Infrastructure or his or her designee.

"Clearing." Clearing refers to removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities. Clearing, grading, and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams, or power lines for sight distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. The clearing of land for agricultural purposes is exempt from federal stormwater NPDES permitting in accordance with Section 401(1)(1) of the 1987 Water Quality Act and state stormwater NPDES permitting in accordance with the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 et seq.).

"Common plan of development or sale." Common plan of development or sale is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This occurs because the activities may take place at different times, on different schedules, by different operators.

"Construction Board of Adjustments and Appeals." Board identified to hear appeals of decisions, determinations, orders and notices of the City with regards to violations of this chapter, and to establish rules for its own procedures.

"Control measure." General term referring to any Best Management Practice (BMP) or other method used to prevent or reduce the discharge of pollutants to waters of the state. See *Stormwater control measure*.

"Culvert." A man-made conveyance of stormwater flows. This may include a pipe or other constructed conveyance.

"Critical area." A site subject to erosion or sedimentation as a result of cutting, filling, grading, or other disturbance of the soil; a site difficult to stabilize due to exposed subsoil, steep slope, extent of exposure, or other conditions.

"Cut." Portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface.

"CWA." Clean Water Act of 1977 or the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.)

"Designated City staff." Any City staff person having suitable identification who enters onto property with the intent to inspect private drainage systems or to conduct sampling and/or metering of stormwater operations or discharges.

"Design storm." A storm event as defined by Precipitation-Frequency Atlas of the United States. Atlas 14. Volume 2. Version 3.0. U.S. Department of Commerce. National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Springs, Maryland or its

digital product equivalent. The estimated design rainfall amounts, for any return period interval (i.e., 1-yr, 2-yr, 5-yr, 25-yr, etc.) in terms of either depths or intensities for any duration, can be found by accessing the data available on the NOAA web pages, the Precipitation Frequency Data Server (PFDS) of the Hydrometeorological Design Studies Center.

"Detention." The temporary delay of storm runoff prior to discharge into receiving waters.

"Development." New development or redevelopment.

"Discharge." Discharge generally refers to release of water or liquid, that may contain pollutants, from a property to another property, to waters of the state or a wet weather conveyance, or to a location from which the material is likely to move to waters of the state.

"Discharge of a pollutant." Refers to a discharge containing a pollutant.

"Drainage basin." A part of the surface of the earth that is occupied by, and provides surface water runoff into, a stormwater management system (MS4 or Waters of the State), which consists of a surface stream or a body of impounded surface water together with all tributary surface streams and bodies of impounded surface water.

"Drainage-sensitive watershed." Or drainage-sensitive basin or catchment. A drainage basin City staff expect, based on historical data or calibrated modeling, to exhibit flooding with relatively small changes in development of land in the watershed (vegetative cover, imperviousness, grading).

"Drip line." A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Engineer." An engineer duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of civil engineering.

"Erosion." The disintegration or wearing away of soil by the action of water in the form of flowing water or precipitation impact.

"Erosion prevention (EP)." Practices implemented to prevent, through shielding, binding or other mechanism(s), the suspension of soil particles, often associated with erosion prevention and sedimentation control.

"Erosion prevention and sediment control plan." A plan accurately describing the potential for soil erosion and sedimentation problems resulting from land disturbing activity and explanations and illustrations of the measures that are to be taken to control these problems.

"Excavation." See *Cut*.

"Exceptional Tennessee Waters." Surface waters other than wet weather conveyances that meet criteria of Tennessee Rule 0400-40-03-.06. For example, waters within state or national parks or natural areas; waters within federally designated critical habitat; or waters with non-experimental populations of State or federally-listed threatened or endangered aquatic or semi-aquatic plants or animals.

"Extreme flow." Storm water runoff flows resulting from 100-year storm events (those with recurrence interval of one percent per year or less).

"Federal Emergency Management Agency (FEMA)." The agency established by the federal government to mitigate the effects of various catastrophic occurrences including damages from floods, erosion and mudslides.

"Federal Emergency Management Agency (FEMA) Maps." Maps prepared by the Federal Emergency Management Agency to define flood areas for flood frequency intervals with the base flood being a 100-year frequency which maps are hereby incorporated into and made a part of this chapter.

"Fill." Portion of land surface or area to which soil, rock, or other materials have been or will be added; height above original ground surface after the material has been or will be added.

"Flood" or "flooding." Water from a river, stream, watercourse, lake, or other body of standing water that temporarily overflows and inundates adjacent lands and which may affect other lands and activities through increased surface water levels and/or increased groundwater level.

"Floodway." The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Reference Section 34 of City's Zoning Ordinance, Appendix A.

"Floor." The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

"Grading." Any operation or occurrence by which the existing site elevations are changed; or where any ground cover, natural or man-made, is removed; or any watercourse or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. This includes stripping, cutting, filling, stockpiling, or any combination thereof, and shall apply to the land in its cut or filled condition.

"Green Infrastructure." An approach to managing stormwater that incorporates engineered and natural systems like soil and vegetation, that infiltrate, evapotranspire, capture and reuse stormwater to maintain or restore natural hydrologies. Green infrastructure practices include, but are not limited to open space, rain gardens, porous pavements, green roofs, infiltration planters, trees and tree boxes, swales, and curb extensions.

"Greenway." A publicly owned, operated or maintained linear open space established along a natural or constructed corridor (e.g. stream, river or railroad) which is designed to connect recreational areas with cultural or historic features and/or populated areas for pedestrian and/or bicycle traffic. A greenway is developed and maintained to provide protection of natural resources, transportation alternatives, and recreational opportunities. A greenway may include associated amenities (e.g. interpretive markers, canoe launching areas, and trailhead facilities such as buildings, picnic areas and playgrounds) with the linear pathway. Public includes Federal, State or local government.

"Hot spot (priority area)." An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

"Hotspot" means a land use or activity that has the potential to produce higher than typical levels of pollutants in stormwater runoff. Hotspots include, but are not limited to, gasoline stations, vehicle service and maintenance areas, material storage sites, and garbage transfer facilities.

"Hydrologic and hydraulic study." Engineering study to determine rates, volumes, and distribution of storm runoff.

"Hydrologically significant waters." Channels that are not jurisdictional streams under Tennessee water quality regulations but that exhibit significant similarity to a stream in seasons when groundwater has risen to surface for sustained period. These include, but are not limited to, channels that flow for seven days or more, absent rainfall greater than 0.1 inch; channels that have morphed (downcutting to rock) over time such that the bed is in whole or part impermeable rock and have begun to exhibit other characteristics of a stream.

"Human occupancy." Any portion of any enclosed structure wherein humans principally live or sleep such as mobile homes, permanent residential activities, semi-transient residential activities, health care community facilities, nursing home community facilities, orphanages, family care facilities, group care facilities or transient habitation.

"Impervious surface." A term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.

"Intent to build." Any plan brought before the City that indicates a man-made change to improve real estate by the addition of buildings or other structures.

"Karst." Landscape characterized by sinkholes, springs, conduits, caves, fractures in the rock, and a pinnacled, irregular soil-rock interface, because of past and/or present soluble nature of the underlying rock, such as limestone in Murfreesboro.

"Karst window." A topographic depression where flowing water is consistently or occasionally visible. When flow is present, water emerges from a spring on one end of the depression and disappears into a swallow hole or cave on the other end. At times a karst window may contain standing water.

"Land disturbance activity." Any operation or occurrence by which the existing site elevations are changed; or where any ground cover, natural or man-made, is removed; or any watercourse or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. This includes stripping, cutting, filling, stockpiling, or any combination thereof, and shall apply to the land in its cut or filled condition. The phrase land disturbing activity has the same meaning as land disturbance activity.

"Land disturbance permit." A permit required from the City in certain circumstances of land disturbing activity, as set forth in Code § 27.5-5.

"Level 1." Fundamentals of Erosion Prevention and Sediment Control training and certification program administered by University of Tennessee Water Resources Research Center.

"Level 2." Design Principles for Erosion Prevention and Sediment Control for Construction Sites training and certification program administered by University of Tennessee Water Resources Research Center.

"Maintenance." Used in reference to stormwater control measures, maintenance refers to physical actions taken to maintain the integrity and functions of the SCM as intended and designed, such as stability of slopes, detaining or infiltrating stormwater runoff, and capturing trash, sediment and other materials.

"Maintenance Agreement." A document, such as the City's form titled "Inspection and Maintenance Agreement for Private Stormwater Management Facilities," whereby a property owner agrees to maintain the good function of stormwater control facilities on their property; prepared in a form to be recorded with the Register of Deeds.

"Major drainage system." That storm drainage system which carries the runoff from a 100-year frequency storm. Although damage may occur, runoff will be carried by the major system whether or not it has been planned and designed, and whether or not improvements are situated wisely in respect to it. The major system usually includes many features such as streets, gulches, and major drainage channels. Storm sewer systems may reduce the flow in many parts of the major system by storing and transporting water underground. Good planning and designing of a major system should eliminate major damage and loss of life from storms having a 1% chance of occurring in any given year.

"Managed vegetation." Management that does not involve grubbing, clearing, tilling, disking or plowing of the ground. Cutting, mowing, pruning, no-till planting, and aeration are allowed activities of managed vegetation.

"Materially increase the degree of flooding." Shall be defined by the following criteria:

(A) The proposed development raises the 100-year flood elevation more than one foot; or, when considered in conjunction with other potential developments within the watershed, would contribute disproportionately to increased flooding which when combined with other potential development would cumulatively increase the 100-year flood elevation more than one foot.

(B) The proposed development does materially increase the property damage caused by the 100-year flood.

(C) The proposed development conflicts with the engineer's determination of factors required for reducing flood damage.

"Minor drainage system." That storm drainage system which is frequently used for collecting, transporting, and disposing of snow-melt, miscellaneous minor flows, and storm runoff up to the capacity of the system. The capacity should be equal to the maximum rate of runoff to be expected from the initial design storm which has statistical frequency of occurrence of once in ten years, or as specified by the Engineering Department. The minor system is sometimes termed the "convenience system," "initial system," or the "storm sewer system." The minor system may include many features ranging from curbs and gutters to storm sewer pipes and open drainage ways.

"Monitoring." Monitoring refers to tracking or measuring activities, progress, results, etc., and can refer to non-analytical monitoring for pollutants by means other than 40 C.F.R. § 136 (and other than state- or federally established protocols in the case of biological monitoring and assessments), such as visual or by qualitative tools that provide comparative values or rough estimates.

"Municipal Separate Storm Sewer System (MS4)." The portion of public infrastructure that is not considered "Waters of the State." Usually MS4 refers to wet-weather conveyances, while "Waters of the State" usually refer to dry-weather conveyances. This determination is made by the Tennessee Department of Environment and Conservation.

"New Development" means land disturbing activities, structural development (construction, installation or expansion of a building or other structure), and/or creation of impervious surfaces on a previously undeveloped site.

"NPDES." Acronym for the Federal National Pollution Discharge Elimination System permitting program.

"NPDES MS4 Phase II Program." NPDES Municipal Separate Storm Sewer System program focusing on municipalities where the MS4 serves a population less than 100,000.

"Operator." Any person who owns, leases, operates, controls, or supervises a source. Including, but not limited to, an owner or operator of any facility or activity subject to regulation under the NPDES program.

"Permittee." Any person, firm, or any other legal entity to whom a site disturbance, land disturbance, building or other related permit is issued in accordance with City regulations.

"Planning Director." Director of Planning Department or Executive Director of Development Services, or his or her designee.

"Post-construction runoff quality controls." See definition of *Stormwater control measure (SCM)*.

"Priority construction activity." Land disturbance activity and construction activity discharging directly into or immediately upstream of Waters of the State recognized as being in unavailable condition for siltation or as Exceptional Tennessee Waters.

"Priority watershed." A watershed the City has identified as priority for efforts to improve the quality of runoff and the quality of the receiving stream. Examples include watersheds with a large percentage of impervious surfaces; watersheds with

much impervious surfaces that are directly connected (little to no vegetation or detention between) to receiving streams; watersheds with relatively low percentage of tree canopy; watershed of a stream identified by TDEC as waters with unavailable parameters.

“Rainfall event.” Any occurrence of rain preceded by ten hours without precipitation that results in an accumulation of 0.10 inches or more. Instances of rainfall occurring within ten hours of each other will be considered a single rainfall event.

“Redevelopment.” Structural development (construction, installation, or expansion of a building or other structure), creation or addition of impervious surfaces, replacement of impervious surfaces not as part of routine maintenance, and land disturbing activities associated with construction of structures or impervious area on a previously developed site. Redevelopment does not include such activities as exterior remodeling. Demolition and reconstruction is considered new development and not redevelopment.

“Registered engineer,” or *“Registered landscape architect.”* One certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Sections 62-2-101 et seq., Tennessee Code Annotated, to practice in Tennessee. References to engineer and landscape architect in this chapter of City Code refer to registered engineers and landscape architects.

“Retention.” The prevention of storm runoff from direct discharge into receiving waters. Examples include systems which discharge through percolation, exfiltration, filtered bleed-down and evaporation processes.

“Right-of-entry.” Authority of City personnel or their designee to enter into properties for the purpose of inspecting private drainage systems.

“Runoff coefficient.” Runoff coefficient means the fraction of total rainfall that will appear at the conveyance as runoff. Runoff coefficient is also defined as the ratio of the amount of water that is not absorbed by the surface to the total amount of water that falls during a rainstorm.

“Sediment.” Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its place of origin by air, water, or gravity as a product of erosion.

“Sediment Control (SC).” Practices implemented to manage through filtering, settling or other mechanism(s) to remove suspended particles (soil, organic or mineral) from water, often associated with erosion prevention and sedimentation control.

“Seedling/sapling.” A deciduous, native, non-invasive canopy tree with a minimum height of 24 in. and minimum caliper of $\frac{3}{8}$ in. at time of planting. Seedlings/saplings can be bare-root or container grown. All seedling/saplings are to have well developed root systems, to be free of insects and disease as well as mechanical injuries, and in all respects to be suitable for field planting.

“Significant contributor.” A source of pollutants where the volume, concentration, or mass of a pollutant in a stormwater discharge can cause or threaten to cause pollution, contamination, or nuisance that adversely impact human health or the environment and cause or contribute to a violation of any applicable water quality standards for receiving water.

“Significant redevelopment.” Significant redevelopment is redevelopment as defined herein that has a value greater than 50% of the property's current assessed value; increases the impervious surface area of the property by 10,000 square feet or more; redirects the flow of stormwater in any way; modifies the storm sewer system; or, is likely to result in additional pollutants to the stormwater characteristics.

“Sinkhole.” A depression that has occurred naturally in a karst area, with subterranean drainage. It shall be identified by the first closed contour on 2-foot contour interval map or as designated by the Tennessee Department of Environment and Conservation.

"Site." All contiguous land and bodies of water in one ownership, graded or proposed for land disturbance or development as a unit, although not necessarily at one time.

"Slope." Degree of deviation of a surface from the horizontal, usually expressed in percentage or ratio.

"Soil." All unconsolidated mineral and organic material of any origin that overlies bedrock and that can be readily excavated.

"Stormwater." Rainfall runoff, snow melt runoff, and surface runoff and discharge.

"Stormwater concept plan." A plan which is defined as showing sufficient information as pertaining to major stormwater elements to allow the City to evaluate the general characteristics and overall stormwater management efforts expected within a proposed development.

"Stormwater Coordinator." Term used for the person employed as the City's Stormwater Program Manager.

"Stormwater basin or sub-basin master plan." Any study or plan prepared by or accepted by the City that identifies solutions to water quality or quantity problems on a regional basin or sub-basin area.

"Stormwater control measure (SCM)." Permanent structural control for capturing pollutants in stormwater runoff or for controlling the rate, quantity, and volume of discharge from existing or new development projects or redevelopment projects.

"Stormwater design manuals." Rules or guidelines adopted by the City for handling stormwater in accordance with this chapter. These include documents such as the "Stormwater Planning and Low Impact Design Guide" on stormwater runoff source reduction techniques, the "Stormwater Controls Manual" on stormwater quality runoff treatment, and by reference the Tennessee Erosion and Sediment Control Handbook, and other documents the City promulgates as stormwater design manuals. These are made available on the City's webpage.

"Stormwater management plan." A plan that includes sufficient information to allow the City to evaluate the environmental characteristics of a site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater runoff generated at the site.

"Stormwater Management Plan (SWMP)." A written compilation of elements of the City's Stormwater Management Program. Though referred to and considered by the State as a single document, it consists of separate stand-alone components.

Stormwater Management Program. The comprehensive program that the City implements to manage the quality of stormwater discharged from the MS4.

"Stormwater Pollution Prevention Plan (SWPPP)." Includes both:

(A) A written site-specific plan required by the Tennessee Construction General Permit (CGP) that includes a narrative pollution prevention plan and graphical erosion and sediment control plan. In its basic form, the plan contains a site map, a description of construction activities that could introduce pollutants to stormwater runoff, a description of measures or practices to control these pollutants, and erosion and sediment control plans and specifications. The SWPPP should be prepared in accordance with the Tennessee Erosion and Sediment Control Handbook (latest edition); and

(B) A written site-specific plan for a facility or operation providing directives and guidance to operators for preventing loss of pollutants via stormwater runoff.

"Stream." Waters of the State except for those waters flowing within wet weather conveyances. Where a question arises whether a watercourse is a stream, in the absence of a stream determination under T.C.A Section 69-3-101 et seq. and rules promulgated thereunder, the following watercourses are considered to be streams:

(A) Watercourses serving drainage areas of 100 acres or more, provided that the watercourse existed prior to the development under consideration; and

(B) Watercourses known to flow regularly after seven days of dry weather (e.g., spring-fed surface water).

"Stream bank protection volume (SPV)." A volume of stormwater runoff that must be detained on site for an extended period of time for the purpose of reducing the frequency of bank-full flow conditions in downstream channels.

"Stripping." Any activity that removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

"Structure." Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Such construction includes but is not limited to objects such as buildings, towers, smokestacks, overhead transmission lines, carports, and walls.

"Structure, permanent." A structure which is built of such materials and in such a way that it would commonly be expected to last and remain useful for a substantial period of time.

"Structure, temporary." A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term.

"Tennessee Department of Environment and Conservation (TDEC)." An agency of the State of Tennessee organized and administered to effectively protect human health and the environment, conserve natural resources, manage state parks and promote overall quality of life in Tennessee. As delegated by the Federal Environmental Protection Agency, TDEC has the authority to regulate the sources of water pollution, water supply and groundwater.

"Tennessee Erosion and Sediment Control Handbook." Guidance issued by the State Division of Water Resources, in conjunction with the University of Tennessee Water Resources Research Institute, for the purpose of developing Stormwater Pollution Prevention Plans and Erosion and Sediment Control Plans required by the Construction General Permit (CGP).

"Temporary stabilization." Stabilization when vegetation or non-erodible surface has been established on the area of disturbance and construction activity has temporarily ceased. Under certain conditions, temporary stabilization is required when construction activities temporarily cease.

"Top of bank." The landward edge of the active channel.

"Total suspended solids or TSS." The quantity of suspended solid materials in a sample of water as defined by: "Standard Methods," Method 2540 D, "Total Suspended Solids Dried at 103° - 105° C," American Public Health Association, American Water Works Association, and Water Pollution Control Federation, 1997 or latest EPA-approved method.

"Trail." An unpaved lane or a small, paved road not intended for usage by motorized vehicles, passing through a natural area. The ground surface of a trail can be pervious, such as wood mulch; impervious, as asphalt or concrete; or semi-pervious such as gravel, wood, brick. Trail is also known as path or walkway.

"Treatment train." A series of stormwater quality controls which in series provide greater stormwater pollutant reduction (treatment) than a single control.

"USGS Map." The most recent 7.5 minute series (topographic) map for the location under consideration.

"Watercourse." A channel, natural depression, slough, gulch, stream, creek, pond, reservoir, or lake in which storm runoff and flood water flows either regularly or infrequently. This includes major drainage ways for carrying urban storm runoff.

“Water quality riparian buffer,” or “Buffer zone.” A permanent strip of natural perennial vegetation, adjacent to a stream, river, wetland, pond, or lake that contains dense vegetation made up of grass, shrubs, and/or trees. The purpose of a water quality riparian buffer is to maintain existing water quality by minimizing risk of sediments, nutrients or other pollutants reaching adjacent surface waters and to further prevent negative water quality impacts by providing canopy over adjacent waters.

“Waters of the State.” Any watercourse determined to be in the jurisdiction of TDEC. Waters of the State are separate and distinct from an MS4 and private infrastructure. Waters of the State or simply *“waters”* means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine to effect a junction with natural surface or underground waters.

“Waters with unavailable parameters.” Also known as *Impaired waters*. Any segment of surface waters that has been identified by the TDEC as failing to support one or more classified uses, according to water quality criteria laid out in Tennessee Rule 0400-40-03-.03.

“Water Quality Protection Area (WQPA).” The City’s Water Quality Riparian Buffer set aside and regulated under Article II of this Chapter.

“Water quality treatment volume (WQTV).” A portion of the runoff generated from impervious surfaces at a land development project from the design storm; which is the volume of water required to be treated by stormwater control measures on the development site.

“Wetland.” Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typical to life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs and similar areas.

“Wet weather conveyances.” Man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and which do not support fish and aquatic life and are not suitable for drinking water supplies.

(Ord. No. 88-60 § 2, 12-15-88; Ord. No. 04-O-69 § 2, 12-09-04; Ord. No. 06-O-27 §§ 1-3, 03-08-07; Ord. No. 08-O-17 §§ 3-4, 06-05-08)

Section 27.5-3 Authority.

- (A) *Jurisdiction.* The Stormwater Management Ordinance shall govern all properties within the corporate limits of the City and any development outside the City subject to its development standards.
- (B) *Administering entities.* The Murfreesboro Water Resources Department (MWRD), the Planning and Engineering Departments and the Building and Codes Department shall administer the provisions of this chapter.
 - (1) The Director of MWRD, with concurrence of the Planning Director and with the approval of the City Council, shall establish written regulations and technical guidelines as may be necessary to enforce the terms of this chapter. These regulations shall be filed in the office of the City Recorder.
 - (2) The Director of MWRD and the Planning Director shall have the authority to prepare, or have prepared, stormwater master plans for developments or drainage basins, and such details as may be needed to carry out said stormwater master plans.

- (3) The Director of MWRD, the City Engineer, the Planning Director, and the Building and Codes Director, or their designee shall have the authority to inspect private drainage systems within the City, and to order such corrective actions to said private drainage systems as are necessary to maintain properly the drainage systems within the City.

(C) *Right-of-entry.*

- (1) Designated City staff shall have right-of-entry on or upon the property of any person subject to this chapter and any permit/document issued hereunder. The City staff shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this chapter.
- (2) Where a property, site or facility has security measures in force which require proper identification and clearance before entry into its premises, the person shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the designated City staff will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (3) Designated City staff shall have the right to set up on the person's property such devices as are necessary to conduct sampling and/or metering of the person's stormwater operations or discharges.
- (4) Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the person at the written or verbal request of the designated City staff. The costs of clearing such access shall be borne by the person.
- (5) The Director of MWRD, the City Engineer, the Planning Director, or the Building and Codes Director or their designee may inspect the facilities of any owner or occupant to ensure compliance with this chapter. Such inspection shall be made with the consent of the owner or occupant. If such consent is refused, denied or not promptly addressed, the designated City staff may seek issuance of an administrative search warrant.
- (6) The City has the right to determine and impose inspection schedules necessary to enforce the provisions of this chapter. Inspections may include, but are not limited to, the following:
 - (a) An initial inspection prior to stormwater management plan approval;
 - (b) Erosion control inspections as necessary to ensure effective control of erosion and sedimentation;
 - (c) A bury inspection prior to burial of any underground drainage structure;
 - (d) A finish inspection when all work, including installation of storm management facilities, has been completed;
 - (e) Inspections for the City to determine whether the property owner is in compliance with a stormwater maintenance agreement; and,
 - (f) Inspections necessary for the City to determine whether or not violations of this chapter exist at a property (e.g., when the City receives a complaint that necessitates investigation of a potential violation of this chapter).

(Ord. No. 88-60 § 3, 12-15-88; Ord. No. 04-O-69 § 3, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07; Ord. No. 08-O-17 § 5, 06-05-08)

Section 27.5-4 Appeals.

- (A) Whenever the Director of MWRD, the Planning Director, or the Building and Codes Director or their designee shall reject or refuse to approve a plan for noncompliance with this Article I, or find a violation of this Article I other than an illicit discharge as specified in Section 27.5-13, the owner or the owner's authorized agent may file an appeal from the decision to the Board.
- (B) An appeal arising under Section 27.5-13 Illicit Discharges shall be made to the Director of MWRD and the MWRD under the procedures applicable to that body.
- (C) The basis for an appeal shall be a claim that one or more of the following conditions exists.
 - (1) The true intent and meaning of this Article I or any of the regulations or guidelines legally adopted thereunder have been incorrectly interpreted; or
 - (2) The provisions of this Article I or the regulations or guidelines hereunder do not apply.
- (D) An owner, or the owner's authorized agent, who is affected by a decision, determination, order or notice issued by the City, has a right to appeal to the Board, provided that a written and complete application is filed within 20 days after the day the order or notice was served.
- (E) The hearing procedures shall follow the rules and regulations of the Board.
- (F) The fee for filing an appeal shall be set by the City Council.

(Ord. No. 88-60 § 4, 12-15-88; Ord. No. 04-O-69 § 4, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07; Ord. No. 08-O-17 § 6, 06-05-08)

Section 27.5-5 Land disturbance and Erosion Prevention and Sediment Control (EPSC).

(A) *Land disturbance permit.*

- (1) A land disturbance permit shall be required from the City in the following circumstances:
 - (a) Land disturbing activity disturbs one or more acres of land;
 - (b) Land disturbing activity of less than one acre of land if such activity is part of a larger common plan of development that affects one or more acres of land; see exception in (2) below; or
 - (c) Land disturbing activity of less than one acre of land, if in the opinion of the City, such activity poses a unique threat to water, or to public health or safety.
- (2) Construction of an individual one- or two-family dwelling, or additions or modifications thereto, shall not require issuance of a separate land disturbance permit; compliance with the terms and conditions of a City building permit shall be sufficient to comply with the permitting requirements of this chapter, provided the activity does not pose a unique threat as specified in (A)(1)(c) above. (Note: The State's requirement for issuance of a State permit for disturbance of one acre or more of land is not waived by this provision, nor does this exception excuse the developer from obtaining the land disturbance permit.)
- (3) Construction of a structure on less than one acre of land shall not require issuance of a land disturbance permit; compliance with the terms and conditions of a City building permit shall be sufficient to comply with the permitting requirements of this chapter, provided the activity does not pose a unique threat as specified in (A)(1)(c) above.

- (B) *Building permit.* If a land disturbance permit is required, no building permit shall be issued until the applicant has obtained a land disturbance permit where required by this chapter.
- (C) *Land disturbance permit not required.* The following activities do not require a land disturbance permit:
- (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources is temporarily exempt. A land disturbance permit will be required to be obtained within 30 days of emergency activity.
 - (2) Existing nursery and agricultural operations conducted as a permitted principal or accessory use; not included in this exemption is a land disturbance activity for construction of structures and parking areas.
 - (3) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the regulating agency.
- (D) *Application for a land disturbance permit.*
- (1) Each application shall include the following:
 - (a) Name of applicant;
 - (b) Business or residence address of applicant;
 - (c) Name, address, telephone number(s) and e-mail address of the owner of the property of record in the office of the Register of Deeds;
 - (d) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
 - (e) Name, address, telephone number and email address of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion prevention and sediment control plan;
 - (f) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity;
 - (g) In the event a sinkhole is located on the property, evidence the applicant has obtained appropriate permits from the Tennessee Department of Environment and Conservation;
 - (h) In the event a wetland is located on the property, evidence the applicant has obtained appropriate permits from the Tennessee Department of Environment and Conservation;
 - (i) Evidence of any other state or federal environmental permits that pertain to the property. Those permits in the application shall not foreclose the City from imposing additional requirements and conditions, commensurate with this chapter, on the development of property covered by those permits; and,
 - (j) A copy of notice of intent submitted to the Tennessee Department of Environment and Conservation for coverage under its NPDES construction site runoff general permit.
 - (2) Each land disturbance permit application shall be categorized as one of the four identified activities:
 - (a) Land disturbance activity WITH intent to build and WITH construction of public infrastructure. Prior to submitting an application for a land

disturbance permit for this category of land disturbance activity, an applicant shall submit:

- [1] Stormwater concept plan;
- [2] Stormwater management plan; and,
- [3] Erosion prevention and sediment control plan.

(b) Land disturbance activity WITHOUT intent to build and WITH construction of public infrastructure. Prior to submitting an application for a land disturbance permit for this category of land disturbance activity, an applicant shall submit:

- [1] Stormwater management plan; and,
- [2] Erosion prevention and sediment control plan.

(c) Land disturbance activity WITH intent to build and WITHOUT construction of public infrastructure. Prior to submitting an application for a land disturbance permit for this category of land disturbance activity, an applicant shall submit an erosion prevention and sediment control plan.

(d) Land disturbance activity WITHOUT intent to build and WITHOUT construction of public infrastructure. Prior to submitting an application for a land disturbance permit for this category of land disturbance activity, an applicant shall submit an erosion prevention and sediment control plan.

(3) Any applicant required under preceding section to submit a stormwater concept plan or a stormwater management plan may request that the plan(s) not be required and the City shall have discretion to grant or deny such requests. At the discretion of the City, any applicant may be required to submit a stormwater concept plan and a stormwater management plan as part of the land disturbance permit application. No land disturbance permit shall be issued until all plans are approved by the City.

(4) Each application for a land disturbance permit shall be accompanied by payment of a land disturbance permit fee, and any stormwater management fee, which permit and fee amount shall be set by the City Council.

(E) *Review and approval of application.*

(1) After receiving a completed application, the City will review each application for a land disturbance permit to determine its conformance with the provisions of this chapter. Following review and approval by the Stormwater Coordinator and the Engineering Department, the Building and Codes Department shall provide one of the following responses in writing:

- (a) Approval of the permit application as submitted;
- (b) Approval of the permit application, subject to such conditions as may be necessary to secure substantially the objectives of this chapter, and issuance of the permit subject to these conditions;
- (c) Denial of the permit application, indicating the reason(s) for the denial;
or
- (d) A request for additional information.

(2) If the City has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City. However, the applicant shall be allowed to proceed with the land disturbing activity so long as it conforms to conditions established by the City.

- (3) No construction plans for infrastructure will be released by the Planning Director nor will building permits be issued by the Director of Building and Codes until the land disturbance permit has been approved.
 - (4) For any priority construction activity, the City and applicant shall conduct a pre-construction meeting prior to issuance of a land disturbance permit.
- (F) *Permit duration.* Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within 180 calendar days of issuance, or is not complete within 18 months from the date of the commencement of construction. Land disturbing activity with no intent to build shall require renewal every six months.
- (G) *Notice of land disturbing activity.* The permittee must provide written notification to the Stormwater Coordinator ten working days in advance of the commencement of grading or construction.
- (H) *Inspections of land disturbing activities to be performed by the permittee.*
- (1) The permittee shall conduct and record regular inspections of erosion prevention and sediment control (EP&SC) BMP's, for the purpose of preventing erosion and transport of sediment off the property into the stormwater drainage system and into Waters of the State.
 - (2) Inspections to fulfill the minimum-frequency requirements shall meet the criteria set forth in the Tennessee Department of Environment and Conservation (TDEC) construction activity runoff general permit, and as in the City's erosion and sediment control BMP manual.
 - (3) The inspections and records shall include, but not be limited to, the following:
 - (a) The date and location of the inspection;
 - (b) Any repairs and/or remedies undertaken on EP&SC BMP's;
 - (c) Whether construction is in compliance with the approved plans;
 - (d) Variations from the approved construction plans or specifications; and,
 - (e) Any violations that exist.
 - (4) The permittee shall be responsible for the following:
 - (a) Making records of inspections available to City;
 - (b) Certification of record drawings; and,
 - (c) Investigating any claimed violations identified by the City.
- (I) *Inspections to be performed by the City.*
- (1) The City shall make inspections of land disturbing activity to verify compliance with this chapter at its discretion.
 - (2) The City shall inspect priority construction activities as frequently as required by State and Federal regulations and NPDES permit requirements.
- (J) *Performance bonds.*
- (1) The City may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit to ensure that the stormwater conveyance systems and erosion prevention and sediment controls are installed and maintained by the permit holder as required by the approved plan(s) or by this chapter. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the conveyance systems and the erosion prevention and sediment controls approved under the permit, plus any reasonably foreseeable additional related costs; e.g. additional stabilization costs if the systems or controls are not installed. The performance security shall contain

forfeiture provisions for failure to complete work specified in the plan(s). The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City. Alternatively, the City shall have the right to substitute its own calculations for a construction cost estimate.

- (2) The performance security or performance bond shall be released in full only upon submission of record drawings and written certification by a registered professional engineer licensed to practice in Tennessee that the systems and controls have been installed in accordance with the approved plan and other applicable provisions of the permit and this chapter. The City will make a final inspection of the systems or controls to ensure that they follow the approved plan(s) and the provisions of this chapter. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the City.
- (K) *Erosion prevention and sediment control plan requirements.* The erosion prevention and sediment control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be certified by a registered professional engineer licensed in the State of Tennessee, a Certified Professional in Erosion and Sediment Control (CPESC), or person who has satisfactorily completed the TDEC/UT - sponsored Level I (Fundamentals) and Level II (Design) Erosion Prevention and Sediment Control classes. The plan shall also conform to the criteria and standards set forth in the EPSC-BMP manual, and shall include at least the following:
- (1) A brief description of the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
 - (2) A topographic map with contour intervals of two feet or less showing present conditions and proposed contours resulting from land disturbing activity.
 - (3) All existing drainage ways, including intermittent and wet-weather, including any designated floodways or floodplains.
 - (4) A general description of existing land cover. Individual trees and shrubs do not need to be identified.
 - (5) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist.
 - (6) Approximate limits of proposed clearing, land disturbance and filling.
 - (7) Approximate flows of existing stormwater leaving any portion of the site.
 - (8) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
 - (9) Location, size and layout of proposed stormwater and sedimentation control improvements.
 - (10) Proposed drainage network.

- (11) Proposed drain tile or waterway sizes.
- (12) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- (13) The projected sequence of work represented by the grading, drainage and erosion prevention and sediment control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMP's.
- (14) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
- (15) Specific details for the construction of rock pads, wash down pads, and settling basins for controlling erosion and sediment loss; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City.
- (16) Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the City. Failure to remove the soil, sediment, or debris shall be deemed a violation of this chapter. Any material creating hazardous roadway conditions shall require immediate clean-up.
- (17) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.
- (18) A description of any on-site measures to be taken to recharge surface water into the ground water system through infiltration.
- (19) Erosion prevention and sediment control measures shall achieve minimum standards of design set forth in the Tennessee Construction General Permit (CGP), in particular the standards of 5.5.3.5 and 6.4.1 regarding design storms, drainage areas, and the different standards for discharges into waters with unavailable parameters and exceptional Tennessee waters.
- (20) Management practices and controls to prevent waste, including discarded building materials, concrete truck washout, asphaltic concrete mix, chemicals, litter, and sanitary waste, from entering the stormwater drainage system and Waters of the State.

(Ord. No. 88-60 § 5, 12-15-88; Ord. No. 04-O-69 § 5, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07; Ord. No. 08-O-17 §§ 7-9, 06-05-08)

Section 27.5-6 Waivers.

- (A) *General.* Every applicant shall provide for stormwater management as required by this chapter. The City may not grant waivers from standards set forth by State rule or permit, including the NPDES permit for discharge of runoff from the City's separate storm sewer system. The City may on conditions grant waivers of other (non-NPDES) stormwater management standards.

- (B) *Conditions for waiver.* Requirements for stormwater management, except those noted in (A), may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
- (1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter and compliance with the requirements may create a risk to public safety or to private property (e.g. risk of flooding by adding on site detention to redevelopment project). Risk or a significant hardship (other than cost of compliance) is a prerequisite for a waiver. The standards for granting a waiver may be less restrictive, and the extent of the waiver may be greater, for redevelopment than development.
 - (2) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.
- (C) *Downstream damage, etc., prohibited.* In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City that the waiver will not lead to any of the following conditions downstream:
- (1) Deterioration of existing culverts, bridges, dams, and other structures;
 - (2) Degradation of biological functions or habitat;
 - (3) Accelerated stream bank or streambed erosion or siltation; or
 - (4) Increased threat of flood damage to public health, life or property.
- (D) *A land disturbance permit not to be issued where waiver requested.* No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with the required plans.
- (E) *Grant of waiver.* The applicant must submit a written request for waiver, in a form the City specifies, to which City staff shall respond in writing. If the waiver request is recommended by City staff, a simple majority vote of the Board in favor of granting the waiver shall be sufficient. If the waiver request is not recommended in whole or in part by City staff, a two-thirds vote of the Board shall be required to grant the waiver to which staff objection is made.

(Ord. No. 88-60 § 6, 12-15-88; Ord. No. 04-O-69 § 6, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07; Ord. No. 08-O-17 §§ 10-12, 06-05-08)

Section 27.5-7 Permanent Stormwater Management – Planning, Design, and Operation and Maintenance.

(A) *General Conditions.*

- (1) Design and construction of land development projects shall provide measures for control of the quantity, rate, and quality of storm water runoff, with the goals to maintain or restore the quality of streams, including the integrity of stream banks, and to prevent flooding detrimental to property; and to achieve compliance with federal, state and local requirements.
- (2) Concept plans, stormwater management plans and designs must be presented for review in formats prescribed by the City and with information important for evaluating whether the plans comply with the City's standards.

- (3) Designs shall consider factors that will affect long-term maintenance of stormwater control measures, with the goal of practicable and reliable long-term operation and maintenance.
- (4) Individual stormwater control measures (SCMs) must be confined to a single lot of record or common area.
- (5) The City shall promulgate guidance and standards for planning, design, and operation and maintenance of stormwater control measures (SCMs), such as the Stormwater Planning and Low Impact Design Guide and the Stormwater Controls Manual. These may be updated and expanded administratively from time to time. Updated copies are to be maintained available on the City's world wide web site.
- (6) Stormwater facilities that are designed, constructed, and maintained in accordance with the City's ordinances and design standards will be presumed to meet minimum performance standards.
- (7) If not specified in City's design manuals, methods for calculating stormwater quantities, flows and quality shall be in accordance with good engineering practices.
- (8) The City Council must approve any change to the stormwater design manuals which impose a new general requirement or which allows a new credit to the stormwater utility fee. Changes shall be based upon the recommendation of the Director of MWRD, based on improvements in engineering, science, results of monitoring, and on local maintenance experience. City Council approval of proprietary systems is not required.

(B) *Requirements for Control of Quantity and Discharge.*

(1) *Applicability.*

- (a) Any new development or redevelopment project, whether a site or subdivision or a common plan of development or sale, that will result in disturbance of one acre or involve the construction of 10,000 square feet of impervious surfaces;
- (b) Within watersheds of waters with unavailable parameters silt, habitat alteration, nutrients, or bacteria, any project that will involve the disturbance of 10,000 square feet; and
- (c) In the case of construction of a single-family home that is not a part of a larger common plan of development or sale, only if disturbance is one acre or more.

Construction of 10,000 square feet of impervious surface refers to construction of, rather than addition of, 10,000 square feet of impervious surface.

(2) *Required controls.*

- (a) *Streambank protection.* For new development, discharge must be controlled so that runoff from 75% of the one-year, 24-hour storm event is discharged over a 24 hour or greater period. For redevelopment, runoff from the added impervious area must be controlled so that runoff from 75% of the one-year, 24-hour storm event is discharged over a 24 hour or greater period; or equivalent control.
- (b) Peak discharge rates post-construction may not exceed the pre-construction peak discharge rates for two year, ten-year, 25-, 50-, and 100-year storm events.
- (c) If the site has less than two acres (87,120 square feet) of impervious area, the City will consider on site low impact or green infrastructure design features included in the City's stormwater design manual as an

alternative method of achieving control of peak discharge and extended detention.

- (3) The City may waive some or all required controls in paragraph (2) above if a hydrologic analysis from an engineer shows to the satisfaction of the City that such controls will result in an adverse impact (increased flooding, damage to structures or streambanks, etc.) downstream.

(C) *Requirements for Control of Quality.*

(1) *Applicability.*

- (a) Any new development or redevelopment project, whether a site or subdivision or a common plan of development or sale, that will result in disturbance of one acre or involve the construction of 10,000 square feet of impervious surfaces;
- (b) Within watersheds of waters with unavailable parameters silt, habitat alteration, nutrients, or bacteria, any project that will involve the disturbance of 10,000 square feet; and
- (c) In the case of construction of a single-family home that is not a part of a larger common plan of development or sale, only if disturbance is one acre or more.

Construction of 10,000 square feet of impervious surface refers to construction of, rather than addition of, 10,000 square feet of impervious surface.

(2) *General*

- (a) Requirements of this section are intended to fulfill standards set forth in Tennessee Rule 0400-40-10-.04 and in the Tennessee small MS4 general permit (NPDES permit TNS000000).
- (b) Designs of stormwater control measures shall adhere to standards in the City’s design manual; except that City staff may allow and approve other SCMs, based on evidence of their treatment efficiency, that can be constructed practicably and can be reliably operated and maintained.
- (c) The City’s design manual should set forth treatment efficiencies of SCMs that correspond to treatment efficiencies set forth in the MS4 permit.

(3) *Overall treatment standard – 80% TSS removal from WQTV*

- (a) The water quality treatment design storm is a one-year, 24-hour storm event, as defined by the Precipitation-Frequency Atlas of the United States, Atlas 14 of the National Oceanic and Atmospheric Administration (NOAA).
- (b) The water quality treatment volume (WQTV) is a portion of the runoff generated from impervious surfaces at the new development or redevelopment project from the design storm.
- (c) SCMs must be designed to achieve an overall treatment efficiency of 80% total suspended solids removal from the WQTV.
- (d) Quantity of the WQTV depends on the type of treatment provided, as shown in table below.

(4) *Treatment types and volumes – table*

Water Quality Treatment Volume and the Corresponding SCM Treatment Type for the One-Year, 24-hour Design Storm		
SCM Treatment Types	WQTV	Notes

Infiltration, evaporation, transpiration, and/or reuse	runoff generated from the first one inch of the design storm	Examples include bioretention, stormwater wetlands, infiltration systems.
Biologically active filtration, with an underdrain	runoff generated from the first 1.25 inches of the design storm	To achieve biologically active filtration, SCMs must provide minimum of 12 inches of internal water storage.
Sand or gravel filtration, settling ponds, extended detention ponds, and wet ponds	runoff generated from the first 75% of the design storm	Examples include, but are not limited to, sand filters, permeable pavers, and underground gravel detention systems. Ponds must provide forebays comprising a minimum of 10% of the total design volume. Existing regional detention ponds are not subject to the forebay requirement.
Hydrodynamic separation, baffle box settling, other flow-through manufactured treatment devices (MTDs), and treatment trains using MTDs	maximum runoff generated from the entire design storm	See the City's SCM manual for treatment efficiencies of MTDs.

(5) Treatment train calculations

- (a) Treatment trains using MTDs must provide an overall treatment efficiency of at least 80% TSS reduction using the following formula:

$$R = A + B - (A \times B)/100,$$

Where: R = total TSS percent removal from application of both SCMs

A = the TSS % removal rate of the first SCM in train, and
B = the TSS % removal rate of the second SCM.

- (b) Treatment trains using infiltration, evaporation, transpiration, reuse, or biologically active filtration followed by sand or gravel filtration, settling ponds, extended detention ponds or wet ponds may subtract the treated WQTV of the upstream SCMs from the WQTV of the downstream SCMs.

(6) Credits/reductions of WQTV

The City may establish procedures to recognize reductions of the WQTV for a development or redevelopment project up to 20% for any one of the following conditions, and up to a total of 50% for a combination of these conditions:

- (a) Redevelopment projects (including, but not limited to, brownfield redevelopment); and
- (b) Vertical density (floor to area ratio of at least 2, or at least 18 units per acre).
- (c) Other incentives the City has established or recognized, which have been approved in writing by the Tennessee Department of Environment and Conservation, Division of Water Resources and which are incorporated into the City's stormwater management program.

The procedures for applying for the credit and for approval will be as described by regulation or promulgated on the City's world wide web pages.

(D) *Special situations/conditions.*

- (1) Stormwater discharges to critical areas with sensitive resources (e.g., recharge areas, water supply reservoirs) or to priority watersheds may be subject to additional performance criteria or may need application or restriction of certain stormwater management practices.
- (2) Stormwater discharges from hot spots may require the application of specific SCMs and pollution prevention practices.
- (3) The City may impose construction and permanent buffers up to 25 feet, where clearing and grading is prohibited, on hydrologically significant waters and karst windows, and practicable protections in addition to those that apply to wet weather conveyances.
- (4) The City may impose additional controls on volume of discharge and rate of discharge to development within drainage-sensitive watersheds.

(E) *Stormwater concept plan requirements.* The stormwater concept plan shall contain major stormwater elements with sufficient information to allow the City to evaluate the general characteristics and overall stormwater management efforts expected with proposed development of the project Site. To accomplish this goal the concept plan shall include the following:

- (1) GIS/mapping contours;
- (2) Storm drainage flow arrows;
- (3) Potential location of major stormwater structures;
- (4) Potential location of detention/retention areas;
- (5) Location of known sinkholes, closed depressions & wetlands;
- (6) Location of major erosion/sediment control basins, etc.;
- (7) Ultimate drainage outfall(s);
- (8) Location of all streams, with a designation of those which are FEMA regulated, and designated floodways;
- (9) Potential layout of underground utilities, particularly where those are likely to cross streams; and,
- (10) Potential location of water quality protection areas.

The stormwater concept plan information shall be submitted with the master plan for the development. The information may be contained in the master plan or submitted separately.

(F) *Stormwater management plan requirements.* The stormwater management plan shall include sufficient information to allow the City to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The stormwater management plan shall be submitted for review and approval as part of the site plan and/or construction plans. To accomplish this goal the stormwater management plan shall include the following:

- (1) *Topographic base map.* A topographic base map of an appropriate scale of the site which extends a minimum of 100 ft. beyond the limits of the proposed development and indicates:

- (a) Existing surface water drainage including streams, ponds, culverts, ditches, sinkholes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
 - (b) Current land use including all existing structures, locations of utilities, roads, and easements;
 - (c) All other existing significant natural and artificial features;
 - (d) Proposed surface area tabulation showing the percentage of the different surfacing types (i.e., lawn, asphalt, concrete, etc.); drainage patterns; locations of utilities, roads and easements; the limits of clearing and land disturbance activity; and,
 - (e) Proposed stormwater control measures.
- (2) *Calculations.* Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the two-, five-, ten-, 25-, 50- and 100-year storms must be submitted. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the stormwater design and control manuals. Such calculations shall include:
- (a) A description of the design storm frequency, duration, and intensity where applicable;
 - (b) Time of concentration;
 - (c) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
 - (d) Peak runoff rates and total runoff volumes for each watershed area; under existing conditions and on built-out conditions;
 - (e) Infiltration rates, where applicable;
 - (f) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
 - (g) Flow velocities;
 - (h) Estimates on the increase in rate and volume of runoff for the design storms;
 - (i) Description of, or reference to, any model used to estimate the quality of storm water runoff that will be discharged from the developed site(s);
 - (j) An assessment of the potential for trench excavations (as for utilities) to capture flow of natural stream(s);
 - (k) Documentation of sources for all computation methods and field test results; and,
 - (l) For stormwater control measures or stormwater facilities not described by the City's design and controls manuals, include design parameters and specifications.
- (3) *Soils information.* If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- (4) *Stormwater control measures.* Description of SCMs sufficient to explain how the system achieves standards for discharge quality and quantity.

- (5) *Sinkholes and sinkhole treatments.* The City may require a geotechnical report on sinkhole(s) and details of sinkhole treatments. For example, sinkholes proposed to be closed, to receive significantly more runoff than exists, or that are within contours of detention ponds.

(G) *Operation, Maintenance and Repair of Stormwater Management Facilities*

(1) *Maintenance Plan.*

- (a) The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- (b) The plan may, at City's option, require the owner to file periodic inspection reports or certifications that the required maintenance and repairs have been performed and that the facility is functioning as initially designed and installed. A location map of all stormwater management BMP's with a permanent elevation benchmark shall be submitted to assist in the periodic inspection of the facility.

- (2) *Maintenance easements.* The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the office of the Register of Deeds.

(3) *Maintenance Agreement.*

- (a) The maintenance responsibilities for permanent stormwater runoff control facilities shall be determined based upon the type of ownership of the property which is controlled by the facilities.
- (b) Where the permanent stormwater runoff control facilities are designed to manage runoff from property in a single entity ownership as defined below, the maintenance responsibility for the stormwater control facilities shall be with the single entity owner.
- (c) The stated responsibilities of the entity in terms of owning and maintaining the facilities shall be submitted with the stormwater management plan for determination of their adequacy. Approval of the stormwater management plan shall be conditioned upon the approval of these terms. These terms shall be in writing, shall be in recordable form, and in addition to any other terms deemed necessary by the City shall contain a provision permitting inspection at any reasonable time by the City.
- (d) A single entity shall be defined as an individual, an association, public or private corporation, partnership firm, trust, estate or any other legal entity allowed to own real estate.
- (e) Unless made specifically clear in the preliminary stages of the stormwater management plan review, it will be assumed that all stormwater detention, retention, treatment or storage facilities and/or devices shall be operated and maintained by a single entity as defined above.
- (f) Where the City has explicitly and in writing accepted an offer of dedication of the permanent stormwater management facilities, the City shall be responsible for maintenance.

- (4) **Operation, Maintenance and Repair.** Notwithstanding the condition of the items described above in this section – the maintenance plan, maintenance easements and maintenance easement – the owner of stormwater management facilities, including stormwater quality control measures, must inspect condition of the facilities and maintain them in good working order so that they perform substantially as designed, to capture pollutants and regulate discharge of stormwater.

(Ord. No. 88-60 § 7, 12-15-88; Ord. No. 04-O-69 § 7, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07; Ord. No. 08-O-17 §§ 13-24, 06-05-08)

Section 27.5-8 Prohibiting flooding; review of permit applications, concept and development plans.

- (A) No construction, regardless of size, whether by private or public action, shall be performed in such a manner as to materially increase the degree of flooding in its vicinity or in other areas whether by flow restrictions, increased runoff or by diminishing retention capacity.
- (B) The Planning Director shall have the authority to review permit applications filed with the Building Department to determine whether development of a site is likely to have a significant hydrologic impact or materially increase the degree of flooding and may in such case require stormwater plans. For this section, developments that may have a significant hydrologic impact shall include the grading, excavation, clearance or other alteration of the landscape for other than agricultural purposes whether or not a building application has been filed, and whether or not subdivision of the land or construction on the land is contemplated in the near future.

(Ord. No. 04-O-69 § 8, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07)

Section 27.5-9 Reserved.

Section 27.5-10 Responsibility for off-site drainage improvements.

The obtaining of necessary easements in a form approved by the City and the construction and financing of any required off-site drainage improvement necessitated by private development within the watershed shall be the responsibility of the developer.

(Ord. No. 04-O-69 § 10, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07)

Section 27.5-11 Post construction requirements.

- (A) *Certification by Engineer.* An engineer shall submit a certification that the stormwater system is complete and functional in accordance with the City approved stormwater management plan to the MWRD/Stormwater Coordinator for all developments and redevelopments. The certification is required for stormwater systems which are to be publicly owned or maintained and for stormwater systems which are to be privately owned and maintained. No temporary or permanent certificate of occupancy for any structure in a development or redevelopment shall be issued until such certification is received.
- (B) *As-built plans.* The City may request as-built plans as a condition of signing of final plat where stormwater infrastructure will become publicly owned or operated.
- (C) *Final inspections and release of bonds for public stormwater facilities.* A final inspection by the City will be required before any performance security will be released on a stormwater facility which is or is to become publicly owned or maintained. The City may, but is not required to, provide for partial, pro-rata

releases of the performance security based on completion of various stages of development.

(D) *Stabilization requirements.*

(1) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the City. The following criteria shall apply to revegetation efforts:

(a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over 75% of the seeded area.

(b) Replanting with native woody and herbaceous vegetation must be accompanied by placement of mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(c) Any area of revegetation must exhibit survival of a minimum of 75% of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum 75% survival for one year is achieved.

(d) Final stabilization shall be accomplished with permanent cover.

(2) Developers shall be required to give a warranty for stabilization vegetation as part of their development agreement and to provide a performance security.

(E) *Inspection of stormwater management facilities.* Periodic inspections of facilities shall be performed as required by the City.

(F) *Failure to meet or maintain maintenance or performance standards.* If a responsible party fails or refuses to meet maintenance or performance standards required under this chapter, the City, after reasonable written notice, may correct violations of the standards by performing all necessary work to place the facility in proper working condition. If the stormwater management facility becomes an immediate danger to public safety or public health, the notice may be oral or omitted. The cost of any action by the City under this section shall be charged to the responsible party.

(Ord. No. 04-O-69 § 11, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07; Ord. No. 08-O-17 §§ 25-26, 06-05-08)

Section 27.5-12 Existing locations and developments.

(A) *Requirements for all existing locations and developments.* The following requirements shall apply to all sites at which land disturbing activity has been completed.

(1) Denuded areas must be vegetated or covered under the standards and guidelines specified in the EPSC manual and on a schedule acceptable to the City.

(2) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(3) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.

(4) Trash, junk, rubbish, etc., shall be cleared from drainage ways.

(5) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:

- (a) Ponds:
 - [1] Detention pond;
 - [2] Extended detention pond;
 - [3] Wet pond;
 - [4] Alternative storage measures;
- (b) Constructed wetlands;
- (c) Infiltration systems;
 - [1] Infiltration/percolation trench;
 - [2] Infiltration basin;
 - [3] Drainage (recharge) well;
 - [4] Porous pavement;
- (d) Filtering systems;
 - [1] Catch basin inserts/media filter;
 - [2] Sand filter;
 - [3] Filter/absorption bed;
 - [4] Filter and buffer strips;
 - [5] Open channel swale.

(B) *Requirements for existing problem locations.* The City shall, as feasible, notify the owners of existing locations and developments in writing of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(C) *Inspection of existing facilities.* The City may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before, as well as those built after, the adoption of this chapter, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the City's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMP's.

(D) *Corrections of problems subject to appeal.* Corrective measures imposed by the City under this section are subject to appeal under this chapter.

(Ord. No. 04-O-69 § 12, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07; Ord. No. 08-O-17 §§ 27-28, 06-05-08)

Section 27.5-13 Illicit discharges.

- (A) *Scope.* This section shall apply to all water generated on developed or undeveloped land entering the City's separate storm sewer system.
- (B) *Prohibition of illicit discharges.* No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:
- (1) Uncontaminated discharges from the following sources:
 - (a) Water line flushing or other potable water sources;
 - (b) Landscape irrigation or lawn watering with potable water or repurified water;
 - (c) Diverted stream flows;
 - (d) Rising ground water;
 - (e) Groundwater infiltration to storm drains;
 - (f) Pumped groundwater;
 - (g) Foundation or footing drains;
 - (h) Water collected in and discharged from crawl spaces or elevator shafts;
 - (i) Air conditioning condensation;
 - (j) Springs;
 - (k) Non-commercial washing of vehicles;
 - (l) Natural riparian habitat or wetland flows;
 - (m) Swimming pools (if dechlorinated - typically less than one PPM chlorine);
 - (n) Firefighting activities; and,
 - (o) Any other uncontaminated water source.
 - (2) Discharges specified in writing by the MWRD as being necessary to protect public health and safety.
 - (3) Dye testing is an allowable discharge if the MWRD has so specified in writing.
- (C) *Prohibition of illicit connections.*
- (1) The construction, use, maintenance or continued existence of unlawful connections to the municipal separate storm sewer system is prohibited.
 - (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (3) Businesses proposing illicit discharges as a part of normal operations shall not be issued building permits or certificates of occupancy.
- (D) *Reduction of stormwater pollutants using best management practices.* Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with

industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

- (E) *Notification of spills.* Any person responsible for a property, premises, or activity, which is, or may be, the source of a spill and which is or maybe discharging pollutants to the City's storm sewer system and/or rivers, lakes or streams shall notify the City of such a spill within a reasonable time and in any event within 24 hours of knowledge the spill is occurring or has occurred. The notification shall be, at a minimum, to the Fire Department. Notification to the City does not relieve the party of spill notification requirements under federal, state or other local laws, regulations, or rules. For this section, a spill is an urgent, one-time, unintentional release of materials such as hazardous substances, hazardous materials, hazardous wastes, chemicals, solid wastes, liquid wastes, sludges, pollutants, contaminants, and other similar substances. On-going, intentional releases of these materials shall not be classified as a spill and may be an illicit discharge.

(Ord. No. 04-O-69 § 13, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07)

Section 27.5-14 Enforcement.

- (A) *Enforcement authority.* The City shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.
- (B) *Notification of violation.*
- (1) *Written notice.* Whenever the City finds that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, or a maintenance agreement entered into hereunder, the City may serve upon such person written notice of the violation. Within ten days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
 - (2) *Consent orders.* The City is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (3) and (4) below.
 - (3) *Compliance order.* When the City finds that any person has violated or continues to violate this chapter or a permit, order or maintenance agreement issued thereunder, the City may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
 - (4) *Cease and desist orders.* When the City finds that any person has violated or continues to violate this chapter or any permit, order or maintenance agreement issued hereunder, the City may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - (a) Comply forthwith; or

- (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
 - (C) *Conflicting standards.* Whenever there is a conflict between any standard contained in this chapter and in the BMP or design manual adopted by the City under this chapter, the strictest standard shall prevail.
 - (D) *Chronic violators.* The City may establish a different enforcement track for chronic violators.
- (Ord. No. 04-O-69 § 14, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07; Ord. No. 08-O-17 §§ 29-31, 06-05-08)

Section 27.5-15 Penalties.

- (A) Any person violating the provisions of this chapter may be assessed a civil penalty by the City of not less than \$50.00 or more than \$5,000.00 per day for each day of violation. Each day of violation shall constitute a separate violation. The City may also recover all damages proximately caused to the City by such violations.
- (B) In assessing a civil penalty, the City may consider:
 - (1) The harm done to the public health or the environment;
 - (2) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - (3) The economic benefit gained by the violator;
 - (4) The amount of effort put forth by the violator to remedy this violation;
 - (5) Any unusual or extraordinary enforcement costs incurred by the City;
 - (6) The amount of penalty established by chapter or resolution for specific categories of violations; and,
 - (7) Any equities of the situation that outweigh the benefit of imposing any penalty or damage assessment.
- (C) In addition to the civil penalty in subsection (A) above, the City may recover all damages proximately caused by the violator to the City, which may include any reasonable expenses incurred in investigating violations and enforcing violations of this chapter.
- (D) Any person, company or facility who undertakes any land disturbance activity requiring a stormwater management plan hereunder without first submitting the plan for review and approval shall pay to the City, in addition to any permit or inspection fee, an administrative fee of up to \$5,000.00.
- (E) The City may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or in equity, shall be no defense to any such actions.
- (F) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal that one or more of the remedies set forth herein has been sought or granted.

(Ord. No. 04-O-69 § 15, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07)

Section 27.5-16 Severability.

Should any article, section, subsection, clause or provision of this Stormwater Management Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the chapter

as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.

(Ord. No. 04-O-69 § 16, 12-09-04; Ord. No. 06-O-27 § 1, 03-08-07)

ARTICLE II. WATER QUALITY PROTECTION AREA

Section 27.5-17 Water Quality Protection Area.

A water quality protection area (WQPA) is a strip of undisturbed vegetation, either original or reestablished, bordering streams, ponds, wetlands, reservoirs or lakes, which provides:

- (A) A naturally vegetated and pervious buffer between a stream and clearing, grading, filling, paving and building activities of nearby new site development; and
- (B) Protection of stream quality, and resource management benefits.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-18 Development and redevelopment.

In all development and redevelopment adjacent to streams, ponds, wetlands, reservoirs or lakes, the persons involved in the process of development shall provide for and ensure the establishment, protection, maintenance and function of the WQPA. In development and significant redevelopment, the WQPA requirements apply to the whole site. In redevelopment, the WQPA applies only to the specific area of redevelopment.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-19 WQPA widths, target vegetation and design.

(A) Measuring the WQPA

- (1) Along a stream, the WQPA is measured perpendicular to the stream channel, from the top of bank (landward edge of active channel).
- (2) Perpendicular to and from edge of a wetland or top of bank of pond.

(B) Width of WQPA

- (1) On waters with available parameters for siltation and habitat alteration, and on unassessed waters, the width of the buffer shall be 50 feet for waters with a drainage area greater than or equal to 640 acres, and 35 feet for waters with drainage area less than 640 acres.
- (2) On waters that are Exceptional Tennessee Waters and on waters with unavailable parameters for siltation or habitat alteration, the width of the buffer shall be 60 feet.
- (3) Where Greenway or trail is to be placed within a WQPA, the width of the WQPA shall be increased by the width of the Greenway or trail.
- (4) When wetland areas extend beyond the edge of a stream, the WQPA measured from edge of wetland shall be the same as width on the stream.
- (5) For an isolated wetland, the width of the WQPA shall be 30 feet.
- (6) Where a stream and pond intersect, the WQPA measured from top of bank of the pond shall be the same width as on the stream.

(C) Target vegetation

- (1) The vegetative target for a WQPA is a variety of mature, native vegetation, allowed to grow undisturbed: predominately trees in the waterside half of the buffer; and trees, shrubs, and herbaceous vegetation (grasses) in the upland half.
- (2) Native species are preferred in the WQPA. Native species are required and invasive species are prohibited for any new plantings.

(D) To summarize WQPA widths and target vegetation in (A) through (D):

Waterbody	Width of WQPA
Waters with available parameters (<i>unimpaired</i>) for siltation or habitat alteration; and Unassessed waters	DA \geq 640 acres: 50 feet from top of bank
	DA < 640 acres: 35 feet from top of bank
Waters with unavailable parameters (<i>impaired</i>) for siltation or habitat alteration	60 feet from top of bank
Exceptional Tennessee Waters	60 feet from top of bank
Wetland adjacent stream	Same width as on stream
Isolated wetland	30 feet
Pond intersecting a stream	Same as width on stream
<p>Vegetative target for WQPAs: A variety of mature, native vegetation, allowed to grow undisturbed. Predominately trees on streamside half of the buffer; and trees, shrubs and herbaceous vegetation (grasses) in the upland half. Native vegetation is preferred; any new plantings must be native vegetation.</p>	
<p>Notes: Status of water quality may be accessed on Tennessee Department of Environment and Conservation (TDEC) website. WQPAs to be measured from top of bank (landward edge of active channel), in horizontal plane; or from edge of wetland or top of bank of a pond. Where a Greenway or trail is to be placed within a WQPA, the width of the WQPA shall be increased by the width of the Greenway or trail.</p>	

- (E) Stormwater discharges should enter the water quality riparian buffer as sheet flow, not as concentrated flow, where site conditions allow.
- (F) In areas of the WQPA without pre-existing tree canopy alongside the stream, the property developer must enhance the WQPA by planting trees, as follows:
 - (1) Pre-existing tree canopy means a corridor of trees rooted within 15 feet of the stream's top of bank providing canopy and shade along the stream;
 - (2) Where a property has no pre-existing canopy or the existing canopy is broken by a 40-foot or greater section or sections, with only low-growing vegetation (18 inches or less), as traced out by the drip lines of adjacent trees, the developer must plant trees in these sections.
 - (3) Planting standards and specifications.
 - (a) A variety of native tree seedlings/saplings planted within 15 feet of the top of stream bank evenly spaced on approximately ten-foot centers. More than one species shall be planted and every effort should be made

to observe the surrounding area and identify which native tree species dominate that particular locale so as to aid in the seedling/sapling selection process.

- (b) A plan shall be submitted to the Water Resources Department's Stormwater Coordinator for approval, before there is any disturbance of the WQPA. The plan must address erosion prevention and sediment control. The plan is subject to approval by the Water Resources Department.
- (c) Planting must be done at a time to minimize stress to plants. All planting must be completed by the next planting season. Performance sureties shall not be released or final certificates of occupancy granted until the planting is accomplished.
- (4) Planting standards and specifications for commercial properties. Plantings which fulfill the requirements for perimeter and buffer zone landscaping, of Appendix A—Zoning, Section 27, may be allowed to serve as required WQPA plantings, where the plantings are adjacent the stream and will function to establish canopy alongside the stream.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-20 General prohibitions on disturbing the WQPA.

- (A) Within the WQPA, persons are not allowed, except according to City-approved site plans or construction plans, or as allowed under Sections 27.5-21 and 27.5-22:
 - (1) to clear or grub existing vegetation;
 - (2) to disturb soil by grading, stripping or other means;
 - (3) to fill or dump;
 - (4) to ditch or construct other stormwater drainage systems; or
 - (5) to build or place structures.
- (B) Using, storing or applying pesticides, herbicides or fertilizers is not allowed without prior written approval of the Director of Water Resources Department.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-21 Structures allowed in the WQPA

The structures listed in this section may be placed in the WQPA, provided installation is according to City-approved site plans or construction plans, and to City permits and required State and federal permits.

- (A) Crossings by roads, bridges, Greenway, and utilities are allowed, provided:
 - (1) options to reduce or eliminate the crossing have been examined and prove to be not economically feasible;
 - (2) the width of disturbance during installation and maintenance is kept to a minimum;
 - (3) the angle of crossing should be perpendicular or within 15 degrees (15°) of perpendicular to the stream, to minimize clearing requirements; and
 - (4) within a development plan, a minimum of crossings is used.
- (B) Greenway
 - (1) Greenway is allowed in the WQPA, according to the stipulations of Section 27.5-24.

- (2) Design and placement of the Greenway should be at least 15 feet outside the top of bank insofar as practicable.

(C) Trails

- (1) Trails along the length of the WQPA are allowed in WQPA, to a limited extent, provided:
 - (a) the required width of WQPA is increased by the width of the trail;
 - (b) width of trail is five feet or less; and
 - (c) design and placement of the trail must be at least 15 feet outside the top of bank.
- (2) Trails perpendicular to the edge of stream or waterbody may be allowed in the WQPA, as follows:
 - (a) cut with use of hand tools only;
 - (b) width of trail is five feet or less;
 - (c) only pervious, natural materials, if any, used for trail; and
 - (d) at least 100 feet between them.

- (D) Underground utility lines, which shall be placed at least 15 feet outside the top of bank insofar as practicable

- (E) Stormwater-related structures (pipes, headwalls, outfalls), in situations where sheet flow into the buffer has been determined impractical

- (F) Infiltration-based SCMs for capturing or treating runoff from impervious surfaces within the WQPA (roads, Greenway, trails)

Section 27.5–22 Allowed disturbances, uses and activities in the WQPA

The following disturbances, uses and activities are allowed in the WQPA, provided best practices are specified and followed to minimize adverse impact to the buffer and to the streams, wetlands and aquatic ecosystems:

- (A) Installation, repair and maintenance of structures allowed in the WQPA;
- (B) Disturbances where necessary for the repair and maintenance of public infrastructure;
- (C) Usual and customary maintenance of public utility rights-of-way, including cutting trees and brush to maintain access to utility lines and limited use of herbicides;
- (D) City-approved projects to stabilize banks or restore channels; and
- (E) Access and actions in emergency to protect life or property; actions to resolve or clean up environmental problems (e.g., spills) and to restore the buffer

Section 27.5-23 Management of a WQPA.

- (A) Management of a WQPA shall be the responsibility of the property owner; ownership can be collective, e.g. a homeowners' association, rather than individual.
- (B) Removal of individual trees in the WQPA is allowed, where the tree is likely to fall and damage dwellings or other structures, or to cause blockage of the stream; the root wad or stump should be left in place, where feasible, to maintain soil stability.
- (C) Property owners may be allowed to remove invasive, exotic plant species in the WQPA, provided that permission is given in writing by the Water Resources Department. A WQPA restoration plan may be required.

- (D) Restoration of the buffer is required of the property owner when the WQPA is disturbed without approval of the City. The City may require the owner to submit a WQPA restoration plan.
- (E) A WQPA restoration plan shall include enough information that City staff can understand and evaluate the plan of restoration. Information such as location; description of measures to stabilize the streambank, if any (materials, equipment, timeframe); a planting plan (types of vegetation, location, methods, timeframe).
- (F) The City may require of the developer that permanent signs be placed to mark clearly the WQPA. Signs will have a message such as “Natural Area, Do Not Mow” and shall conform to a standard set forth by the City. Placement is to be along the outside edge of the WQPA, approximately every 150 feet or as specified by the City.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-24 Design, placement, and operation of greenways within a WQPA.

Greenways, as defined herein, are allowed within a WQPA provided:

- (A) the design and placement of the greenway is at least 15 feet outside top of bank insofar as practicable;
- (B) the width of the buffer is adjusted as noted in section 27.5–19(B) above;
- (C) the design and placement of the greenway takes into account natural fluctuations in stream channel;
- (D) the design and placement of the greenway takes into consideration the location of invasive, exotic plants or other undesirable vegetation or lack of vegetation;
- (E) grading and post-construction planting is done to maintain or establish stormwater sheet flow and infiltration of stormwater to the maximum extent practicable;
- (F) where watercourses cross the greenway, care is taken to provide ample culvert or channel structure to avoid scour;
- (G) disturbance of native vegetation and more valuable trees is minimized;
- (H) vegetation is reestablished where missing;
- (I) management of the greenway includes litter pick-up and monitoring and elimination of erosion or other polluting activities;
- (J) management of the greenway includes removal of invasive, exotic plants; and,
- (K) programs or materials to educate users about surface water quality are provided.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-25 Protection of WQPA during development activities.

- (A) Prior to the initiation of any grubbing or clearing of vegetation, and prior to any pre-construction drilling, cutting or soil-sampling, the developer shall ensure adequate visibility of the WQPA by high visibility staking, flagging or fencing at or beyond the outer edge of the WQPA.
- (B) If the property owner or agent removes or destroys vegetation within the WQPA, the City will require the owner to restore vegetation, including stream bank stabilization as necessary, according to a plan approved by the City.

(C) For activities that include stream and/or wetland disturbance, alteration, or relocation which require approval and permitting by federal and/or state regulatory agencies including but not limited to Aquatic Resource Alteration Permit or Section 404 Permit and include disturbance of a WQPA, the following additional requirements apply:

- (1) obtain prior written approval of the Planning Department and Water Resources Department;
- (2) prepare WQPA restoration plan to establish or reestablish the WQPA, for review by the Water Resources Department;
- (3) obtain other City approvals and permits as necessary; and
- (4) establish WQPA notations as required in Section 27.5-27.

This subsection (C) does not apply to allowed disturbances as addressed in Section 27.5-21.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-26 Stabilization.

Stream banks and other areas within a WQPA must be left stable upon completion of the development activities. The condition of vegetation within the buffer must be monitored, and planting, landscaping or stabilization performed to repair erosion, damaged vegetation, or other problems identified. Only native vegetation may be used in conjunction with stabilization activities.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-27 Site development plans and plats.

All site development plans and subdivision plats submitted to the City or prepared for recording shall:

- (A) show the extent of any WQPA on the subject property by metes and bounds and with the label "Water Quality Protection Area - Do Not Disturb";
- (B) provide a note to reference the WQPA, "There shall be no clearing, grading, construction or disturbance of soil and/or native vegetation within the WQPA except with prior permission in writing by the City of Murfreesboro";
- (C) in the case of residential subdivisions, set forth the WQPA in an open space, not on lots owned by or to be owned by individual homeowners; and
- (D) if a protective covenant has been established for the maintenance of the WQPA, provide a note stating, "Any water quality protection area (WQPA) shown hereon is subject to protective covenants which restrict disturbance and use of these areas."

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-28 Protective covenants.

WQPAs may, but are not required to be, documented and maintained through a declaration of protective covenant. Any such covenant should be recorded in the land records to run with the land.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-29 Application to existing and proposed development and redevelopments.

- (A) WQPAs established under requirements effective March 8, 2007, are not affected by newer requirements (newer requirements are not retroactive to existing WQPAs).
- (B) For development which prior to the effective date of this ordinance:
 - (1) is covered by a current, executed public works agreement;
 - (2) is covered by a valid, unexpired City land disturbance permit or building permit;
 - (3) has been granted Planning Commission or Administrative approval of preliminary plat or site plan; or
 - (4) for which a complete application for site plan or preliminary plat has been received by the Planning Department,the development is subject to WQPA requirements effective before the effective date of this ordinance.
- (C) A project for which an initial land development application is submitted on or after the effective date of this ordinance is subject to WQPA requirements effective that date.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-30 Variances.

The Water Resources Board may grant a variance to the WQPA requirements under Article II for the following:

- (A) Those projects or activities where it can be demonstrated that strict compliance with this chapter would result in extreme practical difficulty or substantial financial hardship.
- (B) Those projects or activities serving a public need where no feasible alternative is available.
- (C) Developments in planned development zoning districts which have a master plan approved by the City Council before March 31, 2024, which do not qualify for exemption under § 27.5-29.
- (D) To request a WQPA variance, one must submit a written request to the Director of the Murfreesboro Water Resources Department, expressing the reason(s) for the request and providing information for the City and hearing board to evaluate the proposal. The City may require an analysis to demonstrate no feasible alternatives exist and to show minimal impact will occur as a result of the project. When a variance is granted as to the width of the WQPA in one area, the applicant must normally demonstrate that the average width of the WQPA across the length of the stream channel for that development equals or exceeds the otherwise applicable WQPA width. If a variance request arises under subsection (C) herein, the standards for granting the variance may be less restrictive and the degree of variance granted may be greater than for other variance requests.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07; Ord. No. 08-O-17 § 32, 06-05-08)

Section 27.5-31 Conflict of laws.

Where the standards and management requirements of this chapter are in conflict with other laws, regulations, and policies regarding streams, wetlands, floodplains, land disturbance activities or other environmental protective measures, including

those of the federal and state governments, the more restrictive requirements shall apply.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-32 Violation.

Violations of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute an offense punishable as other violations of City ordinances as provided by law. Each day of such violation shall be considered a separate offense. Nothing herein shall prevent the City from taking other lawful actions to prevent or remedy any violation.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

Section 27.5-33 Severability.

Should any article, section, subsection, clause or provision of this chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.

(Ord. No. 06-O-27 §§ 4, 5, 03-08-07)

ARTICLE III. STORMWATER UTILITY AND USER FEES

Section 27.5-34 Legislative findings and policy.

The City Council finds, determines and declares that the stormwater system which provides for the collection, treatment, storage and disposal of stormwater provides benefits and services to all property within the incorporated City limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvements in general health and welfare through reduction of undesirable stormwater conditions; and, improvements to the water quality in the stormwater and surface water system and its receiving waters.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-35 Creation of stormwater utility.

To achieve the purposes of the Federal Clean Water Act and T.C.A. § 68-221-1101 et seq., there is created a stormwater utility in and for the City within the Water Resources Department. The stormwater utility, under the supervision and control of the City Manager, through the Department, with the participation and assistance of other City departments, may:

- (A) Administer the acquisition, design, construction, maintenance and operation of the stormwater utility system, including capital improvements designated in the capital improvement program;
- (B) Administer and enforce this article and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility stormwater system, including, but not limited to, the quantity, quality and/or velocity of the stormwater conveyed thereby;
- (C) Advise on matters relating to the utility;

- (D) Prepare and revise a comprehensive drainage plan;
 - (E) Review plans and approve or deny, inspect and accept extensions and connections to the system;
 - (F) Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended;
 - (G) Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties and other revenues of the utility.
- (Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-36 Definitions.

For the purpose of this article, the following definitions shall apply:

"Base rate." The stormwater user fee for single family residential property.

"Construction." The erection, building, acquisition, alteration, reconstruction, improvement or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and, the inspection and supervision of the construction of stormwater facilities.

"Developed property." Real property which has been altered from its natural state by the creation or addition of impervious areas by the addition of any buildings, structures, pavement or other improvements.

"Exempt property." Federal, state, county and City road right-of-way; property from which stormwater runoff does not flow into or through City-owned or operated stormwater facilities, including drainage structures, conduits, combined sewers, sewers, bridges, channels, culverts, pipes, and drainage easements; and, property from which all stormwater runoff for normal rain events, up to and including the 100-year frequency storm, is drained by sinkhole(s) downstream of which there are no City-owned or operated stormwater facilities.

"Fee or stormwater user fee." The charge established under this article and levied on owners or users of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the City. The stormwater user fee is in addition to any other fee that the City has the right to charge under any other ordinance, rule or regulation of the City.

"Fiscal year." July 1 of a calendar year to June 30 of the next calendar year, both inclusive.

"Impervious surface." A term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted or other surface which impedes the natural infiltration of surface water.

"Impervious surface area." The number of square feet of horizontal surface covered by buildings and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

"Non-single family property." Developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches.

"Person." Any and all persons, natural or artificial, including any individual, firm or association, government and any governmental or private corporation organized or existing under the laws of this or any other state or country.

"Property owner." The property owner of record as listed in the Rutherford County tax assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative or government.

"Single family residential property." A developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single family detached dwelling containing an accessory apartment or a second dwelling unit ("duplex") is included in this definition.

"Single family residential unit or SFU." The median of the total square footage of the impervious surface areas (e.g. building footprints, paved driveways, parking lots, patios, non-public sidewalks) of developed single family residential lots within the City.

"Stormwater." Stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.

"Stormwater facilities." The drainage structures, conduits, combined sewers, sewers, bridges, channels, culverts, pipes, drainage easements and all devices or appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

"Stormwater management." The planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, floodplains, flood control, grading, erosion, tree conservation, and sediment control.

"Stormwater management fund or fund." The fund created by this article to operate, maintain, and improve the City's stormwater system.

"Surface water." Includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

"User." The owner of record of property subject to the stormwater user fee imposed by this article.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-37 Funding of stormwater.

Revenue sources for the stormwater utility's activities may include, but not be limited to, the following:

- (A) Stormwater user fees.
- (B) Civil penalties and damage assessments imposed for or arising from the violation of the City's stormwater management ordinances.
- (C) Stormwater permit and inspection fees.
- (D) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986 (Tennessee Code Annotated, title 9, chapter 21).

To the extent that the stormwater user fees collected are insufficient to construct needed stormwater drainage facilities, the cost of the same may be advanced from such City funds as may be determined by the City Council.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-38 Stormwater utility management fund.

All revenues generated by the stormwater user fees shall be deposited in a stormwater utility management fund and used exclusively for stormwater management.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-39 Operating budget.

The City Council shall adopt, based on a recommendation from the Water Resources Board, an operating budget for the stormwater utility management fund each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-40 Stormwater user fees established.

There shall be imposed on each and every property in the City, except exempt property, a stormwater user fee. Prior to establishing or amending the stormwater user fees, the City shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the City at least 30 days in advance of the meeting of the City Council which shall consider the adoption of the fee or its amendment.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-41 Single family residential unit (SFU).

- (A) *Establishment.* There is established for purposes of calculating the stormwater user fees the single family residential unit (SFU) as a method of measurement.
- (B) *Definition.* The SFU is the median of the total square footage of the impervious surface areas of developed single family residential lots within the City as set by the City Council.
- (C) *Setting the SFU.* The SFU shall be set by Council from time to time by resolution.
- (D) *Source of SFU.* Council shall have the discretion to determine the source of the data from which the SFU is established, taking into consideration the general acceptance and use of such source on the part of other stormwater systems, and the reliability and general accuracy of the source including but not limited to property tax assessor's rolls, site examination, mapping information, aerial photographs, and other reliable information.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-42 Property classification for stormwater user fee.

- (A) *Property classifications.* For purposes of determining the stormwater user fee, all properties in the City are classified into one of the following classes:
 - (1) Single family residential property;
 - (2) Non-single family property;
 - (3) Exempt property.
- (B) *Single family residential fee.* The City Council finds that the intensity of development of most parcels of real property in the City classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the impervious surface on each such parcel. Therefore, all single family residential properties in the City

shall be charged a uniform stormwater management fee, equal to the base rate, regardless of the size of the parcel or the impervious surface area of the improvements.

(C) *Non-single family property fee.* The fee for non-single family property shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one SFU. The impervious surface area for non-single family property is the square footage for the impervious surface area on the property. The minimum stormwater user fee for non-single family property shall be one SFU.

(D) *Exempt property.* There shall be no stormwater user fee for exempt property.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-43 Base rate.

The City Council shall, by resolution, establish the base rate for the SFU. The base rate shall be calculated to ensure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater utility system in the City.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-44 Adjustments to stormwater user fees.

The stormwater utility shall adjust the stormwater user fee for non-single family property based on its Credit and Appeals Policy. This policy shall provide credits to stormwater user fees charged owners of non-single family property who implement onsite stormwater management controls that provide peak runoff and/or volume control, stormwater quality best management practices and proper operation and maintenance of the onsite stormwater facilities. This policy, to be approved by resolution of the City Council, shall provide for: flood control volume credits; stormwater quality volume credits; streambank protection volume credits; education credits; and NPDES stormwater permitted facilities credits. This policy shall also provide for adjustments to the stormwater user fee if it can be proven that the City has incorrectly calculated the total impervious area of the non-single family property. This policy shall specify how owners are to apply for credits and adjustments.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-45 Property owners to pay charges.

The owner of each non-exempt property shall be obligated to pay the stormwater user fees as provided in this article, provided however, that if no water or sewer service is being provided at the property to the owner as a customer of record and such service is being provided to a customer of record other than the owner, it shall be presumed that the owner and such customer of record have agreed that the customer of record shall be obligated to pay such stormwater user fee. If the customer of record rebuts this presumption as provided for in the Credit and Appeals Policy, the owner shall pay such charges.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-46 Billing procedures and penalties for late payment.

(A) *Rate and collection schedule.* The stormwater user fee shall be set at a rate, collected at a location, on a schedule, established by resolution, which resolution shall also specify when the fee shall become delinquent and the late fee which shall become due on delinquent payments.

(B) *Penalties for late payment.* Stormwater user fees shall be subject to a late fee established by resolution. The City shall be entitled to recover attorney's fees incurred in collecting delinquent stormwater user fees.

(C) *Mandatory statement.* To the extent that state law, T.C.A. § 68-221-1112, requires it, each bill that shall contain stormwater user fees shall also contain the following statement in bold: "THIS TAX HAS BEEN MANDATED BY CONGRESS". It is the position of City that the stormwater user fee is not a tax but a utility service charge.

(Ord. No. 07-O-25 § 1, 07-19-07)

Section 27.5-47 Appeals of fees.

Any person who disagrees with the calculation of the stormwater user fee, as provided in this article, or who seeks a stormwater user fee adjustment based upon stormwater management practices, may appeal such fee determination to the stormwater utility within 30 days from the date of the last bill containing stormwater user fees charges. Any appeal must be filed, and will be decided, in accordance with the Credit and Appeal Policy.

(Ord. No. 07-O-25 § 1, 07-19-07)

Most significant proposed revisions to stormwater management standards

- Proposed change goes beyond the minimum required by TDEC.
- Proposed change requires less than existing Murfreesboro standards.

Applicability of post-construction stormwater control measures (SCMs)

Description of change	TDEC	Rationale
Adopt TDEC-specified design storm and WQTV for designing stormwater quality controls.	–	<i>Required by TDEC.</i>
City may establish procedures for reductions of WQTV for redevelopment projects, vertical density, and other incentives.	–	
Application of standards: <ul style="list-style-type: none"> - Sites draining to impaired streams: development with <i>disturbance</i> of 10,000 square feet. - Sites draining to healthy streams: development with the <i>construction</i> of 10,000 square feet imperviousness. 		<i>Improve quality of stormwater runoff and drainage.</i> <i>Common in other cities.</i>
Peak discharge control of 2-year through 100-year storms	n/a	<i>Improve drainage.</i> <i>Common in other cities.</i>
Reduce storm size for control of streambank protection from 3.11 inch to 2.34 inch.	n/a	

Water Quality Protection Area

Description of change	TDEC	Rationale
60-foot buffer on streams identified by TDEC as impaired or exceptional	–	<i>Required by TDEC.</i>
35-foot buffer on healthy streams with drainage area < ~200 acres; change to streams with DA < 640 acre		
50-foot buffer on larger healthy streams		<i>Consistency with current widths.</i>
To require that WQPA in residential subdivision developments to <i>not</i> be placed within individual lots	–	<i>Enforcement and integrity of buffer.</i>
May require signs, such as “Natural Area, Do Not Mow,” be posted on edge of WQPA	–	<i>Common in other cities.</i>

Other

Description of change	TDEC	Rationale
May require 25-foot buffers adjacent hydrologically significant waters and karst windows	n/a	

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Resolution authorizing the City to participate in the Tennessee State-Subdivision Opioid Settlement Agreement with Kroger Co.

Department: Legal

Presented by: Adam F. Tucker, City Attorney

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Resolution No. 24-R-23 authorizing the City of Murfreesboro to join the State of Tennessee and other local governments as participants in the Tennessee State-Subdivision Opioid Settlement Agreement with Kroger Co.

Staff Recommendation

Adopt Resolution No. 24-R-23

Background Information

Tennessee has joined a broad coalition of states and local political subdivisions in reaching a nationwide settlement with Kroger Co. If fully adopted nationally, the maximum payments to Tennessee and its qualifying local governments would be more than \$42 million. The settlement has the same basic structure as the prior opioid settlements that the City joined in 2021 and 2023.

Tennessee’s counties and municipalities Subdivisions have until August 12, 2024, to become participating subdivisions.

Passage of Resolution No. 24-R-23 is necessary to authorize the Mayor and other City officials to take certain actions necessary to participate in the settlements and receive its share of settlement funds.

Council Priorities Served

Responsible budgeting

Adoption of the resolution will help offset costs incurred directly and indirectly by the City as a result of the opioid crisis.

Maintain public safety

Council may choose to use settlement funds to improve the ability of City departments to the effects of the opioid crisis within the community

Operational Issues

None

Fiscal Impact

Adoption of the resolution will have positive, albeit currently indefinite, financial impact

Attachments

Resolution No. 24-R-23

RESOLUTION 24-R-23 authorizing the City of Murfreesboro, Tennessee to join the State of Tennessee and other local governments as participants in the Tennessee State-Subdivision Opioid Abatement Agreement and approving settlement agreement with Kroger Co.

WHEREAS, the opioid epidemic continues to impact communities in the United States and the State of Tennessee; and

WHEREAS, the City of Murfreesboro has suffered harm and will continue to suffer harm as a result of the opioid epidemic; and

WHEREAS, the State of Tennessee and some Tennessee local governments have filed lawsuits against opioid manufacturers, distributors, and retailers, including many federal lawsuits by Tennessee counties and cities that are pending in the litigation captioned In re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) (the MDL case is referred to as the “Opioid Litigation”); and

WHEREAS, the City of Murfreesboro has previously joined settlements with multiple pharmaceutical distributors, manufacturers, and retail pharmacies; and

WHEREAS, Kroger Co. has proposed a settlement that the City of Murfreesboro finds acceptable and in the best interest of the community; and

WHEREAS, the Tennessee legislature enacted Public Chapter No. 491 during the 2021 Regular Session of the 112th Tennessee General Assembly and was signed into law by Governor Bill Lee on May 24, 2021, which addresses the allocation of funds from certain proposed opioid litigation settlements; and

WHEREAS, the Tennessee legislature enacted Public Chapter No. 568 during the 2024 Regular Session of the 113th Tennessee General Assembly and was signed into law by Governor Bill Lee on March 15, 2024, which would apply the statutory provisions passed in 2021 to the new settlement with Kroger Co, if it becomes effective; and

WHEREAS, the State of Tennessee, non-litigating counties, and representatives of various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation and use of certain prospective settlement and bankruptcy funds from opioid related litigation (“Settlement Funds”); and

WHEREAS, the Tennessee State-Subdivision Opioid Abatement Agreement (the “Tennessee Plan”), attached hereto as “Exhibit A,” sets forth a framework of a unified plan for the proposed allocation and use of the Settlement Funds; and

WHEREAS, amendments to the Tennessee Plan, attached hereto as “Exhibit B,” would extend its terms to the proposed Kroger Co. settlement and would clarify some language concerning the allocation of certain settlement funds; and

WHEREAS, participation in the settlements and Tennessee Plan by a large majority of Tennessee cities and counties will materially increase the amount of settlement funds that Tennessee will receive from pending proposed opioid settlements.

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

SECTION 1. That the City Council finds that the amendments to the Tennessee Plan is in the best interest of the City of Murfreesboro and its citizens because such a plan would ensure an effective structure for the commitment of Settlement Funds to abate and seek to resolve the opioid epidemic.

SECTION 2. That the City Council hereby reaffirms its support for a unified plan for the allocation and use of Settlement Funds as generally described in the Tennessee Plan.

SECTION 3. That the Mayor, City Recorder, and City Attorney are hereby expressly authorized to execute the amendments to Tennessee Plan in substantially the form attached as Exhibit "B" and the Mayor, City Recorder, and City Attorney are hereby authorized to execute any formal agreements necessary to implement a unified plan for the allocation and use of Settlement Funds that is substantially consistent with the Tennessee Plan and this Resolution.

SECTION 4. That the Mayor, City Recorder, and City Attorney are hereby expressly authorized to execute any formal agreement and related documents evidencing the City of Murfreesboro's agreement to the settlement of claims and litigation specifically related to related to Kroger Co. and any other settlement of opioid-related claims that Tennessee has joined.

SECTION 5. That the Mayor, City Manager, City Recorder, and City Attorney are authorized to take such other action, within their respective legal authority, as necessary and appropriate to effectuate the City's participation in the Tennessee Plan and these settlements.

SECTION 6. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and the welfare of the City requiring it.

Passed: _____

Shane McFarland, Mayor

ATTEST:

Amanda DeRosia
Interim City Recorder

APPROVED AS TO FORM:

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

Tennessee State-Subdivision Opioid Abatement Agreement

I. Definitions

For all sections of this Agreement, the definitions for terms set out in this Section I apply. The Agreement also uses additional terms that are defined in the Distributor/J&J Settlements and other agreements. In such instances, which are clearly stated, those terms are defined by those agreements.

A. “2021 Legislation.” Public Chapter No. 491 passed during the 2021 Regular Session of the 112th Tennessee General Assembly and signed into law by Governor Bill Lee on May 24, 2021. For ease of reference purposes only, a copy of Public Chapter No. 491 is attached.

B. “Agreement.” This document, the Tennessee State-Subdivision Opioid Abatement Agreement, a “state-subdivision opioid abatement agreement” as defined in the 2021 Legislation, Section 5(7) and Section 13(6). This Agreement is also a “State-Subdivision Agreement” as defined in the Distributor/J&J Settlement Agreements and a “Statewide Abatement Agreement” as defined in the Purdue Pharma L.P. and Mallinckrodt PLC bankruptcy plans.

C. “Distributor/J&J Settlements.” The settlements consisting of the joint settlement agreement with distributors McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation and their subsidiaries and other related entities and the settlement agreement with manufacturer Johnson & Johnson, its Janssen subsidiaries and other subsidiaries and related entities. Both settlements qualify as Statewide Opioid Settlement Agreements.

D. “Joint Abatement Bankruptcy Plan.” A plan confirmed in federal bankruptcy court under Title 11 of the United States Code that resolves state and subdivision claims related to the manufacture, marketing, distribution, dispensing, or sale of opioids in a manner that allocates funds for abatement jointly to the state and its subdivisions. The plans in the Purdue Pharma L.P. and Mallinckrodt PLC bankruptcy cases are examples of Joint Abatement Bankruptcy Plans.

E. “Opioid Abatement Council.” The council created by the 2021 Legislation, Sections 3-9.

F. “Relevant Funds.” Funds that, pursuant to a Joint Abatement Bankruptcy Plan, are allocated to the State for the claims of the State and its Subdivisions and that must be dedicated to opioid abatement programs.

G. “State.” The State of Tennessee.

H. “State-Only Opioid Settlement Agreement.” A settlement agreement entered into by the State and one or more entities involved in activities related to the manufacture, marketing, distribution, dispensing, or sale of opioids in which there are not provisions for Subdivision joinder.

I. “State Opioid Judgment.” A judgment obtained by the State against one or more entities involved in activities related to the manufacture, marketing, distribution, dispensing, or sale of opioids.

J. “Statewide Opioid Settlement Agreement.” A settlement agreement entered into by the State and one or more entities involved in activities related to the manufacture, marketing, distribution, dispensing, or sale of opioids in which subdivision claims are addressed.

K. “Statutory Bar.” A law barring all subdivisions (not limited to counties and municipalities) in the state from maintaining released claims against released entities, either through a direct bar or through a grant of authority to release claims. The 2021 Legislation, Sections 10-19 establishes a grant of authority process for a statutory bar to be enacted for the entities addressed in the Distributor/J&J Settlements.

L. “Subdivision.” A Tennessee county or municipality.

M. “Subdivision-Only Opioid Settlement Agreement” A settlement agreement between one or more Subdivisions and one or more entities involved in activities related to the manufacture, marketing, distribution, dispensing, or sale of opioids that does not include the State as a party.

N. “Subdivision Opioid Judgment.” A judgment obtained by one or more Subdivisions against one or more entities involved in activities related to the manufacture, marketing, distribution, dispensing, or sale of opioids.

O. “Tennessee Opioid Abatement Fund.” The opioid abatement trust fund established by the 2021 Legislation, Sections 1-2.

II. Interaction of this Agreement with Settlements, Bankruptcy Plans and Legislation

This Agreement replaces certain default provisions in specified State Opioid Settlement Agreements and Joint Abatement Bankruptcy Plans. Certain default provisions are also replaced by the 2021 Legislation and consent judgments will be filed for State Opioid Settlement Agreements. Thus, there will be multiple sources of authority for the application of each settlement agreement or bankruptcy plan. While parts of the 2021 Legislation are described in this Agreement, such descriptions do not supersede the statutory language, which is controlling.

III. Allocation of Funds in the Distributor/J&J Settlements

The Distributor/J&J Settlements allow for payment and allocation default provisions to be replaced by state-subdivision agreements, by statute, and other means. As referenced below, the 2021 Legislation addressed some of the default provisions in these settlements. This Agreement makes a few additional changes to the default provisions. As described below, some default provisions remain in place.

A. Allocation among three sub-funds. The Distributor/J&J Settlements initially allocate the vast majority of settlement funds among three sub-funds for each state: the “State Fund,” the “Abatement Accounts Fund,” and the “Subdivision Fund.”¹ Subject to the terms of the specific settlement agreements and assuming full subdivision participation and maximum payments, allocation among the three Tennessee sub-funds shall remain the same as with the default provision: 15% to the State Fund, 70% to the Abatement Accounts Fund, and 15% to the Subdivision Fund.

B. Use of funds. The Distributor/J&J Settlements have provisions concerning the use of funds and those are controlling.² Generally they require that money from all three sub-funds be used for “Opioid Remediation” as that term is defined in those agreements. Such definitions include restitution for past abatement within the definition of remediation.

C. State Fund. The 15% State Fund shall be directed to the State’s general fund unless directed to the Tennessee Opioid Abatement Fund by future legislation.

D. Abatement Accounts Fund.

1. The 70% Abatement Accounts Fund shall be directed to the Tennessee Opioid Abatement Fund.

2. The 2021 Legislation fully replaces the default provisions for the Abatement Accounts Fund.³ Among the legislative provisions is the requirement that for the Distributor/J&J Settlements funds deposited into the Tennessee Opioid Abatement Fund, the Opioid Abatement Council shall disburse 35% of these proceeds to counties that join the settlements to be spent on opioid abatement and remediation pursuant to Subsections 6(q)-(s). 2021 Legislation Section 6(p).

3. The 2021 Legislation allows for a state-subdivision agreement to determine the metrics used in allocating certain funds among participating counties. 2021 Legislation, Section (6)(q). It is agreed that the allocation formula shall use data for fatal and non-fatal opioid overdoses, opioid sales measured by morphine milligram equivalents, and population. Details and agreed terms regarding the metrics, the updating of allocation percentages, and the initial allocation percentages for each county is set out in Exhibit A.

E. Subdivision Fund.

1. The 15% Subdivision Fund shall generally be directed to the Subdivisions participating in the Distributor/J&J Settlements pursuant to the default provisions of those agreements, including the allocation of funds for non-litigating municipalities with populations under 10,000 to their respective counties.

¹ “State Fund,” Abatement Accounts Fund,” and “Subdivision Fund” are all defined terms in the Distributor/J&J Settlement agreements. They are sub-funds of the settlements’ “Settlement Fund” into which the companies make base and incentive payments pursuant to the settlement agreements.

² Some examples are distributor agreement Subsections V.B.1-2 and J&J agreement Subsections VI.B. 1-2.

³ These are mainly found in distributor agreement Section V.E and J&J agreement Section VI.E.

2. The default provisions are adjusted for non-litigating municipalities in participating counties that both (1) have populations of 10,000 to 30,000 per the 2019 U.S. Census estimate and (2) have a Subdivision Fund allocation percentage less than 0.5%.⁴ The allocations for such municipalities shall be directed to their respective counties if the county is a participating subdivision. (If the county is not a participating subdivision, the funds are not redirected to the county.) The reallocation for such municipalities located in multiple counties will be divided among those counties pursuant to the data used in Exhibit G of the Distributor/J&J Settlements. These redirected funds to certain counties shall be spent on future opioid abatement and shall be subject to the same statutory requirements as the Abatement Accounts Fund money the county receives from the Tennessee Opioid Abatement Fund. These redirected funds to certain counties are in addition to the funds allocated to participating counties pursuant to 2021 Legislation Section 6(p) and should not be included in calculating or disbursing the 35% amount allocated to participating counties. Such redirected funds should also not be viewed as an additional recovery by the county for purposes of calculating any contingency fees agreements.

F. Attorneys' fees and costs. The Distributor/J&J Settlements have provisions for funds dedicated to or related to attorneys' fees, costs, and/or expenses. There are also funds for states without outside counsel, identified as "Additional Restitution Funds." Such funds shall be allocated pursuant to such agreements and are not addressed by this Agreement.

IV. Allocation of Funds for other Statewide Opioid Settlement Agreements

A. Application to future settlements. To the extent allowed by such agreement and subject to IV.B.2 of this Agreement, the provisions in Section III above shall replace default provisions in, and apply to, any future Statewide Opioid Settlement Agreement in which Tennessee counties and municipalities are able to join and receive benefits, either directly or indirectly, in exchange for a release of claims.⁵ Not all municipalities need to be eligible to join such a settlement for the provisions of this Section IV to apply. Indirect benefits include funds being allocated to counties and/or the Tennessee Opioid Abatement Fund.

B. Exceptions. The application of Section IV.A. is limited, as follows:

1. The directing of 35% of Abatement Funds to the counties pursuant to the 2021 Legislation Section 6(p) shall not apply to any Statewide Opioid Settlement Agreement that includes an incentive or other benefit for a Statutory Bar unless (a) Section 19 of the 2021 Legislation is amended to specifically allow a Statewide Opioid Settlement Agreement release for the settling entity or entities or (b) another statute that qualifies as a Statutory Bar for such settlement is enacted. Should such settlement become effective prior

⁴ For the avoidance of doubt, a non-litigating municipality with a population between 10,000 and 30,000 that has a Subdivision Fund allocation percentage of 0.5% or greater is not affected by this subsection and receives its direct allocation from the Subdivision Fund.

⁵ For the avoidance of doubt, the Section III provisions include the 15%/70%/15% allocation of settlement funds among the three sub-funds.

to the enactment of a Statutory Bar addressing claims against the settling entity or entities, 35% of the funds directed to the Tennessee Opioid Abatement Fund shall be withheld and not allocated until the earlier of (1) the enactment of such a Statutory Bar or (2) a full regular session of the Tennessee General Assembly has occurred.

2. Section IV.A shall not apply to any Statewide Opioid Settlement Agreement unless the application of this Agreement to such settlement is approved by a majority of (a) counties and (b) municipalities having a population over 30,000 after such settlement is negotiated and provided to such subdivisions. Whether there is majority approval shall be measured by population of the relevant subdivisions. Population figures shall be from the most recently published U.S. Census population figures (actual count or estimate) for a year for which data is available for both counties and municipalities.

3. Section IV.A shall not apply to any Statewide Opioid Settlement Agreement with Endo International plc. or its subsidiaries.

C. Statutory provisions. The language in this section does not address or control whether any default provisions in a Statewide Opioid Settlement Agreement are replaced by the 2021 Legislation or any other statutory provision if Section IV.A does not apply to such settlement.

V. Allocation of Funds for Opioid-Related Claims in Joint Abatement Bankruptcy Plans

A. Relevant Funds. Multiple opioid manufacturers have filed for bankruptcy in actions for which the State and many Subdivisions are creditors for opioid-related claims. These companies include Purdue and Mallinckrodt. It is anticipated that other entities involved in activities related to the manufacture, marketing, distribution, dispensing, or sale of opioids may also file for bankruptcy and that the State and one or more Subdivisions will pursue opioid-related claims in those actions. Funds allocated to the State and Subdivisions for such claims shall be disbursed pursuant to the confirmed bankruptcy plan for the relevant entity, including requirements for funds to be used for future abatement. It is anticipated that one or more of such plans shall include the allocation of Relevant Funds that must be dedicated to opioid abatement programs. All Relevant Funds shall be placed in the Tennessee Opioid Abatement Fund and allocated pursuant to Sections V.B. Relevant Funds do not include funds disbursed through bankruptcy plans that are not restricted to abatement or that are disbursed for claims that are unrelated to the opioid crisis.

B. Allocation of Relevant Funds. To the extent permissible under the subject bankruptcy plan, Relevant Funds from Joint Abatement Bankruptcy Plans shall be allocated in the same manner as the Abatement Account Funds from the Distributor/J&J Settlements are disbursed under Section III.D and the 2021 Legislation. Thus, the Opioid Abatement Council shall disburse 35% of the proceeds from such bankruptcy plans to the counties subject to 2021 Legislation

Subsections 6(q)-(s). All default provisions related to Relevant Funds in such bankruptcy plans are replaced by this Agreement.⁶

C. Exception. Section V shall not apply to any bankruptcy plan for Endo International plc. or its subsidiaries.

D. Statutory provisions. The language in this section does not address or control whether any default provisions in a Joint Abatement Bankruptcy Plan are replaced by the 2021 Legislation or any other statutory provision if Sections V.A-B do not apply to such bankruptcy plans.

VI. No Application to Other Funds

A. State-Only Opioid Settlement Agreements and State Opioid Judgments. The Attorney General may direct funds from a State-Only Opioid Settlement Agreement or a State Opioid Judgment to the Tennessee Opioid Abatement Fund. Subject to the terms of specific agreements and any conditions placed on the funds prior to their being placed in the Tennessee Opioid Abatement Fund, the funds shall be allocated by the Opioid Abatement Council pursuant to the 2021 Legislation. The allocation and other provisions in this Agreement that apply to certain Statewide Opioid Settlement Agreements and to certain funds from Joint Abatement Bankruptcy Plans do not apply to funds from State-Only Opioid Settlement Agreements or State Opioid Judgments.

B. Subdivision-Only Settlement Agreements and Subdivision Judgments. The allocation and other provisions in this Agreement that apply to certain Statewide Opioid Settlement Agreements and to certain funds from Joint Abatement Bankruptcy Plans do not apply to funds from Subdivision-Only Opioid Settlement Agreements or Subdivision Opioid Judgments.

VII. Adoption and Amendment of Agreement

A. Controlling Authority. For this Agreement to replace default provisions in the Distributor/J&J Settlements, it must be adopted by statute or approved by the State and a sufficient number of Subdivisions as set forth in Exhibit O of those settlements. For this Agreement to replace default provisions in the Purdue and other bankruptcy plans, it is anticipated that it will need to be approved by the State and a sufficient number of Subdivisions as set forth in the specific bankruptcy plans. There are similar requirements for amending state-subdivision agreements such as this Agreement. It is understood that the approval process and participation requirements set out in this Section VII meet the requirements of these settlement agreements and anticipated bankruptcy plans. For any settlement agreement or bankruptcy plan that allows for a state-subdivision agreement to determine the requirements for amendment of a state-subdivision

⁶ For example, the provisions related to the default “Government Participation Mechanism” in the Purdue bankruptcy plan are not applicable with the adoption of this Agreement (which incorporates the Opioid Abatement Council).

agreement, the approval process and participation requirements set out in this Section VII for an amended agreement shall control. Similarly, if this Agreement is adopted by statute, the approval process and participation requirements set out in this Section VII for an amended agreement shall control.

B. Adoption of Agreement. This Agreement is adopted if it is approved by the Attorney General, on behalf of the State, and either (1) Subdivisions whose aggregate “Population Percentages,” determined as set forth below, total more than 60%, or (2) Subdivisions whose aggregate Population Percentages total more than 50%, provided that these Subdivisions also represent 15% or more of the counties, by number.

C. Population Percentage Calculation. Population Percentages shall be determined as follows: The Population Percentage of each county shall be deemed to be equal to (1) (a) 200% of the population of such county minus (b) the aggregate population of all Primary Municipalities located in such county, divided by (2) 200% of the state’s population. A Primary Municipality means a municipality with a population of at least 25,000. The Population Percentage of each Primary Municipality shall be equal to its population divided by 200% of the state’s population. (The result of these calculations is that every person is counted twice: everyone in a Primary Municipality is counted once for that municipality; everyone is counted at least once for their county; and those not in a Primary Municipality are counted a second time for their county.) Except as required by a specific settlement agreement or bankruptcy plan, the population figures for these calculations shall be the 2020 U.S. Census counts for the initial adoption of the Agreement and, for adoption of an amended agreement, the most recently published U.S. Census population figures (actual count or estimate) for a year for which data is available for both counties and municipalities.

D. Amendment of Agreement. This Agreement may be amended if that amended agreement is approved by the Attorney General, on behalf of the State, and either (1) Subdivisions whose aggregate Population Percentages, determined as set forth above, total more than 60%, or (2) Subdivisions whose aggregate Population Percentages total more than 50% provided that these Subdivisions also represent 15% or more of the counties, by number.

VIII. Effect of Agreement

Nothing in this Agreement is intended to abridge or enlarge the authority of the Attorney General, the State, or the subdivisions, except as expressly stated herein.

Exhibit A: County Allocation for Opioid Abatement Fund

Certain abatement funds are allocated by county pursuant to the 2021 Legislation and/or the provisions of this Agreement. The allocations shall be set consistent with the 2021 Legislation and as set forth below.

A. County Allocation Data. The following data shall be used in the county allocation calculations:

1. Fatal opioid overdose data collected by the Tennessee Department of Health. The aggregate figures for the most recent three years of available data shall be used when allocation calculations are performed.

2. Non-fatal opioid overdose data collected by the Tennessee Department of Health. The aggregate figures for the most recent three years of available data shall be used when allocation calculations are performed.

3. Opioid sales as measured by morphine milligram equivalents (“MME”). The aggregate figures for the most recent three years of available data shall be used when allocation calculations are performed.

4. County population. The 2020 U.S. Census counts will be used for the initial allocations. For future allocation calculations, the most recent population estimate or actual count data published by the U.S. Census shall be used.

B. Weighting of Data. In calculating the county allocation percentages, the data shall be weighted as follows:

1. Fatal opioid overdose data shall be weighted at 12.5%.
2. Non-fatal opioid overdose data shall be weighted at 12.5%.
3. Opioid sales as measured by MME shall be weighted at 25%.
4. Population shall be weighted at 50%.

C. Updating of Allocations. The county allocations shall be updated pursuant to statute. The 2021 Legislation requires updating every four years and addresses what happens if a data set used in the initial allocations is unavailable.

D. Allocation Process. The State shall make the initial data and allocable share calculations available to the counties to review for 30 days in order to identify and correct any mathematical or data entry errors. The Opioid Abatement Council will allow for similar review for future reallocations.

E. Holdback Share. It is recognized that, particularly for some very small counties, there could be limits on the ability of the data to capture the scope of the opioid crisis in the county. For example, a large segment of a county’s population may fill prescriptions in a neighboring county, resulting in MME data that dramatically underrepresents the level of opioids prescribed to the residents of the county. To address limited situations such as this, 2% of the abatement funds

allocated to counties shall be initially held back until the Opioid Abatement Council can consider county requests for adjustments to their allocation percentages due to such data issues. However, such requests will only be granted when there is a finding that the data limitations substantially affected the county's overall allocation. The Council may only adjust allocation percentages upwards through the use of the 2% holdback fund and may find that no adjustments are needed. Any portion of the 2% holdback fund not used to adjust county allocations pursuant to this process will be released to the counties pursuant to their allocations, including any adjusted allocation percentages.

F. Initial County Allocation Percentages.

[TABLE TO BE INSERTED ONCE UPDATED DATA AVAILABLE]

Tennessee Opioid Abatement Fund
Initial County Allocation Percentages

Posted 11/5/21

County	Allocation without 2% holdback	Allocation with 2% holdback
Anderson	1.35%	1.33%
Bedford	0.71%	0.70%
Benton	0.26%	0.25%
Bledsoe	0.22%	0.22%
Blount	2.05%	2.01%
Bradley	1.46%	1.44%
Campbell	0.75%	0.73%
Cannon	0.28%	0.28%
Carroll	0.38%	0.38%
Carter	0.81%	0.80%
Cheatham	0.92%	0.91%
Chester	0.22%	0.21%
Claiborne	0.54%	0.53%
Clay	0.14%	0.14%
Cocke	0.65%	0.63%
Coffee	0.93%	0.91%
Crockett	0.17%	0.16%
Cumberland	0.94%	0.92%
Davidson	10.90%	10.68%
Decatur	0.18%	0.17%
DeKalb	0.38%	0.37%
Dickson	0.97%	0.95%
Dyer	0.48%	0.47%
Fayette	0.52%	0.51%
Fentress	0.37%	0.36%
Franklin	0.62%	0.60%
Gibson	0.64%	0.63%
Giles	0.45%	0.44%
Grainger	0.36%	0.35%
Greene	1.06%	1.04%
Grundy	0.27%	0.26%
Hamblen	0.93%	0.91%
Hamilton	4.79%	4.69%
Hancock	0.11%	0.11%
Hardeman	0.33%	0.33%
Hardin	0.43%	0.42%
Hawkins	0.92%	0.90%
Haywood	0.20%	0.19%

Tennessee Opioid Abatement Fund
Initial County Allocation Percentages

Posted 11/5/21

Henderson	0.39%	0.38%
Henry	0.47%	0.46%
Hickman	0.48%	0.47%
Houston	0.16%	0.15%
Humphreys	0.29%	0.28%
Jackson	0.22%	0.22%
Jefferson	0.77%	0.76%
Johnson	0.22%	0.22%
Knox	8.00%	7.84%
Lake	0.11%	0.11%
Lauderdale	0.32%	0.32%
Lawrence	0.67%	0.66%
Lewis	0.21%	0.21%
Lincoln	0.48%	0.47%
Loudon	0.78%	0.76%
Macon	0.37%	0.37%
Madison	1.17%	1.15%
Marion	0.46%	0.45%
Marshall	0.54%	0.52%
Mauzy	1.38%	1.35%
McMinn	0.82%	0.80%
McNairy	0.35%	0.34%
Meigs	0.19%	0.19%
Monroe	0.68%	0.66%
Montgomery	3.12%	3.06%
Moore	0.10%	0.09%
Morgan	0.39%	0.38%
Obion	0.43%	0.42%
Overton	0.38%	0.37%
Perry	0.14%	0.14%
Pickett	0.08%	0.08%
Polk	0.25%	0.24%
Putnam	1.12%	1.09%
Rhea	0.51%	0.50%
Roane	0.97%	0.95%
Robertson	1.21%	1.19%
Rutherford	4.82%	4.72%
Scott	0.34%	0.33%
Sequatchie	0.25%	0.24%
Sevier	1.58%	1.55%
Shelby	11.39%	11.16%
Smith	0.35%	0.34%
Stewart	0.26%	0.25%

Tennessee Opioid Abatement Fund
Initial County Allocation Percentages

Posted 11/5/21

Sullivan	2.34%	2.30%
Sumner	2.87%	2.81%
Tipton	0.85%	0.83%
Trousdale	0.20%	0.20%
Unicoi	0.29%	0.29%
Union	0.33%	0.33%
Van Buren	0.09%	0.09%
Warren	0.65%	0.63%
Washington	1.69%	1.65%
Wayne	0.25%	0.25%
Weakley	0.47%	0.46%
White	0.44%	0.43%
Williamson	2.48%	2.43%
Wilson	2.17%	2.13%
2% Hold Back	0.00%	2.00%
Total Tennessee	100.00%	100.00%

Tennessee State-Subdivision Opioid Abatement Agreement – 2023 Amendments

The Tennessee State-Subdivision Opioid Abatement Agreement is amended as follows:

Amendment 1:

Pursuant to Section IV.A, this Agreement shall apply to the following Statewide Opioid Settlement Agreements, should they become effective:

- A. Allergan Public Global Opioid Settlement Agreement
- B. CVS Settlement Agreement
- C. Teva Global Opioid Settlement Agreement
- D. Walgreens Settlement Agreement
- E. Walmart Settlement Agreement

Amendment 2:

To allow for efficiency and more streamlined accounting, the fifth sentence in Section III.E.2 of the Agreement (“These redirected funds to certain counties shall be spent on future opioid abatement and shall be subject to the same statutory requirements as the Abatement Accounts Fund money the county receives from the Tennessee Opioid Abatement Fund.”) shall be considered deleted and given no effect.

Amendment 3:

Notwithstanding the exception provisions in Section IV.B.3 and Section V.C. of the Agreement, Section V shall apply to funds from the Endo International plc bankruptcy (*In re Endo International plc, et al.*, U.S. Bankruptcy Court, S.D.N.Y, No. 22-22549). As they have received funds from a prior settlement with Endo, the following counties shall not receive a share of the 35% of proceeds directed to counties pursuant to Section V.B: Carter, Greene, Hamblen, Hancock, Hawkins, Johnson, Sullivan, Unicoi and Washington. However, nothing in this agreement shall limit the Opioid Abatement Council’s discretion in whether or not to approve any requested allocation from the remaining Endo proceeds or other funds to these counties or the municipalities participating in that prior settlement.

Note on adoption of amendments:

Amendment 1 shall be effective if approved as set forth in Section IV.B.2 of the Agreement. Amendments 2 and 3 shall be effective if approved as set forth in Section VII.D of the Agreement.

Tennessee State-Subdivision Opioid Abatement Agreement – 2024 Amendments

In addition to being asked to join the new Kroger settlement, Tennessee local governments are also being asked to approve two amendments to the Tennessee State-Subdivision Opioid Abatement Agreement. We summarize these proposed amendments below. The settlement participation packet being sent to counties and qualifying municipalities by the national administrator will also include a form to approve the two amendments. This is the same process used to approve Amendments 1-3 last year.

The full text of the proposed amendments can be found on the following page.

Summary of Amendment 4:

This amendment applies the terms of the State-Subdivision Agreement to the new settlement with Kroger. This amendment ensures the structure and procedures that apply to prior opioid settlements with the three national pharmaceutical distributors, pharmacy chains, and manufacturers will be the same for the new settlement. For example, the formula for using overdose and other data to allocate funds among the counties would be the same for the new agreements as with the existing ones.

Summary of Amendment 5:

This amendment adds language in the State-Subdivision Agreement to directly address what happens when a settlement uses the subdivision allocation list in the Janssen Settlement's Exhibit G or another prior opioid agreement. The current language in Section III.E.2, which involves reallocating settlement funds from certain municipalities to their respective counties, could potentially be misinterpreted to apply when allocation lists from prior agreements are used in new settlements. (The Janssen Exhibit G subdivision allocation list is used in the Kroger agreement and in the five settlements approved last year.) This amendment clarifies that when a settlement adopts Janssen Exhibit G or another prior opioid allocation list, there is no need for additional adjustments based on Section III.E.2. (The amendment does not limit a municipality's ability to direct its payments to its county if it chooses to do so.)

Following Page: Text of Amendments

On the next page is the text of the amendments, which are set out as they should appear in the settlement packets from the national administrator.

Tennessee State-Subdivision Opioid Abatement Agreement – 2024 Amendments

The Tennessee State-Subdivision Opioid Abatement Agreement, initially amended in 2023 with three amendments, is further amended as follows:

Amendment 4:

Pursuant to Section IV.A, this Agreement shall apply to the following Statewide Opioid Settlement Agreements, should it become effective:

- A. Kroger Settlement Agreement

Amendment 5:

To clarify that when a future settlement adopts the subdivision allocation in Exhibit G from the J&J/Janssen Settlement Agreement or another prior settlement there is no need to make additional adjustments pursuant to Section III.E.2, the following sentence shall apply as if it were added to the end of footnote 5 on page 4 of the agreement:

Additionally, should a future settlement adopt, as a default provision, the subdivision allocation list in Exhibit G from the J&J/Janssen Settlement Agreement or another prior opioid settlement agreement, then such list of Tennessee subdivisions shall be the default subdivision allocation list for that future settlement, and there is no need to make additional adjustments pursuant to Section III.E.2.

Note on adoption of amendments:

Amendment 4 shall be effective if approved as set forth in Section IV.B.2 of the Agreement. Amendment 5 shall be effective if approved as set forth in Section VII.D of the Agreement.

COUNCIL COMMUNICATION

Meeting Date: 7/18/2024

Item Title: Community Development FY25 Annual Action Plan

Department: Community Development

Presented by: Robert Holtz, Director of Community Development

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

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

Staff Recommendation

Approve the FY25 Annual Action Plan and Subrecipient Awards.

Background Information

The City is required to develop an Annual Action Plan to serve as documentation of goals and objectives for its community developments projects. This plan supports utilization of CDBG funding for the FY25. The CDBG allocation for FY25 is \$928,101 and HOME allocation is \$409,794.

Two Public Meetings were held for the Action Plan on March 27, 2024 and June 12, 2024.

The City will submit its FY25 Annual Action Plan with list of projects funded with 2024 CDBG program to HUD before August 15. The draft plan is available on the Community Development website. Future funding authorizations will be presented to Council based on the Action Plan.

Council Priorities Served

Responsible budgeting

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

Fiscal Impact

The grants, totaling \$1,337,895, will fund the City's Community Development FY25 program.

Attachments

FY25 Annual Action Plan One-Pager

FY25 Draft Annual Action Plan



PROGRAM YEAR 2024 ANNUAL ACTION PLAN

The City of Murfreesboro’s **2024 Program Year Annual Action Plan** covers the timeframe from July 1, 2024 to June 30, 2025. The Annual Action Plan identifies projects to address community development and housing needs in areas with the greatest concentrations of poverty and blight. Nonprofit agencies submitted applications to assist the City in carrying out this important work. These applications were vetted, and the agencies listed below were awarded funds to provide services that principally benefit low-to-moderate-income individuals in the City. The Plan also serves as the funding application for the City’s **Community Development Block Grant (CDBG)** and **HOME Investment Partnerships Act (HOME) Program**.

The City held an initial Public Review Meeting to solicit comments on the draft 2024 Action Plan at **5:30 P.M. on Wednesday, March 27, 2024 at Murfreesboro Airport Business Center located at 1930 Memorial Blvd.; Murfreesboro, TN 37130**. Additionally, the City made copies of the 2024 Action Plan available for examination and comment by the public at the public hearing scheduled for a **30-day period commencing on Tuesday, March 19, 2024 and ending on Monday, April 22, 2024**. A second Public Review Meeting is scheduled for **Wednesday, June 12, 2024, at Murfreesboro Airport Business Center located at 1930 Memorial Blvd., Murfreesboro, TN 37130**. Copies of the 2024 Action Plan are available for examination and comment by the public for a **30-day period commencing Tuesday, May 21, 2024 and ending on Monday, June 24, 2024**. The plan was available for review in hard copy at the City’s Community Development Department and on the City’s Community Development website: <https://www.murfreesborotn.gov>. Funding allocations for Program Year 2024 are as listed below:

2024 CDBG ALLOCATION FUNDING \$928,101	
Planning & Administration	\$185,620.20
Public Service Allocations	\$128,500.00
<i>Community Helpers</i>	\$25,000.00
<i>Domestic Violence Program</i>	\$25,000.00
<i>Endure Athletics</i>	\$25,000.00
<i>Greenhouse Ministries</i>	\$25,000.00
<i>Possibility Place</i>	\$25,000.00
<i>Fair Housing Activities</i>	\$3,500.00
Single Family Housing Rehabilitation	\$250,000.00
Affordable Housing Assistance	\$100,000.00
Public Infrastructure	\$263,980.80
TOTAL	\$928,101.00

2024 HOME ALLOCATION FUNDING \$409,794	
Planning & Administration	\$40,979.40
Community Housing Development Organization (CHDO) 15% Set-Aside	\$61,469.10
Community Housing Development Organization (CHDO) Operating 5% Set-Aside	\$20,489.70
Murfreesboro Housing Authority New Construction of Affordable Housing	\$246,855.80
Doors of Hope Rehabilitation of Rental Property	\$40,000.00
TOTAL	\$409,794.00



ANNUAL ACTION PLAN



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

2024
2025

Annual Action Plan
2024

Table of Contents

Executive Summary.....	3
AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)	3
PR-05 Lead & Responsible Agencies – 91.200(b).....	6
AP-10 Consultation – 91.100, 91.200(b), 91.215(l).....	7
AP-12 Participation – 91.105, 91.200(c)	11
Expected Resources	12
AP-15 Expected Resources – 91.220(c)(1,2)	12
Annual Goals and Objectives	15
Projects	17
AP-35 Projects – 91.220(d)	17
AP-38 Project Summary	18
AP-50 Geographic Distribution – 91.220(f).....	23
Affordable Housing	24
AP-55 Affordable Housing – 91.220(g)	24
AP-60 Public Housing – 91.220(h).....	25
AP-65 Homeless and Other Special Needs Activities – 91.220(i).....	26
AP-75 Barriers to affordable housing – 91.220(j)	28
AP-85 Other Actions – 91.220(k)	29
Program Specific Requirements.....	31

Executive Summary

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

1. Introduction

As a recipient of federal grant funds, the City of Murfreesboro is required to submit a Consolidated Plan every five years and an Annual Action Plan every year. The Action Plan also serves as the application for funding for the Community Development Block Grant (CDBG) federal entitlement program that serves low-income individuals and families and the HOME Investment Partnerships Program (HOME) as a participating jurisdiction.

The City of Murfreesboro's Annual Action Plan is mandated by federal law and regulations promulgated by the U.S. Department of Housing and Urban Development (HUD) in order for the City to receive federal funding for affordable housing and community development initiatives benefitting primarily low- and moderate-income persons. The Annual Action Plan must be prepared and submitted to HUD 45 days before the beginning of the City's program year, which runs from July 1 through June 30 each year. This plan covers fiscal years 2024-2025.

2. Summarize the objectives and outcomes identified in the Plan

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

- **Public Service Needs:**
 - Additional need for permanent supportive housing programs
 - Lack of facilities and services for unsheltered homeless persons

- **Affordable Housing Needs:**
 - There is a need for additional emergency shelter & transitional housing beds
 - Limited finance resources of local agencies with rapid re-housing programs
 - Lack of low-income rental housing in Murfreesboro
 - Acquisition, Senior housing and Owner-Occupied Housing Rehabilitation among top housing needs

- **Other Needs:**
 - Fair Housing Education

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

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

The CAPER presents the City’s progress in carrying out projects and activities according to the Program Year (PY) 2022 Annual Action Plan for the Community Development Block Grant (CDBG) funds received from the United States Department of Housing and Urban Development (HUD). The City of Murfreesboro successfully utilized CDBG funds by increasing affordable housing for low- and moderate-income persons. The City also allocated CDBG to local nonprofit organizations to provide essential social services for the homeless, LMI persons, and non-homeless special needs population.

The City of Murfreesboro received \$1,071,332 in CDBG funding for 2022 and expended a total of \$2,991,575.12 and \$816,996.48 in CDBG-CV Funding. Below is a summary of the City’s 2022 expenditures and accomplishments:

GOALS	EXPENDITURES	ACCOMPLISHMENTS
Affordable Housing		
<i>Housing Rehabilitation</i>	\$72,774.91	7
<i>Homeownership Assistance</i>	\$161,650.81	16
Public Service Grants	\$127,708.00	1044
Public Service Grants – CDBG-CV	\$22,663.08	10
Fair Housing	\$800.00	25
Public Facilities	\$1,612,751.80	100
Public Facilities – CDBG-CV	\$783,885.00	100
Administration & Planning CDBG	\$195,893.12	1
Administration & Planning CDBG-CV	\$13,448.40	1
TOTAL	\$2,991,575.12	1,304

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The City held an initial Public Review Meeting to solicit comments on the draft 2024 Action Plan at **5:30 P.M. on Wednesday, March 27, 2024** at **Murfreesboro Airport Business Center located at 1930 Memorial Blvd. Murfreesboro, TN 37129**. Additionally, the City made copies of the 2024 Action Plan available for examination and comment by the public at the public hearing scheduled for a 30-day period commencing on **Tuesday, March 19, 2024** and ending on **Monday, April 22, 2024**. A second Public Review Meeting will be held on **Wednesday, June 12, 2024** at 5:30pm at **Murfreesboro Airport Business Center** located at 1930 Memorial Blvd. Murfreesboro, TN 37130

to receive comments on the draft Plans and CDBG and HOME final allocations. The plan was available for review in hard copy at the City's Community Development Department and on the City's Community Development website: <http://www.murfreesborotn.gov>.

5. Summary of public comments

Comments from the meeting have been included in the Plan.

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

All comments were accepted

7. Summary

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

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

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

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

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

Table 1 – Responsible Agencies

Narrative

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

Consolidated Plan Public Contact Information

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McFadden Community Center
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Room 136
Murfreesboro, TN 37129
Phone: 615-890-4660
Fax: 615-217-2260

AP-10 Consultation – 91.100, 91.200(b), 91.215(l)

1. Introduction

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

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

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

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

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

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

City of Murfreesboro staff participates with the United Way of Rutherford and Cannon Counties and area service providers to enhance the community's comprehensive Continuum of Care system to end

homelessness. This dynamic partnership includes collaborative efforts of a variety of community groups, government agencies. The United Way of Rutherford and Cannon Counties serves as the Lead Agency and has been designated of the CoC as the Collaborative Applicant to apply for the HUD CoC grant. The City enhances coordination of public, private, and nonprofit housing providers, human service agencies, and social service providers through the following actions:

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

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

The City attends general membership meetings with United Way of Rutherford and Cannon Counties, the lead entity for the Continuum of Care (CoC). The City allocates ESG funding based on need in the community.

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

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

	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting
3	Agency/Group/Organization	Doors of Hope
	Agency/Group/Organization Type	Services - Homeless
	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting
4	Agency/Group/Organization	The Journey Home
	Agency/Group/Organization Type	Housing/Homeless
	What section of the Plan was addressed by Consultation?	Housing Needs Assessment Homeless Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted through a Needs Assessment Meeting

Table 2 – Agencies, groups, organizations who participated

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

All entities were considered for consultation.

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

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

Table 3 – Other local / regional / federal planning efforts

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

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

Narrative (optional):

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

AP-12 Participation – 91.105, 91.200(c)

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

City of Murfreesboro Community Development staff worked with the community in developing goals and objectives. The developed goals are a result of feedback from the community regarding issues to be resolved and projects in need of funding. The City has an adopted Citizen Participation Plan to ensure consistent outreach efforts.

The City held an initial Public Review Meeting to solicit comments on the draft 2024 Action Plan at **5:30 P.M. on Wednesday, March 27, 2024 at Murfreesboro Airport Business Center located at 1930 Memorial Blvd. Murfreesboro, TN 37129**. Additionally, the City made copies of the 2024 Action Plan available for examination and comment by the public at the public hearing scheduled for a 30-day period commencing on **Tuesday, March 19, 2024** and ending on **Monday, April 22, 2024**. A second Public Review Meeting will be held upon the release of the 2024 HUD CDBG and HOME final allocations. The plan was available for review in hard copy at the City's Community Development Department and on the City's Community Development website: <http://www.murfreesborotn.gov>.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/ attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	2 Public Hearings	Non-targeted/ broad community	4 persons attended the meeting	None	None	n/a
2	Newspaper Ad	Non-targeted/ broad community	The public was notified of the public meetings via a newspaper ad	The City did not receive any comments based solely on the newspaper ad.	All comments were accepted	n/a

Table 4 – Citizen Participation Outreach

Expected Resources

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

Introduction

The City of Murfreesboro uses multiple resources to carry out activities that benefit low and moderate-income persons. Murfreesboro receives Community Development Block Grant and HOME Investment Partnerships funding. The Community Development Division administers the funding on behalf of the City. The City of Murfreesboro was allocated a total of \$928,101 in CDBG funding and \$409,794 in HOME funding for the 2024 Fiscal Year. The City is not a direct Emergency Solutions Grant (ESG) or Housing Opportunities for People with AIDS (HOPWA) recipient. Additionally, the City does not anticipate receiving any program income.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of Con Plan	Narrative Description
			Annual Allocation	Program Income	Prior Year Resources	Total		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	\$928,101	\$0	\$0	\$928,101	\$928,101	Community Development Block Grant 2024-2025 program year allocation; Estimated Program Income and Prior Year Resources.
HOME	public - federal	Affordable Housing; Administration	\$409,794	\$0	\$0	\$409,794	\$409,794	HOME funds will leverage other federal, local, and private funds. Subrecipient or developers supply 25% match of HOME funds.

Table 5 - Expected Resources – Priority Table

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

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

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

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

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

Discussion

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

The Housing Opportunity for Persons with AIDS (HOPWA) grantee for the Nashville-Davidson-Murfreesboro-Franklin MSA is Metropolitan Housing and Development Agency (MDHA) in Nashville, TN. The City consults with MDHA regarding HOPWA allocations. The City is not a direct recipient of any funds covered in §91.2(b).

The United Way of Rutherford and Cannon Counties is the Collaborative Applicant for Continuum of Care TN-510 (Murfreesboro and Rutherford County). On February 26, 2024, HUD announced the 2023 awards to TN-510 agencies totaling \$769,680 in its Continuum of Care (CoC) housing competition.

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

Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	CDBG Administration & Planning	2024	2025	Community Development	Citywide	Provide Administration & Planning	CDBG \$185,620.20	Other: Planning & Administration
2	Fair Housing	2024	2025	Community Development	Citywide	Affirmatively Furthering Fair Housing Choice	CDBG \$3,500.00	Affirmatively Furthering Fair Housing Activities
3	Provide Public Services	2024	2025	Community Development	Citywide	Public Services	CDBG \$125,000.00	Number of low-income persons served
4	Public Infrastructure	2024	2025	Community Development	Citywide	Public Facilities	CDBG \$263,980.80	Number of low-income persons served in area
5	Affordable Housing Activities: DPA	2024	2025	Affordable Housing	Citywide	Affordable Housing	CDBG \$100,000.00	Number of units acquired
6	Housing Rehabilitation Homeowner & Rental	2024	2025	Affordable Housing	Affordable Housing	Citywide	Housing Affordability	CDBG - \$250,000 HOME - \$40,000
7	HOME Administration & Planning	2024	2025	Affordable Housing	Citywide	Provide Administration & Planning	HOME \$40,979.40	Other: Planning & Administration
8	CHDO 15% Set-Aside	2024	2025	Affordable Housing	Citywide	Affordable Housing	HOME \$61,469.10	Affordable Housing Activities
9	CHDO Operating 5% Set-Aside	2024	2025	Affordable Housing	Citywide	Affordable Housing	HOME \$20,489.70	CHDO Operating
10	Affordable Housing Activities: New Construction	2024	2025	Affordable Housing	Citywide	Affordable Housing	HOME - \$246,855.80	New Construction
TOTAL							\$1,337,895.00	

Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.215(b)

The City anticipates serving at least 2 households with affordable housing as defined by HOME 91.215 (b).

Goal Descriptions

Goal Name: Planning and Administration
Goal Descriptions: Administrative and planning costs to operate the CDBG & HOME program successfully
Goal Name: Affirmatively Furthering Fair Housing Choice
Goal Description: Support targeted fair housing activities such as fair housing education, complaint handling services, and enforcement.
Goal Name: Provide Public Services
Goal Description: Provision of public services for projects that provide supportive services to low and moderate-income households and persons
Goal Name: Public Infrastructure
Goal Description: Facility renovations in low- and moderate-income areas
Goal Name: Owner-Occupied Housing Rehabilitation
Goal Description: Support housing rehabilitation for low-income homeowners and rental rehabilitation for low-income renters.
Goal Name: Affordable Housing & CHDO 15% Set-Aside and 5% Operating
Goal Description: Community Housing Development Organization Set-Aside for housing rehabilitation, new construction, or acquisition.

Table 6 – Goals Summary

Projects

AP-35 Projects – 91.220(d)

Introduction

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

Projects

Sort	Project Title
1	CDBG Administration & Planning
2	Fair Housing Activities
3	Public Services
4	Single Family Housing Rehabilitation Grants
5	Public Facility Projects
6	Down Payment Assistance – CDBG
7	HOME Program Administration and Planning
8	CHDO 15% Set-aside
9	CHDO 5% Set-aside
10	Murfreesboro Housing Authority
11	Doors of Hope - Rental Housing Rehabilitation Grants

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

The projects were selected to meet identified needs in the community with the resources provided. Limited financial resources are the greatest obstacle to meeting the City's underserved needs. Murfreesboro will continue to estimate allocations for this Consolidated Plan period based on the final allocation amount and the priorities identified in the PY2020-2024 Consolidated Plan, community input, qualified requests for funding, and Community Development Department, and City Council. The City recognizes there are multiple needs for low and moderate-income persons in the City that are met through the use of CDBG and HOME funds. These needs include access to affordable housing for low and moderate-income persons, services for homeless and at-risk populations, increased capacity for public services and addressing community development needs. The City prioritizes grant allocations by ensuring that all proposed projects will:

- Directly benefit low and moderate-income persons or households as defined by HUD's Income Limit Guidelines based on the Nashville-Davidson-Murfreesboro-Franklin Metropolitan Statistical Area (MSA); or
- Take place in an area where more than 51% of the population is lower income according to HUD Income Limits.

AP-38 Project Summary

Project Summary Information

1	Project Name	CDBG Administration & Planning
	Target Area	Citywide
	Goals Supported	CDBG Administration & Planning
	Needs Addressed	Provide Administration & Planning
	Funding	\$185,620.20
	Description	Provide the administrative structure for the planning, implementation, and management of the CDBG grant program.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	N/A
	Location Description	Citywide
	Planned Activities	Provide the administrative structure for the planning, implementation, and management of the CDBG grant program.
2	Project Name	Fair Housing Activities
	Target Area	Citywide
	Goals Supported	Fair Housing
	Needs Addressed	Affirmatively Furthering Fair Housing
	Funding	\$3,500
	Description	The City will provide fair housing outreach and education on the fair housing law.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	100
	Location Description	Citywide
	Planned Activities	The City will provide fair housing outreach and education on the fair housing law.
3	Project Name	Provide Public Services
	Target Area	Citywide
	Goals Supported	Provide Public Services
	Needs Addressed	Public Services
	Funding	\$125,000

	Description	Delivery of vital public services for low- to moderate-income households throughout the City of Murfreesboro, TN.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	100
	Location Description	Citywide
	Planned Activities	Delivery of vital public services for low- to moderate-income households throughout the City of Murfreesboro, TN.
4	Project Name	Single Family Housing Rehabilitation Grants
	Target Area	Citywide
	Goals Supported	Housing Rehabilitation
	Needs Addressed	Housing Affordability
	Funding	\$250,000
	Description	Funds for housing repairs of single-family homes for LMI homeowners.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	50
	Location Description	Citywide
	Planned Activities	Funds for housing repairs of single-family homes for LMI homeowners.
5	Project Name	Public Facility/Infrastructure Projects
	Target Area	Citywide
	Goals Supported	Public Facility/Infrastructure Projects
	Needs Addressed	Public Facility/Infrastructure Projects
	Funding	\$263,980.80
	Description	Public Improvements could include but not limited to roads, sidewalks, accessibility improvements & beautification projects.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	1,500
	Location Description	Citywide
	Planned Activities	Public Improvements could include but not limited to roads, sidewalks, accessibility improvements & beautification projects.

6	Project Name	Affordable Housing: Down Payment Assistance - CDBG
	Target Area	Citywide
	Goals Supported	Affordable Housing
	Needs Addressed	Provide Administration & Planning
	Funding	\$100,000
	Description	Down Payment Assistance will be provided to eligible first-time home buyers.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	Down Payment Assistance will be provided to 5 qualified first-time home buyers.
	Location Description	Citywide
Planned Activities	The City will provide first-time homebuyers with funds for down payment assistance to purchase a home.	
7	Project Name	HOME Program Administration and Planning
	Target Area	Citywide
	Goals Supported	Affordable Housing
	Needs Addressed	Provide Administration & Planning
	Funding	\$40,979.40
	Description	Provide the administrative structure for the planning, implementation, and management of the HOME grant program.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	N/A
	Location Description	Citywide
Planned Activities	Provide the administrative structure for the planning, implementation, and management of the HOME grant program.	
8	Project Name	CHDO 15% Set-aside
	Target Area	Citywide
	Goals Supported	
	Needs Addressed	Affordable Housing
	Funding	\$61,469.10
	Description	Community Housing Development Organization Set-Aside for housing rehabilitation, new construction, or acquisition.
	Target Date	6/30/2025

	Estimate the number and type of families that will benefit from the proposed activities	10
	Location Description	Citywide
	Planned Activities	Community Housing Development Organization Set-Aside for housing rehabilitation, new construction, or acquisition.
9	Project Name	CHDO 5% Set-aside
	Target Area	Citywide
	Goals Supported	Affordable Housing
	Needs Addressed	Affordable Housing Operating Assistance
	Funding	\$20,489.70
	Description	Provide the administrative structure for the implementation and management of CHDO grant funds.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	10
	Location Description	Citywide
Planned Activities	Provide the administrative structure for the implementation and management of CHDO grant funds.	
10	Project Name	Affordable Housing: New Construction
	Target Area	Citywide
	Goals Supported	Affordable Housing
	Needs Addressed	New Construction of Housing
	Funding	\$246,855.80
	Description	The Affordable Housing program will construct or acquire property. The amount units are TBD.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	10
	Location Description	Citywide
Planned Activities	The Affordable Housing program will construct or acquire property through the Murfreesboro Housing Authority. The amount units are 10.	

		Affordable Housing: Rental Housng Rehabilitation
11	Target Area	Citywide
	Goals Supported	Housing Rehabilitation
	Needs Addressed	Housing Affordability
	Funding	\$40,000
	Description	Funds for housing repairs of rental units for LMI renters.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	2
	Location Description	Citywide
	Planned Activities	Funds for housing repairs of rental units for LMI renters.

Table 7 - Project Information

AP-50 Geographic Distribution – 91.220(f)

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

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

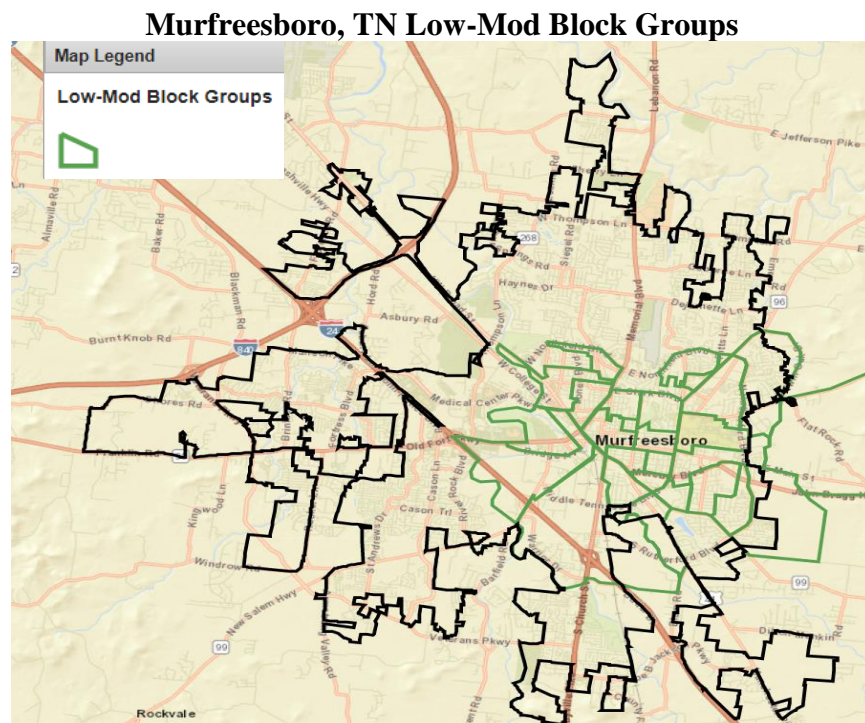
Geographic Distribution

Target Area	Percentage of Funds
Citywide	80%

Table 8 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

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



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

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

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

One Year Goals for the Number of Households to be Supported	
Homeless	500
Non-Homeless	1,500
Special-Needs	0
Total	2,000

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

One Year Goals for the Number of Households Supported Through	
Rental Assistance	0
The Production of New Units	2
Rehab of Existing Units	5
Acquisition of Existing Units	5
Total	12

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

AP-60 Public Housing – 91.220(h)

Introduction

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

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

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

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

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

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

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

The MHA is not designated as troubled and is considered a high performer with a score of 67. PHAs scoring 59 (on a scale of 100) or lower are designated as "troubled." PHAs scoring 90 or higher are designated as "high performing," and those with scores of 60-89 are "standard" or "substandard."

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

Introduction

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

The 2024 ESG allocation from the state agency will fund emergency shelter, rapid re-housing, and homeless prevention services that are projected to assist homeless and at-risk of homeless beneficiaries. The identified projects target homeless individuals and families who lack the resources to regain stable housing independently. Programs are designed to connect clients with the services necessary to ensure they move from emergency shelter to transitional or permanent housing.

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

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

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

The City participates in and supports local efforts of the United Way of Rutherford and Cannon Counties and other local agencies in its initiatives and projects. Murfreesboro will also continue to support organizations that assess the needs of the homeless to create a more robust social service system to address unmet needs.

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

Addressing the emergency shelter and transitional housing needs of homeless persons

The City supports efforts to decrease or end homelessness in Murfreesboro and supports the local Continuum of Care initiatives. The City of Murfreesboro does not receive a direct ESG allocation. It, therefore, relies on the allocation received by the agencies applying to the Continuum of Care to address

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

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

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

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

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

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

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

Introduction:

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

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

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

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

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

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

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

AP-85 Other Actions – 91.220(k)

Introduction:

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

Actions planned to address obstacles to meeting underserved needs

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

Actions planned to foster and maintain affordable housing

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

Actions planned to reduce lead-based paint hazards

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

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

Actions planned to reduce the number of poverty-level families

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

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

Actions planned to develop institutional structure

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

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

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

Program Specific Requirements

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

Introduction:

The Consolidated Plan addresses the issue of meeting underserved needs of the City residents through a variety of initiatives. Several of these initiatives are proposed for funding in this Annual Action Plan. However, the primary obstacle to alleviating these needs is a lack of funding.

Community Development Block Grant Program (CDBG)
Reference 24 CFR 91.220(l)(1)

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

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

Other CDBG Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Period of Affordability Under Recapture Provisions

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

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

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

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: NEOGOV Attract System Agreement
Department: Human Resources
Presented by: Randolph Wilkerson, Director of Human Resources
Requested Council Action:

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

Summary

Agreement with NEOGOV Attract system for virtual recruiting to online access to over 250,000 job applicants in the Southeast and over 1.9 million job applicants across the US.

Staff Recommendation

Approve agreement with NEOGOV Attract to provide virtual recruiting for online access.

Background Information

After thoroughly researching systems available to improve the City's recruiting and hiring capabilities, staff recommends adding the Attract system to its current operating system platform with NEOGOV. Attract will allow staff to enhance its recruiting productivity and efficiencies at job fairs, have immediate access to applicants who apply for jobs, and cast a broader net to candidates across the US. Attract will allow staff to have access to over 1.9 million public sector applicants who are open to job opportunities

The expense of the system is \$27,507 for the first year with auto-renewal options over multiple years. The total anticipated expense for the agreement for three years is \$70,201. The cost of the agreement for the first year will be funded with the Department's FY25 operating budget.

Council Priorities Served

Establish strong City brand and Responsible budgeting

The Attract system will allow access to high-quality job applicants, improve recruiting productivity and efficiency, and provide an opportunity to better manage recruiting costs.

Fiscal Impact

The FY25 expense, \$27,507, is funded by the Department's operating budget.

Attachment

NEOGO Attract agreement

Exhibit A
Order Form



NEOGOV

Governmentjobs.com, Inc. (dba "NEOGOV")
2120 Park Pl, Suite 100
El Segundo, CA 90245
United States
billing@neogov.com
Sales Rep: Mitch Boland

Customer:

Murfreesboro, City of (TN)
111 West Vine Street
P.O. Box 1139
Murfreesboro, TN 37133
USA

Quote Valid From: 1/25/2024
Quote Valid To: 7/31/2024

Quote Number: Q-14386
Payment Terms: Annual, Net 30
Subscription Term in Months: 12

Employee Count: 1,128
Order Summary

Year 1

5% discount on the Subscription fee.
30% discount on the Setup fee.

Service Description	Type	Start Date	End Date	Term Price (USD)
Attract Subscription	RECURRING	7/1/2024	6/30/2025	\$21,347.45
Attract Setup	ONE-TIME			\$6,160.00
Year 1 TOTAL:				\$27,507.45

ORDER TOTAL (USD) : **\$27,507.4**

A. Terms and Conditions

1. Agreement. This Ordering Document and the Services purchased herein are expressly conditioned upon the acceptance by Customer of the terms of the NEOGOV Services Agreement either affixed hereto or the version most recently published prior to execution of this Ordering Form available at <https://www.neogov.com/service-specifications>. Unless otherwise stated, all capitalized terms used but not defined in this Order Form shall have the meanings given to them in the NEOGOV Services Agreement.
2. Effectiveness & Modification. Neither Customer nor NEOGOV will be bound by this Ordering Document until it has been signed by its authorized representative (the "Effective Date"). Unless otherwise stated in this Ordering Document, all SaaS Subscriptions shall commence on the Effective Date. This Ordering Document may not be modified or amended except through a written instrument signed by the parties.
3. Summary of Fees. Listed above is a summary of Fees under this Order. Once placed, your order shall be non-cancelable and the sums paid nonrefundable, except as provided in the Agreement.
4. Order of Precedence. This Ordering Document shall take precedence in the event of direct conflict with the Services Agreement, applicable Schedules, and Service Specifications.

B. Special Conditions (if any).

**"Murfreesboro, City
of (TN)"**

NEOGOVS

Signature:

Signature:

DocuSigned by:

Laura Rice

418B916484744BA...

Print Name:

Shane McFarland

Print Name:

Laura Rice

Date:

Date:

7/10/2024

APPROVED BY

Adam Tucker

43A2035E51F9401

Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Update Policy No. 3023, 4010, and 1009

Department: Human Resources

Presented by: Randolph Wilkerson, HR Director

Requested Council Action:

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

Summary

Update Policy No. 3023 Federal Trade Administration (FTA) Drug and Alcohol Policy-City of Murfreesboro, Policy No. 4010 Uniforms, Shoes, and Equipment, and Policy No.1009 OT Pay and Compensatory Time for Non-Exempt Employees.

Staff Recommendation

Approve updates to Policy No. 3023 FTA Drug and Alcohol Policy – City of Murfreesboro, Policy No. 4010 Uniforms, Shoes, and Equipment, and Policy No.1009 OT Pay and Compensatory Time for Non-Exempt Employees.

Background Information

The Federal Transit Administration mandates that all employees, including applicants and transferees, who perform or will perform an FTA "safety-sensitive function" as defined in 49 CFR 655.4, must undergo drug and alcohol testing as a condition of employment. Due to changes in FTA policies and regulations over the past decade, we have revised Policy No. 3023, FTA Drug and Alcohol, to ensure compliance with the current FTA procedures and protocols regarding random, reasonable suspicion, and post-accident drug and alcohol testing.

The City furnishes equipment for certain employees to wear and use during all working hours. Policy No. 4010 Uniforms, Shoes, and Equipment has been updated to allow the value of the voucher for protective footwear to be established as part of the City's annual budgeting process.

The Tennessee Highway Safety Office requires pay practices to match the policies governing pay procedures. Policy No.1009 has been updated regarding how the City currently pays overtime for its police officers and firefighters.

Council Priorities Served

Maintain public safety

Ensuring the City's employees are not under any influence of drugs or alcohol while

working is a responsible means of providing a safe work environment.

Responsible Budgeting

Establishing the value of the vouchers for footwear is required for responsible budget management.

Fiscal Impact

The expense, the vouchers are budgeted and will be funded by the Department's FY25 operating budget.

Attachment

1. Policy No. 3023 FTA Drug and Alcohol Policy – City of Murfreesboro
2. Policy No. 4010 Uniforms, Shoes, and Equipment
3. Policy No. 1009 Overtime Pay and Compensatory Time for Non-Exempt Employees

EMPLOYEE HANDBOOK

Policy No: 3023

Police: FTA Drug and Alcohol Policy – City of Murfreesboro

Effective Date: 02/13/2024

Supersedes Section No: 3023

Dated: 06/07/2012

Purpose of Policy

- 1.1 This policy complies with 49 CFR Part 655, as amended, and 49 CFR Part 40, as amended. Copies of 49 CFR Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.
- 1.2 All Covered Employees, as described in section 2 of this policy, are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655.
- 1.3 Portions of this policy are not FTA-mandated but reflect City of Murfreesboro's policy. These additional provisions are identified by bold text.
- 1.4 In addition, U.S. Department of Transportation (DOT) has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.
- 1.5 All City of Murfreesboro employees are subject to the provisions of the Drug-Free Workplace Act of 1988.
- 1.6 The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify their Department Head no later than five days after such conviction.

2 Covered Employees

- 2.1 This policy applies to every person, including an applicant or transferee, who performs or will perform a Federal Transit Administration (FTA) "safety-sensitive function" as defined in 49 CFR 655.4.
- 2.2 You are a covered employee if you perform any of the following safety-sensitive functions:
 - a. Operating a revenue service vehicle, including when not in revenue service;
 - b. Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
 - c. Controlling movement or dispatch of a revenue service vehicle;
 - d. Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service; or

- e. Carrying a firearm for security purposes.

See Attachment A for a list of covered positions by job title.

3 Prohibited Behavior

- 3.1 Use of illegal drugs is prohibited at all times. Prohibited drugs include:
 - a. marijuana
 - b. cocaine
 - c. opioids
 - d. amphetamines
 - e. phencyclidine (PCP)
- 3.2 All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- 3.3 All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform their safety-sensitive function, the employee must take an alcohol test with a result of less than 0.02 prior to performance.
- 3.4 All covered employees are prohibited from consuming alcohol within four (4) hours prior to performing safety-sensitive job functions.
- 3.5 All covered employees required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until the employee submits to the post-accident drug and alcohol test, whichever occurs first.

4 Consequences for Violations

- 4.1 An employee will immediately cease performing safety-sensitive functions and be provided with contact information for Substance Abuse Professionals (SAPs) following:
 - a. notice from a medical review officer (MRO) that a covered employee has a verified positive drug test result; or
 - b. Notice from a Breath Alcohol Technician (BAT) that a covered employee has a confirmed alcohol test result of 0.04 or greater; or
 - c. Notice a covered employee refuses to submit to a drug or alcohol test required by this part.
- 4.2 Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02.

4.3 Zero Tolerance

Per City of Murfreesboro policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be terminated from employment.

5 Circumstances for Testing

5.1 Pre-Employment Testing

- a. Pre-employment alcohol tests are conducted after making a contingent offer of employment or transfer from a non-safety-sensitive function to a safety-sensitive function. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40. An alcohol test result of less than 0.02 is required before an employee can first perform safety-sensitive functions. If a pre-employment alcohol test is cancelled, the individual will be required to undergo another test with a result of less than 0.02 before performing safety-sensitive functions.
- b. A verified negative pre-employment drug test result is required before an employee or applicant can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another pre-employment drug test and successfully pass with a verified negative result before performing safety-sensitive functions.
- c. If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days regardless of the reason and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test with a verified negative result before performing a safety-sensitive function.
- d. A covered employee or applicant who has previously failed or refused a DOT drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

5.2 Reasonable Suspicion Testing

- a. **All covered employees shall be subject to a drug and/or alcohol test when City of Murfreesboro has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing must be made by a trained supervisor or other trained city official based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.**
- b. **Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.**
- c. **If an alcohol test is not administered within two hours following the reasonable suspicion determination, the City must prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the reasonable suspicion determination, the City must cease attempts to administer an alcohol test and prepare a written record stating the reasons for not administering the test.**

5.3 Post-Accident Testing

a. Pursuant to 49 CFR 655.4, “Accident” means an occurrence associated with the operation of a vehicle, if as a result:

1. An individual dies; or
2. An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
3. With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incur disabling damage as a result of the occurrence and such vehicle, or vehicles are transported away from the scene by a tow truck or other vehicle; or
4. With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.

b. Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

1. **Fatal Accidents**

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests must be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by City of Murfreesboro using the best information available at the time of the decision, must undergo drug and alcohol tests.

2. **Non-fatal Accidents**

As soon as practicable following an accident not involving the loss of a human life in which a public transportation vehicle is involved, drug and alcohol tests must be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- a. The accident results in bodily injuries requiring immediate medical treatment away from the scene of the accident, unless the covered employee can be completely discounted as a contributing factor to the accident;
- b. One or more vehicles incurs disabling damage as a result of the occurrence and must be towed away from the scene of the accident, unless the covered employee can be completely discounted as a contributing factor to the accident; or

- c. The public transportation vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, unless the covered employee can be completely discounted as a contributing factor to the accident.
- 3. In addition, any other covered employee whose performance could have contributed to the accident, as determined by City of Murfreesboro using the best information available at the time of the decision, must undergo drug and alcohol tests.
 - c. If an alcohol test is not administered within two hours following the accident, the City must prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours following the accident, the City must cease attempts to administer the alcohol test and maintain the record. Such records must be submitted to FTA upon request.
 - d. Post-Accident drug tests of a covered employee must be conducted as soon as practicable but within 32 hours of the accident.
 - e. A covered employee subject to post-accident testing must remain readily available, including notifying their supervisor of the employee's location if the employee leaves the scene of the accident prior to submission to a post-accident drug and alcohol test, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
 - f. Any decision not to administer a post-accident drug and/or alcohol test must be based on the City's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test and submitted to Human Resources.

5.4 Random Testing

- a. Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.
- b. Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year's testing rates can be viewed online at www.transportation.gov/odapc/random-testing-rates.
- c. The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.
- d. A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.
- e. Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

6 Testing Procedures

6.1 All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended which may be found at <https://www.ecfr.gov/current/title-49/subtitle-A/part-40>.

6.2 Dilute Urine Specimen

- a. If there is a dilute negative test result, the City of Murfreesboro will accept the test result and there will be no retest unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.
- b. Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR 40.67(a)(3), 49 CFR 40.197(b)).

6.3 Split Specimen Test

- a. In the event of a verified positive test result, or a verified adulterated or substituted result, within 72 hours from the time the employee is notified by the Medical Review Officer (MRO) of the test result, the employee may request that the split specimen be tested at a second laboratory. City of Murfreesboro guarantees that the split specimen test will be conducted in a timely fashion.

- b. If the employee has not requested a test of the split specimen within 72 hours, the employee may present to the MRO information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO (e.g., there was no one in the MRO's office and the answering machine was not working), or other circumstances unavoidably prevented the employee from making a timely request. If the MRO concludes there was a legitimate reason for the employee's failure to contact the MRO within 72 hours, the MRO must direct that the test of the split specimen take place.

7 Test Refusals

7.1 As a covered employee, you have refused to test if you:

- a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by City of Murfreesboro.
- b. Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- c. Fail to provide a specimen for a drug or alcohol test. An employee who does not provide a specimen because the employee has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- d. In the case of a directly observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- e. Fail to provide a sufficient specimen for a drug or alcohol test without a valid medical explanation.
- f. Fail or decline to take a second drug test as directed by the collector or City of Murfreesboro.
- g. Fail to undergo a medical examination or evaluation as required by the MRO as part of the verification process, or City's Designated Employer Representative (DER) under 49 CFR 40.193(c).
- h. Fail to cooperate with any part of the testing process.
- i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly observed urine drug test.

- j. Possess or wear a prosthetic or other device used to interfere with the collection process.
- k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
- l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- m. Fail to remain readily available following an accident.

7.2 As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

7.3 As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions and provided with contact information for SAPs.

8 Contact Person

8.1 For questions about the City of Murfreesboro's anti-drug and alcohol misuse program, contact Human Resources at 615-848-2553

Attachment A: Covered Positions

Transit Operator
Transportation Operations Manager
Transportation Operations Supervisor

Employee Handbook

Policy No: 4010
Policy: Uniforms, Shoes, and Equipment
Effective Date: 04/15/2024
Supersedes Section No: 4010

Dated: 11/18/1999

1. Policy Objectives

- 1.1 This policy aims to establish criteria and standards for the City to furnish uniforms to certain employees to be worn during all normal, prearranged, and emergency work hours. The employees may wear the uniforms only during these times except to and from work.
- 1.2 The employee shall take all reasonable care to keep the uniforms clean and free from damage and shall not alter the uniform without prior permission. The employee shall not wear a button, badge, or other adornment not issued by the City while in uniform.
- 1.3 If the City does not furnish a hat, jacket, or belt buckle with the uniform, the employee may wear the hat, jacket, or belt buckle of the employee's choice provided a supervisor, department head, or City Manager may direct the employee not to wear same when it contains any word(s), letter(s), or message that is crude, sexually explicit, or vulgar.
- 1.4 Should uniforms be snagged or torn, the employee will consult his/her supervisor on whether to repair or replace the uniform. When any uniform becomes damaged or worn to the extent that it no longer provides a neat appearance, the City will replace it.

2. Eligibility to Receive Reimbursement

- 2.1 The City furnishes safety shoes to employees in certain job classifications to be worn during all normal, prearranged, and emergency work hours. The department head shall determine:
 - a) which employees, by job classification, shall be required to wear safety shoes;
 - b) which shoe styles shall be acceptable;
 - c) the department's shoe replacement policy; and
 - d) which employees by job classification shall qualify for more than one pair of safety shoes in a fiscal year:
- 2.2 Once per fiscal year, eligible employees will be provided with a voucher for the purchase of protective footwear, which will be based on the cost of quality work shoes at the time of purchase. The value of the voucher shall be established as part of the City's annual budgeting process.
- 2.3 If an employee chooses to purchase more than one pair of shoes or a pair of shoes the cost of which exceeds the voucher's value, the employee must pay the cost above the voucher's value. An employee is not entitled to any remaining balance if the total value of the safety shoes purchased is below the voucher's maximum value.

3. Using City Equipment

- 3.1 The City furnishes equipment items for certain employees to wear and use during

all normal, prearranged, and emergency work hours.

3.2 Employees may wear or use such equipment only during these times and while traveling to and from work. Employees shall take all reasonable care to maintain issued equipment in good working order.

3.3 Employees shall use the equipment only for appropriate work-related purposes.

4. Care of Uniforms and Equipment

4.1 Employees must take reasonable care of all uniforms and equipment issued to them by the City and return such items in good condition, ordinary wear and tear excepted, when their employment with the City ends.

4.2 An employee shall not be held financially liable for the loss of or damage to a City-issued motor vehicle or equipment, except for loss and damages caused by the employee's intentional acts. An employee, however, may be held financially liable for the loss of or damage to uniforms if the employee's negligence causes such loss or damage.

4.3 Employees shall not be liable for loss or damage caused by reasons beyond their control. Any amount owed to the City for such loss or damage to uniforms or equipment shall be promptly paid by the employee. If not promptly paid, the amount due to the City may be withheld from the employee's final paycheck and may be recovered by any other legal process.

4.4 However, any such withholding shall not reduce the employee's pay below the minimum hourly rate under the Fair Labor Standards Act (29 .C.F.R. §531.36). Employees shall sign Form 4010 acknowledging and accepting their responsibilities under this section.

Employee Handbook

Policy No: 1009
Policy: Overtime Pay and Compensatory Time for Non-exempt Employees
Effective Date: 06/18/2024
Supersedes Section No: 1009 **Dated:** 04-21-16

1. Purpose of Policy

It is the policy of the City

1.1 To comply with the Fair Labor Standards Act (FLSA) and regulations, including minimum hourly wage requirements and premium pay for overtime

1.2 To offer the option of compensatory time off instead of overtime pay in accordance with the terms and provisions of this policy; and,

1.3 To respond to all questions regarding pay and compensatory time and to correct any errors.

Realization of these policy objectives requires timely communication between City employees and the City's Finance Department. It is imperative that all employees address any issues of over or under-payment of overtime or compensatory time with Payroll, in the Finance Department, as soon as the employee is aware of them.

2. Workweek, Work Period/Tour of Duty

2.1 City employees, other than as described below in (b)(2), work a seven (7) day workweek. These employees are usually scheduled to work 37.5 or 40 hours per work week. (The workweek is further described in Employee Handbook Section 1041, Employee Time Recordkeeping.)

2.2 Most firefighters are assigned to work a 28-day work period/tour of duty based on their battalion assignment. The current year's work period/tour of duty schedules are on file in the Fire & Rescue Department

3. Pay for work more than the regular work schedule

3.1 A non-exempt firefighter whose normal work period/tour of duty is less than 212 hours will be paid at the employee's base hourly rate of pay for all hours worked more than the employee's regular work period/tour of duty but less than 212 hours.

3.2 Time worked as described in (1) or (2) above may be referred to as "gap time" (or as "straight overtime" or "comp time 1.0").

4. Basis for Overtime

4.1 An employee shall be compensated for overtime in accordance with the provisions of the FLSA.

- 4.2 An employee, other than a firefighter assigned to a work period/tour of duty, who works more than 40 hours in a work week will be paid at the employee's overtime hourly rate of pay at time and one-half for all hours worked over 40 hours.
- 4.3 A non-exempt firefighter who works more than 212 hours in a work period/tour of duty will be paid at the employee's overtime hourly rate of pay at time and one-half for all hours worked over 212 hours.

5. Prior Approval Required

It is the City's policy to have employees who are non-exempt under the FLSA perform their work during their regular working hours. Approval from a supervisor should be obtained in advance for any non-exempt employee to work more than the employee's regularly scheduled work shift, or for a non-police, non-exempt employee to work through a lunch or meal break.

6. Compensatory Time Option

Governmental employers have the option of providing compensatory time off to employees instead of paying them overtime. Compensatory time off may be taken off from work without a reduction in pay. The City has chosen to exercise this option as follows:

- 6.1 Annually a department head shall determine if employees of that department shall be eligible to accrue compensatory time (or whether all overtime work shall be paid). This determination may be applicable to all non-exempt employees of the department or to all non-exempt employees in particular position classifications; the determination shall not be by individual employee. Any departmental determination not to allow the accrual of compensatory time, or not to allow the maximum allowed by FLSA regulations, must have the advance approval of the City Manager and concurrence of the Human Resources Director.
- 6.2 Annually each employee who is in a department and a position that is eligible to accrue compensatory time may choose to participate in the compensatory time program. Any such election is fixed and is not reversible during the course of the year; it may only be changed at the time of the next annual election. Any election to participate in the compensatory time off program may remain in effect without the need for action by the employee unless and until the employee ends such participation at the time of an annual election.

- 6.3 An employee eligible to participate and choose to participate in the Compensatory time program shall receive compensatory time at time and one-half for all hours worked over 40 during a work week or, if a firefighter, for all hours over 212, respectively, during a work period/tour of duty.
- 6.4 When an employee does not work but uses paid leave (e.g., holiday, sick leave, or vacation leave) during a work week or work period/tour of duty, the employee will receive overtime pay or compensatory time at time and one-half only for hours worked over the applicable limit (212 for firefighters, 40 for other employees).
- 6.5 Additionally, an employee choosing to participate in the compensatory time program shall receive compensatory time rather than pay for all gap time hours (as described and defined in (c) above) worked. Compensatory time for gap time shall be earned at straight time, i.e., equal to the amount worked. An employee may not receive compensatory time for gap time and pay for overtime or the alternative; the election applies to both types of time worked more than the normal work week or work period/tour of duty.
- 6.6 The City may, under certain circumstances, choose to pay overtime pay to employees who have elected to receive compensatory time, e.g. work funded by a grant or for which FEMA reimbursement may be sought.

7. Accumulation of Compensatory Time

- 7.1 Employees participating in the compensatory time program may accumulate up to the City's specified maximum number of hours. Any gap time or overtime worked after such maximum accumulation is reached shall result in payment without regard for the employee's election.
- 7.2 Under FLSA regulations the maximum amount of compensatory time that can be accumulated is 480 hours for firefighters, police officers, dispatchers (emergency response), and seasonal employees and 240 hours for all other employees.

8. Use of Compensatory Time

- 8.1 An employee must receive permission in advance to use compensatory time for time away from work except as provided in (2), (3) and (4) below. Departmental rules may require that requests to use compensatory time be submitted at least five (5) workdays or two (2) 24-hour shifts in advance. An employee who timely requests the use of accrued compensatory time shall

be permitted to use such time within a reasonable period of making the request if granting the request will not unduly disrupt the operations of the department or the City. It may be unduly disruptive for compensatory time to be taken at certain times of the year or during the absence of other employees.

- 8.2 Compensatory time may be used for sick leave as specified in Section 1003.
- 8.3 Compensatory time must be used if an employee is on FMLA leave or Tennessee Leave and is without accrued sick leave.
- 8.4 An employee may use compensatory time as part of a "run out" of benefit hours immediately prior to the employee's retirement suspension.
- 8.5 Compensatory time cannot be used during any period of disciplinary
- 8.6 The City has the option of requiring an employee to use some or all of the employee's accrued compensatory time at any time.

9. Payment for Overtime or Compensatory Time

- 9.1 The City has the option of paying an employee for some or all of the employee's compensatory time at any time.
- 9.2 An employee shall be paid compensatory time if promoted to an exempt position or if transferred to a department or a position that does not participate in the compensatory time off program as of the date of the transfer.
- 9.3 An employee may request payment for accrued compensatory time if the employee elects to request such payment when choosing to end participation in the compensatory time program at the time of the annual election. Any such payment shall be for all the employee's accrued compensatory time and the time of such payment may, at the City's option, be delayed until the first pay period after the start of the following fiscal year.
- 9.4 Any overtime pay or compensatory time payment is subject to federal, state or local deductions in the same manner as pay for non-overtime hours.
- 9.5 Payment to an employee for compensatory time upon termination shall use the average base rate of pay during the preceding three (3) years or the employee's final base rate of pay, whichever is higher.
- 9.6 Any payment of overtime pay or for compensatory time upon termination shall be subject to deductions for any amount that the employee has agreed

to have withheld from a final paycheck

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Revisions to Murfreesboro City Code Ch. 4 – Alcoholic Beverages

Department: Legal

Presented by: Roman Hankins, Deputy City Attorney

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Present for discussion three options for regulating the issuance of retail liquor certificates of compliance

Staff Recommendation

Select one of the three proposed options

Background Information

Section 4-10 of the Murfreesboro City Code (attached) currently authorizes the City Council to approve one retail liquor certificate of compliance for every 5,000 City residents. At its July 11, 2024 workshop, City Council requested that staff present options for making the process for obtaining a certificate more fair and equitable. Staff has identified three options for City Council to consider.

Option 1 – Adopt a lottery system

The City of Clarksville currently utilizes a lottery system for issuing retail liquor certificates of compliance. A copy of the relevant section of the Clarksville City Code is attached.

Option 2 – Reduce the ratio for determining the number of available retail liquor certificates of compliance

As of July 1, 2024, the City’s population estimate was 165,430, thus making the total number of certificates (issued and available) to 34. The following represents the total number of certificates that could be issued at various ratios given the July 1, 2024 population estimate:

Ratio	Certificates
1:4,500	37
1:4,000	41
1:3,500	47
1:3,000	55

Option 3 – Eliminate cap on number of retail liquor certificates City Council may issue

Council Priorities Served

Maintain public safety

The City’s role in enforcing regulations regarding alcohol sales and consumption and consistency with Tennessee State law are supported with the City Code.

Operational Issues

None

Fiscal Impact

None

Attachments

Murfreesboro City Code, Ch. 4, section 4-10

Clarksville City Code, Title 2, section 2-214

Murfreesboro City Code

Section 4-10 Retail liquor certificate of compliance; limited number.

- (A) Notwithstanding the requirements of Section 4-7(B), City Council shall not issue any Retail Liquor Certificate of Compliance relative to any new retail liquor stores unless it is determined, in accordance with Section 4-10(C), that the availability of alcoholic beverages to City residents is unreasonably restricted.
- (B) Notwithstanding the limitation established in Section 4-10(A), the City shall issue one or more new certificates for purposes of facilitating the sale of any interest in any existing retail liquor store or the relocation of a retail liquor store's place of business within the City if the person or persons applying for any such certificate(s) satisfy the requirements of Section 4-7 and T.C.A. § 57-3-208.
- (C) For the purpose of determining whether the availability of alcoholic beverages to residents of the City is unreasonably restricted, it will be presumed, absent proof to the contrary, that alcoholic beverages are generally available and that residents are being adequately served when the ratio between the number of operating retail liquor stores in the City relative to the population of the City is less than or equal to one store for each 5,000 City residents. The population of the City for purposes of determining the number of retail liquor stores will be the number provided by the most current population estimate made available by the U.S. Census Bureau, Population Estimates Program. The quotient of the population divided by the allowable per capita number set herein must be a whole number before a certificate may be issued in accordance with this section.
- (D) Annually at the first meeting of City Council following the first day of July, the City Recorder shall report to City Council the total number of licensed retail liquor stores operating within the City as of that date and the total number of additional retail liquor stores, if any, that could be approved to operate within the City under this section.

(Ord. No. 17-O-60, § 1, 1-11-18)

CLARKSVILLE CITY CODE

Sec. 2-214. Procedures for processing applications for certificates of compliance for liquor stores.

- (a) Any applicant that desires to operate a retail liquor store within the city, must obtain a state retail liquor license from the State of Tennessee, Alcoholic Beverage Commission, or take such other action as is required by state law. Prior to the issuance of such state retail liquor license, applicants desiring to operate a retail liquor store and to sell liquor at retail within the city must obtain a certificate of compliance from the city, except as may be otherwise provided by state law.
- (b) As permitted by state law, the city has established a limit on the number of retail liquor stores within the city as is provided by section 2-205 herein. At any time the number of approved licensed retail liquor stores is less than the total limit for the number of retail liquor stores as provided in section 2-205, the following procedures are established and shall govern the processing of applications for additional retail liquor stores up to the total limit on the number of retail liquor stores specified in section 2-205 at that time.
 - (1) The city clerk shall publish online using the city website, and in a local newspaper of general circulation, for a period of three (3) consecutive calendar days, a notice that the city has an open certificate or certificates of compliance, equal to the total amount of retail liquor stores permitted by section 2-205 less any previously approved certificates of compliance, for the operation of one or more retail liquor stores within the city, available to prospective applicants. The notice shall provide that prospective applicants may obtain a written application for a certificate of compliance from the city clerk. The application form shall also be posted on the city website by the city clerk for download by the public. The notice shall further provide that the city shall accept applications for a period of twenty (20) calendar days after the last date of publication of the notice, and no applications shall be accepted after that date for that application period.
 - (2) The city clerk shall develop an application form with the input and assistance of the city attorney and chief of police, and provide such application to any prospective applicant upon request by the applicant. The application shall include the names, addresses, phone numbers, date of birth and driver's license information for all individuals with an ownership interest in the prospective business establishment, along with the same information for any persons who are to be in charge of the business establishment, the location of the business establishment, and such other information as the city clerk, city attorney, city building official or city chief of police require for processing said application. The application shall also include an authorization from the applicant and all owners of the prospective establishment for the city police department to conduct a criminal background check on same.
 - (3) During the twenty (20) calendar days period specified above, the city shall accept all written applications for processing that are properly and fully completed and timely submitted during business hours at the city clerk's office. It shall be the sole responsibility of the applicant to complete the application properly and fully and to timely submit the application.
 - (4) Once an application has been submitted, a copy of the application shall be referred by the city clerk to the Clarksville Police Department, which shall conduct a criminal background check of the applicant. The Clarksville Police Department shall complete its criminal background check of all applications submitted to it by the city clerk within ten (10) calendar days of receiving same from the city clerk. The results of the Clarksville Police Department criminal background check shall be filed with the application and returned to the city clerk for further processing. A copy of the application shall also be referred by the city clerk to the Clarksville Department of Buildings and Codes, which shall conduct a review to determine if the applicant's proposed business location is properly zoned for use as a retail

liquor store. The results of the Clarksville Department of Buildings and Codes zoning check shall be filed with the application and returned to the city clerk for further processing.

- (5) Upon return of an application after the criminal background check by the Clarksville Police Department to the city clerk, the city clerk shall confer with the city attorney to determine if any applicant has been convicted of a felony from any jurisdiction within a ten-year period immediately preceding the date of the application, and any other disqualifying factors as may be prescribed by state law. Any applications wherein the applicant has been found to have been convicted of same shall have their application denied and such applicant shall receive written notice of this finding and that their application has been denied by the city for that reason, or for any other reason prescribed by state law.
- (6) All applicants that timely submitted a properly and fully completed application and who have passed the criminal background check shall then be eligible for further processing.
- (7) If the number of applicants eligible for further processing after completion of the criminal background check is less than the number of open certificates of compliance (retail liquor stores permitted pursuant to section 2-205) that are available, then each applicant's application for a certificate of compliance shall be placed on the agenda by the city clerk for the next regular session of the city council in the form of a separate resolution approving a certificate of compliance for each separate applicant location. At said next regular session the city council shall consider each separate resolution which shall require a majority vote for approval.
- (8) If the number of applicants eligible for further processing exceeds the number of open certificates of compliance (retail liquor stores permitted pursuant to section 2-205) that are available, then each applicant's application for a certificate of compliance shall be considered based on a public lottery drawing. The city clerk shall place on the agenda for the next regular session of the city council an agenda item for a public lottery drawing pertaining to retail liquor store certificates of compliance, and listing the names of all applicants that are eligible for the public lottery drawing. Prior to said next regular session, the city clerk shall prepare separate strips of paper of equal dimensions upon which the names of each applicant seeking a certificate of compliance is typed. Each strip of paper shall then be folded twice in the same manner for each strip of paper, and then placed into an opaque container from which the drawing shall be made. At the appropriate time at the next regular city council meeting, the city mayor, or the mayor's designee, shall draw from the opaque container without viewing the inside of the container a number of the strips of paper containing the typewritten names of the applicants that are equal to the number of open certificates of compliance (retail liquor stores permitted pursuant to section 2-205) that are available. Those applicants selected by public lottery shall then be the applicants accepted for consideration of the applicant's application for a certificate of compliance by the city council.
- (9) In those circumstances where the provisions of subsection (b)(8) above applies, upon the conclusion of the public lottery drawing, each applicant selected during the public lottery drawing shall have their application for a certificate of compliance immediately considered at the same session as the public lottery drawing, by the city council by separate resolution for each selected applicant location, which shall require a majority vote for approval.
- (10) Any applicant who has been approved for a certificate of compliance by the city council who does not then make application for a retail liquor store license from the Tennessee Alcoholic Beverage Commission within one hundred twenty (120) calendar days of the date of approval of the resolution for a certificate of compliance by the city council, may have their certificate of compliance repealed by a separate resolution of the city council.
- (11) Any certificate of compliance approved by resolution of the city council for any applicant, who, prior to obtaining their retail liquor store license from the Tennessee Alcoholic Beverage Commission, is

subsequently convicted of any felony from any jurisdiction, may have their certificate of compliance repealed by a separate resolution of the city council.

- (12) As provided by state law, any applicant's application for a certificate of compliance that is selected through the public lottery method prescribed herein that is not voted on by the city council within sixty (60) days from the date such applicant's application is submitted to the city clerk shall be deemed granted.

(Ord. No. 75-2015-16, § 2, 6-2-16)

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Purchase of Uniforms, Clothing and Equipment Items

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Purchase of uniforms, clothing, and equipment items.

Staff Recommendation

Approve the Agreement for Public Safety Uniforms with Galls LLC.

Background Information

The Police Department purchases various uniforms, clothing, and equipment on a regular basis. These items are available from Galls via the Buyboard Master Agreement No. 698.23.

Buyboard purchases are permitted by Council Resolution. Staff has verified the cost effectiveness of the current Buyboard Master Agreement.

Council Priorities Served

Safe and Livable Neighborhoods

Providing MPD staff with the uniforms and gear needed to ensure their safety is necessary to respond to calls for service and provide other support functions.

Fiscal Impacts

Police will spend up to \$350,000 annually on uniforms and equipment which is provided for in the department's operating budget.

Attachments:

Agreement for Public Safety Uniforms

Agreement for Public Safety Uniforms

This Agreement is entered into and effective as of _____, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Galls LLC**, a limited liability corporation of the State of Delaware ("Contractor").

This Agreement consists of the following documents:

- This document
- Buyboard's Master Agreement No. 698-23, including Galls Renewal Letter, dated February 11, 2024 ("Master Agreement")
- 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, the Master Agreement
1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase the Uniforms from the Master Agreement in accordance with Contractor's (Galls) Proposal. Furthermore, the City may utilize this Contract to procure additional equipment from Contractor per the Master Agreement throughout the term of the contract. Such future procurements shall be executed through a Purchase Order after purchases exceeding \$50,000 have been approved by City Council.
 2. **Term.** The agreement term shall run concurrent with the term of the Buyboard Master Agreement. Contractor's performance may be terminated in whole or in part:
 - a. Upon 30-day prior notice, for the convenience of the City.
 - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
 - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
 - e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. **Price; Compensation; Method of Payment.**

- a. The price for the goods and other items to be provided under this Agreement is set forth in the Master Agreement and the Contractor's Proposal which reflects a purchase price of 15% discount off catalog items. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.
- b. Deliveries for in-stock non-embellished items shall be made within 10-14 business days of order to either: 1311 Jones Blvd. Murfreesboro, TN 37129 (Fire Department) or 1004 North Highland Avenue, Murfreesboro, TN 37130 (Police Department). Deliveries for customized items shall be delivered within 60 calendar days of order unless an extension of time is granted by the City.

Fire Department Contact - Attn: Brady Lutton, tel: 615.603.1649 – email: 0672@murfreesborotn.gov

Police Department Contact - Attn: Sam Smith, tel: 615-849-2673 – email: 0435@murfreesborotn.gov

Contacts 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 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 Master Agreement.
 - 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:
Attn: Michael Fadden
Galls LLC
1340 Russell Cave Road
Lexington, KY, 40505

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 five 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.

- a. **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**
 - b. **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**
 - c. **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.”**
16. **Title VI of the Civil Rights Act of 1964, as amended.** Contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract. Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.
17. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in

civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

18. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.
19. **Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.
20. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
21. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
22. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
23. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
24. **SAMS.gov Registration and UEI #.** All vendors are required to be registered with SAMS.gov and supply their Unique Entity ID (UEI).
25. **Debarment and Suspension.**
 - a. The City certifies, to the best of its knowledge and belief, that the Selected Contractor:
 - i. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - ii. has not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - iii. is not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

- iv. has not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.
 - b. The City will provide immediate written notice to the U.S. Department of Treasury or granting authority, if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, the Selected Contractor is excluded or disqualified, or presently falls under any of the prohibitions of sections i-iv.
 - c. The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Non-procurement Suspension and Debarment,” 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement),” 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:
 - i. Debarred from participation in any federally assisted Award;
 - ii. Suspended from participation in any federally assisted Award;
 - iii. Proposed for debarment from participation in any federally assisted Award;
 - iv. Declared ineligible to participate in any federally assisted Award;
 - v. Voluntarily excluded from participation in any federally assisted Award; or
 - vi. Disqualified from participation in any federally assisted Award.
 - vii. By signing this Agreement, Contractor certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C, as supplemented by 2 CFR Part 1200, throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.
26. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
27. **Lobbying Certification. (4220.1F.IV.2.a.(4); 49 CFR Part 20).**
- a. Contractors that apply or bid for an award exceeding \$100,000 must file the lobbying certification before the awarding of the contract, and if applicable, a lobbying disclosure from a prospective third party contractor. See, DOT regulations, “New Restrictions on Lobbying” 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352, which implement the Byrd “Anti-Lobbying” Amendment, 31 U.S.C. Section 1352. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any

lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

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

28. **Domestic preferences for procurements.** (2 CFR 200.322)

- a. As appropriate and to the extent consistent with law, the Contractor, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- b. For purposes of this section:
 - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

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

Signatures are on the following page.

IN WITNESS WHEREOF, the parties enter into this agreement as of the "Effective Date" first listed above.

CITY OF MURFREESBORO, TENNESSEE

GALLS LLC

By: _____
Shane McFarland, Mayor

By: _____
Michael Fadden, Chief Executive Officer

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker

Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Contract Extension with Heritage Cleaners
Department: Police/Fire
Presented by: Chief Michael Bowen or Chief Mark McCluskey
Requested Council Action:

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

Summary

Contract Extension with Heritage Cleaners.

Staff Recommendation

Approve the Sixth Amendment to the Contract with Heritage Cleaners.

Background Information

The initial contract between the City and Heritage Cleaners was approved by Council on July 12, 2018, in response to ITB-26-2018. This contract provides laundry and dry-cleaning services for both the Police and Fire Departments. Both departments would like to extend the contract for another year.

Council Priorities Served

Responsible Budgeting

By utilizing the current contract pricing, the departments benefit from the competitive pricing from the invitation to bid.

Fiscal Impact

Expenses are funded from the Police and Fire Department's operational budgets. The Police Department will spend up to \$150,000 and the Fire Department will spend up to \$40,000 in FY25.

Attachments

Sixth Amendment to the Contract with Heritage Cleaners

**AMENDMENT #6 TO
AGREEMENT FOR LAUNDRY & DRY-CLEANING
BETWEEN
THE CITY OF MURFREESBORO
AND
HERITAGE CLEANERS**

This Sixth Amendment (“Sixth Amendment”) to the Contract entered July 1, 2018, by and between the City of Murfreesboro (“City”), a municipal corporation of the State of Tennessee, and Heritage Cleaners LLC, a Limited-Liability Corporation of the State of Tennessee (“Contractor”).

WHEREAS, the City of Murfreesboro entered into a contract with Heritage Cleaners on July 1, 2018, for Laundry and Dry-Cleaning Services in accordance with the Bid Specifications set forth in ITB-26-2018 – Laundry & Dry-Cleaning Services and any Addendums issued to ITB-26-2018; and,

WHEREAS, the term of the contract between the City and Contractor is currently from July 1, 2023, to June 30, 2024; and,

WHEREAS, the City wishes to extend the contract term until June 30, 2025.

NOW THEREFORE, the City and Contractor mutually agree:

1. To extend the contract to June 30, 2025.
2. To maintain pricing as per Amendment #4.
3. All other terms of the contract shall remain the same.

CITY OF MURFREESBORO

Shane McFarland, Mayor

HERITAGE CLEANERS

DocuSigned by:

Chad McCaslin

Chad McCaslin, President

Approved as to form:

DocuSigned by:

Adam F. Tucker

Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: WRRF Semi Tractor Purchase

Department: Water Resources

Presented by: Valerie Smith

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Request to purchase a semi tractor for hauling the Water Resource Recovery Facility's biosolids.

Staff Recommendation

Approve the purchase of a semi tractor for the WRRF from Tennessee Kenworth, LLC dba MHC Kenworth.

Background Information

The Department's Water Resource Recovery Facility dewateres sludge, producing over 20,000 tons of biosolids annually. This material is then hauled by staff via semi tractor trailers to the midpoint landfill for final disposal. Semi tractor Unit 69, a 2007 Mack CXU 613, has reached the end of its lifecycle and the Fleet Director has recommended that it be replaced.

The City's Purchasing Department issued an Invitation to Bid and Tennessee Kenworth, LLC dba MHC Kenworth provided the lowest conforming bid.

Council Priorities Served

Responsible budgeting

The Department maintains a five-year capital improvement plan, including Fleet Management, that emphasizes maximizing value, minimizing financial volatility, and accurate forecasting.

Fiscal Impact

The expense, or \$178,305, will be funded from the Department's Rate Funded Capital Budget.

Attachments

Contract with Tennessee Kenworth, LLC dba MHC Kenworth

**AGREEMENT BETWEEN CITY OF MURFREESBORO
AND TENNESSEE KENWORTH, LLC DBA MHC KENWORTH
FOR
PURCHASE OF 2024 HEAVY-DUTY TRACTOR
FOR WATER RESOURCES DEPARTMENT**

This Agreement is entered into and effective as of _____, 2024 (the "Effective Date") by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee (the "City"), and **TENNESSEE KENWORTH, LLC dba MHC KENWORTH**, a limited liability company of the State of Kansas ("Contractor").

This Agreement consists of the following documents:

- This Document
- ITB-46-2024 - "2024 92,000# GCW Tractor," issued May 7, 2024 (the "Solicitation");
- Contractor's Proposal, dated May 21, 2024 (Contractor's Proposal"); and,
- Any properly executed amendments to this Agreement.

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

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority);
- Second, this Agreement;
- Third, the Solicitation; and
- Lastly, Contractor's Proposal, including referenced Terms and Conditions of Sale for Products.

- 1. Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase one (1) 2024 model year, 92,000# heavy duty GCW tractor including delivery to the City without additional charge based on Contractor's Proposal and the specifications set forth in "ITB-46-2024."
- 2. Term.** The term of this Agreement shall begin on the Effective Date first listed above for a period of one year. Contractor's performance may be terminated in whole or in part:
 - a. Upon 30-day prior notice, for the convenience of the City.
 - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
 - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
 - e. Should the appropriation for 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 services rendered, including parts, labor, accessories, delivery, freight, any other standard equipment necessary to be provided under the Agreement is set forth in the Contractor's Proposal, which reflects a **Total Purchase Price of One Hundred Seventy-Eight Thousand Three Hundred Five Dollars and Eighteen Cents (\$178,305.18)**, including freight charges. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after acceptance of goods is complete. Payment shall be made to Contractor on terms of 100% net 30 days from the date of shipment or at the time of start-up, whichever occurs first.
- b. Deliveries of all items shall be made within 12 weeks of order to: 2032 Blanton Drive, Murfreesboro, TN 37129. Delivery Contact: Laurel Elliott (tel: 615-848-3225 ext. 3400, email: Lelliott@murfreesborotn.gov) must be notified of delivery date and time within two (2) workdays prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday. Shipping terms shall be F.O.B. factory, with freight allowed to the delivery site. Contractor shall maintain responsibility for risk of loss in transit.
- 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 Proposal. The City shall promptly perform said inspection and/or testing and notify Contractor within 72 hours of any damage or other failure of specifications.
- e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

4. Warranty. Every item supplied by Contractor shall meet the warranty requirements set by Contractor and/or the manufacturer. The warranty period begins on the date the equipment is delivered and accepted by the City.

5. Taxes. The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.

6. Work Product. Except as otherwise provided herein, all data, documents and materials produced and provided by Contractor under this Agreement are the property of the City, which retains the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Any of the City's property, including but not limited to books, records and equipment, that is in Contractor's possession must be maintained in good condition and repair and returned to the City by Contractor at the end of this Agreement.

7. Insurance. During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000, as well as automotive and workers'

compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon; (ii) upon request, an endorsement naming the City as an additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contactors, consultants, and agents."

8. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
- c. Copyright, Trademark, Service Mark, or Patent Infringement.
 - i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
 - ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 1. Procure for the City the right to continue using the products or services.
 2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
 - iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with

apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

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

If to the City of Murfreesboro: If to the Contractor:

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

Tennessee Kenworth, LLC
dba, MHC Kenworth
Matt Swan, Executive Vice President 1209 Park
Avenue, Suite C Murfreesboro, TN 37129
Matt.Swan@mhc.com and Matt.Moro@mhc.com

- 10. Compliance with Laws.** Contractor agrees to comply with any applicable federal, states and local laws and regulations.
- 11. Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
- 12. Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
- 13. Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
- 14. No Waiver of Limitations Periods.** The parties shall have and maintain any applicable limitation period provided by state law in which to provide a notice, present a claim, or initiate an action in a court of competent jurisdiction. To the extent any other provision in the documents forming this Agreement provides a shorter limitation period, the City disclaims such provision, and Contractor acknowledges such disclaimer.
- 15. Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
- 16. Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
- 17. Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or

operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

- 18. Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City.
- 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, or the Middle District of Tennessee, as applicable.

- 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. Iran Divestment Act of Tennessee.** By submission of the Contractor's Bid, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.
- 26. Non-Boycott of Israel.** By submission of the Contractor's Bid, Contractor certifies, 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.
- 27. Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of the Effective Date first listed above.

CITY OF MURFREESBORO, TENNESSEE

TENNESSEE KENWORTH, LLC dba MHC KENWORTH

By: _____
Shane McFarland, Mayor

DocuSigned by:
Matt Swan
By: _____
73B36CB9374A4C6...
Matt Swan, Executive Vice President

Approved as to form:

DocuSigned by:
Adam Tucker
43A2035E54F9401...
Adam F. Tucker, City Attorney

**PURCHASING DEPARTMENT
BID FORM**

NAME OF BID: ITB-46-2024
2024 Year Model 92,000# GCW Heavy Duty Tractor

Name of Bidder: MAC Kenworth - Murfreesboro
Date: 5/21/24

INSTRUCTIONS:

All prices must include **all costs**. Costs included in the bid prices shall include services rendered and parts, labor, accessories, freight, and any other standard equipment necessary to provide this service. The City is not subject to sales tax. **PROVIDE WITH YOUR BID RESPONSE THE NAMES OF ANY SUBCONTRACTORS THAT WILL BE USED TO PERFORM SERVICES FOR THIS BID.**

ITEM NO.	QUANTITY	DESCRIPTION	TOTAL PRICE
1	1	2024 Year Model 92,000# GCW Heavy Duty Tractor per specifications	<u>\$ 178,305.18</u>
		Total	<u>\$ 178,305.18</u>
		Estimated Lead Time as of 5/30/24 - 12 Wks	
		Included In Quote: - Wet Kit - Stainless Steel Half Fenders	

City of Murfreesboro



INVITATION TO BID

This Invitation to Bid (ITB) is subject to the instructions, conditions, specifications, addenda, and any other elements of this ITB, including those incorporated by reference.

DATE ISSUED: May 07, 2024

BID TITLE: ITB-46-2024 – 2024 Year Model 92,000# GCW Heavy Duty Tractor

CITY CONTACT PERSON: Cathy Smith

TELEPHONE NUMBER: (615) 849-2629

E-MAIL ADDRESS: purchasing@murfreesborotn.gov

All bid responses must be received and acknowledged in the Purchasing Department's Office on or before the day and time listed below. All bids must be submitted electronically via OpenGov.

Bid must include the bid title, bid opening date, and the bidder's name. Failure to provide this information may result in the bid not being considered.

BID OPENING DATE: May 21, 2024

BID OPENING TIME: 2:00 p.m., Central Standard Time

1. INSTRUCTIONS AND CONDITIONS

1.1 Bid Submission to the City of Murfreesboro

The City is seeking bids for one (1) 2024 model year heavy duty tractor on behalf of Murfreesboro Water Resources Department as set forth in the specifications listed within this bid. Electronic bids will be received by the City of Murfreesboro until 2:00 p.m. CST on May 21, 2024, at which time the bids will be opened via Zoom. A Zoom link will be provided to all those proposers on file as following this ITB.

1.2. Deadline and Late Responses.

No bids received after bid opening date and time will be accepted. The City will accept bids submitted electronically via our procurement portal, OpenGov.

1.3. Organization of Bid and Completeness.

Please submit an electronic bid via our procurement portal, OpenGov, at the website listed in Section 1.3.7. It shall be the sole responsibility of the bidder to have the bid uploaded to the City before the bid deadline. Partial or incomplete bids will be rejected. All bid responses should be typewritten. If not typewritten, they must be written in ink and clearly legible, and numbers must be expressed in both words and figures. Bidders are cautioned to verify their bid response prior to submission.

1.4. Signature.

All bids must be signed by a duly authorized officer of the company empowered with the legal right to bind the company. A typed name will not be acceptable without the person's written signature as well. Signatures are required where indicated; failure to comply with this requirement shall be cause for rejection of bid. All submitted bids must be binding for a period of ninety (90) calendar days from the bid submission deadline.

1.5. Response to Terms and Conditions.

Unless an exception is taken, the awarded contract will contain the requirements of this Invitation to Bid. In its sole discretion, the City reserves the right to either consider or reject any bid which takes exception to the specifications or attached contract.

1.6. Completeness of Invitation to Bid ("ITB").

These documents, and those listed on OpenGov, constitute the complete set of specification requirements and ITB. The bidder is responsible for ensuring that all pages and all addenda are received. The City advises all bidders to closely examine this ITB package and immediately direct any questions regarding the completeness of this ITB package and any addenda thereto to the City's Contact Person via OpenGov. Any addenda will be posted on OpenGov.

1.7. Bid Interpretation. Communication with the Purchasing Department

Cathy Smith is the City's contact for coordinating communications between the department and vendors submitting bids. If additional information is required in order to make an interpretation of items in this ITB, questions will be accepted until five (5) days prior (05/16/2024, 2:00PM CST) to the bid opening date. All questions should be submitted through the **Question/Answer** tab in **OpenGov**. All questions and all responses will be visible to every bidder.

The City specifically requests that no contact concerning this ITB be made with any other City personnel until the selection process has been completed. Failure to honor this requirement will be viewed negatively in the award process and may result in the disqualification of a bid

1.8 Discrepancies, Errors, and Omissions.

Any discrepancies, errors, omissions, or ambiguities in this ITB, the specifications or addenda (if any) should be reported to the contact person for the City. If necessary, a written addendum will be issued to firms on record and the addendum will be incorporated in the ITB and will become part of the contract. The City will NOT be responsible for any oral instructions, clarifications or other communications and no such oral communication may be relied on by any bidder.

1.9. Errors.

Certain mistakes may be corrected so long as the intended correct bid response is clearly evident. In the event of a disagreement between unit price and extended price, the unit price will control.

1.10. Further Negotiation.

The City reserves the right to further negotiate contract terms after the ITBs are opened at the discretion of the City.

1.11. Economy of Preparation.

The ITB response should be prepared simply and economically, providing a straightforward, concise description of bidder's capabilities to satisfy the requirements of the ITB. Emphasis should be on completeness and clarity of content.

1.12. Subcontracting.

If any part of the work is, or is to be, subcontracted, the bidder shall provide within the ITB a description of the subcontracting organization and the contractual arrangements made therewith. All subcontractors will be subject to approval by the City. The successful bidder will also furnish the corporate or company name and the names of the officers or principals of said companies proposed as subcontractors by the bidder.

1.13. Bid Modification.

Bids may be modified, withdrawn, and/or resubmitted in writing to the City prior to the deadline for bid submission via the City's e-procurement portal, **OpenGov**. After this deadline, no withdrawals or resubmissions may be made for any reason.

1.14 Tax Exempt.

The City is exempt from federal and state taxes. Upon request, the City will provide a sales tax exemption certificate to the awarded firm. Contractors doing business with the City shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations to the City, nor shall any vendor be authorized to use the City's Tax Exemption Number in securing such materials.

1.15 Pricing Effective for 90 calendar days.

The successful bidder shall provide in the bid price the cost for services rendered. Pricing shall be effective for 90 calendar days from date of contract execution. It is requested that bidders raise any such questions in advance of submitting a bid to the City. To submit a bid implies consent to the terms set forth in this ITB.

1.16 Approval Required.

No award or acquisition can be made until approved by the City Council. The City will not be obligated to bidders for equipment and/or services until the completion of a signed contract approved by authorized officials of the City. This solicitation in no manner obligates the City to the eventual rental, lease, or purchase of any equipment or services described, implied, or which may be proposed, until confirmed by a written contract. Progress towards this end is solely at the discretion of the City and may be terminated at any time prior to the signing of a contract.

1.17 Consideration of Bid.

Any items proposed deemed not of equal and/or better and of comparable quality as that specified shall be cause for rejection of a bid. In addition to the price, the following aspects will be considered in the award of a contract:

- a. The ability of the bidder to perform the contract or to provide the material for service required;
- b. Whether the bidder can perform the contract and provide the material or service promptly or within the time specified without delay or interference;
- c. The character, integrity, reputation, experience and efficiency of the bidder;
- d. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- e. The ability of the bidder to provide future maintenance and service for the use of the subject contract;
- f. Terms and conditions stated in bid;
- g. Compliance with specifications or the ITB; and
- h. Bidder's past performance with the City.

1.18 Terms and Conditions.

The City reserves the right to reject any and all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept the bid (or bids) which, in the judgment of the governing body, is in the best interest of the City. The City also reserves the right to make revisions to any quantity shown on the bid form dependent upon bid prices and available funding. Prices bid on each item shall be firm regardless of the actual quantity of item(s) purchased.

1.19 Withdrawal of Bid.

No bidder may withdraw its bid for a period of ninety (90) calendar days after the date and time set for the opening of the responses. In the event the City awards a contract to a bidder and during such ninety (90) day period determines that such bidder will be unable to properly perform the contract, the City reserves the right to terminate the contract and award the contract to the next best offer without being required to re-advertise the project.

1.20 Cost of Response.

The City will not be liable for any costs incurred by the bidders in preparing a response to this solicitation. Bidders will submit responses at their own risk and expense. The City makes no guarantee that any equipment or services will be purchased as a result of the solicitation and reserves the right to reject any and all responses. All responses and their accompanying documentation will become the record of the City.

1.21 Contract.

The successful bidder's response to this IIB shall be included as an addendum to the contract. Should any conflict or discrepancy arise between the IIB and the contract, the contract shall control. All bidders who are awarded contracts pursuant to this ITB agree to be bound by the terms and conditions set forth in the sample City Contract provided at the end of this ITB. If the bidder objects to any contract terms or proposes any additional terms, such objections and terms must be set forth in the bid. Rejection of any proposed City Contract terms may be a basis for rejection of the bid.

1.22 Contract Termination.

The City reserves the right to cancel the contract for the equipment without cost or penalty to the City if, in the City's opinion, there is a failure at any time by the contractor to adequately perform the contract, or if there is any attempt to willfully impose upon the City a material or product or workmanship which is, in the opinion of the City, of an unacceptable quality. Cancellation of the contract shall not impair any rights or claim of the City to damages for the breach of any covenants of the contract by the contractor.

The contract awarded may be terminated upon any of, but not limited to, the following occurrences: a) bankruptcy or insolvency of the bidder or one or more of the bidder's principal owners; b) unauthorized substitution of products other than those identified in the specifications or specifically approved by the City as a substitute prior to award of the contract; c) unsatisfactory performance of products supplied by the bidder or services provided by the bidder; d) fraud and e) any other breach of the terms of the ITB specifications or contract.

1.23 Contract Modification.

The contract may be modified only by written amendment executed by all parties and their signatories hereto.

1.24 Replacement or Repair.

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

The City, at its option and in lieu of immediate termination, may request the awarded bidder replace or repair any defective goods or correct performance by written notice to the contractor. In that event, the contractor shall take corrective action within the amount of time specified by the City in the written notice. Exercise of this option shall not relieve the contractor of any liability to the City for damages for the breach of any covenants of the contract by the contractor.

1.25 Expense of Legal Action.

The venue for any legal action shall be in the courts of Rutherford County, Tennessee. Awarded bidder agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the contract, and in the event the City prevails, awarded bidder shall pay all expenses of such action including the City's attorney fees and costs at all stages of the legal action.

1.26 Governing Laws.

The validity, construction and effect of the contract, and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee.

1.27 Severability.

Should any provision of the contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of the contract. Any action between the parties arising from this agreement shall be maintained in the courts of Rutherford County, Tennessee.

1.28 Indemnification and Hold Harmless.

Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

Pursuant to Tennessee Attorney General Opinion 93 01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

1.29 Statutory Disqualification.

By submitting a response, it is represented that neither it nor any of its officers, directors, shareholders, member, or partners has been convicted or plead guilty or nolo contendere to any violation of the Sherman Anti-Trust Act, mail fraud, or other state or federal criminal violation in connection with a contract let by the City of Murfreesboro or any political subdivision of the State of Tennessee.

1.30 Contractor's Employment Practices.

Bidder, after being first duly sworn, affirms that by its employment policy, standards and practices, it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to the individual's race, creed, color, national origin, age or sex and it is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

1.31 City's Employment Practices.

It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy.

1.32 Conflict of Interest.

By submitting a response, it is represented that no officer, committee member, or director of the City or other persons whose duty is to vote for, let out, overlook, or in any manner supervise any work on any contract for the City has a "direct interest", as defined by T.C.A. §12-4-101, in the bidder or in the work which is subject to this ITB.

1.33 Ethical Standards.

Bidder understands that it shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or 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 bid therefore.

1.34 Breach of Ethical Standards.

A breach of ethical standards could result in civil and/or criminal sanctions and/or debarment or suspension from being a contractor or subcontractor under City contracts.

1.35 Payments.

Payments under the contract shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The final payment shall not be made until after the performance is complete. Invoices should be sent to:
accountspayable@murfreesborotn.gov

1.36 Codes & Regulation.

All services and/or equipment must comply with city, county, state, and federal laws, rules, codes and regulations. The contractor will obtain and pay for all permits, if any, necessary to complete the work.

1.37 Bid Modification & Registration

Bids may be modified, withdrawn, and/or resubmitted in writing to the City via **OpenGov** prior to the deadline for bid submission. After this deadline, no withdrawals or resubmissions may be made for any reason. Bidders must register with **OpenGov** to ensure that all relevant written communications are available to them in the preparation of their proposal. Registration can be accomplished through the website: <https://secure.opengov.com/portal/murfreesborotn>

1.38 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 considered. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered.

1.39 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.

2. BID SPECIFICATIONS

2.1 Scope of Project

The purpose of this Invitation to Bid (ITB) is to procure one (1) 2024 model year 92,00# heavy duty tractor for Murfreesboro Water Resources Department based on the specifications provided in Section 2.2. This tractor will be used to pull 25-ton capacity dump trailers over the highway to the offload site at a sanitary landfill. All equipment bid shall be comprised of all new components for the latest model available. All prices quoted shall include delivery to the City without additional charge. Bid response must include anticipated delivery date and show number of days required for delivery under normal conditions. Failure to state delivery time may result in the bid response being disqualified. Vendor must keep the Murfreesboro Water Resources Department, John Strickland advised at all times of status of order. The Vendor must complete the tractor specification sheet and Bid Form and supply and deliver the equipment and accessories using the specifications listed in Section 2.2.

2.2. Specifications

All specification shall be equal to or better than the following:

	Equipment	Specifications	Yes	No
1.1.	Engine	a. Shall be Cat C-15 475 HP diesel, designed for extended periods of idle.		X
		b. Shall have a minimum five-year/300,000-mile warranty covering both parts and labor with no deductions.	X	
		c. Shall provide a jump-start terminal on the back of the cab.	X	
		d. Unit shall be equipped with a winter front and immersion engine block heater 120V/1500W.	X	
1.2	Radiator	a. Radiator shall have removable top and bottom tanks with the top baffled for deaeration.		X
		b. Radiator shall be equipped with constant torque radiator hose clamps, a rock screen, lower drain valve, and stainless-steel flex section for vibration protection.	X	
1.3	Muffler	a. Shall be equipped with a full-length stainless-steel shield.	X	
1.4	Fuel Sys	a. Must have a computer-controlled fuel system with a fuel filter/water separator.	X	
1.5	Electrical	a. The electrical system must incorporate plug-in style relays and have circuit protection, numbered and color-coded wiring circuits, and braided vinyl-coated nylon wrapped harness.	X	
1.6	Exhaust	a. Include catalytic converter regeneration warning system and override which will allow a two-to-four-hour override to be entered at least twice before regeneration cycle occurs.	X	
1.7	Transmission and clutch	a. Fuller RTO 16908 LL10-speed with a Fuller 1505" coaxial dampened 91L10 clutch.		X
		a. Clutch cover shall be manual adjusting, with torque limiting duty brake.		X
		b. Greaseable release bearing with extended grease fitting for clutch bearing.	X	

	Equipment	Specifications	Yes	No
		b. Must have nylon coated splines and single heavy duty driveline without center bearing.	X	
		c. Transmission shall have a magnetic filler plug.	X	
1.8	Front Axle & Equipment	a. Axle shall be an Eaton EFA-12F4 12,000 lb. capacity. Shall have Gunite (K- H) front auto slack adjustment.		X
		b. Front oil seal shall be W/CR hub with cap-vented window.	X	
		c. Power steering shall be TRW single TAS65.		X
		d. Must provide a thirty two foot curb to curb/thirty four foot wall-to-wall turning radius.	X	
1.9	Rear Axle & Equipment	a. Axle shall be a Dana DSH40 40,000 lb. capacity dual unit with a 4.33 rear axle ratio.	X	
		b. It must be equipped with a full side-to-side CTL TRAC differential lock S402(P)/ 461P FWD & RR with cab control to provide eight-wheel pull with Air ride suspension. Equal to KW Airglide 200 40K Dual 52" AS 9" ride height.	X	
1.10	Tires and Rims	a. Front tires shall be Bridgestone R293 11R24.5 14PR highway tread.		X
		b. Rear tires shall be Bridgestone M711 11R24.5 14PR lug tread.		X
		c. All wheels shall be Budd one-piece rims.	X	
1.11	Frame & Equipment	a. Wheelbase 165-inch, length 65-feet, width 102-inch, height 13.0-feet.		X
		b. Frame rails shall be 10-5/8 x 5/16 steel with free fitting frame bolts, and tapered end frame. Huck bolt throughout frame wherever possible.	X	
		c. Bumper shall be polished aluminum.	X	
		d. Front tow hook cast center mount. The frame cover plate shall be 2' aluminum.	X	
		e. Must be equipped with front and rear mud flaps. Rear mud flaps shall be equipped with Betts brackets and 852 holders.		X
		f. Battery box located on left-hand side.	X	
		g. Rear fifth wheel setting 11" ahead of bogie. Must be equipped with fifth wheel type FIX HL FW8 7802XL.	X	
		h. Supply airline hook up for trailer tailgate.	X	
1.12	Fuel Tanks	a. Two fuel tanks: right tank 120-gallon 56/56 Hyd/Fuel, 190-gallon left tank.		X
1.13	Cab & Equipment	a. Shall be conventional styled corrosion-free aluminum and fiberglass. Quiet package for off-road operation.		X
		b. All aluminum doors with piano- type hinges and door cab door bearing blocks top & bottom.		X
		c. Hood shall be one-piece uniglass.		X
		d. Heater/ air conditioner mounted outside cab with integral defrosters. Heater inlet shall incorporate bug screen. Ignition and doors keyed alike.	X	
		e. Vernier hand throttle.		X

Equipment		Specifications	Yes	No
		f. Gauges shall include mechanical engine oil pressure, air application pressure, expanded low-scale readout, voltmeter, AMETEK electronic speedometer with odometer, electronic tachometer, water temperature, dual reading air reservoir pressure, electronic fuel gauge as well as a high-water temp and low oil pressure lights.		X
		g. Instrument panel shall tilt out and utilize plug-in instruments. Hinged drop-in quick disconnect instrument panel.		X
		h. Wiring harness shall include radio and CB leads and posts, antenna wiring and speakers.	X	
		i. Must be equipped with roof mounted air horn and cowl mounted dual 7x16 inch heated mirrors with stainless steel struts.		X
		j. Electric two speed + intermittent wipers and electric washer.	X	
		k. Cab interior shall be heavy-duty vinyl (no cloth) with Cicolac headliner. Shall be equipped with inside drivers' side vinyl sun visor and outside fiberglass sun visor.	X	
		l. Driver seat shall be air cushion; rider seat shall be Dura foam. Both seats shall be heavy vinyl and equipped with retractable 3-point belts.		X
		m. All windows shall be heat-absorbing safety glass and shall include a fixed 11x 28 inch rear window and a peeper window in the right-hand door. Right side cab window shall be power operated.		X
		n. Factory-installed AM/FM radio.	X	
		o. Dump controls to be mounted in cab between seats on 30" pedestal, with separate levers for raise and lower controls and PTO control.	X	
		p. Supply tailgate switch to open tailgate from inside cab. Equipped with cab-operated trailer tarp control. Tailgate switch and tarp control to be mounted on pedestal with PTO unit.	X	
1.14	Lights & Signals	a. Must be equipped with column-mounted dimmer and turn signals, right and left-mounted halogen spotlights, backup alarm horn, fender guides, interior dome lights and reading lights.	X	
1.15	Air Equipment	a. Must be equipped with column-mounted dimmer and turn signals, right and left-mounted halogen spotlights, backup alarm horn, fender guides, interior dome lights and reading lights.	X	
1.16	Paint	a. Imron solid color white body black frame.		X
1.17	Special Equipment	a. Include D.O.T. inspection, fire extinguisher, safety kit, rear aluminum half fenders, complete hydraulic wet kit, installed.	X	

**PURCHASING DEPARTMENT
BID FORM**

BID:
One (1) 2024 92000 GCW Tractor

Date: 5/21/24

INSTRUCTIONS:

All prices must include all costs. Costs included in the bid prices shall include services rendered and parts, labor, accessories, delivery, freight, and any other standard equipment necessary to provide this service. The City is not subject to sales tax.

Explain type of warranty, length, coverage provided, bidder and purchaser liabilities and any associated costs. Specify any additions to the warranty coverage above the limits set forth in the attached specifications (attach additional pages if necessary)

State the name and location of the nearest authorized factory service facility or provider.

Bidders shall submit with their bid a detailed description and specifications of the product(s).

In compliance with this ITB, and subject to all conditions thereof, the undersigned agrees that if this bid response is accepted within 90 days from the date of opening, to furnish any or all of the items upon which price(s) are quoted, at the price set opposite each item unless otherwise specified.

NAME OF DEALER: MHC Kenworth - Murfreesboro

Address of Dealer: 1209 Park Ave Unit C, Murfreesboro, TN, 37129

Sales Contact Name, Phone, Email: Matt Moro, (928) 460-0857, Matt.moro@mhc.com

Tractor Model: Kenworth T880

Signature: 

	Quantity	Item	Price EACH
1	1	2024 92,000# GCW Heavy Duty Tractor	\$ <u>178,306.18</u>



MHC Kenworth - MURFREESBORO (T655)
1209 PARK AVE STE C
MURFREESBORO, Tennessee 37129

CITY OF MURFREESBORO TN
2032 BLANTON DR
MURFREESBORO, Tennessee 37129
United States of America

Matthew Moro
Cell Phone:
Office Phone: 423-698-4461
Email: matt.moro@mhc.com

GREG HICKS

Email: ghicks@murfreesborotn.gov

Vehicle Summary

	Unit		Chassis	
Model:	T880 Series Conventional	Fr Axle Load (lbs):		13200
Type:	TRACTOR	Rr Axle Load (lbs):		40000
Description 1:	City of Mboro T880 Bid	G.C.W. (lbs):		82000
Description 2:				
	Application	Road Conditions:		
Intended Serv.:	Refuse Hauler: Vehicles which haul refu	Class A (Highway)		81
Commodity:	Refuse/Recycled Material	Class B (Hwy/Mtn)		19
		Class C (Off-Hwy)		0
		Class D (Off-Road)		0
		Maximum Grade:		6
Type:	Body	Wheelbase (in):		190
Length (ft):	0	Overhang (in):		60
Height (ft):	0	Fr Axle to BOC (in):		74
Max Laden Weight (lbs):	0			
		Cab to Axle (in):		116
		Cab to EOF (in):		176
	Trailer	Overall Comb. Length (in):		827.5
No. of Trailer Axles:	2			
Type:	End dump			
Length (ft):	53			
Height (ft):	12			
Kingpin Inset (in):	36			
Carrier Radius (in):	0			
		Special Req.		
		U.S. Domestic Registry, 50-state.		
	Restrictions			
Length (ft):	75			
Width (in):	102			
Height (ft):	13.5			

Approved by: _____

Date: _____

Note: All sales are F.O.B. designated plant of manufacture.



Sales Code	Std/ Opt	Description	Weight
Model			
0000810	S	T880 Series Conventional	15,549
0070060	S	T880	0
0080310	O	EPA Clean Idle Label - Cummins Engines	0
0090000	S	Non-Sleeper w/ Rear Axle Capacity less than 59K.	0
0098442	O	State of Registry: Tennessee	0
Engine & Equipment			
0130356	O	Cummins X15 500V 500@1900 1650@900, 2024 N09420 C333 0.....Reserve Speed Limit Offset (N09380 C334 0.....Maximum Cycle Distance (C334 N09360 C400 252...Reserve Speed Function Reset N09200 C399 120...Standard Maximum Speed Limit N09400 C401 10....Maximum Active Distance (C40 N09220 C402 0.....Expiration Distance (C402) N09540 C395 0.....Expiration Distance (C395) N09260 C121 75....Maximum Accelerator Pedal Ve N09440 C234 NO....Engine Protection Shutdown (N09460 C231 NO....Gear Down Protection (C231) N09580 C133 5.....Timer Setting (C133) N09680 C233 NO....Idle Shutdown Manual Overrul N09480 C132 1400..Max PTO Speed (C132) N09300 C128 75....Maximum Cruise Speed (C128) N09500 C239 NO....Cruise Control Auto Resume (N09520 C238 NO....Auto Engine Brake in Cruise N09240 C209 120...Hard Maximum Speed Limit (C2 N09780 C190 80....High Ambient Temperature Thr N09740 C188 40....Low Ambient Temperature Thre N09760 C189 60....Intermediate Ambient Tempera N09720 C382 YES...Enable Hot Ambient Automatic N09600 C396 YES...Enable Impending Shutdown Wa N09620 C397 60 Timer For Impending Shutdown N09640 C206 35....Engine Load Threshold (C206) N09560 C225 YES...Enable Idle Shutdown Park Br	336
1000046	O	EPA Emissions Warranty Engine	0
1000151	S	PremierSpec	0
1000233	O	Powertrain Protect with SmartAccel - X15	0
1000242	O	Gearing Analysis: Fuel Economy	0
1000255	O	Customer's Typical Operating Spd: 68 MPH	0

Price Level: January 1, 2024
Deal: City of Mboro T880 Bid
Printed On: 5/21/2024 5:29:20 AM

Date: May 21, 2024
Quote Number: QUO-1018143-D1J5M3



Sales Code	Std/ Opt	Description	Weight
1000524		RegistrationYear	0
1000683		Effective VSL Setting 65.0 MPH or Greater (USA)	0
1000858	O	Engine Idle Shutdown Timer Disabled	0
1000859	O	Enable EIST Ambient Temp Overrule	0
1000891		Eff EIST NA Expiration Miles	0
1002080	O	Air Compressor: Cummins 18.7 CFM, Naturally	0
1051200	S	Air Cleaner: Composite Firewall Mounted PACCAR or	0
1105220	O	Fan Hub: Horton 2-Speed for X16/X16N	0
1123555	S	Cooling module: 1330 square inches.	0
1160208	O	Bug Screen: Between Hood & Grille	2
1160728	O	Lower Radiator Drain Valve	0
1247263	S	EXH: Single Can 2024 RH Under with RH	0
1290136	S	Tailpipe: 5 in. single 36 in. 45 degree curved.	0
1321109	O	Fuel Filter:PACCAR Standard Service Interval	0
1321205	S	Run Aid:Fuel Heat	0
1321305	S	Start Aid:12V Heat	0
1504005	O	Immersion Block Heater 120V 1500W W/ Plug Under	2
1812163	S	Alternator: PACCAR HDS 160 AMP Brushed	0
1821210	S	Batteries: 3 PACCAR GP31 Threaded Post (700-730)	0
1836106	O	Mitsubishi 105P55 12V Starter with Cummins and PX	0
1840065	S	12V Low Voltage Disconnect for Battery Protection	0
1901003	O	Jump Start Terminals Frame Mounted BOC or	12
1901017	S	Remote PTO/Throttle, 12-Pin, Engine Bay	0
Transmission & Clutch			
2058362	O	Transmission: Fuller FRO16210C 10-speed	87

Price Level: January 1, 2024
Deal: City of Mboro T890 Bid
Printed On: 5/21/2024 5:29:20 AM

Date: May 21, 2024
Quote Number: QUO-1018143-D1J5M3



Sales Code	Std/ Opt	Description	Weight
2250496	O	Clutch: Eaton 15-1/2 in. Advantage Self-Adjust	0
2294080	O	Air-Assisted Hydraulic Clutch	0
2408201	O	Driveline: 1 Meritor RPL25; No Center	0
2429351	O	First Transmission PTO Compatibility -	0
2429358	O	Rear Transmision Support Springs for	0
2429361	O	First Customer Installed Eaton/PACCAR Trans PTO.	0
2460042	O	14" Eaton High Capacity Standard Cooler	0
2493009	O	Aluminum Clutch Housing	0
2494050	O	Grease Bank for Clutch Throwout Bearing	4
Front Axle & Equipment			
2502335	O	Dana Spicer E-1322IL Front Axle rated 13.2K	-158
2601605	O	Front Brakes: 13.2K Bendix RSD HP-ES S-Cam 16.5x5	-62
2690002	O	Front Brake Drums: 14.6K 16.5x5 in. cast.	78
2701300	O	Front Hub: Aluminum Hub Pilot 13,200 lbs.	0
2741970	S	ConMet PreSet Plus Hub Package; Front Axle.	0
2750001	S	Hubcap: Front Vented.	0
2765001	O	Front Auto Slack Adjuster for Drum Brakes.	0
2864012	O	Front Springs: Taperleaf 13.2K W/ Shock Absorbers	-117
2893671	O	Single Power Steering Gear: 13.2K TRW THP60	-75
2899336	S	Power Steering Cooler:Radiator Mounted Air-to-Oil	0
Rear Axle & Equipment			
3121444	O	Dual Dana Spicer DSH40 Rear Axle rated at 40K	-377
3200325	S	Rear Axle Ratio - 3.25.	0
3304016	O	Dual Rear Brake: Bendix RSD 16.5X8.625 46K	-8
3392002	O	Dual Rear Heavy Duty Brake Drums: Cast.	0

Price Level: January 1, 2024

Deal: City of Mboro T880 Bid

Printed On: 5/21/2024 5:29:20 AM

Date: May 21, 2024

Quote Number: QUO-1018143-D1J5M3



Sales Code	Std/ Opt	Description	Weight
3407050	S	Dual Rear Hubs: Aluminum Hub Pilot 46K;	0
3441972	S	ConMot ProSet Plus Hub Package; Dual Rear Axle.	0
3405002	O	Tandem Rear Axle Automatic Slack Adjusters.	0
3485207	O	Spring Brake: 3030 Long Stroke Dual 30 Square	88
3495225	O	FMVSS-136 Stability Control Schedule Review	0
3495231	O	Bendix 6S/6M Anti-Lock Brake System W/ Air	15
3500058	S	Interaxle Driveline: 1 Meritor RPL20	0
3532130	O	Wheel Differential Lock for Dana Spicer Axles	37
3740130	S	Rear suspension: Tandem Kenworth Airglide 460 46K	0
3830152	S	Air Springs: Heavy-Duty for Airglide 460.	0
Tires & Wheels			
4030022	O	Front Tires: Goodyear Fuel Max RSA 11R24.5 16PR	-130
4238857	O	Rear tires: Goodyear Endurance LHD 11R24.5 14PR	220
4900008	O	Rear Tire Quantity: 8	0
5042310	O	Front Wheel: Accuride 28827 24.5x8.25 steel	36
5242310	O	Rear Wheel: Accuride 28827 24.5x8.25 steel	140
5853906	O	Powder Coat White Steel Wheel. Use in Conjunction	0
5900008	O	Rear Wheel/Rim Quantity: 8	0
Frame & Equipment			
6054400	O	Frame Rails: 10-5/8 x 3-1/2 x 5/16 in. Steel to	84
6302361	O	Bumper: Tapered Polished Aluminum Channel.	-6
6319485	S	48.5 in. Bumper Setting. Requires a Bumper Code.	0
6324025	O	Front Tow Hook: Center Mounted, Cast.	28
6390103	O	Front Mudflaps.	0
6390312	O	Brackets: Iron Front Spring Drive. Included with	47

Price Level: January 1, 2024

Deal: City of Mboro T880 Bid

Printed On: 5/21/2024 5:29:20 AM

Date: May 21, 2024

Quote Number: QUO-1018143-D1J5M3



Sales Code	Std/ Opt	Description	Weight
6397001	O	Huck Bolts Throughout Frame, where Possible.	0
6400638	O	Battery Box Cantilever Aluminum BOC with	8
6409901	S	Battery Box Location: LH Side.	0
6410010	O	Frame Access Grabhandle(s) LH Mounted. Placement	2
6410092	O	Frame Access Grabhandle Horizontal Mounted at	2
6414002	O	Short Aluminum Frame Access Deck Plate, 24 in.	10
6451090	S	T470,C5, T6, T8 Non-Polished DPF/SCR or CNG Cover	0
6541752	O	Fifth Wheel: No-Tilt Fixed, Holland FW35N800YL00	489
6680110		FifthWheelSetting	0
6721102	S	Rear Mudflap Arms: Betts B-25 Standard-Duty,	0
6722000	S	Rear Mudflap Shields: White Plastic Antisail W/	0
6738107	O	Quarter Fenders: Brackets Painted Steel For	11
6744123	O	Short Tractor Taper Bent & Welded W/O Cross	-2
6747000	O	Shortest End-of-Frame Cutoff With Specified	0
Fuel Tanks & Equip			
7210152	O	Split Tank: 150 US Gallon 24.5 in. Aluminum Under	174
7722153	S	Small Round DEF Tank, 14 Gallons.	0
7839400	O	Extended Steps on Fuel Tank LH Under for Access;	2
7889208	O	DEF to fuel fill ratio between 1.25:1 and 2:1.	0
7889247	O	Delete Anti-Siphon Device Swaged in Place for Any	-1
7889603	O	DEF Tank Location is RH.	0
7889811	O	2 Hydraulic Tank Fittings, Rear Top, Bottom.	0
7920152	O	Location: 150 gal split tank LH under cab	0
Cab & Equipment			
8025301	S	Cab: Stamped Aluminum Cab with Panoramic Curved	0

Price Level: January 1, 2024

Deal: City of Mboro T880 Bid

Printed On: 5/21/2024 5:29:20 AM

Date: May 21, 2024

Quote Number: QUO-1018143-D1J5M3



Sales Code	Std/ Opt	Description	Weight
8090604	O	Hood: T880 Set-Back Medium Length. 122.6 inch	15
8108011	S	Cab HVAC - Day Cab and 40 in. Sleeper	0
8201047	S	Kenworth Smartwheel: 18 in. Non-L leather With	0
8201051	O	Column Mtd Retarder Control, RH Side	0
8201200	S	Adjustable Telescoping Tilt Steering Column.	0
8203196	O	Dash Mounted Compact Trailer Brake Valvo.	0
8205067	O	Controls on Dash for Traller Dump Gate.	0
8205087	O	Auto Suspension Dump W/PTO Engagement Interlock.	2
8205096	O	Information for Customer-Installed PTO Muncie	0
8205164	O	Dash Switch: 1st Single-Acting Eaton or PACCAR	0
8222404	S	Gauge: DD Virtual Gauge - Oil Temp Engine	0
8222413	S	Gauge: DD Virtual Gauge - Manifold	0
8222414	S	Gauge: DD Virtual Gauge - Engine Percent	0
8282027	S	Main Instrument Package: 15" Digital Display.	0
8300008	S	Interior Color: Slate Gray	0
8330102	S	Interior Package: Vantage Daycab	0
8390634	S	Rubber Floormat	0
8410200	O	Driver Seat: GT701 HB with Vinyl material.	0
8480104	O	Rider Seat: GT100 Toolbox HB with Vinyl Material.	0
8490181	S	Seat Color: Black	0
8601430	O	Kenworth Radio DEA700 AM/FM/WB	0
8698974	S	Base Level Audio System - Daycab:High Performance	0
8699926	O	CB Installation Kit: Center Mounted of Header.	2
8700197	S	Turn Signal: Non-Self Cancelling	0

Price Level: January 1, 2024
Deal: City of Mboro T880 Bid
Printed On: 5/21/2024 5:29:20 AM

Date: May 21, 2024
Quote Number: QUO-1018143-D1J5M3



Sales Code	Std/ Opt	Description	Weight
8700283	S	LH and RH Trip Ledge Rain Deflectors	0
8700663	S	Kenworth TruckTech+:	0
8800402	S	Dual Cab Interior Grabhandles: A Pillar Mounted	0
8832113	S	Kenworth Dayllite Door With Standard LH/RH	0
8841411	S	Single Air Horn Under Cab.	0
8850139	S	Look-Down, Pass. Door, Black 11x6	0
8865002	S	Aero Mirror: Dual Kenworth Aerodynamic Motorized	0
8871446	S	Rear Cab Stationary Window 19in x 36in	0
8890101	S	One-Piece Bonded-In Windshield With Curved Glass.	0
8890135	S	Exterior Stainless Steel Sunvisor.	19
8890349	S	Wheelwell Fender Extension: 2.5 Inches	0
8890876	S	Kenworth Cab/Sleeper Air Suspension.	0
Lights & Instruments			
9010553	S	Headlamps: SAE Dual Halogen Complex Reflector	0
9022137	S	Marker Lights: Five, Rectangular, LED	0
9030016	S	Turn Signal Lights: Flush Mounted LED. Mounted at	0
9030052	S	LED Stop,Turn,Tail: With Two LED	0
9052011	O	Dual Flush Floodlights: First Set	2
9059921	O	Floodlight Location: Located Low - First Set	0
9060055	O	Halogen Spotlight: LH & RH Mounted.	11
9090039	S	Marker Lights: Interrupter Switch.	0
9090049	S	Omit Brake Light with Engine Brake.	0
9090126	O	Electric Backup Alarm: Meets SAE J994 & OSHA	4
Air Equipment			
9101218	S	Air Dryer: Bendix AD-HF Puraguard Heated	0

Price Level: January 1, 2024
Deal: City of Mboro T880 Bid
Printed On: 5/21/2024 5:29:20 AM

Date: May 21, 2024
Quote Number: QUO-1018143-D1J5M3



Sales Code	Std/ Opt	Description	Weight
9108001	S	Moisture Ejection Valve W/ Pull Cable Drain.	0
9110083	O	Tractor Kit: Slide Bar, Spring Hanger & Composite	-6
9120010	O	Air and light line length 10 feet	0
9140020	S	Nylon Air Tubing In Frame & Cab, Excluding Hoses	0
9140328	O	Trailer ABS Electric Supply Through SAE J560	0
Extended Warranty			
9200021	S	Base Warranty - Standard Service Heavy Duty	0
9210159	U	Sourcewell Prog Fee <i>Narr Sourcewell Prog Fee Municipality</i>	0
9212653	O	TruckTech+ RD - 5YR Sub Cummins Engines	0
9220001	O	Base Warranty: Emissions	0
Miscellaneous			
9409852	O	GHG Secondary Manufacturer: Does Not Apply	0
9490206	O	Warning Triangle Reflector Kit: Shipped Loose.	4
9490406	O	One 5 lb. Dry Chemical Type Fire Extinguisher	11
9491659	S	VMUX Architecture	0
Promotions			
Paint			
9700000	O	Paint Color Number(s). N9702 A - L0006 WHITE N9720 FRAME N0001 BLACK	0
9943004	O	Bumper Unpainted	0
9943048	O	Day Cab Bulk Paint	0
9943050	O	Day Cab Standard Paint	0
9944820	S	1 - Color Paint - Day Cab	0
9965510	S	Base Coat/ Clear Coat.	0

Price Level: January 1, 2024
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Sales Code	Std/ Opt	Description	Weight
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Special Requirements

- Special Requirement 1 0098025
- Special Requirement 2
- Special Requirement 3
- Special Requirement 4

Order Comments



Total Weight (lbs)

16,592

Prices and Specifications Subject to Change Without Notice.

Unpublished options may require review/approval.

Dimensional and performance data for unpublished options may vary from that displayed in CRM.

PRICING DISCLAIMER

While we make every effort to maintain the web site to preserve pricing accuracy, prices are subject to change without notice. Although the information in this price list is presented in good faith and believed to be correct at the time of printing, we make no representations or warranties as to the completeness or accuracy of this information. We reserve the right to change, delete or otherwise modify the pricing information which is represented herein without any prior notice. We carefully check pricing specifications, but occasionally errors can occur, therefore we reserve the right to change such prices without notice. We disclaim all liability for any errors or omissions in the materials. In no event will we be responsible for any damages of any nature whatsoever from the reliance upon information from these materials. Please check your order prebills to confirm your pricing information

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: MWRD/CUD Boundary Revision No. 8

Department: Water Resources

Presented by: Valerie Smith

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

MWRD/CUD water service boundary revisions along Dill Lane and south of Jefferson Pike just north of the Stones River Water Treatment Plant.

Staff Recommendation

Approve the revision to the CUD/MWRD boundary per Exhibits 1 & 2.

Background Information

Staff received a request from the Rutherford County Mayor’s office to serve the new Transfer Station (Station), along Jefferson Pike, with water and sanitary sewer. The Station would connect to water and sewer, via river crossings, on the Department’s Water Treatment Plant property. There were complications serving the landfill from CUD’s water main along Jefferson Pike.

In addition, CUD and staff requested an amendment to the boundary for a property along Dill Lane. This property is currently being served by CUD and MWRD does not have a water main near the property.

CUD’s Board has approved these revisions. The attached Amendment #8 has been approved as to form by our Legal Department and will be executed by both parties if approved.

Council Priorities Served

Responsible budgeting

CUD and MWRD continue to adjust service boundaries in the interest of least cost to our departments and the developers with highest benefit to the public in providing water service for fire protection.

Fiscal Impact

The Department is gaining a commercial account with an estimated monthly bill of \$2,225 based on estimated water usage.

Attachments

1. Boundary Amendment Agreement #8
2. GIS Exhibits 1 & 2

**AMENDMENT EIGHT TO SERVICE AREA AND
TERRITORIAL BOUNDARY AMENDMENT AGREEMENT**

THIS AMENDMENT EIGHT, made and entered into as of this the ____ day of _____, 20____, by and between **CONSOLIDATED UTILITY DISTRICT OF RUTHERFORD COUNTY, TENNESSEE**, (“CUD”), and the **CITY OF MURFREESBORO**, a Tennessee municipal corporation, through its **WATER RESOURCES DEPARTMENT (MWRD)**, amends the service area and Territorial Boundary Agreement as previously amended.

WITNESSETH:

WHEREAS, CUD can more easily serve the area designated in Exhibit 1, along Dill Lane, than can MWRD.

WHEREAS, MWRD can more easily serve the area designated in Exhibit 2, by way of a River Crossing just north of the Water Treatment Plant, than can CUD.

WHEREAS, the parties ratify and confirm the previous territorial boundaries in existence between them except as modified hereafter.

NOW, THEREFORE, the parties agree as follows:

1. All of the right, title and interest of MWRD in and to the Water Service Areas shown on “Exhibit 1” is released by MWRD and transferred to CUD; and
2. All of the right, title and interest of CUD in and to the Water Service Areas shown on “Exhibit 2” is released by CUD and transferred to MWRD; and
3. This amendment and the terms hereof are, as with all previous amendments, subject to the written consent and approval of the owners of any CUD bond indebtedness and to the terms of 7 United States Code 1926 (b).

**CONSOLIDATED UTILITY OF
RUTHERFORD COUNTY**

By: _____

Title: _____

ATTEST:

Secretary:

Approved by a vote of the Commissioners of the District at a duly noticed public meeting of the Commissioners on _____.

This instrument approved as to form this the ____ day of _____, 20__.

Jeffrey L. Reed
Attorney for CUD

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

ATTEST:

Jennifer Brown, City Recorder

Approved by a vote of the Board of Murfreesboro Water Resources Department at a duly noticed public meeting of the Board on ____ day of _____ 2023.

**MURFREESBORO WATER
RESOURCES DEPARTMENT**

By: _____
John Sant Amour, Chairman

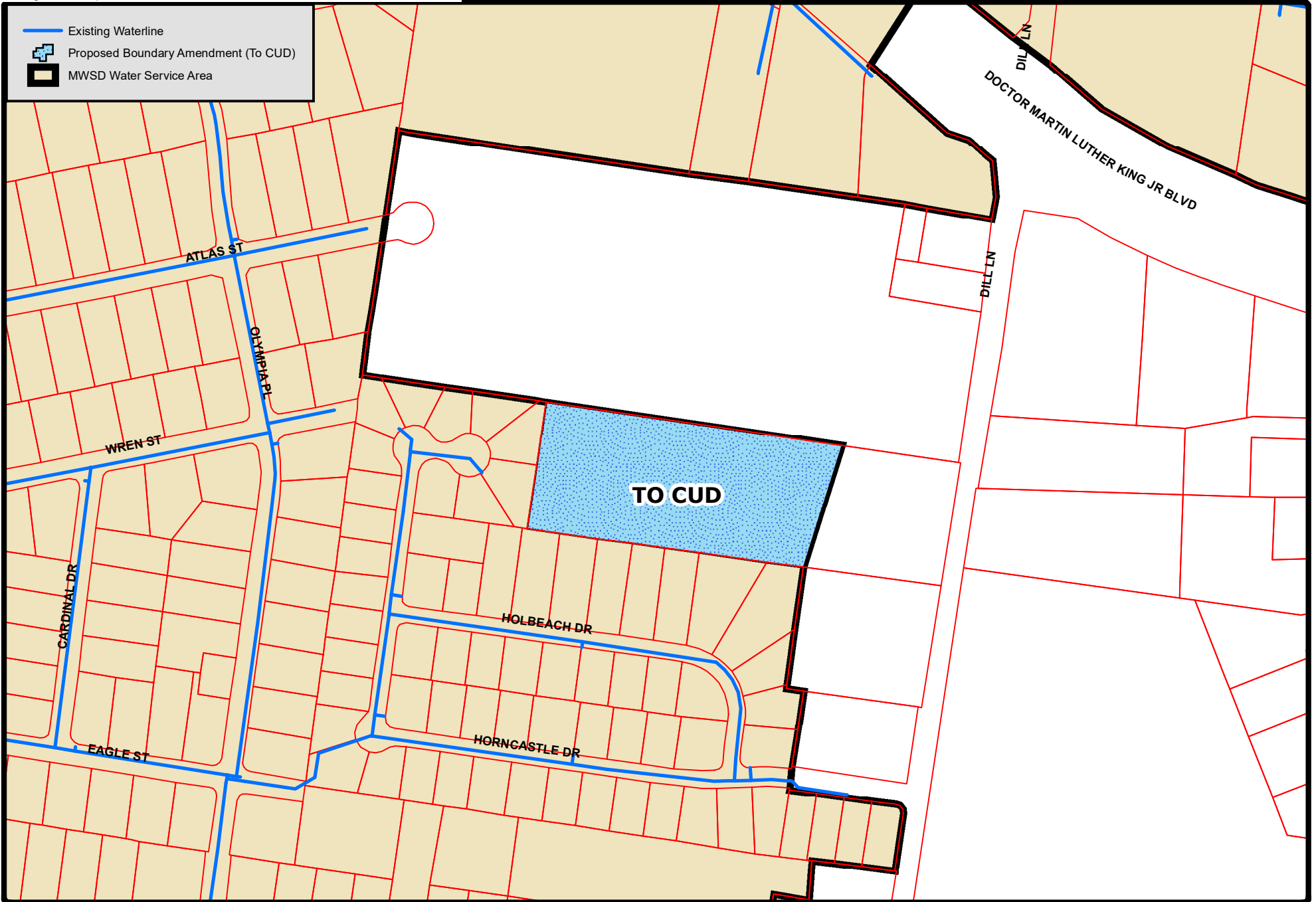
ATTEST:

Darren Gore, Director

This instrument approved as to form this the ____ day of _____, 20__.

DocuSigned by:
Adam Tucker

Adam F. Tucker
City Attorney



SCALE : 1" = 300'

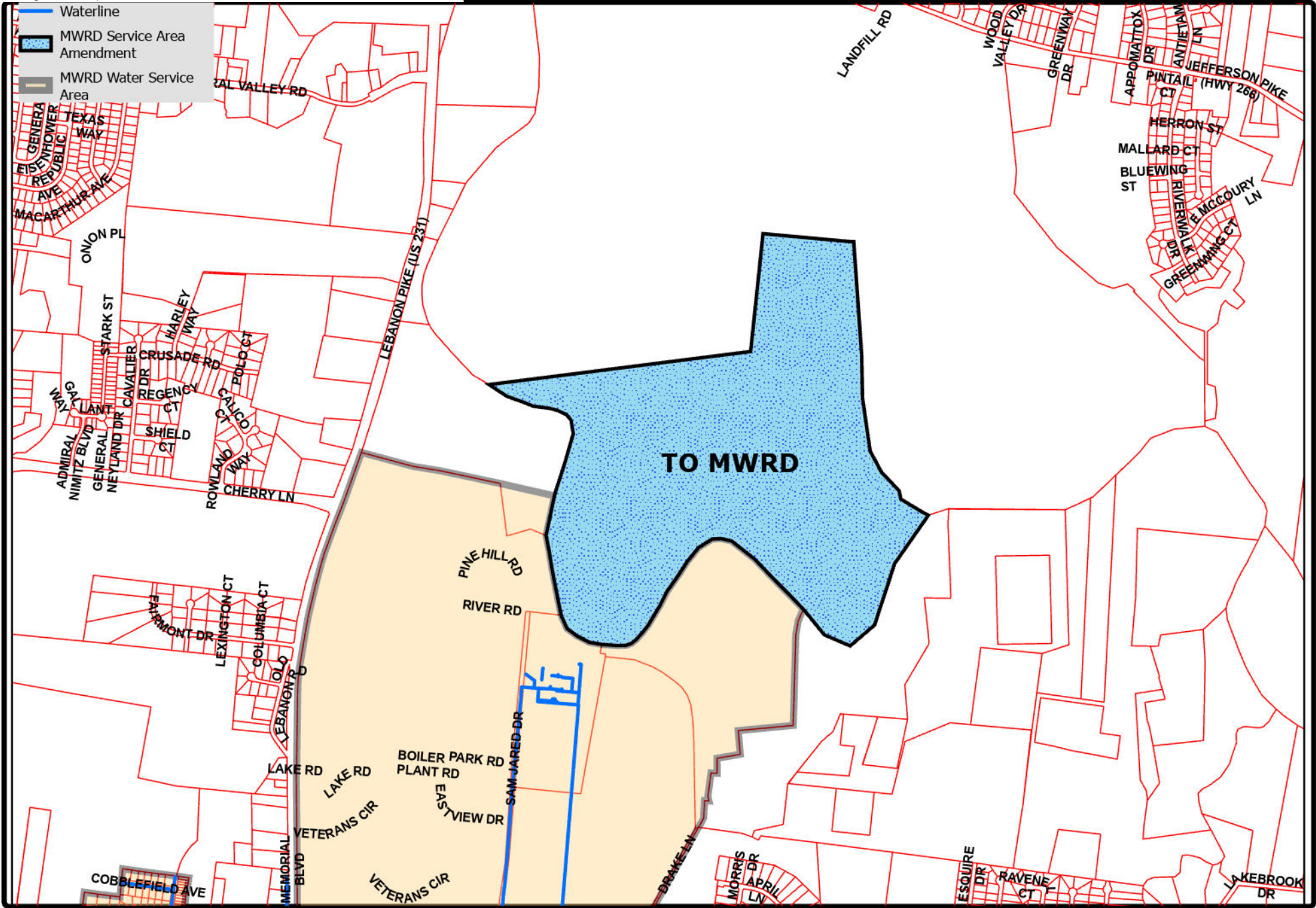
MURFREESBORO WATER RESOURCES DEPARTMENT

Proposed MWRD Water Service Boundary Amendment #8 Exhibit #1 (Dill Ln)

Nov 2022
TAB



Amendment 8 Exhibit 1-Dill Ln.mxd



MURFREESBORO WATER RESOURCES DEPARTMENT

Proposed MWRD Water Service Boundary Amendment #8 Exhibit #2

SCALE : 1" = 1,500'

September 2023
TAB



Amendment 8 Exhibit 2.aprx

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: LJA - ARP Grant Management Task Order

Department: Water Resources

Presented by: Valerie Smith

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Engineering services task order under the Master Services Agreement (MSA) with LJA for assistance with management of the American Rescue Plan (ARP) grant funds.

Staff Recommendation

Approve the LJA Grant Management task order.

Background Information

The Department, through the City, was awarded \$10,115,421.57 in grant funds for three projects. They are the 2021 and 2023/24 Sewer Rehabilitation projects and the Hobas Pipe Rehabilitation project. To date funds have not been received despite LJA and staffs' efforts to meet the ARP grant requirements. LJA uploaded the last piece of information required for reimbursement of the completed 2021 Sewer Rehabilitation project on April 29, 2024. Since then, Ernst & Young has had additional RFIs. LJA has responded, and the GMS shows 'Approved.'

Up to this point, the time that LJA has spent on grant management has been paid from the Construction Administration (CA) and Resident Project Representative (RPR) budgets for each of the above rehab projects currently under construction. Grant management was not in the original scope of work because staff nor LJA believed the time required to provide necessary information would be so extensive. The attached table illustrates the expense incurred in navigating the requirements involving procurement of the ARP funds across each rehab project.

Council Priorities Served

Responsible budgeting

Applying for the ARP Grant and submitting the required information to receive ARP funding will reimburse the Departments Working Capital Reserves.

Fiscal Impact

The Grant Management task order expense, or \$105,705, will be funded from working capital reserves.

Attachments

LJA Grant Management Task Order



June 11, 2024

TASK ORDER

Ms. Valerie Smith, PE
 Executive Director
 Murfreesboro Water Resources Department
 220 NW Broad Street
 Murfreesboro, Tennessee 37130

RE: Engineering Services as Related to the
 Grant Management & Administration for ARP Funding
 Murfreesboro Water Resources Department
 City of Murfreesboro, Tennessee
 LJA Task Order No. 20240611

Dear Ms. Smith,

LJA Engineering, Inc. ("LJA") is pleased to provide this proposal for Grant Management & Administration for Division of Water Resources (DWR) American Rescue Plan (ARP) State Water Infrastructure Grants (SWIG) funding on behalf of the Murfreesboro Water Resource Department ("Client"). This task order is made pursuant to the terms and conditions of the Professional Services Agreement ("PSA") entered into on March 4, 2021, by and between LJA Engineering, Inc. and the City of Murfreesboro ("Client").

Background

The City of Murfreesboro/Murfreesboro Water Resources Department was awarded a total grant amount of \$10,115,421.57 in the Non-Collaborative category as part of the ARP funding for municipal governments to address infrastructure needs. The funds have a required match of 30%.

The funds are being administered by TDEC through an accounting firm (Earnest & Young). During the initial application process, four (4) projects were identified to utilize the grant funding; however, through the course of the procurement and approval process, one project was eliminated from the funding list and the grant money was redistributed between the remaining three as listed in the table below.

		Total Project	Grant Total	Required Match
Hobas Large Diameter CIPP Project	COSTd1	\$9,945,158.00	\$3,555,906.45	\$1,760,083.00
2023-2024 Rehab Project	COSTd2	\$6,942,454.00	\$2,482,285.04	\$1,274,543.00
2021 Rehab Project	COSTd3	\$4,077,230.08	\$4,077,230.08	\$0.00
Salem Barfield Sewer Upgrade (Remove)	COSTd4	\$0.00	\$0.00	\$0.00
Totals		\$20,964,842.08	\$10,115,421.57	\$3,034,626.00

Of the three final projects identified, one project (2021 Rehab Project) was previously completed in December 2022 but qualifies for reimbursement under the approved grant timeline. The other two projects (Hobas Large Diameter Project and the 2023-2024 Rehab Project) were in the beginning stages during the initial approval process.

June 11, 2024

Page 2

LJA staff began the application process assisting MWRD staff with submittals, RFIs, procurements, and other associated documentation through existing associated task orders of the Hobas Large Diameter Project and the 2023-2024 Rehab Project; although that work was not outlined in the existing scope of each respective task order. Based on information originally publicized by TDEC, it was believed the effort to submit required information and facilitate disbursements would be minimal; however, the program has continued to evolve and require significantly more effort to manage RFIs and submit the required documentation. In discussions with MWRD staff, it was agreed that a separate task order was necessary to continue to facilitate the management and administration of the grant funding.

Scope of Services

LJA will provide assistance to the Client by facilitating ARP related documentation for each project as required. The process would include the following activities:

- Assist Client in assembling information required to submit to TDEC's Grant Management System (GMS) in preparation for the start of each project including procurement and related forms.
- Submit the required information within the GMS for each project to facilitate approvals.
- Coordinate with the Client and TDEC representatives to obtain and submit related documentation for disbursement requests throughout each project.
- Provide services to complete required tasks to facilitate the ARP grant requirements as identified during construction of each project.
- Provide services to complete the required tasks to facilitate the ARP related close-out of each project following final completion.
- Conduct progress meetings throughout the contract period either virtually or in-person meetings as required to achieve the desired results of a specific task or activity.
- Communicate and coordinate with TDEC and their representatives (Earnest & Young) as needed to facilitate the required tasks relating to ARP requirements.

Note: It is assumed the management and administration period would be no longer than 12 calendar months from authorization of this task order.

Client's Responsibilities

Client shall be responsible for the following items:

- Provide information as required in a timely manner to facilitate submittal of grant related documentation.

Compensation

We propose to provide the specific services described above to be billed on an hourly basis with a not-to-exceed amount of \$105,705 without prior authorization.

June 11, 2024

Page 3

Schedule

LJA will continue to perform required actions to facilitate procurement and disbursements with progression of each project.

Reimbursables and additional services

Included in the above fees are reimbursable expenses incurred on the project's behalf and will not be billed in addition to the fees shown. Any regulatory agency review fees, permits or other similar types of direct project costs shall be the responsibility of the Client. LJA will bill monthly for all work performed and expenses incurred on the project's behalf.

Authorization

If this proposal is acceptable, please provide the required signatures below. We appreciate the opportunity to submit this Task Order and look forward to working with you on this project. If you have any questions, please contact me at your convenience.

Sincerely,

Travis E. Wilson, PE
Vice President

Accepted By:
**MURFREESBORO WATER RESOURCES
DEPARTMENT**

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM

Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 07/18/2024

Item Title: Parks and Recreation Commission

Department: Administration

Presented by: Mayor McFarland

Requested Council Action:

Ordinance

Resolution

Motion

Direction

Information

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 11, 2024

Members of City Council

RE: Recommended Appointment – Parks and Recreation Commission

As an item for the City Council agenda, I am recommending the following appointment to the Parks and Recreation Commission.

Reappointment of Mr. LeRoy Cunningham term expiring June 30, 2027

Reappointment of Mr. Kent Syler term expiring June 30, 2027

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: 07/18/2024

Item Title: Historic Zoning Commission

Department: Administration

Presented by: Mayor Shane McFarland

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Appointment to the Historic Zoning Commission.

Background Information

The purpose of the Historic Zoning Commission is to study, recommend, and oversee historic district boundaries and guidelines for renovation of existing structures or the building of new structures for the protection of historic neighborhoods and districts.

As established by M.C.C.§, Appendix A, Section 24, H-I Historic District (f), the Historic Zoning Commission consists of nine members who serve five-year, staggered terms.

Attachments

Memo from Mayor McFarland



. . . creating a better quality of life.

July 18, 2024

Members of City Council

RE: Recommended Appointment – Historic Zoning Commission

As an item for the Council Agenda, I am recommending the following reappointments to the Historic Zoning Commission.

Appointment of Bryan Prince replacing the vacancy of Chase Salas term expires June 30, 2027

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: 07/18/2024

Item Title: Beer Permits
Department: Finance
Presented by: Amanda DeRosia, Interim 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
Placery, LLC	Placery	2108 Lothric Way	On-Premises	Restaurant	Ownership Change
Yorktown, LLC	Hyatt Place	2108 Lothric Way	On-Premises	Hotel Sundry	Ownership Change
FOB Restaurant Group, Inc.	Five on Black Kitchen & Spirit House	215 N Church St.	On-Premises	Restaurant	Ownership/Name Change
Hotel Ghunghat, Inc.	The Clay Pit Indian Cuisine	1312 NW Broad St.	On Premises	Restaurant	Ownership Change

Special Event Beer Permits

Name of Applicant	Date of Event	Type of Event	Location of Event
The Womans Club of Murfreesboro	08/10/2024	Legacy Gathering/ Fundraiser	901 N. Maney Ave.

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

Beer Application

Summary of information from the beer application:

Name of Corporation	Placery LLC
Name of Business	Placery
Business Location	2108 Lothric Way
Type of Business	Restaurant
Type of Permit Applied For	On-Premises

Type of Application:

New Location	_____
Ownership Change	_____ X _____
Name Change	_____
Corporation or LLC	_____ X _____
Partnership	_____
Sole Proprietor	_____

5% or more ownership:

Name	Pradeep Agnihotri
Age	67
Residency City/State	Murfreesboro, TN
Race/Sex	Asian/ M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Ranjna Agnihotri
Age	57
Residency City/State	Murfreesboro, TN
Race/Sex	Asian/M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Ajay Agnihotri
Age	35
Residency City/State	Nashville, TN
Race/Sex	Asian/ M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Atul Agnihotri
Age	32
Residency City/State	Brentwood, TN
Race/Sex	Asian/M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly? Yes

Occupancy Application Approved? No

The actual beer application is available in the office of the City Recorder.

***| request permission to issue the beer permit upon successful completion of all required building and codes inspections.

Beer Application

Summary of information from the beer application:

Name of Corporation	Yorktown, LLC
Name of Business	Hyatt Place
Business Location	2108 Lothric Way
Type of Business	Restaurant
Type of Permit Applied For	On-Premises

Type of Application:

New Location	_____
Ownership Change	_____ X _____
Name Change	_____
Corporation or LLC	_____ X _____
Partnership	_____
Sole Proprietor	_____

5% or more ownership:

Name	Pradeep Agnihotri
Age	67
Residency City/State	Murfreesboro, TN
Race/Sex	Asian/ M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Ranjna Agnihotri
Age	57
Residency City/State	Murfreesboro, TN
Race/Sex	Asian/M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Ajay Agnihotri
Age	35
Residency City/State	Nashville, TN
Race/Sex	Asian/ M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Atul Agnihotri
Age	32
Residency City/State	Brentwood, TN
Race/Sex	Asian/M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly? Yes

Occupancy Application Approved? No

The actual beer application is available in the office of the City Recorder.

***| request permission to issue the beer permit upon successful completion of all required building and codes inspections.

Beer Application

Summary of information from the beer application:

Name of Business Entity/Sole Proprietor	FOB Restaurant Group, Inc.
Name of Business	Five on Black Kitchen & Spirit House
Business Location	215 N Church St.
Type of Business	Restaurant
Type of Permit Applied For	On-Premises

Type of Application:

New Location	_____
Ownership Change	_____ X _____
Name Change	_____ X _____
Permit Type Change	_____
Corporation	_____ X _____
Partnership	_____
LLC	_____
Sole Proprietor	_____

5% or more Ownership

Name	Raul Espinosa
Age	34
Residency City/State	Murfreesboro, TN
Race/Sex	Hispanic/M
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.
Name	Charles Murphree
Age	48
Residency City/State	Murfreesboro, TN
Race/Sex	White/M
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly? Yes

Occupancy Application Approved? No

The actual beer application is available in the office of the City Recorder

***I request permission to issue the beer permit upon successful completion of all required building and codes inspections.

Beer Application

Summary of information from the beer application:

Name of Business Entity/Sole Proprietor	Hotel Ghunhat, Inc.
Name of Business	The Clay Pit Indian Cuisine
Business Location	1312 NW Broad St.
Type of Business	Restaurant
Type of Permit Applied For	On-Premises

Type of Application:

New Location	_____
Ownership Change	_____ X _____
Name Change	_____
Permit Type Change	_____
Corporation	_____ X _____
Partnership	_____
LLC	_____
Sole Proprietor	_____

5% or more Ownership

Name	Paresh Chaudhari
Age	32
Residency City/State	Lynchburg, TN
Race/Sex	Other/M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly? Yes

Occupancy Application Approved? No

The actual beer application is available in the office of the City Recorder.

***I request permission to issue the beer permit upon successful completion of all required building and codes inspections.

Special Event Beer Application

Summary of information from the beer application:

Name of Non-Profit Organization	The Woman's Club of Murfreesboro
Organization Address	221 E College St.
Event Location	Oakland's Mansion 901 N Maney Ave.
Event Date	8/10/2024
Event Time	5:00 p.m. until 8:00 p.m.
Period for Beer to be Served	4:30 p.m. until 8:30 p.m.
Nature and Purpose of Event	Legacy Gathering- Fundraiser for Renovation of Historic Woman's Club House
Approximate Number of Persons Expected to Attend	150
Special Event Permit Approved?	No
Application Completed Properly?	Yes
Internal Revenue Letter Provided?	Yes

The actual beer application is available in the office of the City Recorder.

No Items.