

**MURFREESBORO CITY COUNCIL**  
**Regular Meeting Agenda**  
**Council Chambers – 6:00 PM**  
**September 5, 2024**

**PRAYER**

Madelyn Scales Harris

**PLEDGE OF ALLEGIANCE**

**CEREMONIAL ITEMS**

Proclamation: Ron Crabtree

**Public Comment on Actionable Agenda Items**

**Consent Agenda**

1. Housing Rehabilitation Change Order 1214 Wingate St. (Community Development)
2. Housing Rehabilitation 2407 Aspen Ave. (Community Development)
3. ADA Building Assessment Agreement (Facilities)
4. Purchase of Radio Equipment from Motorola (Police)
5. Quality Performance Review Service Agreement (Police)
6. Use of Request for Competitive Sealed Proposals for Special Census (Purchasing)
7. Asphalt Purchases Report (Water Resources)

**Minutes**

8. City Council Meeting Minutes for June 6, through August 22, 2024 (Finance)

**Old Business**

Land Use Matters

9. Ordinance 24-OZ-26 Rezoning property along East Vine Street (2nd and Final reading) (Planning)  
Final Reading: Ordinance 24-OZ-26

Ordinance

10. Ordinance 24-O-25 Ethics Code (2nd and Final Reading) (Legal)  
Final Reading: Ordinance 24-O-25
11. Ordinance 24-O-18 City Code Ch. 33-80 Changes (2nd and Final Reading) (Water Resources)  
Final Reading: Ordinance 24-O-18

**New Business**

Resolution

12. Resolution 24-R-26 Truist Bank Credit Card Authorization (Finance)
13. Resolution 24-R-25 FY25 Budget Amendment #2 (Schools)

### On Motion

14. Housing Rehabilitation 437 S Highland Ave. (Community Development)
15. Affordable Housing Assistance - Legacy Pointe (Community Development)
16. Approach Mitigation Design Work Grant (Airport)
17. Approach Mitigation Design Work Authorization (Airport)
18. Hazen & Sawyer Master Services Agreement (Water Resources)
19. Hazen & Sawyer Task Order No. 1 Prelim Engineering & Permitting for WRRF Expansion (Water Resources)
20. Fountains Agreement 5th Amendment (Administration)
21. Caroline Farms Road Development Agreement First Amendment (Administration)
22. Election of Vice Mayor (Mayor)

### **Board & Commission Appointments**

#### **Licensing**

22. Beer Permits (Finance)

#### **Payment of Statements**

#### **Other Business**

#### **Adjourn**

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Housing Rehabilitation – 1214 Wingate Street  
**Department:** Community Development  
**Presented by:** Robert Holtz, Director of Community Development

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Consider additional rehabilitation assistance through the Community Development Housing Rehabilitation program.

**Staff Recommendation**

Approve the additional assistance for the rehabilitation activity.

**Background Information**

A residence at 1214 Wingate Street was under a rehabilitation project when decayed floor joists were discovered in the dining room. The cost for the contractor, New Creations, to replace the existing floor joists, subfloor and floor finishes is \$15,465.

**Council Priorities Served**

*Responsible budgeting.*

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

**Fiscal Impact**

The expense, \$15,465, is fully funded by the Community Development Block Grant.

**Attachment**

Change Order for additional rehabilitation work.

**CHANGE ORDER #1 TO  
CONTRACT FOR REHABILITATION – CDBG  
FOR MURFREESBORO COMMUNITY DEVELOPMENT DEPARTMENT**

This **Change Order #1** for Contract for Rehabilitation – CDBG for the City of Murfreesboro, acting through its Community Development Department, dated May 2, 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; Susan Stevenson (“Owner”); and New Creations Construction, LLC (“Contractor”).

WHEREAS, Owner and Contractor, with City’s approval, entered into the Contract pursuant to City’s ITB-39-2024 for certain rehabilitation services at 1214 Wingate Street, 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, the parties desire to amend the scope of the Contract to include additional labor and materials.

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

1. The parties agree to include the additional scope of work, as more particularly described on Contractor’s Change Order #1 Proposal, attached hereto as Exhibit “A” and incorporated herein by reference, and to adjust the project cost as follows:

ITEM	COST
Original Project Cost	\$24,180.00
1. Additional work	\$15,462.83
<b>Total</b>	<b>\$15,462.83</b>
<b>New Project Cost</b>	<b>\$39,642.83</b>

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

\_\_\_\_\_  
Jason Moore, Contractor  
New Creations Construction LLC,

\_\_\_\_\_  
Susan Stevenson, Owner  
Date: \_\_\_\_\_

APPROVED BY CITY:

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

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

APPROVED AS TO FORM:

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

\_\_\_\_\_  
Name: Adam Tucker  
Title: City Attorney



## Exhibit A

General Contractor  
License #61175

www.NewCreationsInChrist.com  
615-339-9977

Jason Moore  
Managing Member

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### Scope of Work:

1. ½ bathroom
  - a. Install 2 header boards and 5 joist hangers to fix damaged joist
2. Kitchen/Dining/Hall/Bathroom/Closet
  - a. Demo
    - i. Approximately 347 sq ft of floor tile
    - ii. (3) 2x8x12' water damaged floor joists
    - iii. (1) 2x8x8' water damaged rim board
    - iv. (1) 2x8x8' pressure treated sill plate
    - v. Approximately (3) sheets of subfloor
  - b. Move furniture and appliances as needed to keep them safe and put them back into place upon completion of work
  - c. Remove and reinstall 3 HVAC supply covers
  - d. Replace floor joists, rim board, sill plate, and subfloor that was removed
    - i. Clean any debris up that may fall into the crawlspace
  - e. Repair bottom plate and king stud to left of door opening
    - i. Facing door from inside
  - f. Install approximately 347 sq ft of laminate flooring
    1. 1/4" underlayment is required for entire area
  - g. Install and paint shoe molding as needed
  - h. This price does include \$500 for labor and material to secure and make weather tight the door opening when we discovered the damaged floor system
  - i. Clean up, Porta-John and dumpster included

### Price:

\$15,462.83

These prices are for labor and material for the above-mentioned work only. Any additional work that may be required will be done at an additional charge.

Any additional charges will be agreed upon by Murfreesboro, TN Community Development and New Creations Construction, LLC before any of the additional work is performed.

Thank you for considering me on this and any other work you may need done in the future.

Please feel free to call me with any questions or concerns you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Moore". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jason Moore

Accepted By:

Date:

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Housing Rehabilitation – 2407 Aspen Ave.  
**Department:** Community Development  
**Presented by:** Robert Holtz, Director of Community Development

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Consider rehabilitation assistance through the Community Development Housing Rehabilitation program.

**Staff Recommendation**

Approve the expenditure for the rehabilitation activity.

**Background Information**

A residence at 2407 Aspen Ave. requires rehabilitation to include roof replacement, exterior doors and replacement windows. Ragan Construction Co., Inc. (DBA Southern Roofing Company) is the lowest responsible bidder to complete the necessary work for \$34,911. The Community Development Policy and Procedures Manual requires that the council approve all rehabilitation projects over \$25,000.

**Council Priorities Served**

*Responsible budgeting.*

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

**Fiscal Impact**

The expense, \$34,911, is fully funded by Community Development Block Grant.

**Attachment**

Contract for rehabilitation work.

**MURFREESBORO COMMUNITY DEVELOPMENT DEPARTMENT  
CONTRACT FOR REHABILITATION  
CDBG**

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

THIS CONTRACT FOR REHABILITATION, hereinafter referred to as "CONTRACT," made this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by and between

SUB KRUERATTANAKUL, hereinafter referred to as "OWNER," whether one or more, and

RAGAN CONSTRUCTION COMPANY, INC. D.B.A SOUTHERN ROOFING COMPANY, hereinafter referred to as "CONTRACTOR".

The OWNER hereby employs the CONTRACTOR to do all the work and provide all materials, tools and machinery, supervision, etc., necessary for the rehabilitation of the property known as, 2407 Aspen Avenue, Murfreesboro, TN, for the total sum of Thirty-Four Thousand, Nine Hundred Eleven Dollars and Zero Cents (\$34,911.00) all in accordance with this CONTRACT. Such rehabilitation is more particularly described in the CONTRACTOR'S quote, attached hereto as **Exhibit E** and incorporated herein by reference.

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

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

**SECTION I            General Conditions**

1. After execution by the OWNER and CONTRACTOR, this CONTRACT will become effective only after approval by CITY as indicated by the signature of its authorized representative below.
2. The OWNER shall issue a written Proceed Order within ten **(10) days** from the date of approval of this CONTRACT by CITY.
3. The CONTRACTOR must commence work within fifteen **(15) days** after issuance of the Proceed Order. At the option of the OWNER, this contract may be canceled by failure of the CONTRACTOR to begin work on the date specified.
4. The CONTRACTOR must complete the work within ninety **(90) days** after issuance of the Proceed Order in accordance with this CONTRACT, and in good and workmanlike manner. Failure to so complete the work may result in liquidated damages being assessed by the CITY at a rate of **one per cent (1%) of the total CONTRACT value per day** for each day over the time provided for such



completion of the work. The assessed damages will be calculated and deducted from the final payment made to the CONTRACTOR and will be credited to the loan balance of the OWNER.

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

## **SECTION II            General Requirements**

1. The work to be performed under this CONTRACT is on a project assisted under the Community Development Block Grant program, which provides Federal financial assistance from the Department of Housing and Urban Development and subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (hereinafter, "**Section 3**"). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
2. The parties to this CONTRACT will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this CONTRACT. The parties to this CONTRACT certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
3. The CONTRACTOR will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contact or understanding, if any, a notice advising said labor organization or workers' representative of CONTRACTOR'S commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The CONTRACTOR will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The CONTRACTOR will not let any subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of this CONTRACT, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors or subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.
6. The CONTRACTOR shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor, made pursuant to the so-called "Anti-Kickback Act" of June 13, 1934

(48 Stat. 94B; 62 Stat. 862; Title 18 U.S.C. Section 874; and Title 40 U.S.C., Section 376c) and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to ensure compliance therewith by all subcontractors subject thereto, and shall be responsible for the submission of statements required of subcontractors thereunder, except as said Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances and exemptions from the requirements thereof.

7. The CONTRACTOR will not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, national origin or disability. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their age, race, color, religion, sex, national origin, or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CITY setting forth the provisions of this non-discrimination clause.

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

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

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

authorized representative shall have access to any other books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this CONTRACT for the purpose of making audit, examination, excerpts, and transcriptions.

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

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

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

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

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

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

#### **SECTION VI            Payment**

1. Progress Payment - No more than one progress payment will be made on a rehabilitation project, and that only after at least 60 percent of the project is deemed complete. The payment will be no more

than 55 percent of the CONTRACT amount, as modified by Change Orders, if any. Progress payment will be made only after the City's representative has completed an inspection and all work performed to date has been accepted by the OWNER.

2. Final Payment -

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

**SECTION VII Conflict of Interest, Kickback**

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

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

**SECTION VIII Entire Agreement; Change Orders**

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

**SECTION IX Miscellaneous Provisions**

- 1. 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.
- 2. Governing Law; Venue - The validity, construction and effect of this CONTRACT and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee and the United States of America. Any action between the parties arising from this CONTRACT shall be maintained in the courts of Rutherford County, Tennessee.

3. 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.
4. Survival. Section I(5) (Proper Construction), Section III(A)(3) (Indemnification), Section III(A)(6) (Recordkeeping); Section III(B)(3) (Inspection); Section III(B)(7) (Homeowner's Insurance), Section IV (Warranty), Section V (Grievances) and Section IX(2) (Governing Law; Venue) of this CONTRACT shall survive and continue in full force in accordance with their terms notwithstanding the expiration or termination of this CONTRACT.

[signatures to appear on following page]

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

\_\_\_\_\_  
PAUL A. STIGAMIER, CONTRACTOR  
RAGAN CONSTRUCTION COMPANY DBA  
SOUTHERN ROOFING COMPANY

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

  
\_\_\_\_\_  
SUB KRUERATTANAKUL, OWNER

Date: 8-26-2024

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

APPROVED BY CITY:

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Name: Adam F Tucker  
Title: City Attorney

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

## EXHIBIT A

### EEO STANDARDS

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

(1) As used in these specifications:

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

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

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

(4) The CONTRACTOR shall implement the specific affirmative action standards provided in paragraphs (7a) through (p) of these specifications. The goals set forth in the solicitation from

which this contract resulted are expressed as percentages of the total hours of employment and training or minority and female utilization the CONTRACTOR should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction CONTRACTORS performing contract in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The CONTRACTOR is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

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



- d. Provide immediate written notification to the Director when the union or unions with which the CONTRACTOR has a collective bargaining agreement has not referred to the CONTRACTOR a minority person or woman sent by the CONTRACTOR, or when the CONTRACTOR has other information that the union referral process has impeded the CONTRACTOR'S efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the CONTRACTOR'S employment needs, especially those programs funded or approved by the Department of Labor. The CONTRACTOR shall provide notice of these programs to the sources compiled under (7b) above.
- f. Disseminate the CONTRACTOR'S EEO policy notice of the policy to unions and training programs and request their cooperation in assisting the CONTRACTOR in meeting its EEO obligations: by including it in any policy manual and collective bargaining agreement publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year: and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the CONTRACTOR'S EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the CONTRACTOR'S EEO policy with other CONTRACTORS and subcontractors with whom the CONTRACTOR does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the CONTRACTOR'S recruitment area and employment needs. Not later than one month prior to the date of the acceptance of applications or apprenticeship or other training by any recruitment source, the CONTRACTOR shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of CONTRACTOR'S work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

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

cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended.

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

## **EXHIBIT B**

### **CHANGE ORDERS**

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

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

## EXHIBIT C

### WARRANTY WORK

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

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

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

## **EXHIBIT D**

### **GRIEVANCE PROCEDURE**

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

If there is a dispute:

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

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

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

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

**COUNCIL COMMUNICATION**  
**Meeting Date: 09/05/2024**

---

**Item Title:** ADA Building Assessment Agreement

**Department:** Facilities

**Presented by:** Brad Hennessee, Facilities Manager

**Requested Council Action:**

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

---

**Summary**

Consider agreement for evaluation of city-owned buildings to update and organize the ADA Transition Plan.

**Staff Recommendation**

Approve the agreement with Kline Swinney Associates.

**Background Information**

In 2019, the city entered into an agreement with Kline Swinney to survey the existing city-owned buildings to identify barriers to accessibility, provide reports describing possible solutions to address deficiencies, provide budget estimates for the proposed solutions, and provide an executive summary with suggested five (5) year schedule/priority plans to remove barriers.

This agreement seeks to group needed ADA modifications in a manner that will allow the city to complete the tasks either internally or in separate construction package and provide a plan of action to execute the required scope of work.

**Council Priorities Served**

*Safe and Livable Neighborhoods*

Citizens will have more and better access to the services the city provides to them.

*Excellent Services with a Focus on Customer Service*

City-owned buildings and sites will be barrier free for people that have physical challenges.

**Fiscal Impact**

The expense, not to exceed \$50,000, will be funded by the CIP budgeted amounts for ADA renovations.

**Attachments**

ADA Building Assessment Agreement



August 19, 2024

22 middleton street  
nashville, tennessee 37210  
tel: (615) 255-1854

RE: FEE PROPOSAL FOR REVISIONS TO PREVIOUSLY  
COMPLETED ADA TRANSITION PLAN  
CITY OF MURFREESBORO

American Institute of Architects  
Tennessee Society of Architects  
Construction Specifications Institute  
American Correctional Association  
National Council of Architectural  
Registration Boards  
United States Green Building Council

Per our discussion on Thursday, May 30, 2024, we are providing a fee proposal to assist the City of Murfreesboro in organizing multiple packages allowing the City of Murfreesboro to undergo execution of the items that Kline Swinney Associates identified in the ADA Transition Plan.

**Anticipated Project Scope:**

- Work with the City of Murfreesboro to identify different packages/categories in which identified ADA modifications from the Transition Plan may be grouped in a manner to allow the City of Murfreesboro to complete the tasks either internally or in separate construction packages. Update the ADA Transition Plan to show which projects have been completed or need to be removed from the list.

**Proposed Fee:**

- Our proposed fee to update and organize the ADA Transition Plan, as well as provide a plan of action to execute the required scope of work is \$50,000.00. This will be billed at an hourly rate "not to exceed".
- If additional facilities are identified by the Owner that require an ADA inspection, we will provide a separate fee proposal to complete the analysis.
- If the City of Murfreesboro elects to not perform the repairs internally to items identified in the updated ADA Transition Plan/grouping, KSA will provide a fee proposal to create Contract Documents and oversee bidding negotiations and construction at that time. Our fee will be based on a percentage of the construction cost.

**Following are our hourly rates:**

Principal	250.00 per hour
Project Manager	\$200.00 per hour
Project Architect	\$185.00 per hour
Draftsperson	\$115.00 per hour
Office Manager	\$90.00 per hour

We appreciate the opportunity to work with the City of Murfreesboro.

Bart Kline, Partner

DocuSigned by:

2430FEE73D2A89  
Darren W. Gore, City Manager

Signed by:

23A230E1F5407  
Adam F. Tucker, City Attorney



# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Purchase of Radio Equipment from Motorola

**Department:** Police

**Presented by:** Chief Michael Bowen

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Consider purchase of 5 new in-car radios from Motorola.

**Staff Recommendation**

Approve the purchase of 5 new in-car radios from Motorola.

**Background Information**

In November 2023, Council approved the purchase of new police vehicles. These vehicles require installation of in-car radios. This equipment is available for purchase through the current contract with Motorola. Staff has verified the cost effectiveness of the current contract.

**Council Priorities Served**

*Maintain public safety*

Properly equipped vehicles are necessary to provide officers all available resources while protecting citizens.

**Fiscal Impact**

The expense of \$36,351 is funded by the department's FY25 operating budget.

**Attachments**

Amendment No. 3 to the Contract with Motorola

**AMENDMENT #3 TO CONTRACT  
BETWEEN  
CITY OF MURFREESBORO  
AND  
MOTOROLA SOLUTIONS INC.  
FOR RADIO EQUIPMENT**

This Amendment #3 to the Contract between City of Murfreesboro and Motorola Solutions Inc. for Radio Equipment is entered into as of the Effective Date, below, based on the following recitals, representations, and covenants.

**WHEREAS**, the City of Murfreesboro (the “City”) and Motorola Solutions, Inc. (“Contractor”) entered into a contract for the provision of Radio Equipment on April 21, 2023 (the “Contract”); and

**WHEREAS**, the term of the Contract is from April 21, 2023, to March 14, 2025; and

**WHEREAS**, Pursuant to Clause 11 of the Contract, said contract may be modified by written amendment executed by all parties; and,

**WHEREAS**, the City desires to amend the Contract with Motorola Solutions Inc. to purchase an additional In-car Radio Equipment as listed in Quote #2748595 dated August 12, 2024;

**NOW THEREFORE**, the parties agree to the following:

1. Contractor agrees to provide, and City agrees to purchase an additional In-car Radio Equipment price as listed in Quote #2748595 dated August 12, 2023.
2. The total price for the goods and other items to be provided under this Amendment #3 is \$36,351.55.
3. Except as provided herein, the parties make no other modifications or amendments, and all other terms of the Contract shall continue in full force and effect.
4. This Amendment is hereby effective on \_\_\_\_\_.


**CITY OF MURFREESBORO**

**MOTOROLA SOLUTIONS INC.**

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

By: \_\_\_\_\_  
Jared West, Area Sales Manager

**APPROVED AS TO FORM:**

Signed by:  
  
\_\_\_\_\_  
43A2035E51F9401...  
Adam F. Tucker, City Attorney



MURFREESBORO, CITY OF

PD - (5) APX6500

08/12/2024



QUOTE-2748595  
PD - (5) APX6500

Billing Address:  
MURFREESBORO, CITY OF  
P.O. Box 1139  
Finance Dept  
Murfreesboro, TN 37133-1139  
US

Shipping Address:  
MURFREESBORO POLICE  
DEPARTMENT, CITY OF  
1004 N HIGHLAND AVE  
MURFREESBORO, TN 37130  
US

Quote Date:08/12/2024  
Expiration Date:11/10/2024  
Quote Created By:  
Brian Lorenz  
Sr. Account Manager  
brian.lorenz@  
motorolasolutions.com  
615-428-0541

End Customer:  
MURFREESBORO, CITY OF  
Jenny Licisko  
dllicsko@murfreesborotn.gov  
629-201-5575

Contract: SWC424 - Tennessee

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
	APX™ 6500 / Enh Series	ENHANCEDAPX6500				
1	M25URS9PW1BN	APX6500 ENHANCED 7/800 MHZ MOBILE	5	\$3,383.12	\$2,435.85	\$12,179.25
1a	GA09008AA	ADD: GROUP SERVICES	5	\$165.00	\$118.80	\$594.00
1b	QA01648AA	ADD: HW KEY SUPPLEMENTAL DATA	5	\$6.00	\$4.32	\$21.60
1c	GA09007AA	ADD: OUT OF THE BOX WIFI PROVISIONING	5	\$0.00	\$0.00	\$0.00
1d	GA00318AF	ENH: 5 YEAR ESSENTIAL SVC	5	\$480.00	\$480.00	\$2,400.00
1e	G831AD	ADD: SPKR 15W WATER RESISTANT	5	\$66.00	\$47.52	\$237.60
1f	G996AS	ENH: OVER THE AIR PROVISIONING	5	\$110.00	\$79.20	\$396.00
1g	GA00250AA	ADD: GNSS/BT-WIFI THRU MNT ANT, 17FT LOW LOSS PFP-100A/240, QMA	5	\$110.00	\$79.20	\$396.00
1h	GA00580AA	ADD: TDMA OPERATION	5	\$495.00	\$356.40	\$1,782.00
1i	GA01576AB	ADD: SMA TO QMA ADAPTER	5	\$22.00	\$15.84	\$79.20
1j	G51AU	ENH: SMARTZONE OPERATION APX6500	5	\$1,320.00	\$950.40	\$4,752.00
1k	G67DT	ADD: REMOTE MOUNT E5 APXM	5	\$327.00	\$235.44	\$1,177.20



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.  
Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800



QUOTE-2748595  
PD - (5) APX6500

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
1l	GA09001AA	ADD: WI-FI CAPABILITY	5	\$330.00	\$237.60	\$1,188.00
1m	G843AH	ADD: AES ENCRYPTION AND ADP	5	\$523.00	\$376.56	\$1,882.80
1n	G444AH	ADD: APX CONTROL HEAD SOFTWARE	5	\$0.00	\$0.00	\$0.00
1o	QA03399AA	ADD: ENHANCED DATA APX	5	\$165.00	\$118.80	\$594.00
1p	G806BL	ENH: ASTRO DIGITAL CAI OP APX	5	\$567.00	\$408.24	\$2,041.20
1q	GA01670AA	ADD: APX E5 CONTROL HEAD	5	\$717.00	\$516.24	\$2,581.20
1r	GA01693AA	ADD : LEGACY TRUNNION SCREW KIT	5	\$11.00	\$7.92	\$39.60
1s	W22BA	ADD: STD PALM MICROPHONE APX	5	\$79.00	\$56.88	\$284.40
1t	W969BG	ENH: MULTIKEY OPERATION	5	\$363.00	\$261.36	\$1,306.80
1u	G174AD	ADD: ANT 3DB LOW-PROFILE 762-870	5	\$47.00	\$33.84	\$169.20
1v	G361AH	ENH: P25 TRUNKING SOFTWARE APX	5	\$330.00	\$237.60	\$1,188.00
1w	GA09012AA	ADD: MISSION CRITICAL GEOFENCE	5	\$165.00	\$118.80	\$594.00
1x	QA09113AB	ADD: BASELINE RELEASE SW	5	\$0.00	\$0.00	\$0.00
	APX™ Radio Management	RADIO MANAGEMENT				
2	T7914A	RADIO MANAGEMENT ONLINE	1	\$0.00	\$0.00	\$0.00
2a	UA00049AA	ADD: RADIO MANAGEMENT LICENSES ONLINE	5	\$110.00	\$93.50	\$467.50

Subtotal \$49,455.60  
 Total Discount Amount \$13,104.05  
**Grand Total \$36,351.55(USD)**

**Notes:**

- Unless otherwise noted, this quote excludes sales tax or other applicable taxes (such as Goods and Services Tax, sales tax, Value Added Tax and other taxes of a similar nature). Any tax the customer is subject to will be added to invoices.



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.  
 Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

---

**Item Title:** Quality Performance Review Service Agreement

**Department:** Police

**Presented by:** Chief Michael Bowen

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Quality performance review service agreement with Priority Dispatch.

**Staff Recommendation**

Approve the agreement with Priority Dispatch for their quality performance review service.

**Background Information**

The Emergency Communications Center (ECC) has been utilizing the protocol software from Priority Dispatch since 2020 for dispatch call-handling. This additional service from Priority Dispatch will provide quality performance review support for police and fire case reviews to augment internal quality assurance. This will also assist the ECC with working toward EMD accreditation.

This is a three-year contract with a total cost of \$124,416, billed in annual installments of \$41,472

**Council Priorities Served**

*Maintain public safety*

Reviews of call-handling will help to refine procedures to ensure that emergency responders are dispatched efficiently.

**Fiscal Impact**

The expense of \$41,472 is funded by the department's FY25 operating budget. Future expenses will be budgeted accordingly in the department's operating budget.

**Attachments**

Quality Performance Review Service Agreement

## QUALITY PERFORMANCE REVIEW SERVICE AGREEMENT

This QUALITY ASSURANCE SERVICE AGREEMENT (the “Agreement”) is made on \_\_\_\_\_ (“Effective Date”) by and between Medical Priority Consultants, Inc. dba Priority Dispatch Corp. (“PDC”) and the City of Murfreesboro on behalf of the Murfreesboro Police Department and the Murfreesboro Fire Rescue Department (the “Customer”). PDC and Customer are collectively referred to herein as the “Parties” or individually as a “Party.”

### BACKGROUND

- A. PDC is in the business of developing, licensing, distributing, and maintaining its propriety emergency dispatch licensed products throughout the world.
- B. Customer is a current licensed user of the MPDS/FPDS through a contract dated November 5, 2020, based on RFCSP-32-2020 and wishes to retain PDC for the purpose of performing quality assurance review (the “Services”) on its emergency medical dispatch calls. The services shall be provided by PDC’s Client Performance Review (“QPR”) department.

The Parties agree as follows:

### 1. The Quality Performance Review (“QPR”) Process

#### a. Dedicated QPR Workstation.

- i. As needed, Customer will allow PDC to have remote access using SecureLink® software to a dedicated physical or virtual workstation per discipline in increments of 50 cases per week configured with AQUA®, ProQA® Admin Utility, PDF Reader and the respective audio logger.
- ii. As appropriate, Computer Aided Dispatch (CAD), Record Management System (RMS), Jail Management System (JMS), and National Crime Information Center (NCIC) Terminal Access should not be accessible on this workstation.
- iii. As part of the QPR process, PDC will audit calls using Customer’s software from this/these assigned workstation(s). Additional AQUA® Software License(s) will be provided by PDC for the Client Performance Review Department’s access for the duration of the project.
- iv. The dedicated workstation will be installed and configured with AQUA®, ProQA® Admin Utility, XLERATOR®, server access and the respective audio logger player.
- v. As appropriate, CAD, RMS, JMS, and NCIC Terminal Access should *not* be accessible on the QPR workstation.
- vi. An additional AQUA® Software License will be provided by PDC for access purposes for the term of the contract. This license will include an Audio Integration License, if applicable.
- vii. The above may be modified by mutual consent of the Customer and PDC.

### 2. Quality Performance Review (“QPR”) Services

- a. **Pre-QPR Preparation.** Planning Meeting - Overview of system and processes for QPR Staff. This meeting is to go over the deliverables, as well as ensure the QPR Dept. has the correct setup to access cases/calls and to obtain a copy of the agencies policies and procedures and ensures the client understands the deliverables of the product being provided.
- b. **Case Review.** Quality Assurance review will be performed by the QPR Reviewer in accordance with the International Academies of Emergency Dispatch (“IAED”) standards for Accreditation.
- c. The above may be modified by mutual consent of the Customer and PDC.
- d. **Customer’s ED-Q**
  - i. The Customer must identify an individual to receive and distribute case review feedback, as provided by the QPR Reviewer, to the Customer’s staff. This individual must be certified by the IAED as an ED-Q or will be certified within one year from the start of the services.
  - ii. Customer’s contact person (the “ED-Q”) will work directly with the QPR Analyst. As necessary, the ED-Q will provide any Quality Improvement feedback and training to Customer’s dispatchers/calltakers. For example, the Customer’s ED-Q will work with Customer’s dispatchers/calltakers to help them understand structured protocol utilization and address protocol compliance and performance improvement requirements to become a more effective

dispatcher/calltaker.

- iii. In order to ensure the integrity of the QPR Service, when the ED-Q provides feedback to the dispatcher/calltaker, the ED-Q should not provide education that is contrary to PDC's review of the relevant call in front of the dispatcher/calltaker. If the ED-Q does not understand, or agree with, the results of the QPR review of the call, or believes a mistake or miscommunication has occurred, the ED-Q should inform the dispatcher/calltaker that the issue shall be researched and shall then contact the QPR so that a resolution can be reached through the Appeal and Special Review process. The decision of the Appeal and Special Review panel is final.
  - e. **Updates.** Customer understands that use of the latest, updated version of AQUA® is a material component of this Agreement. In addition, the Customer must be using the most-current version of the protocols as developed by the IAED.
  - f. **Technical Issue.** If the QPR is unable to complete the case reviews or associated reporting due to a Customer related technical issue, the QPR and PDC will only be responsible for a reasonable time of case review volume from the date of the identification of the problem/issue. Once all technical issues have been resolved QPR will begin from that day forward and will not include any more than 2 weeks of down time for which case review was not conducted.
3. **Pricing.** Pricing for the Services are set forth in PDC's Quote # 71446 as Attachment A.
  4. **Term.** This Agreement shall remain in effect for 3 years, and shall be renewed automatically for subsequent terms of one year, unless terminated as set forth below.
  5. **Termination.**
    - a. **Termination for Cause.** Either Party may terminate this Agreement if the other Party commits any material breach of its obligations under this Agreement and fails to cure such breach within thirty (30) days of written notice of the breach.
    - b. **Voluntary Termination.** Either Party may terminate this Agreement, with or without cause, at any time by giving 60-days advance written notice to the other Party.
    - c. **Mutual Termination.** This Agreement may be terminated by the mutual consent of each Party.
    - d. **Failure to use MPDS/FPDS.** This Agreement shall terminate immediately if the Customer no longer uses the MPDS/FPDS.
    - e. **Effect of termination.** Upon termination and no later than 14 days following, Customer shall pay to PDC any earned, but unpaid fees.
    - f. **Change in Appropriation.** Should the appropriation for PDC's product and/or services be withdrawn, reduced, or substantially modified, the Customer has the right to terminate the Agreement immediately upon written notice to Contractor with full payment of any outstanding invoices within 30 days of such notice.
  6. **Relationship of the Parties.** The Parties shall act as independent contractors in the performance of this Agreement. The employees of one Party shall not be deemed the employees of the other Party.
  7. **Further Assurances.** Each Party shall do all acts and execute and deliver all documents as may be necessary to give effect and intent of the provisions in this Agreement.
  8. **Confidentiality.** The Parties shall comply with all applicable government confidentiality regulations and restrictions. A Party may not publicly release any personally identifying information, unless authorized by applicable law. A Party may not share or further distribute the AQUA® data or other information shared hereunder, without the express written permission of the other Party, unless required to release such information pursuant to applicable law, subpoena or court order. Customer shall give notice to PDC of any records request or subpoena that seeks PDC's intellectual property or information within 48 hours of receiving such request or subpoena.
  9. **Rights in the Calls and Associated Data.** Notwithstanding anything to the contrary contained herein, PDC may use the calls, and data associated with the calls, for publications, research, statistical purposes, and training as long as all personally identifying information is removed.
  10. **Intellectual Property.** Each Party acknowledges and understands that the copyrights, patents, trade secrets, trademarks, and other intellectual property, including derivatives and rights thereof, belonging to a Party are and shall remain the sole and exclusive property of that Party. This section shall survive termination or expiration of the Agreement.
  11. **Limit of Liability.** IT IS UNDERSTOOD AND AGREED BY CUSTOMER THAT PDC DOES NOT



GUARANTEE OR INDEMNIFY, NOR SHALL PDC BE RESPONSIBLE FOR ANY LIABILITY, DAMAGES, OR EXPENSES SUFFERED OR INCURRED BY CUSTOMER ARISING UNDER THIS AGREEMENT. CONSEQUENTLY, PDC MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ITS SERVICES HEREUNDER AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

- 12. **Survival of Terms.** Termination or expiration of this Agreement for any reason shall not release either Party from any obligations set forth in this Agreement which the Parties have expressly agreed shall survive any such termination or expiration, or by their nature would be intended to be applicable following any such termination or expiration.
- 13. **Compliance with Laws.** In performing services or obligations hereunder, the Parties shall comply with applicable local statutes, ordinances, and regulations.
- 14. **Notices.** Any notice or demand required or permitted hereunder shall be sufficiently given when set forth in writing and delivered in person, by mail, facsimile, or email:

**To PDC:**

Priority Dispatch Corp.  
Attn: Legal Department  
110 South Regent Street, Suite 500  
Salt Lake City, Utah 84111  
Email: [LegalDepartment@prioritydispatch.net](mailto:LegalDepartment@prioritydispatch.net)

**To Customer:**

Murfreesboro Police Department  
Attn: Jenny Licsko  
1004 North Highland Avenue  
Murfreesboro, Tennessee 37130  
Email: 0093@murfreesborotn.gov\_

- 15. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement, and either party may enter into this Agreement by executing a counterpart.
- 16. **Severability.** If any portion of this Agreement is determined to be invalid or unenforceable, such portion shall be adjusted, rather than voided, to achieve the intent of the Parties to the extent possible, and the remainder shall be enforced to the maximum extent possible.
- 17. **Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, United States of America. All legal proceedings brought in connection with this Agreement may only be brought in a state or federal court located in Rutherford County in the State of Tennessee. Each Party hereby agrees to submit to the personal jurisdiction of these courts.

**In Witness Whereof**, the parties have caused this Agreement to be executed by their duly authorized representative.

**PRIORITY DISPATCH CORP.**

**CITY OF MURFREESBORO**

Signed by: J. Simón Cantarero  
 Signature: \_\_\_\_\_  
FB51D2640DC140B...  
 Print Name: Simón Cantarero  
 Title: General Counsel & Corp Secretary

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

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

Attachment A

Quote # 71446



# QUOTE

110 Regent Street, Suite 500  
 Salt Lake City, UT 84111  
 USA  
[www.prioritydispatch.net](http://www.prioritydispatch.net)  
 Prepared By: Tony Guido  
 Phone: (800) 363-9127  
 Email: [tony.guido@prioritydispatch.net](mailto:tony.guido@prioritydispatch.net)

Agency:  
 Agency ID#:  
 Quote #:  
 Date:  
 Offer Valid Through:  
 Payment Terms  
 Currency:

Murfreesboro Police & Fire  
 9695  
 Q-71446  
 7/9/2024  
 7/31/2024  
 Net 30  
 USD

**Bill To:**  
 Murfreesboro Police & Fire  
 1004 North Highland Avenue  
 Murfreesboro, Tennessee 37130  
 United States

**Ship To:**  
 Murfreesboro Police & Fire  
 1004 North Highland Avenue  
 Murfreesboro, Tennessee 37130  
 United States

Line	Product Name	Qty	Unit Price	Amount
1	Q Plus Level - 83 Cases Per Month  Expert case review and reporting. Subscription auto-renews without written cancellation	996	25.00	23,904.00
2	Q Plus Level - 61 Cases Per Month  Expert case review and reporting. Subscription auto-renews without written cancellation	732	25.00	17,568.00
<b>Q-Plus Year 1 Discounted TOTAL:</b>				USD 41,472.00

Line	Product Name	Qty	Unit Price	Amount
3	Q Plus Level - 83 Cases Per Month  Expert case review and reporting. Subscription auto-renews without written cancellation	996	25.00	23,904.00
4	Q Plus Level - 61 Cases Per Month  Expert case review and reporting. Subscription auto-renews without written cancellation	732	25.00	17,568.00
<b>Q-Plus Year 2 Discounted TOTAL:</b>				USD 41,472.00

Line	Product Name	Qty	Unit Price	Amount
5	Q Plus Level - 83 Cases Per Month  Expert case review and reporting. Subscription auto-renews without written cancellation	996	25.00	23,904.00

"To lead the creation of meaningful change in public safety and health."




# QUOTE

Line	Product Name	Qty	Unit Price	Amount
6	<b>Q Plus Level - 61 Cases Per Month</b> Expert case review and reporting. Subscription auto-renews without written cancellation	732	25.00	17,568.00
<b>Q-Plus Year 3 Discounted TOTAL:</b>				USD 41,472.00

**Discount Notes**  
Multi-Year Discount

<b>Subtotal</b>	USD 43,200.00
<b>Discount</b>	USD 1,728.00
<b>Total</b>	USD 41,472.00

<b>Customer Signature:</b>		<b>Date:</b>	
<b>Customer Name:</b>		<b>Purchase Order ID:</b>	
<b>Expiration Date:</b>			
<b>Approved as to Form by Adam F. Tucker, City Attorney:</b>	Signed by:  43A2035E51F9401...		

**TERMS AND CONDITIONS**

This quote is valid for 120 days from date of issue. All prices quoted are exclusive of any applicable taxes, duties, or government assessments relating to this transaction, which are the sole obligation of Buyer. You can find it here: <https://prioritydispatch.net/licensing/>

**"To lead the creation of meaningful change in public safety and health."**

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Use of Request for Competitive Sealed Proposals for Special Census

**Department:** Purchasing

**Presented by:** Cathy Smith, Director

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Using the Request for Competitive Sealed Proposals (RFCSP) for Special Census services.

**Staff Recommendation**

Approve the use of RFCSP process for the Administration Department for vendor assistance services to conduct the Special Census.

**Background Information**

The Administration Department would like to contract with service providers for the City's Special Census to be conducted this fall. The Purchasing Department requests to use the RFCSP form of procurement, as it allows for the evaluation of vendors' qualifications, experience, and services, in addition to pricing.

Pursuant to state statute and City Code, Council approval is required to use the RFCSP process for procurement.

**Council Priorities Served**

*Responsible budgeting*

By using this procurement method, Purchasing can assist the department in achieving a more qualified pool of proposals, which allows staff to choose the vendor that provides both the required expert services and beneficial pricing.

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Asphalt Purchases Report

**Department:** Water Resources

**Presented by:** Valerie Smith

**Requested Council Action:**

- Ordinance
- Resolution
- Motion
- Direction
- Information

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**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 provides the best pricing for the Department.

**Fiscal Impacts**

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

**Attachments**

Asphalt Purchases Report

**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	\$77.77	\$94.71	\$79.60	\$85.97	\$72.00	\$86.50	
Aug							
Sep							
Oct							
Nov							
Dec							
Jan							
Feb							
Mar							
Apr							
May							
Jun							





**COUNCIL COMMUNICATION**  
**Meeting Date: September 5, 2024**

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**Item Title:** City Council Meeting Minutes (June-August 2024)

**Department:** Finance

**Presented by:** Erin Tucker, City Recorder

**Requested Council Action:**

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

**Summary**

Review and approval of City Council meeting minutes.

**Staff Recommendation**

Approve minutes as listed.

**Background Information**

City Council meetings are available on the City’s website for reference to actions taken and discussion made as items are considered. In accordance with Meeting procedures, Council approves meeting minutes for these to become the official minutes of the meeting.

The process for drafting, reviewing, and recommending meeting minutes has been delayed with staffing changes and transitions and the vacancy of the Executive Assistant position responsible for this task. To allow Council sufficient time for review, minutes for the June, July and August 2024 meetings are attached. When all positions are filled, staff plans to prepare and present the most recent meeting minutes regularly and an additional one to three months of historical meetings for Council review, until prior meeting minutes are brought current.

**Attachments**

- June 6, 2024 (Public Comment Meeting)
- June 6, 2024 (Regular Meeting)
- June 13, 2024 (Workshop Meeting)
- June 13, 2024 (Joint Meeting with Planning Commission)
- June 20, 2024 (Regular Meeting)
- July 11, 2024 (Workshop Meeting)
- July 18, 2024 (Public Comment Meeting)
- July 18, 2024 (Regular Meeting)
- July 25, 2024 (Regular Meeting)
- August 8, 2024 (Workshop Meeting)
- August 22, 2024 (Public Comment Meeting)
- August 22, 2024 (Regular Meeting)



**City of Murfreesboro**  
**City Council – Special Session, Public Comment**

Thursday, June 6, 2024 at 5:30 pm  
City Council Chambers  
111 West Vine Street  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in special session at its regular meeting place in the Council Chambers at City Hall at 5:30 p.m. on Thursday, June 6, 2024.

**Council Member Attendance**

- Vice Mayor Bill Shacklett - Presiding
- Jami Averwater
- Madelyn Scales Harris
- Austin Maxwell
- Kirt Wade
- Shawn Wright

Mayor Shane McFarland from absent and excused from this meeting

**City Representatives Present**

- Darren Gore, City Manager
- Amanda DeRosia, Interim City Recorder/ Finance Director
- Adam Tucker, City Attorney
- Sam Huddleston, Assistant City Manager
- Erin Tucker, Budget Director
- Kristy Burton, Executive Assistant

**Public Comment**

Vice Mayor Shacklett announced that the special meeting was being held to hear from the citizens of Murfreesboro. He then reviewed the procedures for speaking and invited those present to come forward to the lectern.

Noah Matteson, 3237 Memorial Boulevard, spoke regarding his concerns that Murfreesboro was turning into California.

There was no one else present who wished to speak.

There being no further business, Vice Mayor Shacklett adjourned this meeting at 5:35 p.m.

\_\_\_\_\_  
BILL SHACKLETT  
VICE MAYOR

ATTEST:

\_\_\_\_\_  
ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro  
City Council – Regular Session**

Thursday, June 6, 2024 at 6:00 pm  
City Council Chambers  
111 West Vine Street  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 6:00 p.m. Thursday, June 6, 2024.

**Council Member Attendance**

Vice Mayor Bill Shacklett - Presiding  
Jami Averwater  
Madelyn Scales Harris  
Austin Maxwell  
Kirt Wade  
Shawn Wright

Mayor Shane McFarland was absent and excused from the meeting.

**City Representative Attendance**

Darren Gore, Assistant City Manager  
Amanda DeRosia, Interim City Recorder/ Interim Finance Director  
Erin Tucker, Budget Director  
Adam Tucker, City Attorney  
Mark McCluskey, Fire Rescue Chief  
Trey Duke, City Schools Director  
Chad Gehrke, Airport Director  
Robert Holtz, Community Development Director  
Brad Hennessee, Facilities Maintenance Director  
Cathy Smith, Purchasing Director  
Jim Kerr, Transportation Director  
Kristy Burton, Executive Administrative Assistant

**Prayer and Pledge of Allegiance**

Vice Mayor Shacklett commenced the meeting with Council Member Shawn Wright giving a prayer followed by leading the Pledge of Allegiance.

**Public Comment on Actionable Agenda Items**

Vice Mayor Shacklett confirmed there were no registered speakers for public comment on actionable agenda items.

**Consent Agenda**

The Consent Agenda was presented for approval with Council Communications for the following items:

1. Change Order 511 Eventide Drive Housing Rehabilitation (Community Development)
2. Murfreesboro Transit Center Contingency Allowance Allocation (Project Development)
3. Asphalt Purchases Report (Water Resources)

4. Asphalt and Concrete Purchase Report (Street)
5. Cumberland International Amendment 2 (Water Resources)
6. Unifirst Contract First Amendment (Water Resources)
7. Amendment to Renew Memorandum of Understanding with MTSU for Stormwater Education Services (Water Resources)
8. Purchase Itron's Temetra Portal (Water Resources)

Mr. Wright made a motion to approve the Consent Agenda. Ms. Averwater seconded the motion. Upon roll call, the Consent Agenda was approved by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

#### **Old Business**

9. **Ordinance 24-O-12 (2<sup>nd</sup> and Final Reading).** The ordinance titled “ORDINANCE 24-O-12 amending the Murfreesboro City Code, Chapter 7, Section 7-15, International Energy Conservation Code (Amended)”, allowing a visual inspection option for energy requirements in residential construction passed its first reading on May 23, 2024 and was offered for its second and final reading.

Mr. Wade made a motion to approve Ordinance 24-O-12. Mr. Wright seconded the motion. Upon roll call, the ordinance was passed on its second and final reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

10. **Ordinance 24-O-19 (2<sup>nd</sup> and Final Reading).** City Attorney Adam Tucker presented a Council Communication regarding adjustment to the compensation provided to Murfreesboro City School Board members. The ordinance titled “ORDINANCE 24-O-19 amending the Murfreesboro City Code, Chapter 25 – Schools, Section 25-2 regarding compensation of School Board Members”, adjusting the compensation of Murfreesboro City School Board Members to \$800 per month with an additional \$100 per month for the Board Chair was offered for passage on its second and final reading, as previously amended.

Mr. Wright made a motion to approve Ordinance 24-O-19. Ms. Scales Harris seconded the motion. Upon roll call, the ordinance was passed as amended on its second and final reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

11. **Ordinance 24-O-11 (2<sup>nd</sup> and Final Reading).** Assistant City Manager Darren Gore presented a Council Communication regarding adjustments to the FY25 Water and Sewer Rate. The ordinance titled “ORDINANCE 24-O-11 amending Chapter 33, Water Resources, Section 33-1 of the Murfreesboro City Code, dealing with water resources rates and charges”, passed its first reading on May 23, 2024 and was offered for its second and final reading.

Mr. Wade made a motion to approve Ordinance 24-O-11. Ms. Scales Harris seconded the motion. Upon roll call, the ordinance was passed on its second and final reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

#### **New Business**

12a. **Public Hearing on Adoption of the Proposed FY25 Budget.** Budget Director Erin Tucker presented a Council Communication regarding adopting a Fiscal Year 2025 budget and providing for the levy and collection of a tax for the year 2024. Ms. Tucker stated that a public hearing was required on regarding the matter.

Vice Mayor Shacklett initiated the public hearing, welcoming comments on the FY25 proposed budget. Despite sufficient time for input, no attendees expressed a desire to speak on the matter. Consequently, Vice Mayor Shacklett concluded the public hearing.

12b. **Ordinance 24-O-14 (1<sup>st</sup> Reading).** The ordinance titled “ORDINANCE 24-O-14 adopting a budget and appropriations ordinance providing for appropriations out of the general and special funds of the City of Murfreesboro, Tennessee, of certain sums to defray the current, necessary and special expenses of said City for Fiscal Year 2025 (hereafter “FY2025”), and for other purposes,” was offered for passage on its first reading. There was discussion regarding retention, recruitment, and salary issues with the Fire Department. Firefighters were given sincere appreciation and thanks from Council Members.

Mr. Wright made a motion to amend the FY2025 budget and Ordinance 24-O-14 to include adjustments to the police salaries. Ms. Averwater seconded the motion. Upon roll call, the amendment to Ordinance 24-O-14 was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

Mr. Wright made a motion to approve Ordinance 24-O-14, as amended. Mr. Wade seconded the motion. Upon roll call, the ordinance was passed on first reading, as amended, by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

12c. **Ordinance 24-O-15 (1<sup>st</sup> Reading).** The ordinance titled, “ORDINANCE 24-O-15 providing for the levy and collection of a tax for the year 2024 upon all property, real, personal and mixed, within and subject to the jurisdiction of the City of Murfreesboro that is now taxable under the laws and Constitution of the State of Tennessee and the Charter of said City, and for the interest and costs to be added to such taxes after certain dates,” was offered for passage on its first reading.

Mr. Wright made a motion to approve Ordinance 24-O-15. Ms. Averwater seconded the motion. Upon roll call, the ordinance was passed on first reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

13. **Ordinance 24-O-17 (1<sup>st</sup> Reading).** Assistant City Manager Darren Gore presented a Council Communication regarding revisions to Chapter 33 of the City Code to clarify water and sewer connection fees as it relates to Assisted/Senior Living as well as large Commercial Buildings over 35,000 square feet. The ordinance titled, “ORDINANCE 24-O-17 amending the Murfreesboro City Code, Chapter 33, Section 33-2, Charges for taps made by City; and Section 33-50, Sanitary sewer connection or tapping fees and house services fees or charges,” was offered for passage on first reading.

Ms. Averwater made a motion to approve Ordinance 24-O-17. Mr. Maxwell seconded the motion. Upon roll call, the ordinance was passed on its first reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

14. **Resolution 24-R-21.** City Schools Director Dr. Trey Duke presented a Council Communication regarding an amendment to the FY24 General Purpose Schools, Federal Projects, and Indigent Children’s funds. A resolution titled, “RESOLUTION 24-R-21 amending the Fiscal Year

2024 Murfreesboro City Schools Budget (hereafter “FY2024”) (10th Amendment)”, was offered for passage on its first and only reading.

Mr. Wright made a motion to approve Resolution 24-R-21. Mr. Maxwell seconded the motion.

Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

15. **Resolution 24-R-20.** Assistant City Manager Darren Gore presented a Council Communication regarding a reimbursement resolution allowing MWRD to recoup construction costs involved with the Water Resource Recovery Facility (WRRF) full-scale biosolids thermal drying project. The resolution titled, “RESOLUTION 24-R-20 expressing official intent that certain expenditures to be incurred in connection with certain public works projects, and related expenditures to Water Resources Recovery Facility Biosolid Dryer Equipment and Appurtenances, be reimbursed from proceeds of notes, bonds, or other indebtedness to be issued or incurred by the City,” was offered for passage on its first and only reading.

Ms. Scales Harris made a motion to approve Resolution 24-R-20. Ms. Averwater seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

16. **Updated Commercial Operator Lease Agreement with Mike Jones Aircraft Sales.** Airport Director Chad Gehrke presented a Council Communication regarding an updated Commercial Operator Lease Agreement with Mike Jones Aircraft Sales for Hangar One. A lease agreement titled “Lease Agreement between City of Murfreesboro and Mike Jones Aircraft Sales, Inc., Hangar 1” was offered for approval.

Ms. Averwater made a motion to approve the lease agreement. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

17. **Amended Contract for Professional Management and Administrative Services.** Community Development Director Robert Holtz presented a Council Communication regarding a

contract amendment with BluLynx Solutions, LLC, to provide management and administrative services assisting the department with FY25 CBDG and HOME Grant activities. A contract amendment titled “First Amendment to the Amended and Restated Contract between the City of Murfreesboro and BluLynx Solutions, LLC” was offered for approval.

Mr. Wright made a motion to approve the contract amendment. Ms. Averwater seconded the motion. Upon roll call vote, motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**18. Contract Amendment Patterson Park Ductwork Replacement.** Facilities Manager Brad Hennessee presented a Council Communication regarding a contract amendment with Trinity Geothermal, LLC for the Patterson Park Ductwork Replacement to clean the air return boxes at the ceiling in the additional amount of \$3,126. The contract amendment titled “HVAC Change Order Request No. 1” was offered for approval.

Mr. Wade made a motion to approve the contract amendment. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**19. Professional Services Contract Amendment Old Fort Tennis Court Renovations.** Facilities Manager Brad Hennessee presented a Council Communication regarding a professional services contract amendment for the Old Fort Park Tennis Court Renovations with Wold Architects & Engineers for Construction Administration at a cost of \$13,268 funded by the American Rescue Plan Act (ARPA). The professional services contract amendment titled “Professional Services Contract Amendment – Old Fort Park Tennis Court Renovations” was offered for approval.

Mr. Maxwell made a motion to approve the professional services contract amendment. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**20. Use of Competitive Sealed Proposals for Human Resources Procurement.** Purchasing Director Cathy Smith presented a Council Communication regarding the use of a



Request for Competitive Sealed Proposals (RFCSP) method for certain purchases. Approval would allow the use of the RFCSP process for procurement of services for Human Resources.

Mr. Maxwell made a motion to approve the use of a RFCSP process to procure services for Human Resources. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**21. Master Services Agreements for Pre-Qualified Building Contractors and Trades Contractors.** Purchasing Director Cathy Smith presented a Council Communication regarding Master Services Agreements with ten building construction contractors for small renovation and construction projects and seven trade contractors for use with facilities' repairs. The Master Services Agreements were offered for approval.

Mr. Wade made a motion to approve the Master Services Agreements. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**22. Dr. Martin Luther King Jr. Blvd. Phase 2 Sidewalk Project Amendment No. 4 TDOT Contract.** Transportation Director Jim Kerr presented a Council Communication regarding an amendment to the contract with TDOT for the Dr. Martin Luther King Jr. Boulevard Phase 2 Sidewalk Project (Amendment No. 4) with TDOT for an additional \$615,713 to cover a shortfall in funds for the project. The contract amendment titled "Agreement Number: 210269, Project Identification Number: 132323.00, Federal Project Number: HIP-C-M-10(90), State Project Number: 75LPLM-F3-113" with TDOT was offered for approval.

Ms. Scales Harris made a motion to approve the contract amendment. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**23. Memorial Boulevard (SR 10) Traffic Signal Improvements Contract Amendment No. 1 with TDOT.** Transportation Director Jim Kerr presented a Council Communication regarding an amendment to the contract with TDOT for Memorial Boulevard Traffic Signal Improvements Contract

(Amendment No. 1) with TDOT for an additional \$642,500 to cover a shortfall in funds for the project due to rescinding of COVID Relief Funds by United States Congress. The contract amendment titled “Agreement Number: 180111, Project Identification Number: 126616.00, Federal Project Number: TAP-1(395), State Project Number: 75LPLM-F3-076” with TDOT was offered for approval.

Ms. Scales Harris made a motion to approve the contract amendment. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**24. ADS Professional Services Contract 2<sup>nd</sup> Amendment.** Assistant City Manager Darren Gore presented a Council Communication regarding an amendment to extend the professional services contract with ADS, LLC for sanitary sewer flow monitoring for \$340,000 (2nd Amendment). The professional services contract amendment titled, “Second Renewal of the Professional Services Agreement between ADS, LLC and the City of Murfreesboro, Tennessee,” was offered for approval.

Ms. Averwater made a motion to approve the contract amendment. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**25. WRRF Biosolids Dryer RPR Engineering Task Order Approval.** Assistant City Manager Mr. Darren Gore presented a Council Communication regarding an engineering task order involving resident project representative (RPR) construction inspection services for the Water Resource Recovery Facility (WRRF) full-scale biosolids thermal drying project. The engineering task order titled “Engineering Task Order No. 24410340”, was offered for approval.

Mr. Maxwell made a motion to approve the task order. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**26. WRRF Biosolids Dryer Construction Contract Approval.** Assistant City Manager Darren Gore presented a Council Communication regarding a contract for construction of the WRRF full-scale biosolids thermal drying project. The contract with Reeves Young, LLC, for \$33,100,000 for construction of the WRRF Full-Scale Thermal Dryer was offered for approval.

Mr. Maxwell made a motion to approve the contract. Ms. Averwater seconded the motion.

Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**27. WRRF Biosolids Dryer Geotechnical Testing Task Order Approval.** Assistant City Manager Darren Gore presented a Council Communication regarding an engineering task order involving geotechnical testing services for the Water Resource Recovery Facility (WRRF) full-scale biosolids thermal drying project. The geotechnical testing services costs in the amount of \$127,500 will be funded by Murfreesboro Water Resources Department working capital reserves. The engineering task order with TTL titled, “Murfreesboro Water Resources Department – Full Scale Thermal Dryer, TTL Proposal No. 0024801100.00”, was offered for approval.

Ms. Scales Harris made a motion to approve the task order. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**Board & Commission Appointments**

**28. Board of Electrical Examiners.** Vice Mayor Shacklett presented a Council Communication on behalf of Mayor McFarland regarding the appointment of a board member and reappointment of two new board members. Mr. Jim Warden, Jr. was recommended for appointment to the Board of Electrical Examiners replacing Ms. Eva Warden with a term expiring June 30, 2028. Mr. Tony Ogles was recommended for reappointment to the Board of Electrical Examiners with a term expiring June 30, 2028. Mr. Jason Fann was recommended for reappointment to the Board of Electrical Examiners filling a vacancy left by the passing of Mr. Altan Fann. His term will expire June 30, 2026.

Mr. Maxwell made a motion to approve the appointment and reappointments. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**Licensing**

29. **Beer Permits.** Interim Finance Director Ms. Amanda DeRosia presented a Council Communication regarding Regular Beer Permits and Special Event Beer Permits. Two Regular Beer Permits for one new location of a restaurant located at 2181 B Old Fort Parkway and one ownership/name change for a grocery/market located at 1208 E Northfield Boulevard were presented for approval. Five Special Event Beer Permits for Main Street Market (one), Charity Circle of Murfreesboro (three), and Ascension Saint Thomas Rutherford (one) were presented for approval. Applicants met requirements for the permits and were recommended for approval pending final building and codes inspections for the regular beer permits and special event permit for the special event beer permits.

Ms. Averwater made a motion to approve the beer permits. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright, Bill Shacklett

**Nay:** None

**Payment of Statements.**

There was no Payment of Statements to consider.

**Other Business**

Mr. Maxwell expressed appreciation to the firefighters for their hard work and dedication.

**Adjourn**

There being no further business, Vice Mayor Shacklett adjourned the meeting at 6:42 p.m.

\_\_\_\_\_  
BILL SHACKLETT  
VICE MAYOR

ATTEST:

\_\_\_\_\_  
ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro  
City Council - Special Session Joint Meeting with  
Planning Commission**

Thursday, June 13, 2024 at 11:30 pm  
Municipal Airport Business Center  
1930 Memorial Boulevard  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in special session for a joint meeting with Planning Commission in the Business Center of the Murfreesboro Airport, 11:50 a.m. Thursday, June 13, 2024, following the City Council Workshop Session.

**Council Member Attendance**

Mayor Shane McFarland - Presiding  
Jami Averwater (also Planning Commission Member)  
Madelyn Scales Harris  
Austin Maxwell  
Bill Shacklett  
Kirt Wade  
Shawn Wright (also Planning Commission Member)

**Planning Commission Attendance**

Kathy Jones, Chair  
Jami Averwater (also Council Member)  
Reggie Harris  
Bryan Prince  
Chase Salas  
Shawn Wright (also Council Member)

Ken Halliburton was absent and excused from this meeting

**City Representatives Present**

Craig Tindall, City Manager  
Amanda DeRosia, Interim City Recorder/ Interim Finance Director  
Erin Tucker, Budget Director  
Kelley Blevins Baker, Deputy City Attorney – Public Safety  
Roman Hankins, Deputy City Attorney  
John Tully, Assistant City Attorney  
Sam Huddleston, Assistant City Manager  
Greg McKnight, Executive Director of Development Services  
Ben Newman, Planning Director  
Holly Smyth, Principal Planner  
Joel Aguilera, Planner  
Carolyn Jaco, Recording Assistant  
Melanie Peterson, City Clerk  
Kristy Burton, Executive Administrative Assistant

**Call to Order and Determination of a quorum**

**City Council.** Mayor McFarland called the meeting to order for the City Council and determined a quorum was present.

**Planning Commission.** Chair Kathy Jones called the meeting to order for the Planning Commission and determined a quorum was present.

### **Discussion**

Mayor McFarland identified the purpose of the meeting was to discuss recent construction projects in and near the City Core Overlay (CCO) District, the CCO zoning regulations, and the City's vision for the CCO.

Planning Director Ben Newman stated that the purpose for the meeting was to review and discuss the City Core Overlay (CCO) and downtown area to address policy direction and development standards on housing developments or other development types. Mr. Newman stated Planning Staff would like Council input regarding the possible need to modify development standards regarding density, setbacks, building height, parking, site layout, lot coverage, buffers, and amenities within specific City Core Overlay district. The feedback from this meeting will be used to create a unified vision for the CCO for both the City Council and Planning Commission.

Principal Planner Holly Smyth was acknowledged by City Council and Planning Commission and provided a PowerPoint presentation on project overviews for four different developments in the CCO which had been approved and completed.

Planner Joel Aguilera then began a question-and-answer dialog with City Council and Planning Council requesting feedback from members on the vision for the CCO.

Planning Director Ben Newman explained the next steps would include a multi-layered approach, including:

- Updating zoning regulations to reflect updated vision;
- Identify development intensity areas; and
- Further workshops with developers.

### **Adjourn**

**City Council.** There being no further business, Mayor McFarland adjourned the special meeting for the City Council at 1:50 p.m.

**Planning Commission.** There being no further business, Chair Jones adjourned the meeting for the Planning Commission at 1:50 p.m.

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

ATTEST:

\_\_\_\_\_  
ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro**  
**City Council – Workshop Regular Session**

Thursday, June 13, 2024 at 11:30 pm  
Municipal Airport Business Center  
1930 Memorial Boulevard  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session in the Business Center of the Murfreesboro Airport at 11:30 a.m. Thursday, June 13, 2024.

**Council Member Attendance**

Mayor Shane McFarland - Presiding  
Jami Averwater  
Madelyn Scales Harris  
Austin Maxwell  
Bill Shacklett  
Kirt Wade  
Shawn Wright

**City Representatives Present**

Craig Tindall, City Manager  
Amanda DeRosia, Interim City Recorder / Interim Finance Director  
Erin Tucker, Budget Director  
Kelley Blevins Baker, Deputy City Attorney – Public Safety  
Roman Hankins, Deputy City Attorney  
John Tully, Assistant City Attorney  
Gabriel Moore, Project Engineer  
Sam Huddleston, Assistant City Manager  
Greg McKnight, Executive Director of Development Services  
Ben Newman, Planning Director  
Holly Smyth, Principal Planner  
Joel Aguilera, Planner  
Carolyn Jaco, Recording Assistant  
Melanie Joy Peterson, City Clerk  
Kristy Burton, Executive Administrative Assistant

**Prayer and Pledge of Allegiance**

Mayor McFarland called the meeting to order and commenced the meeting offering a prayer followed by the Pledge of Allegiance.

**Announcement**

Mayor McFarland announced that Council workshop meetings will be televised instead of broadcast by audio recorded starting with the next August meeting.

**Public Comment on Actionable Items**

Mayor McFarland inquired of Interim City Recorder Amanda DeRosia about the presence of any registered speakers for public comment on actionable agenda items. Ms. DeRosia stated there were no individuals registered to speak on any actionable agenda items.



## Action Items

1a. **Ordinance 24-O-14 FY25 Budget Appropriations (2<sup>nd</sup> and Final Reading).** Budget Director Erin Tucker presented a Council Communication regarding adopting a Fiscal Year 2025 budget. The ordinance titled “ORDINANCE 24-O-14 adopting a budget and appropriations ordinance providing for appropriations out of the general and special funds of the City of Murfreesboro, Tennessee, of certain sums to defray the current, necessary and special expenses of said City for Fiscal Year 2025 (hereafter “FY2025”), and for other purposes.” passed its first reading on June 6, 2024 and was offered for its second and final reading.

Mr. Wright made a motion to approve Ordinance 24-O-14. Mr. Wade seconded the motion. Upon roll call, the ordinance was passed on its second and final reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

1b. **Ordinance 24-O-15 2024 Tax Rate (2<sup>nd</sup> and Final Reading).** Budget Director Erin Tucker presented a Council Communication regarding providing for the levy and collection of a tax for the year 2024. The ordinance titled “ORDINANCE 24-O-15 providing for the levy and collection of a tax for the year 2024 upon all property, real, personal and mixed, within and subject to the jurisdiction of the City of Murfreesboro that is now taxable under the laws and Constitution of the State of Tennessee and the Charter of said City, and for the interest and costs to be added to such taxes after certain dates.”, passed its first reading on June 6, 2024 and was offered for its second and final reading.

Mr. Wright made a motion to approve Ordinance 24-O-15. Mr. Wade seconded the motion. Upon roll call, the ordinance was passed on its second and final reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

2a. **Resolution 24-R-15 Water Resources FY25 Budget.** Budget Director Erin Tucker presented a Council Communication regarding approval of the FY25 budget for the Water Resources Department. The resolution titled “RESOLUTION 24-R-15 approving the budget of the Murfreesboro Water Resources Department for the Fiscal Year 2025 (hereafter “FY2025”)”, was offered for its first and only reading.

Ms. Averwater made a motion to approve Resolution 24-R-15. Mr. Maxwell seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**2b. Resolution 24-R-16 Stormwater FY25 Budget.** Budget Director Erin Tucker presented a Council Communication regarding approval of the FY25 budget for the Stormwater Utility Management Fund. The resolution titled “RESOLUTION 24-R-16 approving the budget of the Stormwater Utility Management Fund for the Fiscal Year 2025”, was offered for its first and only reading.

Vice Mayor Shacklett made a motion to approve Resolution 24-R-16. Mr. Maxwell seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**2c. Resolution 24-R-17 Schools FY25 Budget.** Budget Director Erin Tucker presented a Council Communication regarding approval of the FY25 budget for Murfreesboro City Schools. The resolution titled “RESOLUTION 24-R-17 approving the budget of the Murfreesboro City Schools”, was offered for its first and only reading.

Vice Mayor Shacklett made a motion to approve Resolution 24-R-17. Ms. Averwater seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**2d. Resolution 24-R-18 Community Investment Trust FY25 Budget.** Budget Director Erin Tucker presented a Council Communication regarding approval of the FY25 budget for the Community Investment Trust. The resolution titled “RESOLUTION 24-R-18 approving the budget of the Community Investment Trust”, was offered for its first and only reading.

Mr. Maxwell made a motion to approve Resolution 24-R-18. Mr. Wright seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland.

**Nay:** None

**3. Resolution 24-R-14 Other Post Employment Benefits (OPEB) FY25 Budget.** Budget Director Erin Tucker presented a Council Communication regarding providing other post-employment benefits (OPEB). The resolution titled “RESOLUTION 24-R-14 to provide other post-employment benefits (OPEB) for City of Murfreesboro retirees and long-term disabled employees for Fiscal Year 2025 (hereafter “FY2025”) to include health/medical, dental, vision, and life insurance benefits”, was offered for its first and only reading.

Ms. Averwater made a motion to approve Resolution 24-R-14. Mr. Wright seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland.

**Nay:** None

**4. Community Investment Program Funds Reallocation.** Budget Director Erin Tucker presented a Council Communication regarding CIP Funds Reallocation. A request to reallocate \$2,495 of CIP funds from the Schools Transportation Facility for the final payment for the Northfield Elementary cooling tower engineering costs was offered for approval.

Ms. Averwater made a motion to approve the CIP funds reallocation. Mr. Wade seconded the motion. Upon roll call, the motion passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland.

**Nay:** None

**5. Town Creek Supplemental Agreement.** Project Engineer Gabriel Moore presented a Council Communication regarding a supplemental agreement for the Town Creek Project. Supplemental Agreement No. 3 with Volkert, Inc., for approval of additional negotiation and potential relocation services was offered for approval.

Mr. Wade made a motion to approve supplemental agreement. Ms. Averwater seconded the motion. Upon roll call, the motion passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland.

**Nay:** None

6. **Employment Agreement with City Manager.** Mayor McFarland presented a Council Communication regarding the employment agreement with Darren Gore for his service as City Manager and it was offered for approval.

Vice Mayor Shacklett made a motion to approve the employment agreement with Mr. Darren Gore for his service as City Manager. Mr. Wright seconded the motion. Upon roll call, the motion passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland.

**Nay:** None

#### **Workshop Items**

7. **CIP Transfers.** Interim Finance Director Amanda DeRosia presented a Council Communication regarding CIP Transfers from the General Fund/2021 Bond. This information was provided to Council as notification only and no vote was necessary.

8. **April 2024 Dashboard.** Budget Director Erin Tucker presented a Council Communication regarding the April Dashboard. This information was provided to Council as notification only and no vote was necessary.

#### **Board and Commission Appointments**

There were no Board and Commission Appointments to consider.

#### **Licensing**

There were no regular or special event beer permits to consider.

#### **Payment of Statements**

There was no payment of statements to consider.

#### **Other Business**

There being no further business, Mayor McFarland adjourned the meeting at 11:40 p.m.

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SHANE MCFARLAND  
MAYOR

ATTEST:

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ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro  
City Council – Regular Session**

Thursday, June 20, 2024 at 6:00 pm  
City Council Chambers  
111 West Vine Street  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 6:05 p.m. Thursday, June 20, 2024.

**Council Member Attendance**

Vice Mayor Bill Shacklett - Presiding  
Jami Averwater  
Madelyn Scales Harris  
Austin Maxwell  
Shawn Wright

Mayor Shane McFarland and Kirt Wade were absent and excused from the meeting.

**City Representatives Present**

Craig Tindall, City Manager  
Amanda DeRosia, Interim City Recorder/ Interim Finance Director  
Adam Tucker, City Attorney  
Randolph Wilkerson, Human Resources Director  
Matthew Blomeley, Assistant Planning Director  
Michael Bowen, Chief of Police  
Chris Griffith, Public Infrastructure Executive Director  
Brad Barbee, Planner  
Rachel Singer, Assistant Director of Recreation  
Scott Elliott, Manager of Project Development  
Melanie Joy Peterson, City Clerk

**Prayer and Pledge of Allegiance**

Vice Mayor Shacklett commenced the meeting and said a prayer followed by leading the Pledge of Allegiance.

**Ceremonial Items**

**STARS Award for May 2024.** Human Resources Director Randolph Wilkerson presented the STARS Award for the month of May upon Tyrell Spivey and Matthew Miles of the Parks and Recreation Department. The purpose of the STARS award is to recognize City employees who go above and beyond the call of duty. After a major rainfall in May, the greenway was heavily flooded creating the need for damage repair and clean-up. Mr. Spivey and Mr. Miles took self-initiative to clean-up the area, including working over the weekend, allowing the greenway to be re-opened within a short time. They are prime examples that it is not the title that makes a leader, but the actions of someone who makes a leader.

## Public Comment on Actionable Agenda Items

Vice Mayor Shacklett inquired with Interim City Recorder Amanda DeRosia, about the presence of any registered speakers for public comment on actionable agenda items. Ms. DeRosia stated there were no individuals registered to speak on any actionable agenda items.

## Consent Agenda

The Consent Agenda was presented for approval with Council Communications for the following items:

1. Wiser Consultants/HMB Contracts Transfer (Engineering)
2. Rutherford Blvd Extension Right of Way Acquisition (Engineering)
3. Mandatory Referral for Abandonment of a Landscape Buffer Easement along Wilkinson Pike (Planning)
4. Mandatory Referral for Abandonment of a Drainage Easement along South Bilbro Avenue (Planning)
5. Mandatory Referral for Abandonment of a Detention Pond Easement along Trust Drive (Planning)

Mr. Wright made a motion to approve the Consent Agenda. Ms. Averwater seconded the motion. Upon roll call, the Consent Agenda was approved by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

## Old Business

6. **Ordinance 24-O-17 (2<sup>nd</sup> and Final Reading).** The ordinance titled “ORDINANCE 24-O-17 amending the Murfreesboro City Code, Chapter 33, Section 33-2, Charges for taps made by City and 33-50, Sanitary sewer connection or tapping fees and house services fees or charges passed its first reading on June 6, 2024, and was offered for its second and final reading.

Ms. Averwater made a motion to approve Ordinance 24-O-17. Mr. Maxwell seconded the motion. Upon roll call, the ordinance was passed on second and final reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

## New Business

7a. **Public Hearing of 24-R-PS-16 and 24-R-A-16.** Assistant Planning Director Matthew Blomeley presented a Council Communication regarding a Plan of Services and Annexation for approximately 14.41 acres located along Butler Drive north of Joe B Jackson Parkway (Tax Map 125, Parcel 14.01; Tax Map 126, Parcel 43.00; and Tax Map 126, Parcel 42.00). He stated that a public hearing was required on the matter.

Vice Mayor Shacklett initiated the public hearing, welcoming comments on the Plan of Services and Annexation. Despite sufficient time for input, no attendees expressed a desire to speak on the matter. Consequently, Vice Mayor Shacklett concluded the public hearing.

**7b. Resolution 24-R-PS-16 Plan of Services.** The resolution titled, “RESOLUTION 24-R-PS-16 to adopt a Plan of Services for approximately 8.54 acres located on Butler Drive and 5.87 acres of right-of-way for future Butler Drive, Eric Dill and City of Murfreesboro Administration, applicants [2024-504]” was offered for passage on its first and only reading.

Mr. Wright made a motion to approve Resolution 24-R-PS-16. Ms. Averwater seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**7c. Resolution 24-R-A-16 Annexation.** The resolution titled, “RESOLUTION 24-R-A-16 to annex approximately 8.54 acres located on Butler Drive and 5.87 acres of right-of-way for future Butler Drive, (Tax Map 125, Parcel 14.01 [2.54 acres], Tax Map 126, Parcel 42.00 [4.14 acres], Tax Map 126, Parcel 43.00 [1.97 acres], and Future Butler Drive Right-of-Way [5.87 acres]), and to incorporate the same within the corporate boundaries of the City of Murfreesboro, Tennessee, Erin Dill and City of Murfreesboro Administration, applicants [2024-504]” was offered for passage on its first and only reading.

Mr. Maxwell made a motion to approve Resolution 24-R-A-16. Mr. Wright seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**7d. Public Hearing of 24-OZ-16.** Assistant Planning Director Matthew Blomeley presented a Council Communication regarding a zoning for approximately 8.54 acres located along Butler Drive as Light Industrial (L-I) District, simultaneous with annexation. He stated that a public hearing was required on the matter.

Vice Mayor Shacklett initiated the public hearing, welcoming comments on the Plan of Services and Annexation. Despite sufficient time for input, no attendees expressed a desire to speak on the matter. Consequently, Vice Mayor Shacklett concluded the public hearing.

**7e. Ordinance 24-OZ-16 (1<sup>st</sup> Reading).** The ordinance titled, “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]” was offered for passage on first reading.

Mr. Wright made a motion to approve Ordinance 24-OZ-16. Mr. Maxwell seconded the motion. Upon roll call, the ordinance was passed on its first reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**8. Sewer Allocation Variance – Warrior Drive – Avid Hotel.** Planner Brad Barbee presented a Council Communication regarding a proposed development request for additional density above the sewer allocation ordinance’s zoning allowance on behalf of Avid Hotels for a hotel to be located on Warrior Drive. Mr. Barbee requested Council approve the variance.

Mr. Wright made a motion to approve the variance. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**9. Ordinance 24-O-20 (1<sup>st</sup> Reading).** City Manager Craig Tindall presented a Council Communication to amend the City Code regarding the Tennis and Pickleball Commission. The ordinance titled, “ORDINANCE 24-O-20 amending the Murfreesboro City Code, Chapter 21.5, Parks and Recreation, Article III. Tennis Commission, adding reference to pickleball” was offered for passage on first reading.

Mr. Wright made a motion to approve Ordinance 24-O-20. Ms. Averwater seconded the motion. Upon roll call, the ordinance was passed on its first reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**10. Charter for Murfreesboro Sports Authority (MSA) and Appointment of Authority Board.** City Manager Craig Tindall presented a Council Communication regarding the adoption of the statutorily required charter for the MSA and appointment of the initial Authority Board with randomly selected staggered terms. Mr. Tindall requested Council approve the MSA charter and the appointment of Pete Adams and Paul Latture for 2-year terms, Andy Ezelle, Mary Elam Polk and Robert White for 4-year terms, and Ben Parsley and Whit Turnbow for 6-year terms to the MSA Board.

Mr. Maxwell made a motion to approve the charter and board appointments for the Murfreesboro Sports Authority. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:



**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**11. Purchase of Murfreesboro Police Department (MPD) Range.** City Manager Craig Tindall presented a Council Communication regarding the purchase and sale agreement of land for MPD training range and requested Council approve the Purchase and Sale Agreement between the City and Ock Group, LLC c/o Advanced Security Concepts, Inc. for \$1,400,000. Police Chief Michael Bowen was acknowledged and answered various questions and comments from Council about the need and use of the new training facility.

Mr. Maxwell made a motion to approve the purchase and sale agreement. Mr. Wright seconded the motion, as presented. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**12. Gateway Blvd. Extension Final Change Order.** Public Infrastructure Executive Director Chris Griffith presented a Council Communication regarding a final change order with Sessions Paving Company to reflect the actual work performed and final contract amount of \$2,289,468. Mr. Griffith requested Council approve the final change order.

Mr. Wright made a motion to approve the Gateway Blvd. Extension final change order. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**13. Butler Drive Realignment Change Order #1.** Public Infrastructure Executive Director Chris Griffith presented a Council Communication regarding a change order with Moody Excavating for the Butler Drive realignment project in the amount of \$8,027,510. Mr. Griffith requested Council approve the change order.

Mr. Wright made a motion to approve the Butler Drive Realignment Change Order #1. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**14. Purchase of Liability, Auto, Property, Crime, and Cybersecurity Insurance.** City Attorney Adam Tucker presented a Council Communication regarding the purchase of insurance coverages for the City for FY25 including:

- a. General Liability, Auto Liability, Errors and Omissions Liability (including Employment Practices Liability), Law Enforcement Liability, Collision and Comprehensive Vehicle Insurance for all vehicles whose value equals or exceeds \$75,000, Catastrophic Vehicle Damage Insurance, and Workers' Compensation Insurance from Public Entity Partners;
- b. Commercial Package Property Insurance, Crime Insurance (including Faithful Performance of Duty Coverage) from Travelers; and
- c. Cyber Insurance from Cowbell Insurance Agency.

Mr. Tucker stated that all the insurance policies recommended were renewals from last year and requested Council approve the purchase of all policies. Mr. Tucker indicated that Mr. Stallworth of Arthur J. Gallagher Risk Management Services, Inc., Callie Westerfield of Public Entity Partners and Mr. Tucker were available to answer any questions Council may have. Discussion ensued regarding insurance.

Ms. Averwater made a motion to approve the insurance purchases. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**15. American Battlefield Trust Sub-Grant Agreement.** Rachel Singer presented a Council Communication regarding approval of the sub-grant agreement with the American Battlefield Trust pending Legal approval. Ms. Singer requested Council approve the sub-grant agreement.

Ms. Averwater made a motion to approve the American Battlefield Trust Sub-Grant Agreement. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**16. Robert Rose HVAC Equipment Contract.** Manager of Project Development Scott Elliott presented a Council Communication regarding a construction contract with Trane U.S., Inc. for HVAC equipment for the new MWRD Administration Building located at 316 Robert Rose Drive and requested Council approve the contract for \$98,763

Mr. Maxwell made a motion to approve the contract for Robert Rose HVAC equipment. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

## **Board & Commission Appointments**

17. **Construction Board of Adjustments and Appeals.** Vice Mayor Shacklett presented a Council Communication regarding reappointment of Construction Board of Adjustment and Appeals members. Mr. Lyle Lynch, Mr. Ryan Maloney, and Mr. John Murray were all recommended for reappointment with a term expiration of June 30, 2027.

Mr. Maxwell made a motion to approve the reappointments. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

18. **Board of Zoning Appeals.** Vice Mayor Shacklett presented a Council Communication regarding reappointment of Board of Zoning Appeals members. Julie R.P. King and Misty Lavender Foy and were both recommended for appointment with a term expiration of June 30, 2027.

Ms. Averwater made a motion to approve the reappointments. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

19. **Planning Commission.** Vice Mayor Shacklett presented a Council Communication regarding reappointment and appointment of Planning Commission members. Ken Halliburton was recommended for reappointment with a term expiration of June 30, 2027. Tristan Carroll was recommended for appointment, replacing Chase Salas, with a term expiration of June 30, 2027.

Ms. Averwater made a motion to approve the reappointment and appointment. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

## **Licensing**

**Special Event Beer Permit.** Interim City Recorder Amanda DeRosia presented a Council Communication regarding a Special Event Beer Permit. One Special Event Beer Permit for Murfreesboro Little Theater. The applicant met requirements for the permit and was recommended for approval. The special event permit has already been approved.

Ms. Averwater made a motion to approve the permit. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**Payment of Statements**

Interim City Recorder Amanda DeRosia presented a statement from the General Fund Legal FY24 Operating Budget to Sherrard Roe Voigt & Harbison, PLC for May 2024 in the amount of \$61,082.

Mr. Maxwell made a motion to approve the payment of statements. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Shawn Wright, Bill Shacklett

**Nay:** None

**Other Business**

**General Announcements**

Mr. Maxwell recognized this was Craig Tindall's last official meeting as City Manager. Mr. Tindall thanked him and the Council.

The next Council workshop will be July 11, 2024. The next evening meeting will be July 18, 2024.

Rachel Singer shared the July 4<sup>th</sup> plan for festivities at the Fountains. There will be fireworks and entertainments. Craig Campbell will perform from 7:30 -9:00 pm. Fireworks will be at 9:00 pm and a DJ starting at 5:00 pm. She encouraged everyone to arrive early and thanked Middle Tennessee Electric for funding the fireworks.

Adam Tucker reminded Council that David Ives retirement party was tomorrow at 2:00 pm, where they would be celebrating his almost 20 years of service.

**Adjourn**

There being no further business, Vice Mayor Shacklett adjourned the meeting at 6:42 p.m.

\_\_\_\_\_  
BILL SHACKLETT  
VICE MAYOR

ATTEST:

\_\_\_\_\_  
ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro  
City Council – Workshop Regular Session**

Thursday, July 11, 2024 at 11:30 am  
Municipal Airport Business Center  
1930 Memorial Boulevard  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its workshop meeting place at the Municipal Airport Business Center at 11:30 a.m. on Thursday, July 11, 2024.

**Council Members Present**

Mayor Shane McFarland – Presiding  
Jami Averwater  
Madelyn Scales Harris  
Austin Maxwell  
Bill Shacklett  
Kirt Wade  
Shawn Wright

**City Representatives Present**

Darren Gore, City Manager  
Adam Tucker, City Attorney  
Erin Tucker, Budget Director / Acting City Recorder  
Lesley Jernigan, Assistant Finance Director  
Scott Elliott, Manager of Project Development  
Valerie Smith, Interim Water Resources Director  
Roman Hankins, Deputy City Attorney  
Henry McKee, Contracts Manager

**Prayer and Pledge of Allegiance**

Mayor McFarland commenced the meeting with a prayer followed by the Pledge of Allegiance.

**General Announcements**

Mayor McFarland announced that at the last workshop meeting, Council had voted for regular workshop meetings at the municipal airport business center would be televised. He explained that starting today those meetings would be televised and thanked production team for their help.

**Public Comment on Actionable Agenda Items**

Mayor McFarland inquired of Budget Director Erin Tucker about the presence of any registered speakers for public comment on actionable agenda items. Ms. Tucker stated there were no individuals registered to speak on any actionable agenda items.

## Action Items

1. **Reeves Rogers Administration Addition Construction Contract.** Manager of Project Development Scott Elliot presented a Council Communication and documents regarding Reeves Rogers Administration Addition Construction Contract and requested Council approve the contract with Romach, Inc. in the amount of \$2,795,800 and approve reallocation of County Shared Bond CIP proceeds. He stated this action would increase school security by creating a more controlled access entry point to the campus.

Mr. Maxwell made a motion to approve the contract. Ms. Averwater seconded the motion.

Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

Bill Shacklett stated he was glad the vote went the way it did. He announced that tomorrow at 11:30 am, there is a ribbon cutting on Greenland Drive at Reeves Rogers and everyone is invited. He stated it has been a long time coming, so everybody can celebrate.

2. **HVAC/ Roof/ Window Replacement Contract from 316 Robert Rose Drive.** Interim Water Resources Director Valerie Smith presented a Council Communication and documents regarding HVAC/ Roof/ Window Replacement Contract for the new Water Resources Administration Building located at 316 Robert Rose Drive. Ms. Smith requested Council approve the construction contract with Stacker Building Group (SBG), including alternate 1 and deductive alternate 1, subject to Legal Department approval. She recommended the expense of \$728,089 come from MWRD's working capital reserves and stated the expense includes a 10% owner's contingency.

Shawn Wright had a process question about why inspections were not done before the property was purchased wherein the  $\frac{3}{4}$  of a million dollars' worth of repairs could have been negotiated into the price. City Manager Darren Gore stated they knew the roof and AC unit needed to be replaced, but the cost was more than originally expected. The windows were an unexpected expense and a deeper-dive inspection into the windows should have been done. He stated this will not happen again. In the future, there will be a preliminary phase walk-through and they will have a professional do a deeper inspection of the facility.

Mayor McFarland stated that it is a lot of money but is still much cheaper than building new right now and there would be an additional challenge of even finding land.

Ms. Scales Harris made a motion to approve the contract. Mr. Wright seconded the motion.

Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

**3. Salem Hwy Phase 3 – Sewer Easement Offers.** Interim Water Resources Director Valerie Smith presented a Council Communication and documents regarding Salem Hwy (SR99) Phase 3 – Sewer Easement Offers. Ms. Smith requested Council approve the cost of the easements, estimated at \$32,400, with up to a 10% administrative settlement or, should negotiations fail to reach a timely settlement, authorize legal to proceed with condemnation of the easements.

Ms. Averwater made a motion to approve the cost of the easements and to proceed with condemnation. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

#### **Workshop Items**

**4. Retail Liquor Store Certificate of Compliance Annual Report.** Budget Director Erin Tucker presented a Council Communication as information only regarding an annual report presented pursuant to City Code Chapter 4-10(D) regarding Certificates of Compliance for Retail Liquor Stores as of July 1, 2024. As of July 1, 2024, the City’s estimate population was 165,430 and there were 26 licensed retail liquor stores, 33 total Certificates of Compliance, 32 total Certificates of Compliance issued and one Certificate of Compliance available. The City Recorder will begin accepting applications for the additional open Certificate of Compliance on August 1, 2024. No vote was needed.

Austin Maxwell asked about previously tabled workshop discussion about going to a lottery system for open Certificates of Compliance to prevent a “run” on available certificates. Deputy City Attorney Roman Hankins was acknowledged and stated the topic has been discussed at several workshops.

Mr. Hankins and City Attorney Adam Tucker discussed possible ideas the Council may be interested in going forward. Due to time constraints, Mr. Hankins recommended any revisions be

made the following year. Council discussed the fairness of a Certificate of Compliance issuance moratorium and requested legal and finance personnel research data and provide additional information at a future Council workshop or meeting regarding the process, modifying the ratio of liquor stores to population and options to revise the process to be fair.

5. **Public Records Request Annual Report.** Budget Director Erin Tucker presented a Council Communication regarding an annual report of Public Records Requests for Fiscal Year 2024 pursuant to Resolution 21-R-27. There were 1742 public records requests in Fiscal Year 2024. This information was provided to Council as notification only and no vote was necessary.

6. **FY24 City Manager Approved Budget Amendments.** Budget Director Erin Tucker presented a Council Communication and documents regarding FY24 City Manager (Craig Tindall) approved budget amendments to general government, facilities maintenance, golf, streets, planning, and planning budgets. This notification was provided to Council pursuant to Ordinance 15-O-48 and will have no effect on fund balance. This information was provided to Council as notification only and no vote was necessary.

7. **CIP Transfers.** Budget Director Erin Tucker presented a Council Communication and documents regarding notification of CIP transfers. Transfers include transfer of CIP Funds between the Bond Fund and General Fund for Skate Park, Barfield Crescent Park Exp, Town Creek, Cherry Lane 2, Bridge Ave and Kings Hwy Improv. This information was provided to Council as notification only and no vote was necessary.

To assist with administrative handling of completing Council-approved projects, Ms. Tucker addressed the method to “clean-up” bills at the end of a project. Ms. Tucker asked Council to consider setting a threshold dollar amount of \$50,000 and above returning to Council for a specific vote and under \$50,000 being approved by the City Manager and then provided to Council as information. Mayor McFarland asked if everyone was okay with that and all agreed, no one dissented.

8. **May 2024 Dashboard.** Budget Director Erin Tucker presented a Council Communication and documents regarding May 2024 Dashboard. This information was provided to Council as notification only and no vote was necessary.

#### **Board and Commission Appointments**

9. **Historic Zoning Commission.** Mayor Shane McFarland presented a Council Communication and letter regarding appointment of Historic Zoning Commission members.



Michael J. Panesi was recommended to replace the vacancy of Marimae White with a term expiration of June 30, 2025.

Vice Mayor Shacklett made a motion to approve the appointments. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

#### **Licensing.**

No beer permits or special event beer permits were presented.

#### **Payment of Statements.**

No payment of statements was presented.

#### **Other Business.**

**City Ethics Policy.** City Attorney Adam Tucker presented information regarding revision of the City Ethics Policy to 1) bring information to one location in the City Code instead of multiple places throughout the Employee Handbook, 2) provide clarity and specificity to allow officials and employees to better understand policy and clarity for those advising (City Attorney) on interpretation of the policy and 3) address notable weakness in City's existing policies regarding a well-defined procedure for investigating ethics complaints or making a complaint against City officials. Mr. Tucker researched current policies and sources including Metro Nashville, Franklin, Clarksville, Knoxville and MTAS Model Code of Ethics. Mr. Tucker recommended establishing an Ethics Commission and discussed other ethics issues he suggested be included in a revised City Ethics Policy. Extended discussion ensued between Council and Mr. Tucker regarding specific ethical issues and policy.

**General Announcements.** Mr. Wright stated he has received phone calls from four Rutherford County School Board members regarding fees the City charges to do things on school property that may be a hinderance in having projects start at different schools. After speaking to Mr. Gore, he understands these fees are being charged to Murfreesboro City Schools too. Mr. Wright requested Council consider discussion about fees structure for schools.

Ms. Scales Harris extended Council condolences to Austin Maxwell on the passing of his mother. Mr. Maxwell thanked her.

Council Members discussed the improvements of Shawn Wright's wife and Mr. Wright expressed his appreciation for everyone's prayers.

Mayor McFarland stated the Skate Park will be opening in the next few weeks. The Murfreesboro Little League 11-year-old and 14-year-old teams won state and will be moving on.

**Adjourn**

There being no further business, Mayor McFarland adjourned this meeting at 12:45 p.m.

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SHANE MCFARLAND  
MAYOR

ATTEST:

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ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro  
City Council – Special Session, Public Comment**

July 18, 2024 at 5:30 pm  
City Council Chambers  
111 West Vine Street  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in special session at its regular meeting place in the Council Chambers at City Hall at 5:30 p.m. on Thursday, July 18, 2024.

**Council Members Present**

Mayor Shane McFarland –Presiding  
Madelyn Scales Harris  
Austin Maxwell  
Bill Shacklett  
Kirt Wade

Jami Averwater and Shawn Wright were absent and excused from this meeting.

**City Representatives Present**

Darren Gore, City Manager  
Adam Tucker, City Attorney  
Erin Tucker, Budget Director / Acting City Recorder  
Melanie Joy Peterson, City Clerk

**Public Comment**

Mayor McFarland called the meeting to order and announced that this special meeting was being held for public comment. He then asked Budget Director Erin Tucker if anyone had signed up to speak. Ms. Tucker indicated no one had signed up to speak. Mayor McFarland gave an opportunity for anyone present to come forward to speak. There was no one present who wished to speak.

There being no further business, Mayor McFarland adjourned the meeting at 5:31 p.m.

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SHANE MCFARLAND  
MAYOR

ATTEST:

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ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro  
City Council – Regular Session**

Thursday, July 18, 2024 at 6:00 pm  
City Council Chambers  
111 West Vine Street  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 6:01 p.m. on Thursday, July 18, 2024.

**Council Member Attendance**

Mayor Shane McFarland – Presiding  
Jami Averwater  
Madelyn Scales Harris  
Austin Maxwell  
Bill Shacklett  
Kirt Wade  
Shawn Wright

**City Representative Attendance**

Darren Gore, City Manager  
Adam Tucker, City Attorney  
Erin Tucker, Budget Director / Acting City Recorder  
Matthew Blomeley, Assistant Planning Director  
Chad Gehrke, Airport Director  
Valerie Smith, Interim Water Resources Director  
Robert Holtz, Community Development Director  
Randolph Wilkerson, Human Resources Director  
Roman Hankins, Deputy City Attorney  
Steve Jarrell, Deputy Police Chief  
John Strickland, Plant Manager  
Jim Kerr, Transportation Director  
Melanie Joy Peterson, City Clerk

**Prayer and Pledge of Allegiance**

Mayor McFarland commenced the meeting with a prayer followed by the Pledge of Allegiance.

**Public Comment on Actionable Agenda Items**

Mayor McFarland inquired of Budget Director, Ms. Tucker, about the presence of any registered speakers for public comment on actionable agenda items. Ms. Tucker stated there were no individuals registered to speak on any actionable agenda items.

**Consent Agenda**

The Consent Agenda was presented for approval with Council Communications for the following items:

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)

Ms. Averwater made a motion to approve the Consent Agenda. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

#### **Old Business**

16. **Ordinance 24-OZ-16 (2<sup>nd</sup> and Final Reading)**. The ordinance titled “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]” passed its first reading on June 20, 2024 and was presented to City Council for second and final reading.

Vice Mayor Shacklett made a motion to approve Ordinance 24-OZ-16. Mr. Wright seconded the motion. Upon roll call, the ordinance was passed on second and final reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

#### **New Business**

17a. **Public Hearing for Resolution 24-R-PS-22 and 24-R-A-22**. Assistant Planning Director Matthew Blomeley presented a Council Communication regarding a Plan of Services and Annexation

of 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). He stated that a public hearing was required on the matter.

Mayor McFarland initiated the public hearing, welcoming comments on the Plan of Services and Annexation. Despite sufficient time for input, no attendees expressed a desire to speak on the matter. Consequently, Mayor McFarland concluded the public hearing.

**17b. Resolution 24-R-PS-22 Plan of Services.** The resolution titled, “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]” was offered for passage on its first and only reading.

Mr. Wade made a motion to approve Resolution 24-R-PS-22. Mr. Wright seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**17c. Resolution 24-R-A-22 Annexation.** The resolution titled, “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]” was offered for passage on first and only reading.

Ms. Averwater made a motion to approve Resolution 24-R-A-22. Mr. Wright seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**18. Ordinance 24-O-23 (1<sup>st</sup> Reading).** Airport Director Chad Gehrke presented a Council Communication regarding reasons for changes at the Murfreesboro Municipal Airport and need for revisions to the City Code to reflect these changes. The ordinance titled, “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” was offered for passage on first reading.

Vice Mayor Shacklett made a motion to approve Ordinance 24-O-23. Ms. Averwater seconded the motion. Upon roll call, the ordinance was passed on first reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

19. **Ordinance 24-O-25 (1<sup>st</sup> Reading).** City Attorney Adam Tucker presented a Council Communication recommending codification of a new ethics code for City officials and employees and establishing an ethics commission. The ordinance titled, “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” was offered for passage on first reading.

Councilmembers asked Mr. Tucker questions about the proposed ordinance and there was extended discussion. After discussion, Mr. Tucker suggested the ordinance be deferred and revised to include a mechanism for City Council to review complaints to determine merit before being referred to an investigator. Mayor McFarland agreed with this course of action.

Mr. Wade made a motion to defer Ordinance 24-O-25 until it could be revised with City Council’s recommendations. Ms. Scales-Harris seconded the motion. Upon roll call, the ordinance was deferred by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

20. **Ordinance 24-O-24 (1<sup>st</sup> Reading).** Interim Water Resources Director Valerie Smith presented a Council Communication and PowerPoint recommending amendments to Chapter 27.5, Stormwater Management, of the City Code to comply with a new state stormwater permit and to incorporate needed updates. The ordinance titled, “ORDINANCE 24-O-24 amending the Murfreesboro City Code, Chapter 27.5, Stormwater Management, replacing it in its entirety” was offered for passage on first reading.

Ms. Averwater made a motion to approve Ordinance 24-O-24. Mr. Wright seconded the motion. Upon roll call, the ordinance was passed on first reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

21. **Resolution 24-R-23.** City Attorney Adam Tucker presented a Council Communication requesting Council authorize 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. The resolution titled, “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.” was offered for passage on first and only reading.

Ms. Averwater stated she would support the resolution, but there would never be enough money to make it right.

Ms. Averwater made a motion to approve Resolution 24-R-23. Mr. Wade seconded the motion. Upon roll call, the resolution was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

22. **FY25 Community Development Annual Action Plan.** Community Development Director Robert Holtz presented a Council Communication regarding the Community Development FY25 Annual Action Plan representing local priorities and funding allocation to be presented to HUD to receive Community Development Block Grant (CDBG) program funds totaling \$1,337,895 to fund the City’s Community Development FY25 program.

Mr. Wright made a motion to approve the plan. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

23. **NEOGOV Attract System Agreement.** Human Resources Director Randolph Wilkerson presented a Council Communication regarding an 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. The expense of the system is \$27,507.



Ms. Scales-Harris made a motion to approve the agreement. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**24. Update Employee Handbook Policies 3023, 4010, and 1009.** Human Resources Director Randolph Wilkerson presented a Council Communication regarding updating Employee Handbook Policies 3023, Federal Trade Administration (FTA) Drug and Alcohol Policy, 4010, Uniforms, Shoes and Equipment, and 1009, Overtime Pay and Compensatory Time for Non-Exempt Employees and requested Council approved the policies.

Ms. Averwater made a motion to approve the policies. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**25. Retail Liquor Certificates of Compliance – Possible Revisions to Murfreesboro City Code Chapter 4.** Deputy City Attorney Roman Hankins presented a Council Communication and PowerPoint regarding revisions to Murfreesboro City Code Chapter 4 – Alcoholic Beverages for discussion of three options for regulating the issuance of retail liquor certificates of compliance. After extended discussion between Council and Mr. Hankins, Mayor McFarland requested an ordinance be prepared to include Council recommendations and presented at a future meeting for discussion.

Mr. Hankins stated he would prepare an ordinance that would remove the cap on certificates of compliance and include a provision that would revoke the certificate if not used within a set period of time.

Mayor Shane McFarland left the meeting and Vice Mayor Bill Shacklett presided.

**26. Purchase of Police Uniforms, Clothing and Equipment.** Deputy Police Chief Steve Jarrell presented a Council Communication regarding the purchase of uniforms, clothing and equipment items and requested approval of an agreement with Galls, LLC via BuyBoard Master Agreement No. 698.23 for up to \$350,000 in annual purchases.

Ms. Averwater made a motion to approve the purchase agreement. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright

**Not Present:** Shane McFarland

**Nay:** None

Mayor Shane McFarland rejoined the meeting and presided.

**27. Contract Extension with Heritage Cleaners.** Deputy Police Chief Steve Jarrell presented a Council Communication regarding a contract extension with Heritage Cleaners to provide laundry and dry-cleaning services for both the Police and Fire Departments and requested Council approve a Sixth Amendment to the contract between the City and Heritage Cleaners originally approved by Council on July 12, 2018, in response to ITB-26-2018. Expenses were estimated up to \$150,000 for the Police Department and up to \$40,000 for the Fire Department in FY25.

Ms. Averwater made a motion to approve the contract extension. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

**28. Semi Tractor Purchase.** Water Resources Plant Manager John Strickland presented a Council Communication and PowerPoint regarding purchase of a semi tractor for hauling the Water Resource Recovery Facility's biosolids and requested Council approve the purchase in the amount of \$178,305.

Ms. Scales-Harris made a motion to approve the purchase. Vice Mayor Shacklett seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

**29. MWRD/ CUD Boundary Revision No. 8.** Interim Water Resources Director Valerie Smith presented a Council Communication regarding MWRD/CUD water service boundary revisions along Dill Lane and south of Jefferson Pike just north of the Stones River Water Treatment plant and requested Council approve the revision to the CUD/MWRD boundary, "Amendment Eight to Service

Area and Territorial Boundary Amendment Agreement”. Approval of this agreement would result in the Water Resources Department gaining a commercial account with an estimated monthly bill of \$2,225 based on estimated water usage.

Mr. Wright made a motion to approve the boundary revisions. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**30. American Rescue Plan Grant Management Task Order.** Interim Water Resources Director Valerie Smith presented a Council Communication regarding an engineering services task order under the Master Services Agreement (MSA) with LJA Engineering, Inc. for assistance with management of the American Rescue Plan (ARP) grant funds. The expense of this task order was estimated at \$105,705.

Ms. Averwater made a motion to approve the task order. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

#### **Board and Commission Appointments**

**31. Parks and Recreation Commission.** Mayor Shane McFarland presented a Council Communication regarding appointment of Parks and Recreation Commission members. Mr. Leroy Cunningham and Mr. Kent Syler were both recommended for reappointment with a term expiration of June 30, 2027.

Mr. Wright made a motion to approve the appointments. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**32. Historic Zoning Commission.** Mayor Shane McFarland presented a Council Communication regarding appointment of Historic Zoning Commission members. Mr. Bryan Prince was recommended to replace the vacancy of Chase Salas with a term expiration of June 30, 2027.

Mr. Wright made a motion to approve the appointment. Ms. Averwater seconded the motion.

Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

### **Licensing**

**33. Regular Beer Permits and Special Event Beer Permits.** Budget Director, Erin Tucker, presented a Council Communication regarding Regular Beer Permits and Special Event Beer Permits. Four Regular Beer Permits for two ownership changes for a restaurant and hotel sundry located at 2108 Lothric Way, one ownership change for a restaurant located at 1312 NW Broad Street, and one ownership/name change for a restaurant located at 215 N. Church Street were presented for approval. One Special Event Beer Permit for The Woman's Club of Murfreesboro was submitted for approval. Applicants met requirements for the permits and were recommended for approval pending final building and codes inspections for the regular beer permits and special event permit for the special event beer permits.

Ms. Averwater made a motion to approve the permits. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

### **Payment of Statements**

No payment of statements was presented.

### **Other Business**

**34. Contract with TDOT for New Salem Hwy Phase 3.** Transportation Director, Jim Kerr, presented a Council Communication regarding contracting with TDOT for New Salem Highway Phase 3. A contract between the Treasury Department of the State of Tennessee and the City of Murfreesboro for New Salem Highway (SR-99) Phase 3 Widening was offered for approval.

Mr. Wade made a motion to approve the contract. Ms. Scales-Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade,  
Shawn Wright, Shane McFarland

**Nay:** None

**General Announcements.** Mayor McFarland reminded everyone present that the new Skate Park and Pump Track at Old Fort Park opens tomorrow at 10:00 am with a Ribbon Cutting Ceremony and would be open seven days a week from dawn until dusk.

Mr. Wright stated that Uncle Dave Macon Days would move back to Rutherford County/Murfreesboro area on September 6 and 7 at Hop Springs Park.

Mayor McFarland stated that it was his mother's 69<sup>th</sup> birthday and he wanted to wish her a happy birthday.

Mr. Maxwell encouraged everyone to go vote.

**Adjourn**

There being no further business, Mayor McFarland adjourned this meeting at 7:36 p.m.

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SHANE MCFARLAND  
MAYOR

ATTEST:

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ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro  
City Council – Regular Session**

Thursday, July 25, 2024 at 6:00 pm  
City Council Chambers  
111 West Vine Street  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 6:01 pm on Thursday, July 25, 2024.

**Council Members Present**

Mayor Shane McFarland – Presiding  
Jami Averwater  
Madelyn Scales Harris  
Austin Maxwell  
Kirt Wade  
Shawn Wright

Bill Shacklett was absent and excused from this meeting.

**City Representatives Present**

Darren Gore, City Manager  
Adam Tucker, City Attorney  
Erin Tucker, Budget Director / Acting City Recorder  
Sam Huddleston, Assistant City Manager  
Karen Lampert, Grant Manager  
Raymond Hillis, Executive Director of Public Works  
Ronald Head, Assistant Director of Information Technology  
Jim Kerr, Transportation Director  
Chad Gehrke, Airport Director  
Mark McCluskey, Fire Chief  
Brian Lowe, Fire Marshal  
Melanie Joy Peterson, City Clerk

**Prayer and Pledge of Allegiance**

Mr. Wright commenced the meeting with a prayer followed by the Pledge of Allegiance.

**Public Comment on Actionable Agenda Items**

Mayor McFarland inquired of Budget Director Ms. Tucker about the presence of any registered speakers for public comment on actionable agenda items. Ms. Tucker stated there were no individuals registered to speak on any actionable agenda items.

**Consent Agenda**

The Consent Agenda was presented for approval with Council Communications for the following items:

1. Subrecipient Agreement with Volunteer Behavioral Health (Administration)
2. Asphalt and Concrete Purchase Report (Street)

3. Time Keeping Software Renewal (Information Technology)
4. Dr. Martin Luther King Jr. Blvd. Sidewalk Project Phase 2 Design Contract Addendum No. 1 (Transportation)
5. Amendment 3 to Contract with the Regional Transportation Authority (Transportation)

Ms. Averwater made a motion to approve the Consent Agenda. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

#### **Old Business**

6. **Ordinance 24-O-23 (2<sup>nd</sup> and Final Reading).** Airport Director Chad Gehrke presented a Council Communication regarding Ordinance 24-O-23 to amend Murfreesboro City Code Chapter 3, Sections 3-51 and 3-53. The ordinance titled “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” passed its first reading on July 18, 2024 and was presented to City Council for second and final reading.

Mr. Wright made a motion to approve Ordinance 24-O-23. Mr. Wade seconded the motion. Upon roll call, the ordinance was passed on second and final reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

#### **New Business**

7. **Ordinance 24-O-10 (1<sup>st</sup> Reading).** Fire Marshal Brian Lowe presented a Council Communication regarding Ordinance 24-O-10 to amend Murfreesboro City Code Chapter 12 to provide guidance and recommendations for safe burning practices, promote compliance and safety at construction sites and revise the title of the Community Risk Reduction Division to the Fire Marshal’s Office to be consistent with industry standards.

The ordinance titled, “ORDINANCE 24-O-10 amending the Murfreesboro City Code, Chapter 12, Fire Prevention and Fire Rescue Services, Articles II and V, Sections 12-19, 12-51, 12-52, 12-53, and 12-54, regarding open burning” was offered for passage on first reading.

Mr. Wade made a motion to approve Ordinance 24-O-10. Ms. Averwater seconded the motion. Upon roll call, the ordinance was passed on first reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

**8. Ordinance 24-O-27 (1<sup>st</sup> Reading).** City Manager Darren Gore presented a Council Communication regarding FY25 Budget Amendment requesting to amend the FY25 budget including accounting for actual revenue data, allowance for City-wide vacancies reflecting typical payroll cost savings, costs of revising the Public Safety Pay Plan to better attract and retain public safety employees, and adjustments to public safety equipment and fixed assets, state street aid and airport fund. This amendment will result in a total increased use of Unassigned Fund Balance of \$1.53 million, an increased use of restricted State Street Aid funds of \$150,000, and an increased use of Airport Fund's fund balance of \$400,000.

Fire Chief Mark McCluskey was asked by Mr. Gore to share information regarding changes to salary budgets. Chief McCluskey spoke to Council regarding employee retention and shared a PowerPoint slide regarding Fire Department "Opportunity Costs" lost.

Human Resources Director Randolph Wilkerson was acknowledged, spoke and shared a PowerPoint slide regarding additional ideas to aid in employee retention including upfront vacation and sick days, increased vacation accrual rate, comparison analysis between defined benefit plan and defined contribution plan, educational incentive pay bonus for degrees or tuition reimbursement), and specialized training related to job skills that the City cannot offer. Mr. Gore shared additional information regarding Firefighter Pay Plan Adjustments.

Budget Director Erin Tucker was acknowledged and spoke regarding the fiscal change. Ms. Averwater said she was excited about the changes and thanked staff for their work. Mayor McFarland opened the floor for additional Council discussion. Extended Council discussion ensued.

Mr. Maxwell stated the revision was a start and step in the right direction but indicated the City is still 7-10% below Metro and inquired whether the City wants to keep that, or do we want to shrink the gap? He asked how we can get to 3-5%. Mr. Maxwell fully supports the amendment but wants to see us do more.

Mayor McFarland agreed that the budget amendment is good start and that Ms. Tucker and Mr. Gore have been creative in adjusting the budget. He stated Council is providing a 15% - 17.5% increase. He stated that at some point expenditures will increase more than our revenues. Other entities are having to increase revenues to increase pay and that leads to tough decisions. We are getting to where we need to be, but we can't forget we have other departments we have to look at as



well. He stated that increasing longevity pay may be considered in the future. He stated that other employees will come to Council saying, "What about me?" He stated that these are things we need to be aware of.

Ms. Scales-Harris stated she doesn't know how we got behind, but we are and need to catch up. She knows no one wants to increase taxes, but it may be necessary because we can't put band aids on things. To keep from raising taxes, we need to question what we are spending money on and if money is being wasted on things we don't need. She stated that moving forward we need to be cautious, look at everybody and watch our spending.

Ms. Tucker explained the additional items on the ordinance that will be revised, as specified in the Council Communication. Mayor McFarland stated that most revenue comes from sales tax and encouraged people to continue shopping in Murfreesboro. Mayor McFarland stated he wants to be clear, there is no tax increase. Ms. Scales-Harris stated she wanted to be clear she is not advocating for a tax increase, she is just looking at reality, but does not want a tax increase until after she leaves.

The ordinance titled, "ORDINANCE 24-O-27 amending the Fiscal Year 2025 (hereafter "FY2025") Budget (1st Amendment)" was offered for passage on first reading.

Ms. Averwater made a motion to approve Ordinance 24-O-27. Ms. Scales-Harris seconded the motion. Upon roll call, the ordinance was passed on first reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

**9. Acquisition of Easements for 106 SE Broad Street Town Creek.** Assistant City Manager Sam Huddleston presented a Council Communication regarding acquisition of easements by condemnation at 106 SE Broad Street for the Town Creek Daylighting Project. He requested Council approve initiation of condemnation proceedings by tendering the appraised value of \$65,500 and authorization to negotiate a settlement to limits allowed under Federal property acquisition requirements.

Mr. Wade made a motion to approve the acquisition. Ms. Averwater seconded the motion. Upon roll call, the motion was passed on first reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

**10. Town Creek Task Order 14.** Assistant City Manager Sam Huddleston presented a Council Communication regarding Task Order 14 providing for 100% construction documents and bidding phase services for the Town Creek Phase 1 and 2 daylighting projects.

Ryan Maloney from Griggs and Maloney was acknowledged and stated we are at the 50% design completion stage now including hydraulic conformation of the channel design (flooding is now less of a concern), permitting is ongoing, and continued coordination with other design teams is on track. Mr. Maloney showed map document showing 50-100% design phase and provided project timeline estimates. Mr. Huddleston requested that Council approve Task Order 14 with Griggs and Maloney in the amount of \$367,500 to be funded by ARPA funds.

Mr. Wright made a motion to approve the task order. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

**11. Taxiway A and Apron Pavement Rehabilitation Change Orders.** Airport Director Chad Gehrke presented a Council Communication regarding Barge Design Services Change Order 2 and Cleary Construction Change Orders 2 and 3 for the Taxiway A and Apron Pavement Rehabilitation project. He requested that Council approve Barge Design Solutions Change Order 2 and Cleary Construction Change Orders 2 and 3 for a total cost of \$94,199.97 to complete the Taxiway A and Apron Pavement Rehabilitation project. 95% of this Change Order will be covered with the Grant Amendment approved on November 30, 2023 and the local portion will be funded by the 2022 CIP.

Ms. Scales-Harris made a motion to approve the change orders. Ms. Averwater seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

**12. New Airport Lease Agreements.** Airport Director Chad Gehrke presented a Council Communication regarding new Airport Lease Agreements for Hangars, aircraft Tie-Downs, and Storage Areas. He requested that Council approve the lease agreements. The new lease agreements will provide for the Airport Commission to review and adjust the rental rates annually; rates are currently at 5%.

Mr. Wade made a motion to approve the lease agreements. Ms. Scales-Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

**13. Acceptance of Grant Award.** Fire Chief Mark McCluskey presented a Council Communication regarding acceptance of the federally funded Assistance to Firefighters Grant Award (AFG) to allow the Fire Department to develop a health and wellness program to include nutrition education, fitness training, injury prevention, peer support counseling and to purchase exercise equipment for eleven fire stations. He requested that Council approve the grant award that will provide \$357,637 in grant revenues.

Mr. Maxwell made a motion to approve the grant award. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

#### **Board and Commission Appointments**

No board and commission appointment recommendations were presented.

#### **Licensing**

**Regular Beer Permit.** Budget Director Erin Tucker presented a Council Communication regarding Beer Permits. One Regular Beer Permits for a new location for a grocery/market located at 5631 Franklin Road was presented for approval. The applicant met requirements for the permit and was recommended for approval pending final building and codes inspection for the regular beer permit.

Ms. Averwater made a motion to approve the permit. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Kirt Wade, Shawn Wright,  
Shane McFarland

**Nay:** None

#### **Payment of Statements**

No payment of statements was presented.

#### **Other Business**

No other business was presented.

**General Announcements.** Mr. Maxwell reminded everyone that there is no meeting next week and encouraged everyone to go vote. He stated he wanted to publicly thank Councilman Wright for his work on the Ethics Policy that will be coming back to Council in August. He stated he thinks it is the right thing to do as it increases transparency and makes us all more accountable.

Mayor McFarland confirmed the next meeting is a workshop on August 8<sup>th</sup> and public comment will be on August 22<sup>nd</sup>.

**Adjourn**

There being no further business, Mayor McFarland adjourned this meeting at 6:41 pm.

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SHANE MCFARLAND  
MAYOR

ATTEST:

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ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro  
City Council – Workshop Regular Session**

Thursday, August 8, 2024 at 11:30 am  
Municipal Airport Business Center  
1930 Memorial Boulevard  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its workshop meeting place at the Municipal Airport Business Center at 11:39 a.m. on Thursday, August 8, 2024.

**Council Members Present**

Mayor Shane McFarland – Presiding  
Jami Averwater  
Madelyn Scales Harris  
Austin Maxwell  
Bill Shacklett  
Kirt Wade  
Shawn Wright

**City Representatives Present**

Darren Gore, City Manager  
Sam Huddleston, Assistant City Manager  
Adam Tucker, City Attorney  
Erin Tucker, Budget Director / Acting City Recorder  
Lesley Short, Assistant Finance Director  
Trey Duke, Director of Murfreesboro City Schools  
Kevin Gentry, Chair of the MCIT Board of Trustees  
Joel Aguilera, Planner  
Melanie Joy Peterson, City Clerk

**Prayer and Pledge of Allegiance**

Mayor McFarland commenced the meeting with a prayer followed by the Pledge of Allegiance.

**Public Comment on Actionable Agenda Items**

Mayor McFarland inquired of Budget Director Erin Tucker about the presence of any registered speakers for public comment on actionable agenda items. Ms. Tucker stated there were no individuals registered to speak on any actionable agenda items.

**Action Items**

**1. Ordinance 24-O-27 – FY25 Budget Amendment #1 (2<sup>nd</sup> and Final Reading).** Budget Director Erin Tucker offered a Council Communication requesting Council approve on second and final reading Ordinance 24-O-27 amending the City’s FY25 budget. The ordinance titled “ORDINANCE 24-O-27 amending the Fiscal Year 2025 (hereafter “FY2025”) Budget (1st

Amendment)” passed its first reading on July 25, 2024, and was offered for its second and final reading.

Mr. Wright made a motion to approve Ordinance 24-O-27. Ms. Averwater seconded the motion. Upon roll call, the ordinance was passed on its second and final reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**2. Resolution 24-R-24 - FY25 Schools Budget Amendment #1.** Murfreesboro City Schools Director Trey Duke presented a Council Communication requesting Council approve Resolution 24-R-24 amending the FY25 General Purpose fund to budget new grant money awarded by United Way South-Central. The resolution titled “RESOLUTION 24-R-24 amending the Fiscal Year 2025 (hereafter “FY2025”) Murfreesboro City Schools Budget (1st Amendment)” was offered for its first and only reading.

Mr. Maxwell made a motion to approve Resolution 24-R-24. Ms. Scales Harris seconded the motion. Upon roll call, the resolution was passed on its first and only reading by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

Mr. Shacklett commended Dr. Duke and Murfreesboro City Schools personnel for getting schools off to a great start with lots of smiling children. He stated he appreciates the organization, effort of teachers, cooperation of parent and getting schools off to great start. Ms. Scales Harris complemented the teachers and staff on good start to the year and shared her experience at John Pittard Elementary on opening day. Mr. Gore commended the maintenance facilities group for improvements and repairs completed before school started. Mayor McFarland said thank you for your hard work.

**3. Retail Liquor Certificate of Compliance.** Budget Director Erin Tucker presented a Council Communication and information regarding issuance of a certificate of compliance for a retail liquor store by Punit Patel for the Super 9 Wine & Spirits at 730 W. Northfield Blvd., Suites E, F, G due to a change of ownership. All requirements were met, and application was recommended for approval.

Mr. Wright made a motion to approve the certificate. Mr. Wade seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**4. Retail Liquor Certificate of Compliance.** Budget Director Erin Tucker presented a Council Communication and information regarding issuance of a certificate of compliance for a retail liquor store by Punit Patel for the Super 9 Wine & Spirits at 3035 New Salem Highway, Suite C due to a change of ownership. All requirements were met, and application was recommended for approval.

Mr. Maxwell made a motion to approve the certificate. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**5. Ordinance 24-O-25 (1<sup>st</sup> Reading).** City Attorney Adam Tucker presented a Council Communication and Ordinance 24-O-25 Ethics Code to codify the ethics policy for City officials and employees. This version was modified from two previous drafts presented to Council. Mr. Tucker stated the revisions include adding clarification the definitions section by defining “financial interest” and “material financial interest,” removing provisions related to establishing an Ethics Commission and in lieu of an Ethics Commission proposing a process like that done in Lebanon. Mr. Tucker explained with the new policy if the City received a complaint against a member of Council or an appointed employee, and the complaint met certain requirements, the complaint would be forwarded to Council to act. Council would designate three attorneys, who do not reside or have law offices in Rutherford County, to serve as investigators. Council would then meet to appoint one of three investigators to investigate the complaint and return to Council with findings. Council would then meet to evaluate the complaint and decide next steps.

Discussion ensued between and among Council and the City Attorney regarding the policy.

Mr. Maxwell made a motion to amend the time set forth in Ordinance 24-O-25, Section 2-322 (A)(1)(c) from one-year to two-years. Mr. Wright seconded the motion. Upon roll call, the amendment to Ordinance 24-O-25 was passed by the following vote:

**Aye:** Jami Averwater, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** Madelyn Scales-Harris and Kirt Wade

Mr. Wright made a motion to approve Ordinance 24-O-25, as amended, on first reading. Mr. Maxwell seconded the motion. Council members discussed the policy and option for continued review upon deferral. Mr. Wright withdrew his motion to approve due to this discussion.

Mr. Wade made a motion to defer Ordinance 24-O-25 until the August 22, 2024 Council meeting. Mr. Shacklett seconded the motion. Upon roll call, the motion to defer passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**6. Notes Live Termination Agreement.** City Manager Darren Gore presented a Council Communication and Termination Agreement between the City and Sunset on the Stones River, LLC (successor-by-assignment to Notes Live, Inc.) for a project on city-owned property located at 1505-1522 Medical Center Parkway. The City and Notes Live have mutually agreed not to proceed with the development project as originally planned. The Termination Agreement was offered for Council approval.

Ms. Averwater made a motion to approve the termination agreement. Mr. Shacklett seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

#### **Workshop Items**

**7. CIP Transfers.** Budget Director Erin Tucker presented a Council Communication and documents regarding notification of CIP transfers. Transfers include transfer of CIP Funds between the Bond Fund and General Fund for Mercury, Broad, Bradyville Intersection, Cherry Lane 2, and Towne Creek. This information was provided to Council as notification only and no vote was necessary.

**8. Murfreesboro Community Investment Trust FY24 Annual Report.** Murfreesboro Community Investment Trust Board of Trustee Chair Kevin Gentry presented a Council Communication and information regarding the FY24 Annual Report of the Murfreesboro Community



Investment Trust. This information was provided to Council as notification only and no vote was necessary.

**9. Wayfinding and Signage Program Update.** Assistant City Manager Sam Huddleston presented a Council Communication regarding wayfinding and signage program updates and presented a PowerPoint presentation titled “Downtown Projects Update.” Mr. Huddleston then turned the floor over to Planner Joel Aguilera. Mr. Aguilera explained that KMB Design and City teams have been advancing design concepts for the program which encompasses the downtown and City Core Overlay districts and presented a PowerPoint titled “Downtown Wayfinding and Signage Program City Council Update – 8/8/2024” of progress and draft design options. The presentation's intent was to update Council on the program's progress. Mr. Aguilera presented four options for the signage design and asked for Council's feedback. Council discussed the assorted options and branding of the City. Several Council members said they liked option three. Mr. Huddleston stated the rotunda (as pictured in option 3) has been used in City branding since 2012 and is on vehicles, letterhead and signage throughout the City. Council discussed possible options. No decisions were made, and no vote was taken.

**10. CUD and City General Water Line Relocation Agreement.** City Manager Darren Gore presented a Council Communication regarding a draft agreement between Consolidated Utility District of Rutherford County (CUD) and the City for waterline relocations associated with new City roadway or roadway widening construction projects that defines a pro rata cost sharing percentage by the City based on the age of the asset. The City expects to be afforded savings in future roadway projects involving needed water line relocations. A draft agreement regarding water utility relocations between the City and CUD was offered for review. No vote was requested or taken.

**11. Reorganization of City Courts.** City Manager Darren Gore presented a Council Communication and City organizational chart regarding a review of organizational changes to optimize the responsibility and effectiveness of the City Court. Mr. Gore stated that the review revealed current organizational structure includes expectation of a full-time City Judge, however the volume of work does not warrant the capacity of a full-time Judge, and the Court Clerk is detached in certain ways to the organization considering she reports to a part-time Judge, while the Court Clerk position is full-time. Mr. Gore recommended Vicki Ordonez, Court Clerk be reassigned to report to Assistant City Manager Sam Huddleston and the role of City Judge be redefined with benefits commensurate of a part-time employee. The City Clerk has always been hired by the City Manager

and this structure better designates this. Staff intends to research pay and benefits of part-time judges and make recommendations to Council. This information was provided as notification only and a vote was not requested.

**12. Reorganization of Tax & Finance Department.** City Manager Darren Gore presented a Council Communication, City organizational chart and tax and finance organizational chart regarding a review of organizational changes to optimize the responsibility and effectiveness of the Tax and Finance Department. Upon reviewing the significant responsibilities of the City Recorder/ Finance Director, including oversight of the Tax and Finance department and Charter-defined City Recorder and City Treasurer duties, it is believed the workload is too burdensome for one person to continue to undertake. Mr. Gore reviewed the proposed department organization chart to reorganize the Tax and Finance Department to distribute the amount of work and optimize delivery of services to the public and other City departments more evenly. Mr. Gore introduced Melanie Peterson as the new City Clerk. Mr. Gore indicated that Erin Tucker is the current Budget Director and would maintain that position in addition to the City Recorder position. The Finance Director would be sought externally due to no interested internal candidates. Mr. Gore requested Council direct the Legal Department to prepare a contract and appoint Erin Tucker as City Recorder/ City Treasurer.

Ms. Averwater made a motion to approve the Legal Department to prepare a contract to hire Erin Tucker as City Recorder/City Treasurer. Ms. Scales Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

**13. June Dashboard.** Budget Director Erin Tucker presented a Council Communication and documents regarding June 2024 Dashboard. This information was provided to Council as notification only and no vote was necessary.

#### **Board and Commission Appointments**

No appointments were presented.

#### **Licensing**

No Beer Permits or Special Event Beer Permits were presented.

#### **Payment of Statements**

No payment of statements was presented.

## **Other Business**

**14. Certificate of Good Moral Character.** Assistant Finance Director Lesley Short presented a Council Communication and Request for Certificate of Good Moral Character from Jacob Nevin, 218 Haynes Haven Lane, Murfreesboro for a change of ownership of private club, Murfreesboro Moose Lodge #645. The Rules of Tennessee Alcoholic Beverage Commission require a Certificate of Good Moral Character accompany all license applications for Private Clubs requesting a Liquor by the Drink License. The request complies with statutory requirements.

Shawn Wright made a motion to approve the certificate. Austin Maxwell seconded the motion. Upon roll call, the item was passed by the following vote:

**Aye:** Jami Averwater, Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Kirt Wade, Shawn Wright, Shane McFarland

**Nay:** None

### **General Announcements**

Kirt Wade stated that as an elected official he feels everyone should think about what is best for Murfreesboro and bipartisanship. Mr. Wade directed Mr. Tucker to do research on ethics of an elected official being a chair of any political party.

Austin Maxwell responded to Mr. Wade and stated he wants to congratulate Mr. Shacklett, Mr. Wright, and Mr. Wade on their re-election. Mr. Maxwell stated he is the GOP Chairman, but that he approaches matters of Council and City of Murfreesboro without partisanship and approaches his position as a Councilman with what is best for the City and the citizens of the City. Mr. Maxwell stated his past voting record and reiterated that he is doing things that are in the best interest of the citizens of Murfreesboro and not the GOP.

Bill Shacklett stated he would like citizens to better understand how our government works and for Council to work with citizens to make Murfreesboro a better place to live. Mr. Shacklett reinforced the importance of civility in the conversation and responsibility of Council to have a civil discourse. Mr. Shacklett recommended creation of a Citizen's Academy for citizens to learn and engage with how government works and invited Councilmembers to be a part of creating this program in cooperation with MTSU contacts.

### **Adjourn**

There being no further business, Mayor McFarland adjourned this meeting at 2:10 p.m.

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SHANE MCFARLAND  
MAYOR

ATTEST:

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ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro**  
**City Council – Special Session, Public Comment**

Thursday, August 22, 2024 at 5:30 pm  
City Council Chambers  
111 West Vine Street  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in special session at its regular meeting place in the Council Chambers at City Hall at 5:31 p.m. on Thursday, August 22, 2024.

**Council Members Present**

Mayor Shane McFarland – Joined meeting and presided after first speaker  
Madelyn Scales Harris  
Austin Maxwell  
Bill Shacklett – Joined meeting after third speaker  
Shawn Wright - Called meeting to order

Jami Averwater and Kirt Wade were absent and excused from this meeting.

**City Representatives Present**

Darren Gore, City Manager  
Adam Tucker, City Attorney  
Erin Tucker, Budget Director / Acting City Recorder  
Nate Williams, Executive Director of Recreation Services  
Melanie Joy Peterson, City Clerk

**Public Comment**

Council Member Shawn Wright called the meeting to order and announced that this special meeting was being held for public comment and explained each speaker should approach the microphone, identify themselves by name and address and have 3-minutes maximum to speak. He acknowledged the first speaker, James Farley. The following speakers spoke at public comment for a maximum of 3-minutes:

1. James Farley, 5111 General Eisenhower Drive, Murfreesboro. Spoke in favor of improved community access to sports fields and about the impact of airport expansion on community access to fields, specifically at Siegel Park.

Mayor McFarland joined the meeting and took control of the meeting.

2. Darren Hayes, 308 W. Castle Street, Murfreesboro. Human trafficking. Spoke in Opposition. Mr. Hayes immigrated to America during the Gulf War from Cairo, Egypt. He requested if Council could do investigation on Stones River Center to get an account he has opened there.

3. Leonard Ntembo, 2611 Ritz Lane, Murfreesboro. Spoke in favor of improved community access to sports fields and the impact of airport expansion on community access to fields. He explained that exercising on the soccer fields has improved his life and the impact youth sports have had on kids in the community. He stated that reduced access to Siegel Park will really impact the community. Requested Council consider this and help them out.

Bill Shacklett joined the meeting.

4. Charles K. Bobofuh, 317 Dearborn Station, Murfreesboro. Spoke in favor of improved community access to sports fields and the impact of airport expansion on community access to fields. Requested Council remember the kids and improve community access to recreational fields.
5. Richard Baines, 1319 Parkview Terrace, Murfreesboro. Spoke in favor of requesting the City Attorney review workshop voting and roll call protocols.

Mayor McFarland provided an opportunity for anyone else present to come forward to speak.

There was no one present who wished to speak.

Mayor McFarland asked City Attorney Adam Tucker to review the workshop meeting voting protocols. Mr. Tucker stated that workshop meetings are publicly advertised, which allows action items to be presented on the workshop agenda and voted on. City Council follows roll call voting protocols at both workshop and evening City Council meetings. Mayor McFarland explained that using workshop meeting time to conduct certain types of City business, such as simple contracts, saves taxpayers money by maximizing City employee time during the day instead of asking them to work outside of typical working hours.

Executive Director of Recreational Services Nate Williams provided an update on the community use and access of Siegel Park. He stated the Parks and Recreation Department is evaluating possibilities for other sites that may create more accessibility.

There being no further business, Mayor McFarland adjourned the meeting at 5:48 p.m.

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SHANE MCFARLAND  
MAYOR

ATTEST:

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ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_



**City of Murfreesboro**  
**City Council – Regular Session**

Thursday, August 22, 2024 at 6:00 pm  
City Council Chambers  
111 West Vine Street  
Murfreesboro, Tennessee

**MINUTES**

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 6:01 p.m. on Thursday, August 22, 2024.

**Council Members Present**

Mayor Shane McFarland – Presiding  
Madelyn Scales Harris  
Austin Maxwell  
Bill Shacklett  
Shawn Wright

Jami Averwater and Kirt Wade were absent and excused from this meeting.

**City Representatives Present**

Darren Gore, City Manager  
Adam Tucker, City Attorney  
Erin Tucker, Budget Director / Acting City Recorder  
Sam Huddleston, Assistant City Manager  
Mark McCluskey, Fire Rescue Chief  
Nate Williams, Executive Director of Recreational Services  
Valerie Smith, Interim Water Resources Director  
Matthew Blomeley, Assistant Director of Planning  
Brad Barbee, Principal Planner  
Brad Hennessee, Facilities Maintenance Director  
Kyle Lingo, Assistant Director of Fleet Services  
Rachel Singer, Assistant Director of Recreation  
Ronald Head, Assistant Director of Information Technology  
Cary Gensemer, Deputy Police Chief  
Luke Murphy, Assistant Director of Solid Waste  
Russ Brashear, Assistant Director of Transportation  
Jim Kerr, Transportation Director  
Melanie Joy Peterson, City Clerk

**Prayer and Pledge of Allegiance**

Mayor McFarland called the meeting to order and commenced the meeting with a prayer followed by the Pledge of Allegiance.

**Ceremonial Items**

**STARS Award for July 2024.** Human Resources Director Randolph Wilkerson presented the STARS Award for the month of July upon Joe Martin of the Human Resources Department. Mr. Martin was recommended for the award for demonstrating exemplary service (e.g., cooperation, courtesy, responsiveness, support, empathy, etc.). Mr. Martin has increased the City's ability to

provide more effective service to the community and consistently goes the extra mile to assist others as a team player with a servant attitude.

### **Public Comment on Actionable Agenda Items**

Mayor McFarland acknowledged there was one individual registered to speak on actionable agenda items. Mayor McFarland provided instructions about the public comment session. Richard Baines of 1319 Parkview Terrace, Murfreesboro spoke in favor of adopting an ethics code (Agenda Item 25) and provided his opinion regarding statements and discussion Councilmembers had at past City Council meetings, wherein the ethics code ordinance was discussed.

### **Consent Agenda**

The Consent Agenda was presented for approval with Council Communications for the following items:

1. Annual State Airport Maintenance Grant (Airport)
2. Taxiway A and Apron Pavement Rehabilitation Change Orders 2 and 3 Revised (Airport)
3. Hangar Site Construction Administration and Design Services - Change Order 1 (Airport)
4. Change Order #1 for Ceiling Renovations at Hobgood Elementary School (Facilities)
5. Retail Liquor Certificate of Compliance - Neighborhood Liquor & Wine (Finance)
6. Wine Sales Certificate of Compliance - Mapco #3162 (Finance)
7. Wine Sales Certificate of Compliance - Mapco #3654 (Finance)
8. Mandatory Referral for Abandonment of a Drainage Easement east of Fortress Boulevard (Planning)
9. Contract with Gallaher & Associates (Police)
10. Donation of Used Equipment to Various Law Enforcement Agencies (Police)
11. Main Street Banner Request (Street)
12. Asphalt and Concrete Purchase Report (Street)
13. Contract with TDOT for Matching Bus Equipment Funds (Transportation)
14. Asphalt Purchases Report (Water Resources)
15. Barton Lawn Care Contract Amendment No. 3 (Water Resources)
16. Overall Creek Pump Station Change Order No. 2 (Water Resources)
17. Culp Cleaning Contract Amendment (Water Resources)
18. Sodium Hypochlorite Contract Renewal (Water Resources)
19. SSR Task Order 2141013.0 Amendment No. 2 Regulatory Assistance (Water Resources)

Mr. Wright made a motion to approve the Consent Agenda. Mr. Shacklett seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

### **Old Business**

**20. Ordinance 24-O-10 (2nd and Final Reading).** Fire Chief Mark McCluskey provided a Council Communication regarding revisions to Chapter 12 of the City Code on second and final reading and requested Council approve revisions to City Code, Chapter 12 by Ordinance 24-O-10



on second reading. The ordinance titled “ORDINANCE 24-O-10 amending the Murfreesboro City Code, Chapter 12, Fire Prevention and Fire Rescue Services, Articles II and V, Sections 12-19, 12-51, 12-52, 12-53, and 12-54, regarding open burning.” passed its first reading on July 25, 2024, and was offered for its second and final reading.

Mr. Maxwell made a motion to approve Ordinance 24-O-10. Mr. Wright seconded the motion. Upon roll call, the ordinance was passed on second and final reading by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**21. Ordinance 24-O-20 (2nd and Final Reading).** Executive Director of Recreation Services Nate Williams provided a Council Communication regarding amending the City Code regarding the Tennis and Pickleball Commission and requested Council approve Ordinance 24-O-20 on second reading. The ordinance titled “ORDINANCE 24-O-20 amending the Murfreesboro City Code, Chapter 21.5, Parks and Recreation, Article III. Tennis Commission, adding reference to pickleball.” passed its first reading on June 20, 2024, and was offered for its second and final reading.

Mr. Wright made a motion to approve Ordinance 24-O-20. Mr. Maxwell seconded the motion. Upon roll call, the ordinance was passed on second and final reading by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**22. Ordinance 24-O-24 (2nd and Final Reading).** Interim Water Resources Director Valerie Smith provided a Council Communication regarding amending Chapter 27.5 of the City Code to make the chapter compliant with a new state stormwater permit and to incorporate much needed updates and requested Council approve Ordinance 24-O-24 on second reading. The ordinance titled “ORDINANCE 24-O-24 amending the Murfreesboro City Code, Chapter 27.5, Stormwater Management, replacing it in its entirety” passed its first reading on July 18, 2024, and was offered for its second and final reading.

Mr. Maxwell made a motion to approve Ordinance 24-O-24. Mr. Shacklett seconded the motion. Upon roll call, the ordinance was passed on second and final reading by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

23a. **Public Hearing 24-OZ-26 (Rezoning property along East Vine Street).** Assistant Planning Director Matthew Blomeley presented a Council Communication regarding a rezoning for approximately 0.57 acres located along the south side of East Vine Street west of South University Street from RS-8 and CCO to PRD and CCO. Brian Grover from SEC made a presentation on the request for a zoning change for the Enclave at Vine Street.

Mayor McFarland initiated a public hearing, welcoming comments on the rezoning. Richard Baines of 1319 Parkview Terrace, Murfreesboro spoke in favor of the development stating that it was a good-looking development and asked if Council and City Code have requirements for outdoor spaces where open flames will be present to be flame retardant. Mayor McFarland asked if anyone else wished to speak on the matter. Despite sufficient time for input, no additional attendees expressed a desire to speak on the matter. Consequently, Mayor McFarland concluded the public hearing.

Mayor McFarland requested Fire Chief McCluskey respond to Mr. Baines question about the fire code as it relates to the proposed development. Chief McCluskey explained that rental properties/ apartments, such as that proposed, have fire codes in place regarding grilling and propane.

23b. **Ordinance 24-OZ-26 (1<sup>st</sup> Reading).** The ordinance titled, "ORDINANCE 24-OZ-26 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 0.57 acres located along East Vine Street from Single-Family Residential Eight (RS-8) District and City Core Overlay (CCO) to Planned Residential Development (PRD) District and City Core Overlay (CCO) (Enclave at Vine Street PRD); Big Red Holdings, LLC, applicant [2024-407]" was offered for passage on first reading.

Mr. Shacklett made a motion to approve Ordinance 24-OZ-26. Mr. Wright seconded the motion. Upon roll call, the ordinance was passed on its first reading by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**24. Sewer Allocation Variance- Veterans Parkway – Overall Creek Shops.** Principal Planner Brad Barbee presented a Council Communication regarding a proposed development request for additional density above the sewer allocation ordinance’s zoning allowance on behalf of Huddleston-Steele Engineering, Inc. for Overall Creek Shops to be located on the west side of Veterans Parkway, north of Old Fort Parkway. Mr. Barbee requested Council approve the variance.

Mr. Shacklett made a motion to approve the variance. Mr. Wright seconded the motion.

Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**25. Ordinance 24-O-25 (1<sup>st</sup> Reading).** City Attorney Adam Tucker presented a Council Communication to codify a new ethics code for City officials and employees. The ordinance titled, “ORDINANCE 24-O-25 amending the Murfreesboro City Code, Chapter 2, Administration, Article XV, adopting an ethics code for City officials and employees” was offered for passage on first reading. Mr. Tucker stated the one notable change from the ordinance presented at the August 8<sup>th</sup> workshop was the provision prohibiting officials from providing goods or services or having financial interest was amended from one-year to two-years, as requested by Council.

Mayor McFarland stated that he would like to see this provision apply to elected officials only to allow people working in certain industries to be more comfortable serving on Boards and Commissions. Mayor McFarland stated that he felt making this change will be in the best interest of the City to have people within some industries such as an engineer on the Water Resources Board serve with their knowledge, expertise and experience without negatively impacting them in terms of their work. He stated that City Council would be able to easily remove Board and Commission members if ever necessary. Mr. Maxwell stated that he liked the ordinance as written to include Board and Commission members.

Mayor McFarland said elected officials should be held at the highest standard. Financial disclosures and conflict of interest is already required of non-paid, volunteer Board and Commission members. Mr. Tucker said the new policy with regards to Board and Commission members is not much different than the current policy. Mr. Tucker stated that in the ordinance, the City Attorney is set forth as the ethics officer and he will be available for any Board or Commission member with questions to contact him.

Additional discussion about the ethics policy ensued among Council members.

Mr. Wright made a motion to amend Ordinance 24-O-25 to make it only applicable to elected officials. Mr. Shacklett seconded the motion. Upon roll call, the amendment to the ordinance passed on the following vote:

**Aye:** Madelyn Scales Harris, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** Austin Maxwell

Mr. Wright made a motion to approve Ordinance 24-O-25, as amended. Mr. Maxwell seconded the motion. Upon roll call, the ordinance, as amended, was passed on its first reading by the following vote:

**Aye:** Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** Madelyn Scales Harris

**26. Ordinance 24-O-18 (1<sup>st</sup> Reading).** Interim Water Resources Director Valerie Smith presented a Council Communication to consider revisions to City Code Chapter 33 to allow MWRD, in lieu of City Council, to grant variance requests should there be sewer capacity and if the development encompasses less than three acres with a density of less than five single family units per acre. and requested Council adopt Ordinance 24-O-18 on first reading. The ordinance titled, “ORDINANCE 24-O-18 amending the Murfreesboro City Code, Chapter 33, Section 33-80, Petition for additional allowance; fee applicable to exempt land classifications.” was offered for passage on first reading.

Mr. Shacklett made a motion to approve Ordinance 24-O-18. Mr. Wright seconded the motion. Upon roll call, the ordinance was passed on its first reading by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**27. Employment Agreement for City Recorder/ City Treasurer.** Mayor McFarland presented a Council Communication regarding an Employment Agreement for City Recorder/ City Treasurer between the City of Murfreesboro and Erin Tucker with an annual base salary of \$185,000. Salary and benefits will be paid as budgeted in the City’s FY2025 budget. Mayor McFarland requested Council approve the employment agreement.

Mr. Maxwell made a motion to approve the employment agreement. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**28. Consolidated Utility District (CUD) of Rutherford County and City General Water Line Relocation Agreement.** City Manager Darren Gore presented a Council Communication regarding review of a draft agreement between CUD and the City for waterline relocations associated with new City roadway or roadway widening construction projects that defines a pro rata cost sharing percentage by the City based on the age of the asset. This agreement will bring about a more equitable cost sharing arrangement. Mr. Gore requested Council approve the water line relocation agreement with CUD.

Ms. Scales Harris made a motion to approve the water line relocation agreement with CUD.

Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**29. HVAC Preventative Maintenance Agreement Renewal.** Facilities Manager Brad Hennessee presented a Council Communication regarding renewal of an agreement with Lee Company for preventative maintenance for heating, ventilation, and air conditioning (HVAC) equipment for 19 city structures to and requested Council approve the agreement.

Vice Mayor Shacklett made a motion to approve the agreement. Mr. Wirght seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**30. Contract for Turnout Gear.** Fire Chief Mike McCluskey presented a Council Communication regarding purchase of turnout gear and a contract with Lion First Responder PPE, Inc. (aka North America Fire Equipment, Inc. / NAFECO) and requested Council approve the contract in the amount of \$153,600.

Mr. Maxwell made a motion to approve the contract. Mr. Wright seconded the motion. Upon roll call, the motion was passed on its first reading by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**31. Bulk Fuel Purchase Contract.** Fleet Services Assistant Director Kyle Lingo presented a Council Communication regarding a contract with Tri Star Energy, LLC for bulk fuel purchases used in the City's motor vehicles and equipment and requested Council approve the contract. The contract is for a one-year term with an option for four renewals.

Mr. Maxwell made a motion to approve the contract. Mr. Wright seconded the motion.

Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**32. Acceptance of TN Urban and Community Forestry Program Grant.** Assistant Director of Recreation Rachel Singer presented a Council Communication regarding consideration of the Tennessee Urban and Community Forestry Program Grant through the State of Tennessee, Department of Agriculture and requested Council approve the Tennessee Urban and Community Forestry Program Grant funding in the amount of \$160,500. This project will begin next summer.

Mr. Maxwell made a motion to approve the acceptance of the grant. Vice Mayor Shacklett seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**33. Information Technology (IT) Consulting Services Amendment 2.** Information Technology Assistant Director Ronald Head presented a Council regarding extension of IT professional services contract with Castaway Technical Service and requested Council approve the amendment to the contract.

Ms. Scales-Harris made a motion to approve the amendment. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**34. Purchase of Police Vehicles from Lonnie Cobb Ford.** Deputy Police Chief Cary Gensemer presented a Council Communication regarding the purchase of two new police vehicles from Lonnie Cobb Ford, LLC and requested Council approve the purchase and contract of \$98,252.

Ms. Scales-Harris made a motion to approve the purchase and contract. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**35. State School Resource Officer (SRO) Grant and Memorandum of Understanding (MOU).** Deputy Police Chief Cary Gensemer presented a Council Communication regarding a MOU between the City and Murfreesboro City Schools and Rutherford Collegiate Prep School for submission of the Statewide SRO Grant and requested Council approve the application for the Statewide SRO Grant and the MOU with Murfreesboro City Schools and Rutherford Collegiate Prep School.

Mr. Maxwell made a motion to approve the application and MOU. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**36. Increase in Number of School Resource Officer (SRO) Stipends.** Deputy Police Chief Cary Gensemer presented a Council Communication regarding increasing the number of SRO stipends from 22 to 29, requiring an additional \$18,200 in stipend expenses and requested Council approve the request to increase the number of SRO stipends to 29.

Mr. Maxwell made a motion to approve the increase in the number of SRO stipends. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**37. Revival Agreement with On Duty International, LLC.** Deputy Police Chief Cary Gensemer presented a Council Communication regarding a revival agreement with On-Duty International, LLC for the purchase and installation of safety equipment for new police vehicles and requested Council approve the agreement in the amount of \$185,835.

Ms. Scales-Harris made a motion to approve the agreement. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**38. United Systems Contract.** Interim Water Resources Director Valerie Smith presented a Council Communication regarding consideration of a sole-source contract with United Systems and Software, Inc. to purchase four hundred 5/8” Badger water meters for inventory. The Water Resources Board approved the contract on July 23, 2024. The expense, currently \$74,000, but estimated to be less than \$135,000 per year, will be funded by MWRD FY25 Expense Budget. Ms. Smith requested the Council approve the contract.

Ms. Scales-Harris made a motion to approve the contract. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**39. Water Resources Recovery Facility (WRRF) Wet Weather Upgrades Contract.** Interim Water Resources Director Valerie Smith presented a Council Communication regarding consideration of a contract with Reeves Young, LLC to upgrade facilities at the WRRF to treat peak wet weather flows and requested the Council approve the contract. The contract for \$7,185,000 will be paid through the Water Resources Department Working Capital Reserves.

Ms. Scales-Harris made a motion to approve the contract. Mr. Shacklett seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**40. Rubicon Technologies Contract.** Assistant Director of Solid Waste Luke Murphy presented a Council Communication regarding a contract with Rubicon Global, LLC for purchase of in truck technology software and requested Council approve the contract.

Mr. Maxwell made a motion to approve the contract. Ms. Scales-Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None



**41. Contract with TDOT for Matching Transit Facility Funds.** Assistant Director of Transportation Russ Brashear presented a Council Communication regarding a contract with TDOT to match federal grant for capital expenses related to the Transit Facility construction and project administration and requested Council approve the contract.

Mr. Maxwell made a motion to approve the contract. Ms. Scales-Harris seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**42. Reallocation of MED funds for TDOT's Statewide Partnership Program.** Transportation Director Jim Kerr presented a Council Communication regarding consideration of reallocation of MED proceeds for TDOT's Statewide Partnership Program and requested Council approve the reallocation of MED proceeds for TDOT's Statewide Partnership Program. Discussion ensued about TDOT and road project priority.

Mr. Maxwell made a motion to approve the reallocation of MED proceeds for TDOT's Statewide Partnership Program. Mr. Wright seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

**43. Purchase of Property – 2200 Butler Drive.** Assistant City Manager Sam Huddleston presented a Council Communication regarding the acquisition of 6.7 acres at 2200 Butler Drive to supplement the Transfer Station Site and requested Council approve the purchase and sale agreement and authorize the Mayor and City Manager to sign documents necessary for completion of the real estate purchase in the amount not to exceed \$2,500,000. This will be funded from the CIP bond proceeds.

Mr. Shacklett made a motion to approve the purchase and sale agreement and authorize the Mayor and City Manager to sign the documents necessary for completion of the purchase of 2200 Butler Drive. Mr. Maxwell seconded the motion, as presented. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

#### **Board and Commission Appointments**

44. **Water Resources Board.** Mayor McFarland presented a Council Communication regarding the appointment of a Water Resources Board member. Mr. Brian Kidd was recommended for reappointment with a term expiration of June 30, 2028.

Mr. Shacklett made a motion to approve the appointment. Mr. Wright seconded the motion.

Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

#### **Licensing**

45. **Regular Beer Permits and Special Event Beer Permits.** Interim City Recorder Amanda DeRosia presented a Council Communication regarding Regular Beer Permits and Special Event Beer Permits. The following Regular Beer Permits for one ownership change for a restaurant located at 1615 NW Broad Street, one new location for a grocery/market located at 3035 New Salem Highway, Suite B, one new location for a restaurant located at 103 N. Maple Street, and one catering for a restaurant located at 112 W. Main Street were presented for approval. Three Special Event Beer Permits for two for Tennessee State Soccer Association and one for Oaklands Association, Inc. were presented for approval. Applicants met requirements for the permits and were recommended for approval pending final building and codes inspections for the regular beer permits and special event permit issuance for the special event beer permits.

Mr. Wright made a motion to approve the permits. Mr. Maxwell seconded the motion. Upon roll call, the motion was passed by the following vote:

**Aye:** Madelyn Scales Harris, Austin Maxwell, Bill Shacklett, Shawn Wright, Shane McFarland

**Nay:** None

#### **Payment of Statements**

No payment of statements was presented.

#### **Other Business**

No other business was presented.

#### **General Announcements.**

Mr. Maxwell spoke about a comment he received from a citizen regarding unsafe driving and lack of police presence on Florence Road and stated he would forward it to Council. Mr. Maxwell presented Camp Wonder book to Mayor McFarland, in appreciation for his support.

Ms. Scales-Harris requested that the City look at developing a tour of historic sites around Murfreesboro with buses for out-of-town visitors. City Manager Darren Gore said this may be an idea that Russ Brashear with Murfreesboro Transit could investigate. Mayor McFarland suggested golf cart tours and working with jointly Main Street. Mr. Wright let everyone know about a current business offering tour on the Murfreesboro square called Haunted Murfreesboro Tours.

Council will not be meeting August 29<sup>th</sup>. The next City Council meetings are on September 5<sup>th</sup> when there will be a swearing in ceremony at 4:00 pm, Public Comment at 5:30 pm and the regular meeting at 6:00 pm.

Ms. Scales-Harris inquired if Old Fort Golf Course could institute a day where senior citizens could participate for the VA price. Mayor McFarland said this type of recommendation would need to go through Golf Commission wherein they would review and make a recommendation to City Council. Mr. Gore stated that senior citizens were already offered a reduced "senior rate" at the golf course.

Vice Mayor Shacklett stated there is an Open House for Patterson Park on Saturday. It was discussed that football season starts next week.

**Adjourn**

There being no further business, Mayor McFarland adjourned this meeting at 7:34 pm.

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

ATTEST:

\_\_\_\_\_  
ERIN TUCKER  
CITY RECORDER

APPROVED BY COUNCIL: \_\_\_\_\_

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Rezoning property along East Vine Street  
[Second Reading]

**Department:** Planning

**Presented by:** Matthew Blomeley, AICP, Assistant Planning Director

**Requested Council Action:**

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

---

## Summary

Rezoning approximately 0.57 acres located along the south side of East Vine Street west of South University Street.

## Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the rezoning.

## Background Information

Big Red Holdings, LLC presented a zoning application [2024-407] for approximately 0.57 acres located along the south side of East Vine Street to be rezoned from RS-8 (Single-Family Residential District) and CCO (City Core Overlay District) to PRD (Planned Residential District) and CCO. During its regular meeting on July 10, 2024, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On August 22, 2024, Council held a public hearing and approved this matter on First Reading.

## Council Priorities Served

*Improve Economic Development*

This rezoning will enable the development of four single-family attached homes.

*Establish Strong City Brand*

This rezoning will enable reinvestment and redevelopment in the City's downtown area, which will strengthen the identity of downtown as a place to live, work, and play.

## Attachments:

Ordinance 24-OZ-26

**ORDINANCE 24-OZ-26** amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 0.57 acres located along East Vine Street from Single-Family Residential Eight (RS-8) District and City Core Overlay (CCO) to Planned Residential Development (PRD) District and City Core Overlay (CCO) (Enclave at Vine Street PRD); Big Red Holdings, LLC, applicant [2024-407].

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

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to rezone the territory indicated on the attached map.

SECTION 2. That, from and after the effective date hereof, the area depicted on the attached map shall be zoned and approved as Planned Residential Development (PRD) District and City Core Overlay (CCO), 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:

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

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

\_\_\_\_\_

Shane McFarland, Mayor

ATTEST:

\_\_\_\_\_  
Erin Tucker  
City Recorder

APPROVED AS TO FORM:

Signed by:  
*Adam F. Tucker*  
\_\_\_\_\_  
43A2035E51F8401...  
Adam F. Tucker  
City Attorney

SEAL

Ordinance 24-OZ-26

RS-8

GAYLE LN

RS-8

Area rezoned  
from RS-8 & CCO  
to PRD & CCO

E VINE ST

PRD

PRD

RS-8

S UNIVERSITY ST

RS-4

RM-16

RM-16

RS-4

E SEVIER ST

RS-4

RS-4

N



# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**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

**Staff Recommendation**

Adopt Ordinance 24-O-25, as amended, on second reading

**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 ruling on or taking action in response to ethics complaints. The ordinance seeks to remedy both issues by establishing clear procedures for handling ethics complaints

The proposed ordinance draws on various sources, including: MTAS’s Model Code of Ethics and ethics policies of Metro Nashville, Franklin, Brentwood, Clarksville, and Lebanon.

The ordinance presented for your consideration on second reading includes the amendment to Section 2-322 – Non-City work and employment that was approved prior to passage on first reading.

**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 officials and employees.

**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.

**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, by 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 violate state or federal law. This chapter is not intended to supersede any such law. In any situation in which an act or omission constitutes a conflict of interest under either the Ethics Code or state law or under both the Ethics Code and 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 article, 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 entity.

*Financial interest* means ownership or equity interest, beneficial interest, stake, lending of credit, employment, or any other endeavor that yields or is reasonably expected to yield or produce some monetary gain or other material thing of value for a person.

*Gift* means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. A gift 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 also 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.

*Material financial interest* means (1) remuneration from employment or for services as an independent contractor in excess of \$1,000 per year; (2) ownership of a

non-managerial equity interest in excess of \$5,000 in any privately held entity or of one percent or greater of any publicly traded company; (3) a managerial interest in an entity, whether compensated or not; (4) an interest as a trustee, director, or officer in an entity; (5) status as a creditor of a person or entity where the face of the debt is \$5,000 or more; or (6) any other financial or beneficial interest, which in view of the circumstances, is substantial enough that it would, or could reasonably, affect or influence a person's decision on 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.

*Official* means the Mayor, members of the City Council, and any individual appointed by the City Council to City boards, commissions, committees, authorities, or instrumentalities established by law or this article.

*Personal interest* means:

- (a) Any ownership, employment, or financial interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any ownership, employment, or financial interest in a matter to be regulated or supervised; or
- (c) Any ownership, employment, or financial 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 such interest 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, in any 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 is not a direct interest under applicable state law, does not constitute a conflict of interest as defined in subsection (A), and voting on or participating in the deliberation of such matter would not otherwise violate the Ethics Code but where the personal interest may nevertheless 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 is intended to preclude the City from conducting business with an entity which employs an immediate family member of an official or employee, provided:

(1) 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 the Ethics Code or applicable state law;

(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 or material financial 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, during the time for which such person is elected or appointed, 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 goods or services for compensation to a person or entity that is requesting approval, action, or a determination by the City;
- (c) Accept or continue employment or engage in outside activities that might impair their independent judgment in the performance of their public duty; or

(d) 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 material financial interest in a matter under consideration by or within the City's jurisdiction; or

(e) Contract with the City to provide goods or services that is to be paid for out of the City's treasury or have any direct interest in any such contract.

(2) In addition to the foregoing, neither the Mayor nor any member of City Council may receive financial compensation, whether as a contractor or subcontractor, through a commission, financial incentive, ownership interest, or profit-sharing arrangement, or in any other form, for goods or services provided to a person or entity in connection with a contract, development, project, or other matter that received approval from the City Council for a period of two years from such approval if the official voted on the approval of that contract, development, project, or matter or otherwise participated in deliberations related to that contract, development, project, or other matter.

(3) The prohibitions in subsections (A)(1) and (A)(2) 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 material 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 material 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 15<sup>th</sup> 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 31<sup>st</sup> 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; City Attorney.**

- (A) The City Attorney is designated as the City's ethics officer and coordinator.
- (B) 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.
- (C) 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 evaluating 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 alleged to have committed a ethics violation;
- (3) A summary of the facts giving rise to the alleged ethics complaint; and
- (4) An explanation of why the alleged facts constitutes a violation of the Ethics Code.

(D) 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. In addition, 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.

(E) 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. In the event the complaint alleges a violation by the City Attorney, the City Recorder, in lieu of sending the complaint to the City Attorney, shall send the complaint to City Council, and City Council shall engage outside legal counsel to perform all of the duties and functions assigned to the City Attorney in this article.

(F) 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 shall 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.

(G) 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 of the City Attorney's communication. 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 each member of City Council and to the City Recorder. 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.

(H) *Jurisdiction for evaluating hearing complaints.*

(1) *Complaints against City officials and City employees appointed by City Council.* The City Council shall have jurisdiction with respect to any complaint complying with the requirements of this article that alleges a violation of the Ethics

Code by the Mayor and other members of City Council, the City Manager, the City Judge, the City Attorney, the City Recorder, and the City Treasurer, and all members of any City board, commission, committee, authority, 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. Upon determining that a complaint against any of the individuals identified in this subsection complies with the requirements of this article, the City Attorney shall forward the complaint to the City Council to act upon the complaint as further provided in Section 2-328.

(2) *Complaints against City employees other than those employees appointed by City Council.* Upon determining a complaint against a City employee other than those identified in subsection (G)(1) complies with the requirements of this article, the City Attorney shall forward a copy of the complaint to the City Manager as soon as practicable. In addition, the City Attorney shall investigate the complaint and provide the City Manager with a written advisory opinion as to whether any violation of the Ethics Code or any other applicable law have occurred. The City Manager shall have the discretion to take appropriate disciplinary and/or other remedial action to address any violation identified by the City Attorney. Any disciplinary action taken against an employee subject to this subsection (G)(2) found to have violated this article shall be made in accordance with the City charter and the City's disciplinary policies.

**Section 2-328 Procedures for evaluating ethics complaints against City officials and City employees appointed by City Council.**

(A) For purposes of this section, the term "City Official or Officer" includes the Mayor and other members of City Council, the City Manager, the City Judge, the City Attorney, the City Recorder, and the City Treasurer, and all members of any City board, commission, committee, authority, 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) All complaints against a City Official or Officer meeting the requirements of this article shall be investigated by an independent ethics investigator. City Council shall select the ethics investigator from one of three attorneys approved annually by resolution at the first City Council meeting of October and with whom the City has entered into an agreement for compensation to act in such capacity. Such ethics investigators shall be licensed to practice law in Tennessee and shall neither reside nor have their principal legal office in Rutherford County.

(C) No member of City Council shall participate in any deliberation or vote on any ethics complaint filed against them or if their participation in any such deliberation or vote would violate this article. In addition, once the City Council has received an ethics complaint, and until a final determination of the complaint has been made, no member of City Council shall participate in any communication regarding the allegations or merits of the complaint except with legal counsel or during a public meeting.

(C) Within ten days of receiving a complaint against a City Official or Officer, the City Attorney shall ensure that a copy of the complaint is sent to all members of City Council and the City Manager. In addition, the City Attorney shall ensure that a copy of the complaint is served as soon as practicable by registered mail or hand delivery to the City Official or Officer against whom the complaint was filed. In the event the complaint is filed against the City Attorney, the Mayor shall perform the functions of the City Attorney set forth in this subsection (C).

(D) The City Official or Officer against whom the complaint is filed may answer the complaint in writing. Such answer shall be delivered to the City Attorney within

thirty days of having been served with the complaint unless such time for filing such answer is extended by the City Council for good cause.

(E) Within fifteen days of receiving a complaint, City Council shall vote at a public meeting to select one of the three designated ethics investigators to investigate the complaint. The ethics investigator shall review the complaint, the answer, and any other relevant information and shall render a written advisory ethics opinion to City Council as to whether any violation of the Ethics Code or other applicable law have occurred. The City Attorney shall function as the City's liaison to the ethics investigator during the investigation, except in the event of recusal by the City Attorney or where the complaint alleges violations of the Ethics Code by the City Attorney, in which case City Council shall designate a Deputy City Attorney or Assistant City Attorney to function as the City's liaison and provide such reasonable assistance as requested by the ethics investigator. Upon written request of the ethics investigator, the City Council shall use its subpoena power to obtain any additional information requested by the ethics investigator, unless the majority of the disinterested members of City Council determines that the request has no legitimate connection to the investigation. The ethics investigator shall submit the investigator's advisory opinion within sixty days of being appointed as ethics investigator unless additional time is required and approved by City Council. A copy of the opinion shall also be sent to the person who filed the complaint and to the person against whom the complaint was filed.

(F) Within thirty days of receiving the ethics investigator's advisory opinion, City Council shall meet, upon proper public notice of such meeting, to consider the advisory opinion and determine, by majority vote of the disinterested members of City Council, whether a violation of the Ethics Code has occurred. Prior to any vote being taken on the complaint, the ethics investigator shall present the investigator's findings and advisory opinion, and both the complainant and the City Official or Officer against whom the complaint was filed shall be afforded the opportunity to offer testimony under oath. The City Official or Officer against whom the complaint was filed shall also have the right to be represented by legal counsel and to have such legal counsel make a statement and offer evidence on behalf of the City Official or Officer. In addition, City Council shall have the discretion to allow any other person to offer testimony under oath. City council may ask questions of any person presenting evidence or testimony at such meeting.

(G) A City Official or Officer found by City Council to have violated the Ethics Code is subject to punishment as provided for under the City's charter and/or other applicable law, including censure by City Council or removal from office in such manner as may be permitted by law. In addition, City Council may vote to refer the matter to the district attorney general or other state or federal law enforcement authority to pursue appropriate action under state or federal criminal statutes.

(H) Any City Official or Officer against whom a decision of the City Council is rendered may obtain judicial review of the decision by writ of certiorari. The application for the writ must be filed within 30 days of the issuance of the City Council's decision. Judicial review shall be based upon the record before the City Council. No party shall be entitled to a de novo appeal.

### **Section 2-329 Effect of criminal charges against subject of an ethics complaint.**

If at any time during the pendency of an ethics investigation, the subject of an ethics complaint is arrested or charged with any criminal offense arising from the same set of material facts as those giving rise to the ethics complaint, such ethics investigation shall be temporarily suspend pending final adjudication of any such criminal charges through a direct appeal, whereupon, should the subject be convicted, the ethics investigation may resume the ethics investigation or hearing to conclusion.

**Section 2-330 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 2-331 – 2-359 Reserved.**

SECTION 2. In the event of any conflict between this ordinance or any part hereof, and the whole or part of the City charter or any existing City ordinance, the provision that establishes the higher standard shall prevail.

SECTION 3. If any section, subsection, clause, provision, or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision, or portion of this ordinance.

SECTION 4. 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:

1<sup>st</sup> reading August 22, 2024

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

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

ATTEST:

\_\_\_\_\_  
Erin Tucker  
City Recorder

APPROVED AS TO FORM:

Signed by:  
*Adam F. Tucker*  
\_\_\_\_\_  
45A2635E51F9401...  
Adam F. Tucker  
City Attorney

SEAL

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

---

**Item Title:** Ordinance 24-O-18 City Code Ch. 33-80 Changes  
[2<sup>nd</sup> 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**

Consider revisions to Chapter 33 of the City Code to allow MWRD staff, in lieu of City Council, to grant variance requests should there be sewer capacity and if the development encompasses less than three acres with a density of less than five single family units (sfu's) per acre.

**Staff Recommendation**

Adopt second reading to revisions to Chapter 33 of the City Code by Ordinance 24-O-18.

**Background Information**

The Sanitary Sewer Allocation Ordinance enacted on 12/5/2019 allowed for an applicant to petition for additional wastewater for a project given the expectation that the project would discharge more wastewater than was allowed and established for the proposed land use. The sewer allocation currently affords:

- Commercial Land-Use (CM-R, CM, CM-RS-8, OG-R, OG, CL, CF, CH, and PCD) a maximum of 650 gallons per acre per day which is equivalent to 2.5 sfu's per acre.
- Mixed-Use Land-USE (MU and PUD) a maximum of 1,040 gallons per acre per day, or 4.0 sfu's per acre.

Several factors are evaluated by staff before making a recommendation to the City Council to afford a development additional discharge of wastewater. Those factors primarily deal with the performance of the sewer collection system and the City's treatment facility, and if the request consumes more than 10% within a basin or sub-basin of MWRD's service area.

As of March 14, 2024, there were 39 sewer variance requests approved. A report is attached detailing the individual requests and the basis upon which staff is making a recommendation to exempt certain food service and commercial developments in the future.

## **Council Priorities Served**

*Improve economic development*

Sewer variance requests are typically approved due to employment generating developments, commercially taxed property, and the ability of the development to produce sales tax.

## **Fiscal Impact**

The fiscal impacts of providing additional sewer capacity to certain projects should be considered in a cost-benefit context. By providing certain projects additional capacity, other future projects may be limited in their ability to discharge to the sewer.

## **Attachments**

1. Sanitary Sewer Allocation Variance Analysis
2. Ordinance 24-O-18

## Attachment: Sanitary Sewer Allocation Variance Analysis

### Executive Summary

Staff's review of the 39 variance requests approved by City Council indicate that 7 out of 10 food service establishment and other commercial variance requests could have been eliminated based on the two following conditions being met:

1. The total development site size being less than 2 to 5 acres.
2. The total development's SFUE per acre increase being less than 4 to 7 SFUE's per acre.

By requiring developments that meet the qualifying conditions defined above to request a sewer allocation variance, the total SFUE's reviewed by Council would account for only 16% of the total. In other terms, 70% of the Council review and approval time accounts for only one-sixth of the SFUE increase requests.

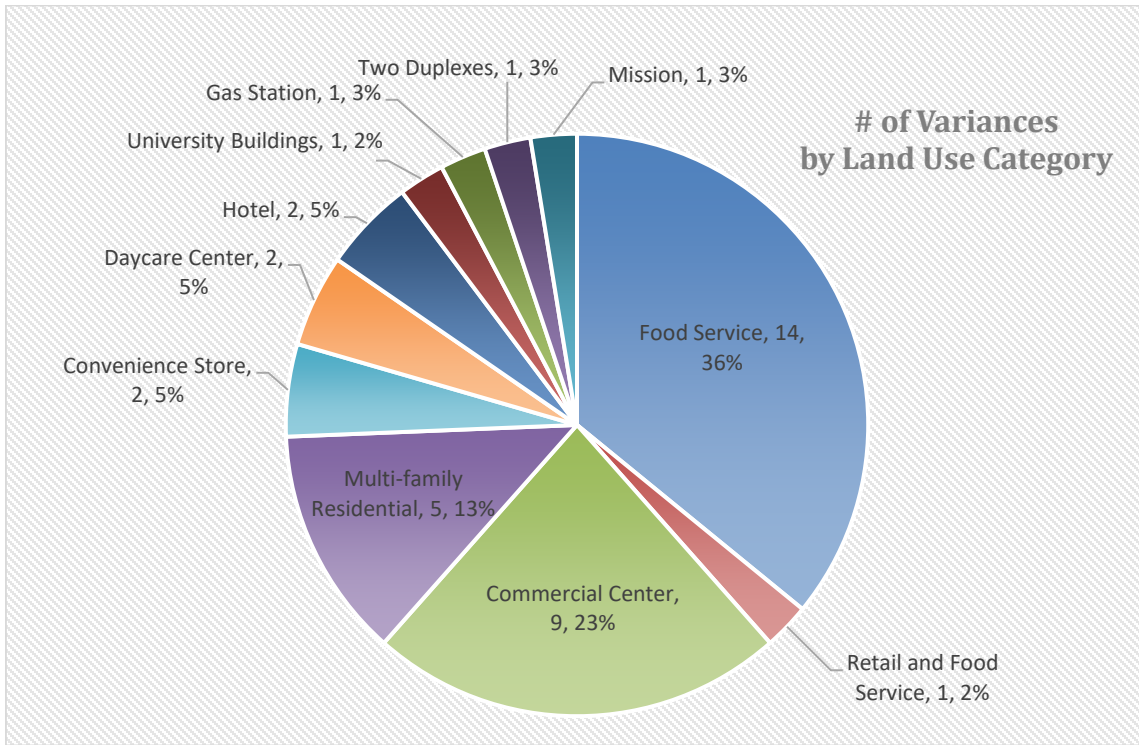
### Supporting Data

Land Use Category	# of Variance Requests	Total Acreage	Avg. Acreage per request	Total Allowable SFUE's	Total Variance SFUE increase	Avg. SFUE increase per acre
Food Service	14	17.55	1.25	46.71	59.5	3.39
Retail and Food Service	1	3.2	3.20	8	9	2.81
Commercial Center	9	15.88	1.76	39.53	56.6	3.56
Multi-family Residential	5	87.49	17.50	611.4	590.6	6.75
Convenience Store	2	22.53	11.27	56.3	7	0.31
Daycare Center	2	2.41	1.21	6	9.5	3.94
Hotel	2	4.11	2.06	12.6	87.4	21.27
University Buildings	1	7.27	7.27	Unknown	Unknown	Unknown
Gas Station	1	1.9	1.90	4.75	2.75	1.45
Two Duplexes	1	Unknown	Unknown	2	2	Unknown
Mission	1	1.44	1.44	5.6	1.4	0.97
<b>TOTAL/AVG</b>	<b>39</b>	<b>163.8</b>	<b>4.9</b>	<b>792.9</b>	<b>825.7</b>	<b>4.9</b>

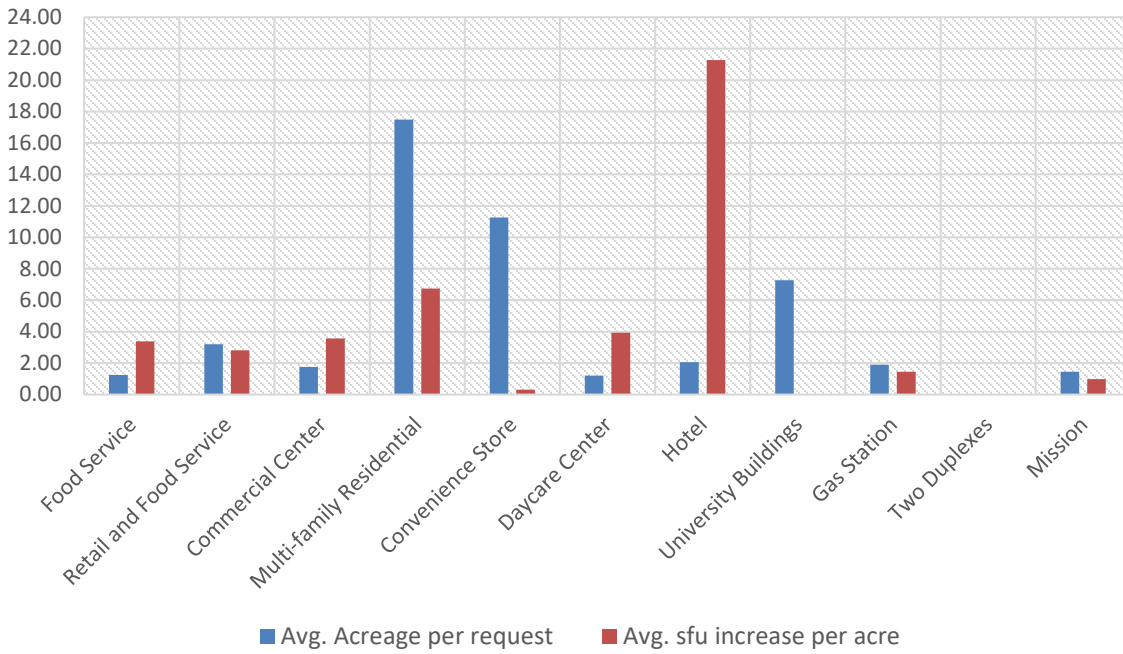
	Qualifying Condition #1	TOTAL Variance Requests	Qualifying Condition #2	TOTAL Variance Requests	Qualifying Condition #3	TOTAL Variance Requests
Less Than X Avg Acres	2	27	3	29	5	30
Less Than Y Avg SFU / Acre	4	30	5	30	7	35
<b>Total Meeting Both Conditions</b>		<b>27</b>		<b>27</b>		<b>28</b>
<b>% of Total Variances</b>		<b>69.2%</b>		<b>69.2%</b>		<b>71.8%</b>

If any of the qualifying conditions in the table above were approved, the exempt variance requests would be reduced by 70% (7 out of 10).





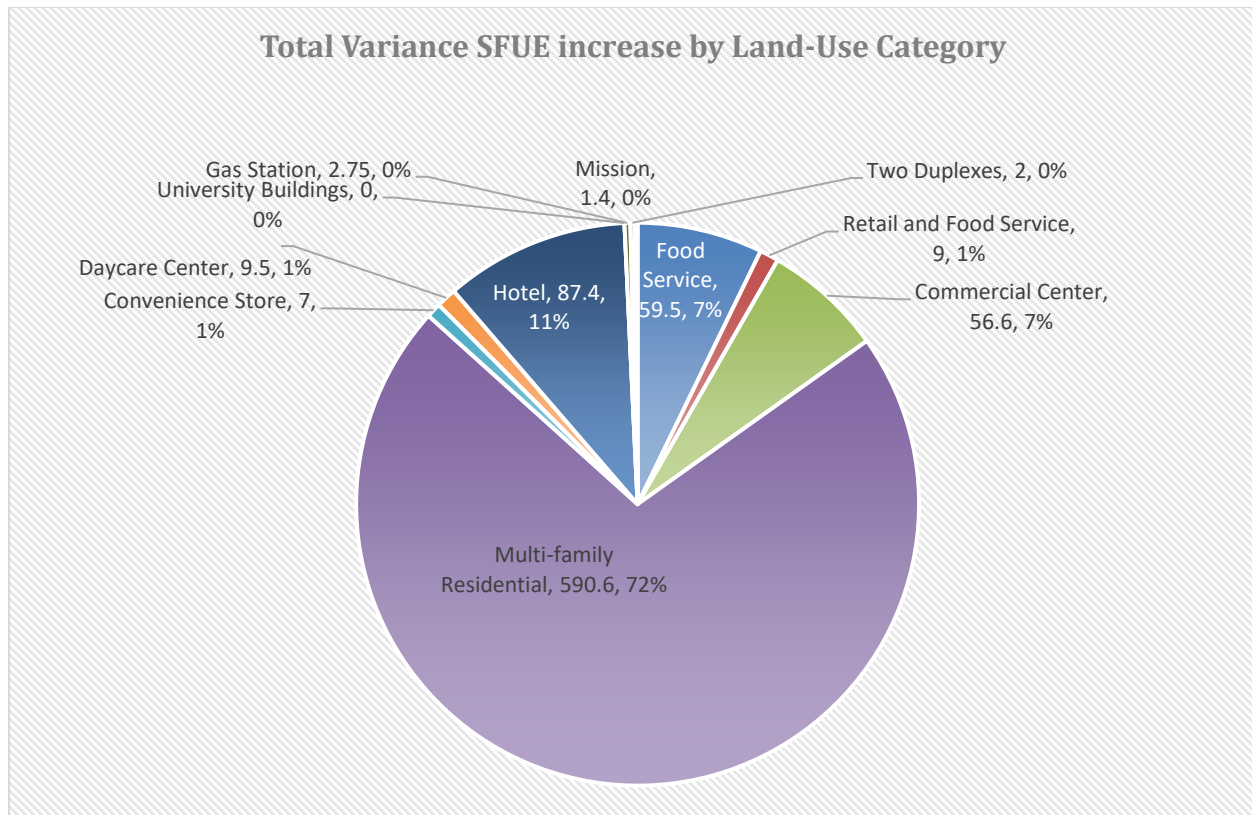
### Avg Variance Request by Acreage and SFU Increase



	Qualifying Condition #1	TOTAL SFUE Increase	Qualifying Condition #2	TOTAL SFUE Increase	Qualifying Condition #3	TOTAL SFUE Increase
Less Than X Avg Acres	2	129.7	3	217.1	5	226.1
Less Than Y Avg SFU / Acre	4	145.7	5	145.7	7	736.3
<b>Total Meeting Both Conditions</b>		<b>129.7</b>		<b>129.7</b>		<b>138.7</b>
<b>% of Total Variances</b>		<b>15.7%</b>		<b>15.7%</b>		<b>16.8%</b>

By requiring the developments that met the qualifying conditions defined above to request a sewer allocation variance, the total SFUE's reviewed by Council would account for 16% of the total.

In other terms, 70% of the Council review and approval time accounts for only one-sixth of the SFUE increase requests.



<u>Development Name</u>	<u>Location</u>	<u>Type of Use</u>	<u>Acreage</u>	<u>Allowable SFUs</u>	<u>Requested SFUs</u>	<u>Variance Amount (in SFUs)</u>
Panda Express	Memorial Boulevard	Food Service	1	2.5	4.8	2.3
Popeye's	South Church Street	Food Service	0.91	2.28	4.56	2.3
MTSU	MTSU Campus	University Buildings	7.27	unknown	unknown	unknown
Andy's Frozen Custard	Franklin Road	Food Service	1.21	3.02	6.71	3.69
Waffle House	New Salem Highway	Food Service	0.59	1.48	4.07	2.59
The Journey Home	Old Salem Road	Mission	1.44	5.6	7	1.4
Dutch Brothers	Memorial Boulevard	Food Service	0.91	2.3	8.25	5.95
Wendy's	Memorial Boulevard	Food Service	1.2	3	5.5	2.5
Brookhaven Commercial	Memorial Boulevard	Commercial center	1.12	2.8	5	2.2
The Pointe	N. Tennessee Boulevard	Multi-Family Res	17.26	155	346	128
Slim Chickens	Memorial Boulevard	Food Service	1.21	3.03	6.46	3.43
Whataburger	Old Fort Parkway	Food Service	1.43	3.57	4.95	1.38
Parkwood Court Duplexes	Parkwood Court	Two duplexes	unknown	2	4	2
Whataburger	Memorial Boulevard	Food Service	1.28	3.2	5.92	2.72
Adams Place	Memorial Boulevard	Multi-Family Res	22.5	90	189	99
Albion Residential	N. Rutherford Boulevard	Multi-Family Res	16	144	252	108
ML Rose	Beasie Road	Food Service	1.86	7.44	10.4	3
Arden Senior Living	Agripark Drive	Multi-Family Res	9.75	24.4	166	141.6
Hwy 55	Franklin Road	Food Service	0.99	2.49	13.46	11
Social Murph	Wenlon Drive	Multi-Family Res	21.98	198	312	114
HyVee (Grocery)	Memorial Boulevard	Convenience Store	21.8	54.5	60	5.5
HyVee (Convenience)	Memorial Boulevard	Gas Station	1.9	4.75	7.5	2.75
Elam Farms Hotel	Elam Farms Parkway	Hotel	1.4	5.6	16	10.4
Yanahli Development	South Church Street	Retail and Food Service	3.2	8	17	9
Dapper Owl	East Main Street	Food Service	0.5	1.25	2.88	1.63
Keeneland Commercial	Manchester Pike	Convenience Store	0.73	1.8	3.25	1.5
Old Fort Hotel	Old Fort Parkway	Hotel	2.71	7	84	77
Salem Landing Commercial	New Salem Highway	Commercial center	2	5	9.4	4.4
Racquet Club Center	River Rock Boulevard	Commercial center	3.2	8	9	1
5430 NW Broad	Northwest Broad Street	Commercial center	1.13	2.8	7	4.2
Dutch Brothers	Old Fort Parkway	Food Service	0.8	2	8.5	6.5
Jaymes Academy	Memorial Boulevard	Daycare Center	1	2.5	5	2.5
Jaymes Retail	Memorial Boulevard	Commercial center	0.65	1.63	7	5.4
Big Blue Marble	Jack Byrnes Drive	Daycare Center	1.41	3.5	9.85	7
East Side Village	N. Rutherford Boulevard	Food Service	3.66	9.15	19.57	10.5
Joelicious Donuts	New Salem Highway	Commercial center	1.4	3.5	10.4	7
3416 South Church	South Church Street	Commercial center	0.48	1.2	2.3	1.1
Hearthwood Commercial	S. Rutherford Boulevard	Commercial center	4.3	10.6	35.5	25
Panda Express Center	S. Church Street	Commercial center	1.6	4	10.3	6.3

**ORDINANCE 24-O-18** amending the Murfreesboro City Code, Chapter 33, Water Resources, Section 33-80, Petition for additional allowance; fee applicable to exempt land classifications.

**WHEREAS**, the City of Murfreesboro previously adopted by ordinance Section 33-80 of the Murfreesboro City Code, which permits property owners and developers to petition City Council for an additional wastewater generation allowance above those established for the proposed use of the property under the City's Sewer Capacity Allocation Ordinance; and

**WHEREAS**, upon further review and recommendation by the City of Murfreesboro Water Resources Director, it is in the best interest of the citizens of the City of Murfreesboro that certain amendments be made to Section 33-80, which would authorize the Water Resources Department to approve certain smaller-scale requests for an additional wastewater generation allowance.

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

SECTION 1. Murfreesboro City Code, Section 33-80, subsections (A), (B), and (C) shall be deleted in their entirety and the following language substituted in lieu thereof:

(A) If the Water Resources Department determines that a project proposed by an applicant for sewer service is likely to exceed the maximum daily wastewater generation allowance established for the proposed land use and the City's sewer system capacity is sufficient to serve the project, the applicant may petition the City for a waiver of the applicable limits.

- (1) For a development that is less than three (3) acres in size with a density of less than five (5) single-family units per acre or less than five (5) single-family unit equivalents per acre, the Water Resources Department shall have the authority to approve or deny the request for an additional allowance. In evaluating the petition, the Water Resources Department shall consider the factors in subsection (B) and shall award the additional allowance if none of the factors in subsection (B) weigh against approving the request. An owner or developer whose petition has been denied may appeal that decision to City Council by providing written notice to the City Recorder within fifteen (15) days of the denial. The appeal must be presented to City Council within forty-five (45) days after the notice of appeal is delivered to the City Recorder, unless that deadline is extended by agreement of the applicant and the City. City Council shall vacate the Water Resources Department's decision if and only if City Council finds that the decision was made in an arbitrary or discriminatory manner, was not supported by material evidence, or was inconsistent with subsection (B). Upon vacating the decision, City Council may either remand the matter for reconsideration by the Water Resources Department or reverse the finding and approve the petition.
- (2) For any other developments, upon review by City staff, the application and staff recommendation shall be presented to the City Council to approve or deny the request for additional allowance in accordance with subsections (B) and (C).

(B) In evaluating a petition, City Council and City staff shall consider the following factors:

- (1) The current performance of the City’s wastewater treatment facilities;
- (2) The character and nature of wastewater that is likely to be discharged from the project relative to any applicable limits or restrictions established by federal, state, or local law;
- (3) The current daily flow at the City’s treatment facility that would receive the project’s wastewater;
- (4) The impact of additional flow on the receiving treatment plant’s ability to achieve NPDES permit limits;
- (5) The available hydraulic capacity of the City’s sewer lines and other sewer system components; and
- (6) The sewer capacity within the system and within the basin or sub-basin in which the project is located and whether such capacity is sufficient to accommodate the project.

(C) The City Council may authorize an additional daily wastewater generation allowance to a project provided:

- (1) None of the technical factors listed set forth in subsection (B) weigh against the approval of the requested allowance;
- (2) The proposed project is, in the opinion of the City Council, consistent with the City's adopted land use plans and policies concerning growth and development; and
- (3) The additional daily wastewater generation allowance granted by the City is not greater than ten percent (10%) of the total available capacity of the basin or sub-basin in which the project is located.

Provided the application satisfies these requirements, the City Council, in deciding whether to authorize an additional allowance, may consider any other factor identified in the Council's deliberations related to whether a particular application promotes or undermines public health or safety or the general welfare of the City and its residents.

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

Passed:

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

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

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

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Erin Tucker  
City Recorder

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

SEAL

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Resolution 24-R-26 Truist Bank Credit Card Authorization

**Department:** Finance

**Presented by:** Erin Tucker, City Recorder

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Revise authorized employee job titles for those with access to the commercial credit card account with Truist Bank to provide access to Erin Tucker, City Recorder, and Amanda DeRosia, Interim Finance Director.

**Staff Recommendation**

Approve Resolution 24-R-26.

**Background Information**

On May 23, 2024, the Council adopted Resolution 24-R-19 designating City employees as authorized to access the commercial credit card account with Truist Bank.

On August 22, 2024, the City Council appointed Erin Tucker as the City's new City Recorder and City Treasurer, effective August 26, 2024.

As there have been changes to personnel and positions since that resolution was adopted, it is necessary to adopt an updated resolution. Resolution 24-R-26 names Erin Tucker as City Recorder/ City Treasurer and Amanda DeRosia as Interim Finance Director as the City employees authorized to access the commercial credit card account with Truist Bank.

**Attachment**

Resolution 24-R-26

**RESOLUTION 24-R-26** designating certain officials as authorized to administer the commercial credit card account with Truist Bank.

**WHEREAS**, the City of Murfreesboro, Tennessee (the “City”) finds it operationally beneficial to enter into a commercial credit card account relationship with Truist Bank (“Bank”); and,

**WHEREAS**, Bank requires a resolution of the governing body designating certain City officials as holding authority to administer the commercial credit card account relationship; and,

**WHEREAS**, there have been changes to City personnel and organization since Resolution 21-R-28 approved on July 20, 2021 and Resolution 24-R-19 approved on May 23, 2024 and the City desires to revise the agreement accordingly.

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

SECTION 1. The City has entered into a commercial credit card account ("Card Account") relationship with Truist Bank ("Bank").

SECTION 2. That any one of the officers or employees of the City listed below be and is hereby authorized to enter into, execute and deliver in the name of and on behalf of the corporation the agreements, documents, or other instruments deemed reasonable or necessary to establish and administer the Card Account; this corporation shall be bound by the terms and conditions of said agreements, documents, or other instruments as the same may be amended from time to time.

SECTION 3. That the City shall furnish to the Bank a certified copy of these resolutions, which resolutions shall continue in full force and effect until written notice of the rescission or modification of the same has been received by the Bank, and the Bank has had reasonable time to act on such notice, and shall furnish to the Bank the names and specimen signatures of the officer(s) named herein, and those persons from time to time holding such positions.

<b>Name</b>	<b>Title</b>	<b>Signature</b>
<b>Erin Tucker</b>	<b>City Recorder / City Treasurer</b>	<hr/>
<b>Amanda DeRosia</b>	<b>Interim Finance Director</b>	<hr/>

SECTION 4. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and the welfare of the City requiring it.

Passed: \_\_\_\_\_

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

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Erin Tucker  
City Recorder

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



# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Schools FY25 Budget Amendment #2

**Department:** City Schools

**Presented by:** Trey Duke, Director

**Requested Council Action:**

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

**Summary**

Consider Schools budget amendment #2 to the FY25 General Purpose and Federal Projects fund.

**Staff Recommendation**

Approve Resolution 24-R-25 amending the FY25 General Purpose and Federal Projects fund as presented.

**Background Information**

On August 13<sup>th</sup>, the Murfreesboro City School Board approved General Purpose new Revenue from Community Investment Trust and Nissan Foundation. These funds were awarded through the City Schools Foundation.

- Donation – Robotics of \$21,775 will be used for the robotics program at MCS and it will cover costs related to registration, competition, transportation, supplies and new robots.
- Donations and gifts of \$12,647 from Community Investment Trust are for a new Mobile Resource Center & Book Bus Project. The old book bus was damaged, and we received insurance money in FY24. We are moving \$24,700 of the insurance money from Unassigned Fund balance in FY24 to FY25 to cover the purchase of the new vehicle.

On August 13<sup>th</sup>, the Murfreesboro City School Board approved new revenue for Title IX McKinney-Vento grant funding. This is identifying the need for a Transition Liaison who supports our students experiencing homelessness.

- The revenue of \$89,398 will be recorded in Title IX McKinney-Vento account within the Federal fund and it will cover expenditures for salaries, benefits, communication, travel, other supplies and equipment, contracts, and indirect cost.

**Council Priorities Served**

*Responsible budgeting*

Presenting budget amendments ensures compliance with state law, School Board

policy, and City Council policy.

**Fiscal Impact**

The total increase in revenue of \$21,775 will be adjusted within the General Purpose fund to recognize new revenues to offset related expenditures.

The total increase in revenue of \$12,647 in General Purpose fund will be recognized as new revenue plus \$24,700 from unassigned fund balance will be associated with related expenditures.

The total increase in revenue of \$89,398 in Federal Projects fund will be recognized as new revenue and will be associated with related expenditures.

**Attachments**

1. Resolution 24-R-25
2. Exhibit A: MCS Budget Amendment #2

**RESOLUTION 24-R-25** amending the Fiscal Year 2025 (hereafter "FY2025") Murfreesboro City Schools Budget (2<sup>nd</sup> Amendment).

**WHEREAS**, the City Council adopted Resolution 24-R-17 on June 13, 2024 to implement the FY2025 Murfreesboro City Schools Budget; and

**WHEREAS**, it is now desirable and appropriate to adjust and modify the FY2025 Murfreesboro City Schools Budget by this Resolution to incorporate expenditure decisions made by the Murfreesboro City School Board.

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

SECTION 1. The FY2025 Murfreesboro City Schools Budget as adopted by the City Council is hereby revised as shown on attached Exhibit A.

SECTION 2. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and the welfare of the City requiring it.

Passed: \_\_\_\_\_

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

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Erin Tucker  
City Recorder

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

Schools General Purpose School Fund  
 Fiscal Year 2024-25

Donation - (Robotics)

Account Description	BUDGET	AMENDED	AMENDMENT
	AS PASSED OR	BUDGET	INCREASE
	PREV AMENDED		(DECREASE)
<u>Revenues</u>			
Donations and Gifts (Robotics)	0	21,775	21,775
<b>Total Increase in Revenues</b>	<b>\$ -</b>	<b>\$ 21,775</b>	<b>\$ 21,775</b>

<u>Expenditures</u>			
Other Charges - Robotics	-	21,775	21,775
<b>Total Increase in Expenditures</b>	<b>\$ -</b>	<b>\$ 21,775</b>	<b>\$ 21,775</b>

CHANGE IN FUND BALANCE (CASH) -

This amendment budgets new revenue of \$21,775 in Donations-Robotics for the Robotics program in each City school for registration, competition, transportation, supplies and new robots.

Schools General Purpose School Fund  
 Fiscal Year 2024-25

Donation - (Community Investment Trust)

Account Description	BUDGET	AMENDED	AMENDMENT
	AS PASSED OR	BUDGET	INCREASE
	PREV AMENDED		(DECREASE)
<u>Revenues</u>			
Donations and Gifts	100000	112,647	12,647
Unassigned Fund Balance	-	24,700	24,700
<b>Total Increase in Revenues</b>	<b>\$ 100,000</b>	<b>\$ 137,347</b>	<b>\$ 37,347</b>

<u>Expenditures</u>			
Motor Vehicles	50,000	87,347	37,347
<b>Total Increase in Expenditures</b>	<b>\$ 50,000</b>	<b>\$ 87,347</b>	<b>\$ 37,347</b>

CHANGE IN FUND BALANCE (CASH) (24,700)

MCS was awarded a grant by Murfreesboro Community Investment Trust of \$12,647 for a Mobile Resource Center & Book Bus Project. The old book bus was damaged and we received insurance money in FY24. So, we are moving \$24,700 of this insurance money from Unassigned Fund balance in FY24 to FY25 to cover the purchase of a new vehicle.

Schools Federal Projects Fund 142  
 Fiscal Year 2024-2025

Title IX McKinney-Vento Grant			BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
Account Description					
<u>Revenues</u>					
Title IX McKinney-Vento				89,398	89,398
<hr/>					
Total Increase in Revenues	\$	-	\$	89,398	\$ 89,398
<hr/>					
<u>Expenditures</u>					
Title IX McKinney-Vento					
Other Charges				14,175	14,175
Other Salaries & Wages				48,000	48,000
Social Security				3,069	3,069
Retirement				5,842	5,842
Life Insurance				200	200
Medicare				718	718
Other Fringe Benefits				1,500	1,500
Communication				795	795
Travel				824	824
Other Supplies & Materials				2,500	2,500
In-Service/Staff Development				2,500	2,500
Other Equipment				1,500	1,500
Contracts with Private Agencies				3,500	3,500
Contracts with Parents				1,000	1,000
Contracts with Public Carriers				500	500
Indirect Cost				2,775	2,775
<hr/>					
Total Increase in Expenditures	\$	-	\$	89,398	\$ 89,398
<hr/>					

CHANGE IN FUND BALANCE (CASH) 0

To budget the FY25 Title IX McKinney-Vento federal grant. The allocation of \$89,398 will fund the labor and benefits for the Students in Transition Liaison as well as phone, travel, supplies and materials, staff development and Indirect Costs.

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

---

**Item Title:** Housing Rehabilitation – 437 Highland Ave.  
**Department:** Community Development  
**Presented by:** Robert Holtz, Director of Community Development

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Consider rehabilitation assistance through the Community Development Housing Rehabilitation program.

**Staff Recommendation**

Approve the assistance for the rehabilitation activity.

**Background Information**

A residence at 437 S. Highland Ave. requires rehabilitation to make the bathroom accessible and installation of replacement windows. Rubicon Engineering Services LLC, is the lowest responsible bidder to complete the necessary work for \$54,000. The Community Development Policy and Procedures Manual requires that the council approve all rehabilitation projects over \$25,000.

**Council Priorities Served**

*Responsible budgeting.*

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

**Fiscal Impact**

The expense, \$54,000, is fully funded by Community Development Block Grant.

**Attachment**

Contract for rehabilitation work.

**MURFREESBORO COMMUNITY DEVELOPMENT DEPARTMENT  
CONTRACT FOR REHABILITATION  
CDBG**

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

THIS CONTRACT FOR REHABILITATION, hereinafter referred to as "CONTRACT," made this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by and between

WILLIE A. MCGOWAN, JR. and SANDRA MCGOWAN, hereinafter collectively referred to as "OWNER," whether one or more, and

RUBICON ENGINEERING SERVICES, LLC , hereinafter referred to as "CONTRACTOR".

The OWNER hereby employs the CONTRACTOR to do all the work and provide all materials, tools and machinery, supervision, etc., necessary for the rehabilitation of the property known as, 437 S. Highland Avenue, Murfreesboro, TN 37130, for the total sum of \$53,571.45 (Fifty Three Thousand, Five Hundred and Seventy-One Dollars and Forty-Five Cents) all in accordance with this CONTRACT and the INVITATION TO BID. Such rehabilitation is more particularly described in the CONTRACTOR'S quote, attached hereto as **Exhibit F** and incorporated herein by reference.

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

<u>Exhibit</u>	<u>Title</u>
A	EEO Standards
B	Change Orders
C	Warranty and Warranty Procedure
D	Grievance Procedure
E	ITB-49-2024-Bathroom Remodel & Window Replacement at 437 S. Highland, Including Addendum #1 and Addendum #2
F	CONTRACTOR'S Bid Response

**SECTION I            General Conditions**

1. After execution by the OWNER and CONTRACTOR, this CONTRACT will become effective only after approval by CITY as indicated by the signature of its authorized representative below.
2. The OWNER shall issue a written Proceed Order within ten (10) days from the date of approval of this CONTRACT by CITY.
3. The CONTRACTOR must commence work within fifteen (15) days after issuance of the Proceed Order. At the option of the OWNER, this contract may be canceled by failure of the CONTRACTOR to begin work on the date specified.
4. The CONTRACTOR must complete the work required for the restroom renovation within twenty-one (2) days after issuance of the Proceed Order the remainder of the work within ninety (90) days after



workmanlike manner. Failure to so complete the work may result in liquidated damages being assessed by the CITY at a rate of **one hundred seventy-five dollars and zero cents per day** for each day over the time provided for such completion of the work. The assessed damages will be calculated and deducted from the final payment made to the CONTRACTOR and will be credited to the loan balance of the OWNER.

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

## **SECTION II            General Requirements**

1. The work to be performed under this CONTRACT is on a project assisted under the Community Development Block Grant program, which provides Federal financial assistance from the Department of Housing and Urban Development and subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (hereinafter, "**Section 3**"). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
2. The parties to this CONTRACT will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this CONTRACT. The parties to this CONTRACT certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
3. The CONTRACTOR will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contact or understanding, if any, a notice advising said labor organization or workers' representative of CONTRACTOR'S commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The CONTRACTOR will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The CONTRACTOR will not let any subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of this CONTRACT, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors or subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

6. The CONTRACTOR shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor, made pursuant to the so-called "Anti-Kickback Act" of June 13, 1934 (48 Stat. 94B; 62 Stat. 862; Title 18 U.S.C. Section 874; and Title 40 U.S.C., Section 376c) and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to ensure compliance therewith by all subcontractors subject thereto, and shall be responsible for the submission of statements required of subcontractors thereunder, except as said Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances and exemptions from the requirements thereof.
7. The CONTRACTOR will not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, national origin or disability. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their age, race, color, religion, sex, national origin, or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CITY setting forth the provisions of this non-discrimination clause.

**SECTION III            General Statement of Work**

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

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

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

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

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

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

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

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

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

#### **SECTION VI           Payment**

1. Progress Payment - No more than one progress payment will be made on a rehabilitation project, and that only after at least 60 percent of the project is deemed complete. The payment will be no more than 55 percent of the CONTRACT amount, as modified by Change Orders, if any. Progress payment will be made only after the City's representative has completed an inspection and all work performed to date has been accepted by the OWNER.
2. Final Payment -
  - A. FINAL INSPECTION - Upon completion of the rehabilitation work, a final inspection is held by the CITY. Any uncompleted work or work that is unsatisfactory is noted on a final "punch list" and sent to the CONTRACTOR in writing. When these items are completed to the satisfaction of the OWNER and the CITY'S inspector, the contract is complete.
  - B. CERTIFICATION - After the CITY determines that the rehabilitation work has been fully and satisfactorily completed, it will prepare a *Certificate of Completion and Final Inspection*.
  - C. OWNER STATEMENT OF ACCEPTANCE - The OWNER'S signature of the *Certificate of Completion and Final Inspection* indicates acceptance of the rehabilitation work as meeting the terms and conditions of the contract. If the OWNER refuses to sign the final acceptance, the CITY may authorize full payment for those items which are undisputed and acceptable to all parties.

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

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

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

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

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

#### **SECTION IX Miscellaneous Provisions**

1. 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.
2. Governing Law; Venue - The validity, construction and effect of this CONTRACT and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee and the United States of America. Any action between the parties arising from this CONTRACT shall be maintained in the courts of Rutherford County, Tennessee.

3. 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.
4. Survival. Section I(5) (Proper Construction), Section III(A)(3) (Indemnification), Section III(A)(6) (Recordkeeping); Section III(B)(3) (Inspection); Section III(B)(7) (Homeowner's Insurance), Section IV (Warranty), Section V (Grievances) and Section IX(2) (Governing Law; Venue) of this CONTRACT shall survive and continue in full force in accordance with their terms notwithstanding the expiration or termination of this CONTRACT.

[signatures to appear on following page]

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

DocuSigned by:  
David Garrett  
2E6325B722114D8...  
**DAVID GARRETT, RUBICON ENGINEERING SERVICES, LLC CONTRACTOR**

Date: 8/7/2024

Willie A. McGowan, Jr.  
**WILLIE A. MCGOWAN, JR., OWNER**

Date: 8.5.24

Sandra McGowan  
**SANDRA MCGOWAN, OWNER**

Date: 8.5.24

APPROVED BY CITY:

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

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

APPROVED AS TO FORM:

Signed by:  
Adam F. Tucker  
42003551F40C...  
Name: Adam F Tucker  
Title: City Attorney

Date: 8/7/2024

## EXHIBIT A

### EEO STANDARDS

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

(1) As used in these specifications:

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

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

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

(4) The CONTRACTOR shall implement the specific affirmative action standards provided in paragraphs (7a) through (p) of these specifications. The goals set forth in the solicitation from

which this contract resulted are expressed as percentages of the total hours of employment and training or minority and female utilization the CONTRACTOR should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction CONTRACTORS performing contract in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The CONTRACTOR is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

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



- d. Provide immediate written notification to the Director when the union or unions with which the CONTRACTOR has a collective bargaining agreement has not referred to the CONTRACTOR a minority person or woman sent by the CONTRACTOR, or when the CONTRACTOR has other information that the union referral process has impeded the CONTRACTOR'S efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the CONTRACTOR'S employment needs, especially those programs funded or approved by the Department of Labor. The CONTRACTOR shall provide notice of these programs to the sources compiled under (7b) above.
- f. Disseminate the CONTRACTOR'S EEO policy notice of the policy to unions and training programs and request their cooperation in assisting the CONTRACTOR in meeting its EEO obligations: by including it in any policy manual and collective bargaining agreement publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year: and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the CONTRACTOR'S EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the CONTRACTOR'S EEO policy with other CONTRACTORS and subcontractors with whom the CONTRACTOR does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the CONTRACTOR'S recruitment area and employment needs. Not later than one month prior to the date of the acceptance of applications or apprenticeship or other training by any recruitment source, the CONTRACTOR shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of CONTRACTOR'S work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

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

cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended.

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

## **EXHIBIT B**

### **CHANGE ORDERS**

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

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

## EXHIBIT C

### WARRANTY WORK

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

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

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

## **EXHIBIT D**

### **GRIEVANCE PROCEDURE**

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

If there is a dispute:

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

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

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

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



## 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.

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**DATE ISSUED:** June 18, 2024

**BID TITLE:** ITB-49-2024 – Bathroom Remodel and Window Replacement at 437 S. Highland

**CITY CONTACT PERSON:** Cathy Smith, Purchasing Director

**TELEPHONE NUMBER:** 615-849-2629

**EMAIL:** [purchasing@murfreesborotn.gov](mailto:purchasing@murfreesborotn.gov)

All bid responses must be received and acknowledged by the Purchasing Department on or before the day and time listed below, at which time all bids will be publicly opened and read aloud via Zoom. A link will be provided to all those registered as following this bid. Only electronic bids will be accepted.

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**BID OPENING DATE:** July 9, 2024

**BID OPENING TIME:** 2:00pm

## 1. Instructions and Conditions

### 1.1. Bid Submission to the City of Murfreesboro

The City is seeking Bids for “ITB-49-2024 – Remodel Bathroom and Replacement Windows for 437 S. Highland Ave” for the Community Development Department as set forth in the specifications listed within Section 2 of this ITB. Electronic Bids will be received by the City of Murfreesboro until 2:00 p.m. CT on July 9, 2024, at which time the bids will be opened via Zoom. A Zoom link will be provided, listed on OpenGov, to all those following this solicitation. A pre-bid meeting will be held on June 26, 2024, at 10:00 a.m. at 437 S. Highland Ave, Murfreesboro.

### 1.2. Background

This project is a Community Development Block Grant (CDBG) project that is utilizing federal funds. This project will be contracted using a CDBG Contract for Rehab. Due to this project utilizing federal funds, the applicable clauses located in Attachment A are hereby incorporated into this Invitation to Bid, as well as any contract or work order entered into between the City, the homeowner, and Contractor. A sample agreement is included in the Attachments section of the OpenGov post.

### 1.3. 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.

### 1.4. Organization and Completeness

It shall be the sole responsibility of the bidder to have completed the electronic form(s) and uploaded the required documents to the City before the Bid deadline. Partial or incomplete Bids may be rejected. All Bids should be typewritten or written in ink and clearly legible, and numbers must be expressed in both words and figures. Erasures, whiteouts, and other modifications should be initialed. Bidders are cautioned to verify their Bid prior to submission.

### 1.5. Preparation; Lump Sum Bid

The ITB 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. Bids will be considered on the basis of a lump-sum Bid for all work described in Section 2, below.

### 1.6. Subcontracting

If any part of the work is, or is to be, subcontracted, the bidder shall provide within the ITB response submittal 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, at the request of the City, the corporate or company name and the names of the officers or principals of said companies proposed as subcontractors by the bidder.



### 1.7. 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.

### 1.8. Completeness of Invitation to Bid ("ITB").

These documents, and those listed on OpenGov Procurement, 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 the **Question/Answer** tab on OpenGov. 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://procurement.opengov.com/portal/murfreesborotn>. Bidders must satisfy themselves as to the accuracy of the estimated quantities in the Bid Schedule. After Bids have been submitted, the Bidder shall not assert that there was a misunderstanding concerning the quantities of work or the natures of the work to be done.

### 1.9 Bid Interpretation. Communication with the Purchasing Department.

Cathy Smith is the City's contact for coordinating communications between the department and firms submitting bids. If additional information is required in order to make an interpretation of items in this ITB, written questions (including e-mails) will be accepted until five (5) business days prior (07/01/2024) to the bid opening date. All questions regarding the ITB should be addressed via OpenGov **Question/Answer Tab** or to [purchasing@murfreesborotn.gov](mailto:purchasing@murfreesborotn.gov).

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 selection process and may result in the disqualification of a bid.

### 1.10 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 on OpenGov, notification made to firms on record, and the addendum will be incorporated into 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.

### 1.11 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.

#### 1.12 Further Negotiation.

The City reserves the right to further negotiate, after the ITBs are opened, with any potential vendor if such is deemed necessary at the discretion of the City.

#### 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 procurement portal. 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://procurement.opengov.com/portal/murfreesborotn>.

#### 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 Contract Term.

If an award is made, any contract resulting from this ITB will be effective on the date the contract is signed. The contract shall not be effective until approved by the City Council and signed by all required parties. The term shall be 45 calendar days from the Notice to Proceed.

#### 1.16 Liquidated Damages.

If the work is not completed and the property made move-in ready in 30 calendar days, then the successful bidder will be assessed liquidated damages in the amount of \$175.00 per day beginning on the 31<sup>st</sup> day and running until the property is move-in ready.

#### 1.17 Pricing Effective for six (6) months.

The successful bidder shall provide in the bid price the cost for the good or services rendered. Pricing shall be effective for six months from date of bid award. If, in the bidder's opinion, additional equipment or services are necessary, this shall be included with explanation in the bid. 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.

#### 1.18 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.

#### 1.19 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 judgement 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.

#### 1.20 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.

#### 1.21 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 property of the City.

#### 1.22 Contract.

The successful bidder's responses to this ITB shall be included as an addendum to the contract. Should any conflict or discrepancy arise between the ITB 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 attached sample City Contract. 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.

#### 1.23 Contract Termination.

The City reserves the right to cancel the contract for the work 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:

- 1.23.1 Bankruptcy or insolvency of the bidder or one or more of the bidder's principal owners;
- 1.23.2 Failure of the bidder to provide satisfactory services or failure to comply with the specifications;
- 1.23.3 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;
- 1.23.4 Unsatisfactory performance of products supplied by the bidder or services provided by the bidder;
- 1.23.5 Fraud; or
- 1.23.6 Any other breach of the terms of the ITB specifications or contract.

#### 1.24 Contract Modification.

The contract may be modified only by written amendment executed by all parties and their signatories hereto.

#### 1.25 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 correct 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.

#### 1.26 Expense of Legal Action.

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.

#### 1.27 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.

#### 1.28 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.

1.29 Indemnification and Hold Harmless.

- 1.29.1 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.
- 1.29.2 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.

1.30 Statutory Disqualification.

By submitting a response, it is represented that neither Contractor 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.

1.31 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.

1.32 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, Bidder certifies and warrants it will comply with this policy.

Bidder must affirm that under its employment policies, standards and practices, it does not subscribe to any personal 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 that it is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

### 1.33 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.

### 1.34 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 of 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.

### 1.35 Breach of Ethical Standards.

A breach of ethical standards could result in civil/or criminal sanctions and/or debarment or suspension from being a contractor or subcontractor under City contracts.

### 1.36 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.

### 1.37 Codes & Regulation.

All services and work to be done must comply with city, county, state, and federal laws, rules, codes and regulations. All work shall be in accordance with the specifications as described in Section 2 and the International Building Code 2018. The contractor will obtain and pay for all permits, if any, necessary to complete the work.

### 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 §12-12-106. Bids not conforming with this provision shall not be opened. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered.

#### 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 T.C.A. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.

#### 1.40 Evaluation of Bid.

Any contract awarded pursuant to this ITB shall be awarded to the lowest responsive and responsible bidder whose bid response meets the requirements and criteria set forth in this ITB. A "responsive bidder" means a person who has submitted a bid response, which conforms in all material respects to the ITB. A "responsible bidder" means a person who has the capacity, reputation and experience in all respects to perform fully the contract requirements and the integrity and reliability, which will assure good faith performance within the time specified without delay or interference. The City may make such investigations as deemed necessary to determine the ability of the bidder to provide the products and services required by the bid package. 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. The City will evaluate bid based on lowest cost which fully conforms to specifications and whether the proposed costs and terms are, in the City's judgment, consistent with current market pricing, appropriate for the services provided, and commensurate with the level of quality expected. In addition to the price, the following aspects will be considered in the award of a contract:

- 1.40.1 The ability of the bidder to perform the contract or to provide the material for service required;
- 1.40.2 Whether the bidder can perform the contract and provide the material or service promptly or within the time specified without delay or interference;
- 1.40.3 The character, integrity, reputation, experience, and efficiency of the bidder;
- 1.40.4 The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- 1.40.5 The ability of the bidder to provide future maintenance and service for the use of the subject contract;
- 1.40.6 Terms and conditions stated in the bid;
- 1.40.7 Compliance with specifications or the ITB;
- 1.40.8 Utilization of the format set forth in this ITB for submittal of a bid; and,
- 1.40.9 Bidder's past performance with the City.

#### 1.41 Bidder's Compliance.

The City will evaluate proposals for compliance and completeness.

#### 1.42 Contractor's License.

Pursuant to Tennessee Code Annotated Title 62, Chapter 6, Part 1, if a bid is \$25,000 or above, bidder must be a licensed contractor as required by the Contractor's Licensing Act of 1976, Public Chapter No. 822 of the General Assembly of the State of Tennessee as amended. In accordance with T.C.A. §62-6-119, Bidder shall place their bid in an envelope or provide within the electronic bid document: (1) the

bidder's name, license number, expiration date thereof, and license classification of the contractor applying to bid for the prime contract; (2) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the masonry contract (if applicable) where the total cost of the materials and labor for the masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000); (3) The name, license number, expiration date thereof, and license classification of the contractor applying to bid for the electrical, plumbing, heating, ventilation, or air conditioning contracts except when such contractor's portion of the construction project is less than twenty-five thousand dollars (\$25,000); (4) For each vertical closed loop geothermal heating and cooling project, the company name, department of environment and conservation license number, classification (G, L or G,L) and the expiration date, except when the geothermal portion of the construction project is in an amount less than twenty-five thousand dollars (\$25,000); (5) Prime contractor bidders who are to perform the masonry portion of the construction project which exceeds one hundred thousand dollars (\$100,000), materials and labor, the electrical, plumbing, heating, ventilation or air conditioning or the geothermal heating and cooling must be so designated; and (6) Only one (1) contractor in each of the classifications listed above shall be written on the bid envelope or provided within the electronic bid document. Bids not conforming with this provision shall not be opened. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered.

### **Technical Specifications**

**2. Purpose** Remodel existing bathroom to install step-in shower and install new double pane vinyl replacement windows.

#### **2.1. Scope of Work**

**Window Replacement:** Remove existing window sashes and frames and install new double pane vinyl replacement windows. Install new exterior/interior trim as necessary for complete installation.

**Bathroom remodel:** Remove existing tub, sheetrock/tile at shower, sink/vanity, water closet and floor finishes. Existing drywall that does not need to be removed for the completion of the work shall remain. Remove existing ceiling heater and terminate above ceiling and patch. Install new shower valve and shower head on minimum 15" slide bar and 60" hose. Install new fiberglass/acrylic base, drain, and install cement backer board and ceramic tile above shower base including 2 - 5" corner shelves. Remove vinyl wall and tile on remaining bathroom walls, prep to paint existing walls and ceiling in bathroom. Remove existing linen closet door and frame and install new cased opening. Install new vinyl floor, accessible water closet, 30" sink/vanity and bathroom accessories. Provide and install new shower rod and curtain.

The existing bathroom door and frame is less than 29", so frame and door must be removed to allow shower base to fit in bathroom. It is possible that some 2 x 4 jamb(s) may need to be removed. Reinstall any framing that was removed, patch sheetrock as required and install a new door and frame and privacy lockset. All costs associated with moving the shower base into its final location will be included in the bid.

**2.1a Schedule:** The homeowner will be required to move out while the bathroom is being remodeled. Prior to starting work on the bathroom remodel, the contractor shall be sure all materials including



shower base, ceramic tile, grout, and flooring have been delivered. The bathroom remodel shall be completed within 21 days of the owner moving to a temporary location.

## **2.2. Field Conditions and Quantities**

Attendance to the prebid meeting at the house by the contractor is encouraged so that they will be aware of all field conditions and quantities needed to complete the project. The contractor will be responsible for repairing any damage to fencing or other structures damaged during the work.

## **2.3. Protection and Clean-Up**

The contractor shall protect the interior floors and walls from damage during the work. Daily clean-up will be required at the end of each day. Final clean-up of work areas must be done after all work is complete, this may include vacuuming, dusting, mopping, or sweeping.

## **2.4 Contractor's Responsibility**

The contractor will be required to verify all quantities and field measurements. Provide all necessary fasteners, tools, materials, and equipment necessary to complete the work. Damage to existing surfaces shall be repaired to same condition prior to being damaged. Remove all debris from site and dispose of it at legal dump site; provide onsite dumpster and onsite portable toilet.

## **2.5 Replacement Windows**

The new vinyl replacement windows shall be double pane and have a U factor of .32 or better. The type of window shall match the existing window (i.e. single or double hung). Screens must be included with windows.

The replacement window in the bathroom must be tempered glass in accordance with the 2018 IRC. The window in the bathroom shall be replaced prior to installing cement backer board and tile in bathroom.

Replacement windows shall be manufactured by:

- JELD-WEN Builders Vinyl (V2500)
- Milgard V459 Homemaker Series
- Harvey Windows Slimline
- Pella Encompass

Alternate window manufacturers that are equivalent to manufacturers listed will be considered. The bidder shall be responsible for submitting documentation of proposed alternate manufacturer prior to pre bid meeting.

The window color shall be selected by the owner from the manufacturer's standard color options.

## **2.6 Installation of Windows**

Windows shall be installed in accordance with manufacturer's printed instructions. Remove existing window frames while protecting existing surfaces that are to remain. All existing windows, trim and glass shall be disposed of.

If for any reason a window cannot be installed at the end of the day the contractor shall take measures to keep the home secure until window installation.

Remove all loose debris from window openings. Verify surfaces and framing members are in a condition acceptable for installation of the window. The City representative shall be notified if any deficiencies are discovered.

Replacement windows shall be installed square and plumb and operate smoothly. Provide locks on all windows. Install child resistant hardware when required by code.

### **2.7 Installation of Windows**

All gaps between windows and framing shall be sealed with non-expanding foam. Install caulking along window frame and exterior finish material. Caulk all joints on newly installed interior trim and paint to match existing. Provide all exterior and interior trim and flashing for a weathertight, complete, and finished appearance.

### **3.0 Bathroom Remodel**

**3.1 Demolition** shall include: removal of existing tub/shower; drywall for installation of concrete backer board; batt insulation in exterior wall where drywall is removed; remove existing ceiling heater and cap utilities as required by code above ceiling; remove existing water closet and vanity, linen closet door and frame, vinyl wall covering, shower valve, and shower head supply line. The contractor shall verify that existing surfaces including wall studs, subfloor, and floor joists are suitable for attachment of fixtures and cement backer board. The contractor shall notify the owner of any defects prior to concealing. All materials shall be removed from the site and legally disposed of offsite.

**3.2 Plumbing:** Provide and install new shower valve, water supply line to new shower head and modify existing drain to accept new shower drain.

The shower valve shall have antiscald protection with a single handle operation trim kit.

The shower head shall be mounted to a 60" stainless steel braided hose which is secured to a minimum 24" vertical slide rod mounted to blocking within shower wall shower wall. The slide rod shall allow vertical adjustment of the shower head and can be locked in place. The shower head shall be removable from vertical slide rod. The shower head shall provide a minimum of 4 different spray patterns.

Acceptable Hand Shower Manufacturers and models shall include:

- 1) Delta Hand Shower Model #51361.
- 2) Moen 30" Wall Bar with Handheld Shower.
- 3) Peerless 4 Spray Patterns 1.5 gpm 4.38 in wall mount handheld shower head with slide bar

### **Mounting locations**

Shower control valve shall be mounted 44" above the shower floor and centered horizontally on end wall closest to the drain and opposite the shower base seat.

The top of the vertical shower head slide rod shall be mounted 6'-8" above the shower floor and centered on the end wall.

Modify existing shower drain to accept new shower drain and install in hole provided by shower base manufacturer.

See Shower Elevation – Detail B

### **3.3 New fixtures**

Install new handicap accessible water closet, wax seal, and flush tank valve. Install new water stop valve and stainless-steel braided water supply line. Furnish and install new seat and lid. Caulk around the base of water closet.

Furnish and install new 30" wide vanity, with Corian countertop with integral sink. Install new faucet, stainless steel braided water supply lines, stop valves, trap, trap arm. Vanity shall be secure to the wall and the top shall be caulked where it abuts sheetrock.

Vanity, countertop, and faucet shall be selected by the owner from contractor grade materials, unless specified otherwise.

**3.4 Fiberglass/Acrylic Step in Shower Base:** Provide and install a one-piece fiberglass/acrylic step in shower base in location of existing tub/shower. The shower base shall be approximately 32" x 60" x 20" tall. The base must include an integral seat that is minimum 20"x22"x18" tall.

The shower base shall meet the following requirements:

- 1) Have a built-in seat that is integral with the base.
- 2) Curb at step in shall be 2" to 4" tall.
- 3) Slip resistant floor and seat surface.
- 4) Preformed shower drain hole.

Acceptable shower base manufacturers

- 1) Kingston Kitchen and Bath-Aqua Eden Shower base- Gerada Collection
- 2) Lyons Elite Base with Intergal Seat
- 3) Swiss Madison Aquatique shower base with integral seat.

The shower base shall be installed in accordance with manufacturer's installation instructions. The tub floor shall be installed level and secured in a level position. Predrill holes in tub flanges to screw shower base flanges to wall. Use shims as necessary for a plumb and level installation. Modifications to existing framing may be required including additional blocking or replacement of bowed stud(s) which should be included in bid. If the contractor has a concern that due to rot, mold, or decay that wood framing should be replaced, notify the City before concealing.

The owner shall select the shower base color from manufacturer's standard colors.

**3.5 Insulation:** Install new R-13 batt insulation in exterior wall cavities. All holes in the base and top plate shall be filled with caulk.

**3.6 Tile Backer Board:** Install ½” tile backer board on stud walls above shower base to ceiling, sill, head and jambs of window opening. Secure to framing as required by the manufacturer. All joints and fasteners shall be sealed and taped as required by the manufacturer for installation on shower walls. If the ceramic tile manufacturer or tile backer board manufacturer require additional substrates for a waterproof installation, the contractor must include the labor and materials in their bid. A 1/8” space shall be provided between the top of shower base (not the flange) and bottom edge of tile backer board.

Acceptable manufacturers of the tile backer board are:

- 1) USG Durock Brand
- 2) James Hardie
- 3) Johns Manville Go Board

Gypsum board products, including green gypsum board, cannot be substituted, or used in lieu of tile backer board.

**3.7 Ceramic Tile:** Furnish and install Glazed Porcelain or Glazed Ceramic Tile on the 3 shower enclosure walls from top of shower base to ceiling, on the jambs and head of window opening. Contractors shall include in their bid an allowance of \$750.00 for purchase of tile only (including sales tax and delivery). All other materials shall be included in the base bid. Unused portions of the allowance shall be deducted from the contract.

Acceptable tile manufacturers are:

- 1) American Olean
- 2) Daltile
- 3) Marazzi
- 4) Molono

**Tile Joints:** Provide a minimum of 1/8” joint where tile abuts tile at inside corners, window frame, shower base and ceiling. Do not grout these joints; apply 100% silicone caulk that matches grout color.

**Water stopping:** Furnish and install waterproofing strip on top of windowsill and up the jambs a minimum 4” and turned out onto wall beside and below sill a minimum of 2”.

**Window Tiling:** Install aluminum angle tile edge trim on the head, jambs and sill of window opening. Corners shall be cut neatly and at 45-degree angle. Trim shall be set behind tile on head, jambs and sill of window opening. The trim shall be set out enough to be flush with the outside face of the tile on the wall. See Detail A Attachment. Do not grout joint between trim and tile; caulk these joints with 100% silicone that matches grout color. Slope tile on windowsill to drain towards shower.

Thin Set Mortar shall be compatible with tile and approved for use on shower walls. Mix and install per manufacturer’s instruction.

The tile shall be installed in a bed of thin set mortar so that the joints are plumb, level, and straight. Joint width shall be as recommended by tile manufacturer and the width shall be consistent throughout the tile work. Install tile around window as recommended by the tile manufacturer and for a watertight installation. Tile must be installed in accordance with the most recent publication of ANSI A108-A136.1 and/or ANSI A137.3-2021, A108.19-2020 and A108.2-2020.

Aluminum Tile Edge: The exposed edges of tile at the shower end walls shall have an aluminum L-angle tile edge trim along exposed edge of tile. Set metal trim in bed of thin set. The window opening shall have aluminum tile edge applied to all four sides. Metal edge trim shall be set in mortar bed on the jambs, sill and head of the window opening. See Detail A Attachment.

Install two corner shelves in corner adjacent to shower controls, shelves shall be 5" diagonally and have supports that extend into the backer board.

Grout shall be compatible with tile, mortar and approved for use in showers. Grout shall be pressed into the joints with a grout float. Do not grout inside corners or at window frame/tile joint or at tile/ceiling of tile/tub joint. The tile shall be wiped clean of grout and grout haze. Seal all grout joints after it has cured.

Caulking: Caulk all joins where tile abuts shower base, ceiling, window frame, tile edge trim, and inside corners of tile walls. Use 100% silicone caulk that matches grout color. Contractor shall furnish all labor and materials for a complete and waterproof installation. The owner shall pick the tile material (glazed porcelain or glazed ceramic), and color of tile, grout, shelves.

### **3.8 Grab Bars**

Install three grab bars in the shower as follows:

- 1) 24" grab bar mounted horizontally and centered on the end wall with shower control valve. Install 36" above shower floor.
- 2) 36" long grab bar mounted horizontally at back wall. One end shall begin at the edge of the seat and extend towards the end wall with shower control valve. Grab bar shall not be placed over shower seat. Install grab bar 24" above shower floor (between window and shower base flange).
- 3) 30" grab bar mounted vertically to the end wall with the seat. The center of the grab bar shall be mounted 3-1/2" out from ceramic tile edge. Bottom of grab bar shall be at 36" above the floor and extend vertically 30".

The grab bars shall be stainless steel, 1-1/4" diameter with knurled gripping surface. Grab bars shall be made from 18 ga 304 stainless steel tubing. Fasteners must be concealed behind stainless steel flange. Use fasteners included with grab bars and fill holes with silicone sealant. Install solid 2x6 blocking in the existing walls for support of horizontal grab bars. Install full height studs in wall for support of vertical grab bar.

See Shower Elevation Attachment- Detail B

### **3.9 Vinyl Flooring**

Furnish and install vinyl flooring in bathroom and linen closet.

Acceptable sheet vinyl flooring as manufactured by:

- 1) Armstrong Sheet Vinyl Cushion Step Better.
- 2) Mannington's Luxury Vinyl Sheet Silver Level.
- 3) Congoleum Airstep Flexible Flooring.

Other manufacturers will be considered and must be approved by the City. Flooring color and pattern shall be selected by the owner.

**3.10 New Door and Cased Opening:** Remove existing linen closet door and frame and install new cased opening and trim. Install new door and frame at bathroom entrance. Install privacy lockset hardware.

**3.11 Painting:** Prep the walls and ceilings of the bathroom and linen closet by scraping loose paint or other finish materials. The bathroom currently is covered with a vinyl wall covering and ceramic tile that must be removed prior to painting. Wipe down walls and ceiling and fill all holes and damaged surfaces to accept new paint. All the sheetrock on the walls and ceiling of bathroom, linen closet and new bathroom door shall receive at least two coats of latex indoor paint for bathrooms.

**3.12 Gypsum Wallboard Patching and Repair:** Patch skim coat and repair all sheetrock that was damaged or removed during this work to a like new appearance.

**3.13 Light Bar:** Remove existing bar light Install new 30" LED light bar above vanity, furnish and install new LED bulbs.

**3.14 Miscellaneous:** Remove existing mirror, toilet paper holder, towel rack, grab bar and other existing restroom accessories. Install new towel rack, toilet paper dispenser, and 30" wide mirror and reinstall existing grab bar.



City of Murfreesboro  
**Purchasing**  
 Cathy Smith, Purchasing Director  
 111 West Vine Street, Murfreesboro, TN 37130  
 (615) 848-2553

**ADDENDA REPORT**  
ITB No. ITB-49-2024  
Bathroom Remodel and Window Replacement at 437 S. Highland

RESPONSE DEADLINE: July 16, 2024 at 2:00 pm

Monday, July 22, 2024

**Addenda Issued:**

**Addendum #1**

*Jul 5, 2024 10:57 AM*

Bid Deadline and Opening has been moved to Tuesday, July 16th at 2:00pm. Addendum #2 is forthcoming to include additional scope of work.

Please use the [See What Changed](#) link to view all the changes made by this addendum.

**Addendum #2**

*Jul 8, 2024 3:48 PM*

Please see Addendum #2 issued July 8, 2024.

**Attachments:**

- [Addendum #2 - ITB-49-2024 - 437 S Highland Rehab 7.8.24](#)

**Addenda Acknowledgements:**

**Addendum #1**

Proposal	Confirmed	Confirmed At	Confirmed By
New Creations Construction, LLC	X	Jul 12, 2024 11:50 PM	Jason Moore
David Underhill	X	Jul 15, 2024 9:00 PM	David Underhill
RUBICON Engineering Services LLC	X	Jul 15, 2024 6:42 PM	Timothy Lockert

**Addendum #2**

Proposal	Confirmed	Confirmed At	Confirmed By
New Creations Construction, LLC	X	Jul 12, 2024 11:50 PM	Jason Moore
David Underhill	X	Jul 15, 2024 9:00 PM	David Underhill
RUBICON Engineering Services LLC	X	Jul 15, 2024 6:42 PM	Timothy Lockert

Purchasing Department  
111 West Vine Street  
Murfreesboro, TN 37130  
629.201.6214  
[purchasing@murfreesborotn.gov](mailto:purchasing@murfreesborotn.gov)



July 8, 2024

**Addendum #2**

ITB-49-2024 – Bathroom Remodel and Window Replacement at 437 S. Highland

This Addendum # 2 is issued to add the following as Section 4.0 to include additional scope of work.

Add as follows:

**4.0 – Front Decking**

4.1 Remove all deck boards, horizontal railing members, 2 x 2 pickets (except 4 x 4 posts) 2x4 kickplate on front porch, ramp and side deck.

4.2 Replace the top horizontal railing with a 2 x 6 with exposed edges eased. Install a horizontal 2 x 4 on the inside of the railing to match existing. Replace 2 x 2 pickets so that the space between them is less than 4". Install new 2 x 4 kick plate to match existing. Install new 2x 6 boards on ramp and both decks.

All new wood shall be pressure treated and must comply with AWPA Standard U1 for pressure treated lumber. All new members shall be screwed to the structure using appropriate and compatible exterior fasteners.

Stain existing and new surfaces with exterior grade stain.

This addendum modifies the original solicitation and is hereby incorporated, and all other terms and conditions remain the same except the portions modified by addendum.

Bidders are required to acknowledge receipt of Addendum #2 via the OpenGov portal. Failure to acknowledge all addenda may be cause of rejection of the response.



**PURCHASING DEPARTMENT  
BID FORM**

**NAME OF BID: ITB-49-2024  
Bathroom Remodel and Window Replacement at 437 S  
Highland**

**Name of Bidder: RUBICON Eng Svcs LLC  
Date: 7/16/2024**

**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	ITB-49-2024- Bathroom Remodel and Window Replacement at 437 S Highland per Specifications	\$ <u>52,821.45</u>
2	1	Allowance for Tile	\$ <u>750.00</u>
<b>Total Project</b>			\$ <u>53,571.45</u>

Purchasing Department  
 111 West Vine Street  
 Murfreesboro, TN 37130  
 615.849.2629  
[purchasing@murfreesborotn.gov](mailto:purchasing@murfreesborotn.gov)



Copies of the following licenses shall be provided with bid response.

This is to certify that pursuant to Tennessee Code Annotated Title 62, Chapter 6, Part 1, if a bid is \$25,000 or above, the undersigned is a licensed contractor as required by the Contractor’s Licensing Act of 1976, Public Chapter No. 822 of the General Assembly of the State of Tennessee as amended, known as the General Contractors Licensing Law.

Bidder: RUBICON Engineering Services LLC  
 By: David Garrett, PE  
 Title: Owner | Principal

Project: ITB-49-2024 - Bathroom Remodel and Window Replacement at 437 S. Highland

<b>BIDDER IDENTIFICATION</b>				
Bidder: <u>RUBICON Engineering Services LLC</u>				
Address: <u>11205 Lebanon Rd, Mount Juliet, TN 37122</u>				
<b>TENNESSEE CONTRACTOR’S LICENSE INFORMATION</b>				
Provide copies of the following information if licensed. If unlicensed, please mark “Bidder Unlicensed”.				
TN License Number <u>80676</u>				
License Classification Applicable to Project <u>Commercial Construction</u>				
License Expiration Date <u>June 30, 2026</u> Dollar Limit <u>(\$ 413,950.00 )</u>				
<input type="checkbox"/> BIDDER UNLICENSED				
<b>SUBCONTRACTORS TO BE USED ON THIS PROJECT:</b> Provide the following for each listed subcontractor				
	TN License No.	Expires	Classification	Dollar Limit
Plumbing:				
HVAC:				
Electrical:				
Masonry:				
Grading:				
Geothermal:				

**BIDDER AFFIDAVIT ON COMPLIANCE  
WITH DRUG-FREE WORKPLACE ACT AND  
CERTIFICATE**

Bidder, after being first duly sworn, affirms that it has a Drug-Free Workplace Program that complies with Tennessee Code Annotated, Title 50, Chapter 9, in effect at the time of submission of its bid, at least to the extent required of governmental entities. Bidder affirms that:

1. It has received a Certificate of Compliance with the applicable sections of the Drug-Free Workplace Act from the Department of Labor and Workforce Development and has attached a copy of such certificate to this Affidavit; or,
2. It operates a drug and alcohol testing program at least as stringent as the City of Murfreesboro's drug and alcohol testing program as contained in Sections 3005, 3006, and 3023 of the City of Murfreesboro Employee Handbook and shall, upon request, provide documentation of such program to the City.

RUBICON Engineering Services LLC  
Name of Bidder

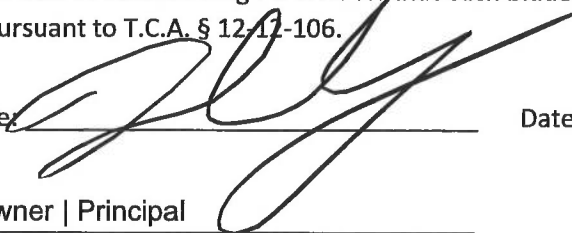
David Garrett, PE - Owner | Principal  
Printed Name and Title of Principal Officer

  
Signature by Principal Officer

**\*\*\*SIGN AND SUBMIT WITH BID PACKAGE\*\*\***

### Iran Divestment Act

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 a person included within the list created pursuant to T.C.A. § 12-17-106.

Signature:  \_\_\_\_\_ Date: 7/16/2024 \_\_\_\_\_

Title: Owner | Principal \_\_\_\_\_

### Non-Boycott of Israel

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to T.C.A. § 12-4-119, and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.

Signature:  \_\_\_\_\_ Date: 7/16/2024 \_\_\_\_\_

Title: Owner | Principal \_\_\_\_\_

### NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of TN )

County of Rutherford )

David Garrett, being first duly sworn, deposes and says that;

- (1) The undersigned is the (owner, partner, officer, representative, or agent) of RUBICON, the bidder submitting the attached bid.
- (2) Bidder is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid.
- (3) Such bid is genuine and is not a collusive or sham bid.
- (4) Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired connived or agreed, directly or indirectly, with any other bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or, to fix any overhead, profit or cost element of the bid price or unlawful agreement any advantage against the City of Murfreesboro or any person interested in the proposed contract;
- (5) The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agent, representatives, owners, employees, or parties in interest, including this affidavit.

(Signed)   
 (Title) Principal | Owner

*\*This form does not require a notary signature; it only requires the officer of the company to sign affirming the affidavit*

### REFERENCE LISTING FORM

List a minimum of 3 references (other than the City of Murfreesboro) for similar projects and contracts, preferably governmental, which you have completed within the past 5 years.

1 CUSTOMER NAME: Middle TN State University  
ADDRESS: Murfreesboro, TN  
TELEPHONE: 601 )918-7009 EMAIL: melissa.parker@mtsu.edu  
CONTACT NAME: Melissa Parker  
DATE OF COMPLETION OF PROJECT: 2023  
CONTRACT AMOUNT: \$ 215,000

2 CUSTOMER NAME: Alvin C York VA Medical Center  
ADDRESS: Murfreesboro, TN  
TELEPHONE: ( 615 ) 225-3974 EMAIL: \_\_\_\_\_  
CONTACT NAME: Steven Burton  
DATE OF COMPLETION OF PROJECT: 2023  
CONTRACT AMOUNT: \$ \$175000

3 CUSTOMER NAME: Fraport - TN  
ADDRESS: 1 Terminal Drive, Nashville, TN  
TELEPHONE: (615 )514-4715; 3 EMAIL: m\_jennings@fraport-usa.com  
CONTACT NAME: Matt Jennings - VP  
DATE OF COMPLETION OF PROJECT: 2022-Present  
CONTRACT AMOUNT: \$ +\$250,000

My company has been in this type of business for 6 years

State License Number: 80676

Expires: June 30, 2026



**\*\*\*SIGN AND SUBMIT WITH BID PACKAGE\*\*\***

**SAM.gov UEI #**

Required for projects using ARPA (American Rescue Plan Act) funds. SAM.gov Registration and UEI #. All vendors are required to be registered with SAM.gov and supply their Unique Entity ID (UEI). Registration can be found at <https://sam.gov/content/home>.

Legal Business Name RUBICON Engineering Services LLC

UEI # MNDZHLFRY5A3

### SIGNATURE SHEET

I, the undersigned, do hereby agree to all terms and conditions listed within this formal solicitation, and will supply all information as required in this solicitation.

COMPANY NAME: RUBICON Engineering Services LLC

ADDRESS: 11205 Lebanon Rd, #49  
Mount Juliet, TN 37122

TELEPHONE: 615-380-6345 FAX: \_\_\_\_\_

EMAIL: info@rubiconengineering.com

#### ADDENDUM ACKNOWLEDGEMENT

The proposer shall acknowledge obtaining all addenda issued to this formal solicitation within your response in the City's eProcurement Portal. Failure to acknowledge all addenda may be cause for rejection of the response.

AUTHORIZED SIGNATURE:  \_\_\_\_\_

TITLE: Owner | Principal

(Print / type name as signed above): David Garrett

DATE: 7/16/2024

**\*\*\*SIGN AND SUBMIT WITH BID PACKAGE\*\*\***



Purchasing Department  
111 West Vine Street  
Murfreesboro, TN 37130  
615.849.2629  
[purchasing@murfreesborotn.gov](mailto:purchasing@murfreesborotn.gov)



Thank you for your interest in working with the City of Murfreesboro on this project. Please complete the form below. The information provided will be incorporated into the sample agreement provided in the bid document once the award has been issued.

Bid Name/Project ITB-49-2024-Bathroom Remodel and Window Replacement at 437 S. Highland

Company Name: RUBICON Engineering Services LLC

State of Business Registration TN

Type of business entity (sole proprietorship, corporations, LLC): LLC

Authorized Company Signatory Information  
(This is the person authorized to bind the company in a contract)\*

Name: David Garrett

Title: Owner | Principal

Email Address: dgarrett@rubiconengineering.com

Phone Number: (615) 380-6345

Notices to Contractor/Vendor to

Name: David Garrett

Address: 11205 Lebanon Rd, #49, Mount Juliet, TN 37122

Email Address: dgarrett@rubiconengineering.com

\*The City utilizes DocuSign for electronic signature of contracts.

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Affordable Housing Program – Legacy Pointe Development

**Department:** Community Development

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

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

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

**Staff Recommendation**

Approve the expenditure from CDBG funds for down payment assistance.

**Background Information**

The three purchasers of new homes in Legacy Pointe developed by Habitat for Humanity have applied for down payment assistance. The properties are: 2846, 2907, 2841 and 2825 Humanity Trail. The program will provide \$10,000 towards each down payment from existing Community Development Block Grant (CDBG) funds under the City’s Affordable Housing Assistance Program. The three applicants each meet the qualifications for assistance.

**Council Priorities Served**

*Responsible Budgeting*

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

**Fiscal Impact**

The expenditure, \$40,000, is fully funded by CDBG funds allocated to the City’s Affordable Housing Assistance Program.

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Approach Mitigation Design Work Grant

**Department:** Airport

**Presented by:** Chad Gehrke, Airport Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Consider grant for approach mitigation design work.

**Staff Recommendation**

Approve the approach mitigation design work grant using federal, state, and local funds.

**Background Information**

A substantial number of trees have been identified penetrating the approach for Runway 36 at the Murfreesboro Municipal Airport. The Federal Aviation Administration (FAA) and Tennessee Aeronautics Division are assisting with a project to develop an extensive plan to effectively mitigate the penetrations of the approach surface for Runway 36. Barge Design Solutions will be focused on developing the best method to mitigate the approach eventually eliminating the displaced Runway 36 threshold. LTL-Schock Group, a subcontractor, will oversee the Environmental Assessment public information and input meetings as well as conducting all correspondence with our neighbors. This mitigation plan will most likely resemble similar programs that Middle Tennessee Electric Membership Corporation and other utilities employ to protect electrical service to our homes, businesses, schools, etc. including tree removal and replacement with various selections of lower growth trees.

**Council Priorities Served**

*Expand infrastructure*


Development and maintenance of our airport’s runway and approaches assures the City’s aviation infrastructure is in good condition and provides for safe and efficient airport operations for the flying and non-flying public.

**Fiscal Impacts**

The Grant is for \$264,400 with 90% Federal (BIL) funding up to \$237,960, 5% State funding equaling \$13,220, and 5% local funding equaling \$13,220 paid for through the FY24 CIP or Airport Fund.

**Attachments:**

Approach Mitigation Design Grant

 <b>GOVERNMENTAL GRANT CONTRACT</b> (cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)					
<b>Begin Date</b>	<b>End Date</b>	<b>Agency Tracking #</b>	<b>Edison ID</b>		
4/25/2024	4/24/2026	40100-50931	76311		
<b>Grantee Legal Entity Name</b>				<b>Edison Vendor ID</b>	
City of Murfreesboro				4110	
<b>Subrecipient or Recipient</b>		<b>CFDA #20.106</b>			
<input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Recipient		<b>Grantee's fiscal year end – June 30</b>			
<b>Service Caption</b> (one line only)					
Runway 36 Approach Mitigation - Design					
<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Grant Contract Amount</b>
2024	\$13,220.00	\$237,960.00		\$13,220.00	\$264,400.00
<b>TOTAL:</b>	<b>\$13,220.00</b>	<b>\$237,960.00</b>		<b>\$13,220.00</b>	<b>\$264,400.00</b>
<b>Grantee Selection Process Summary</b>					
<input checked="" type="checkbox"/> Competitive Selection			For every project, the airport owner, sponsor or educational program must submit a letter of request and an application to the Aeronautics Division. The Aeronautics Division staff reviews all project requests monthly. The review is based on the Division's established criteria and policies. The review results are presented to the Commissioner for approval. Grant award amounts will be based upon available funds and the amount requested, and such funding will be continued in order of application approval.		
<input type="checkbox"/> Non-competitive Selection			Describe the reasons for a non-competitive grantee selection process.		
<b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.				<i>CPO USE - GG</i>	
<b>Speed Chart</b> (optional)		<b>Account Code</b> (optional)			
TX00349890		71302			

**VENDOR ADDRESS: 5**

**LOCATION CODE: MURFRE-002**

**GRANT CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF TRANSPORTATION  
AND  
CITY OF MURFREESBORO**

This grant contract ("Grant Contract"), by and between the State of Tennessee, Department of Transportation, 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 airport development, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # 4110

**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. The purpose of this Grant shall be to sponsor a project for the further development of a public airport under Tennessee Code Annotated 42-2-203 and the Airport and Airway Improvement Act of 1982, Title 49 of the United States Code or Tennessee Code Annotated 4-3-. Pursuant to these provisions, the State shall be designated as the party to apply for, receive, and disburse all funds to be used in the payment of the costs of said project or as reimbursement of costs incurred. The Grantee shall be a recipient of funds from the State Transportation Equity Fund and/or Federal Airport Improvement Program, and shall undertake an airport improvement project.
- A.3. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Grantee's duties, responsibilities, and performance hereunder, these items shall govern in order of precedence below.
- a. this Grant Contract document with any attachments or exhibits (excluding the items listed at subsections b. and c., below);
  - b. the State grant proposal solicitation as may be amended, if any;
  - c. the Grantee's proposal, **Attachment One**, incorporated to elaborate supplementary scope of services specifications
- A.4. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as **Attachment Two** is incorporated in this Grant Contract.

**B. TERM OF CONTRACT:**

- B.1. This Grant Contract shall be effective on **April 25<sup>th</sup>, 2024 ("Effective Date")** and extend for a period of **twenty-four (24) months** after the Effective Date ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.
- B.2. Renewal Options. This Grant Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to **four (4)** renewal options under the same terms and conditions for a period not to exceed **twelve (12)** months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of **sixty (60)** months.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed **Two Hundred Sixty-Four Thousand Four Hundred Dollars and Zero Cents (\$264,400.00)** ("Maximum Liability"). The Grant Budget, attached and incorporated as **Attachment Three** 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. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

Department of Transportation-Aeronautics Division  
<https://www.blackcataviation.com>

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Grantee).
  - (2) Invoice Date.
  - (3) Invoice Period (to which the reimbursement request is applicable).
  - (4) Grant Contract Number (assigned by the State).
  - (5) Grantor: Department of Transportation – Aeronautics Division.
  - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
  - (7) Grantee Name.
  - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
  - (9) Grantee Remittance Address.
  - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
  - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
    - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
    - ii. The amount reimbursed by Grant Budget line-item to date.
    - iii. The total amount reimbursed under the Grant Contract to date.
    - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.

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

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount by up to one percent (1%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. 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 sixty (60) days of the Grant Contract end date and in form and substance acceptable to the State.

- a. The Grant Budget specifies a Grantee Match Requirement and the final grant disbursement reconciliation report shall detail all Grantee expenditures recorded to meet this requirement.
  - i. No Grantee expenditure shall be recorded and reported toward meeting a Grantee Match Requirement of more than one grant contract with the State.
  - ii. The final grant disbursement reconciliation report shall specifically detail the exact amount of any Grantee failure to meet a Match Requirement, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the Grant Budget column "Grant Contract," shall be reduced by the amount that the Grantee failed to contribute to the Total Project as budgeted.
- b. 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 (including any adjustment pursuant to subsection a.ii. above), the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
- c. 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.

- d. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the state pursuant to this Grant Contract.
  - e. The Grantee must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- 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 Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the 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 the State under this Grant Contract until the State 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 State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, 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 State 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 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.
- 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:

Oliver Ruff  
Aviation Technical Specialist I  
Aeronautics Division  
TN Dept. of Transportation-Aeronautics Division  
7335 Centennial Boulevard  
Nashville, TN 37209  
Telephone: 615-741-3208  
Email: [oliver.ruff@tn.gov](mailto:oliver.ruff@tn.gov)

The Grantee:

Shane McFarland  
City Mayor  
City of Murfreesboro  
111 West Vine Street  
Murfreesboro, TN 37130  
Telephone: 615-848-2629  
Email: [cgehrke@murfreesborotn.gov](mailto:cgehrke@murfreesborotn.gov)

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." 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. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.
- The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.
- In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.
- The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.
- The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.
- Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.
- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, 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. Grantee shall submit one of the following for Grant amounts greater than Two Thousand dollars (\$2,000.00) but less than Ten Thousand dollars (\$10,000.00): Grants with a term of only one (1) year – Grantee shall submit a final report within three (3) months of the Effective Date. Grants with a term more than one (1) year, the Grantee shall submit annual and final reports to the Grantor State Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and

whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.

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

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

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

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

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

The Grantee shall obtain prior approval from the 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).

- 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. **Reserved.**
- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget’s Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: [http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.
- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall

remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.

- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the 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.

**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/excomp.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. Equal Opportunity. As a condition for receipt of grant funds, the Grantee agrees to comply with 41 C.F. R. § 60-1.4 as that section is amended from time to time during the term.
- E.4. Grantee Match. Upon execution of this grant contract, the Grantee will be required to deposit its share of the estimated total project cost to the State.  
  
Additional deposits will be required if actual costs exceed the estimated costs. Any excess in the amount deposited above actual costs will be refunded.  
  
If the cost of this project increases by more than fifteen percent (15%) of the estimated grant contract amount during the progress of the work, the parties agree to enter into a supplemental agreement setting out the respective financial obligations of the State, Grantee, and the Federal Airport Improvement Program.
- E.5. Reimbursements to Reflect Match/Share. Reimbursements to Grantee shall reflect the percentage of Grantee Match/Share detailed in the Grant Budget. Reimbursements are subject to the other provisions of this Grant Contract, including but not limited to, the maximum liability amount in Section C.1.
- E.6. Airport Operations. For all grants that total fifty thousand dollars (\$50,000.00) or more, as consideration for receiving this Grant from the State, the Grantee agrees to operate and maintain the Airport for a period of twenty (20) years from the effective date of this Grant Contract.
- E.7. Compliance with FAA Regulations. For all grants involving federal funds, the Grantee agrees to accomplish the project in compliance with the terms and conditions contained in the U. S. Department of Transportation Federal Aviation Administration *Terms and Conditions of Accepting Airport Improvement Program Grants* hereby incorporated into this document by reference. Said document is on file in the Tennessee Department of Transportation, Aeronautics Division Office. These assurances can also be located on the FAA Website at [www.faa.gov/airports/aip/grant\\_assurances](http://www.faa.gov/airports/aip/grant_assurances)
- E.8. No Retainage Allowed. The Grantee may not withhold retainage on progress payments from the prime contractor and the prime contractor may not withhold retainage from their subcontractors.
- E.9. Printing Authorization. The Grantee agrees that no printing/publication shall be printed pursuant to this Grant Agreement without the prior authorization of the State even if printing costs are included in the budget line items, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement. The Grantee and its employees may publish the results of the

research in whole or in part as they deem appropriate without authorization by the State if it is at no cost to the Grantor State Agency

- E.10. Travel Requirements. Travel must be project related and ALL conference and/or out-of-state travel must be preapproved by the Grantor State Agency even if included in the budget line items, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

The Grantee, upon request, must include (in addition to other invoice requirements of this Grant Agreement) a complete itemization of travel compensation requested in accordance with and attaching to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations."

- E.11. Ban on Texting While Driving. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009 and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the State and subrecipients are encouraged to:

- a. Adopt and enforce workplace safety policies to decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing any work related to this grant or subgrant.
- b. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
  - (1) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
  - (2) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

- E.12. Completion of Project and Repayment of Funds. The Grantee agrees to use best efforts to ensure timely completion of the Project. If the Grantee elects not to complete the Project, then the Grantee shall notify the State in writing within thirty (30) days after having made such determination and, at the discretion of the State, the Grantee may be required upon written notice to repay to the State some or all of the funds paid to the Grantee pursuant to this Agreement. The State shall have the sole determination over the amount of funds owed by the Grantee. If the State determines that any funds are owed by the Grantee, the Grantee shall pay said funds within one hundred eighty (180) days of receipt of written notice from the State.

- E.13. Employee Protection from Reprisal.

- a. Prohibition of Reprisals:
  1. In accordance with 41 U.S.C. § 4712, an employee of a Grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2), information that the employee reasonably believes is evidence of:
    - i. Gross mismanagement of a Federal grant;
    - ii. Gross waste of Federal funds;
    - iii. An abuse of authority relating to implementation or use of Federal funds;
    - iv. A substantial and specific danger to public health or safety; or
    - v. A violation of law, rule, or regulation related to a Federal grant.
  2. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:
    - i. A member of Congress or a representative of a committee of Congress;
    - ii. An Inspector General;
    - iii. The Government Accountability Office;
    - iv. A Federal office or employee responsible for oversight of a grant program;
    - v. A court or grand jury;
    - vi. A management office of the State or the Grantee; or
    - vii. A Federal or State regulatory enforcement agency.
- b. Submission of Complaint: A person who believes that they have been subjected to a reprisal prohibited by paragraph A of this grant term may submit a complaint regarding

- the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
- c. Time Limitation for Submittal of a Complaint: A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
  - d. Required Actions of the Inspection General: Actions, limitations and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
  - e. Assumption of Rights to Civil Remedy: Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).
- E.14. Trafficking in Persons. In accordance with section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104(g)), the Grantee, its employees, and any subgrant recipients' employees may not:
- a. Engage in severe forms of trafficking in persons;
  - b. Procure a commercial sex act; or
  - c. Use forced labor in the performance of this Grant Contract and subgrant agreements.
- Violation of this requirement may result in termination of this Grant Contract.
- E.15. Buy American. Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Grantee will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any permitted use for which funds are provided under this Grant Contract. The Grantee will include a provision implementing Buy American in every contract and subcontract issued under this Grant Contract.
- E.16. Build America, Buy American. The sponsor must comply with the requirements under the Build America, Buy America Act (Public Law 117-58).
- E.17. Maximum Obligation Increase. In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant Offer:
- a. May not be increased for a planning project;
  - b. May be increased by not more than 15 percent for development projects if funds are available;
  - c. May be increased by not more than the greater of the following for a land project, if funds are available:
    - 1. 15 percent; or
    - 2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.
- If the sponsor requests an increase, any eligible increase in funding will be subject to the Federal share as provided in BIL (Public Law 117-58), or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The State may adjust the Federal share as applicable through an informal letter of amendment.
- E.18. Plans and Specifications Approval Based Upon Certification. The State and the Grantee agree that the FAA's approval of the Grantee's Plans and Specification is based primarily upon the State's and Grantee's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The Grantee understands that:
- a. The State's and Grantee's certification does not relieve the Grantee of the requirement to obtain prior FAA and State approval for modifications to any AIG or supplemental appropriation standards or to notify the FAA and State of any limitations to competition within the project;
  - b. The FAA's acceptance of the State's and Grantee's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements; and

- c. If the FAA and/or State determines that the Grantee has not complied with its certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under this grant.

E.19. Consultant Contract and Cost Analysis. The Grantee understands and agrees that no reimbursement will be made on the consultant contract portion of this Grant Contract until the State has received the consultant contract, the Sponsor's analysis of costs, and the independent fee estimate.

E.20. Design Grant. This Grant Contract is being issued in order to complete the design of a project funded under this Grant Contract. The Grantee understands and agrees, that within two (2) years after the design is completed, the Grantee will accept, subject to the availability of the amount of Federal funding identified in the ACIP, a grant to complete the construction of the project in order to provide a useful and useable unit of work. The Grantee also understands that if the FAA has provided Federal funding to complete the design for the project, and the Grantee has not completed the design within four (4) years from the execution of this Grant Contract, the State may suspend or terminate grants related to the design.

**IN WITNESS WHEREOF,**

**CITY OF MURFREESBORO:**

75-555-0176-24

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**GRANTEE SIGNATURE**

**DATE**

**SHANE MCFARLAND, CITY MAYOR**

**PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)**

**TENNESSEE DEPARTMENT OF TRANSPORTATION:**

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**HOWARD H. ELEY, DEPUTY GOVERNOR & COMMISSIONER OF  
TRANSPORTATION**

**DATE**

**APPROVED AS TO FORM AND LEGALITY:**

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**LESLIE SOUTH, GENERAL COUNSEL**

**DATE**

Signed by:



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

**ATTACHMENT ONE  
PAGE ONE**


OMB Number 4040-0004  
Expiration Date: 12/31/2022

Application for Federal Assistance SF-424		
* 1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	* 2. Type of Application: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision	* If Revision, select appropriate letter(s): <input type="text"/> * Other (Specify): <input type="text"/>
* 3. Date Received: <input type="text"/>	4. Applicant Identifier: <input type="text"/>	
5a. Federal Entity Identifier: <input type="text"/>	5b. Federal Award Identifier: <input type="text"/>	
State Use Only:		
6. Date Received by State: <input type="text"/>	7. State Application Identifier: <input type="text"/>	
<b>8. APPLICANT INFORMATION:</b>		
* a. Legal Name: <input type="text" value="City of Murfreesboro"/>		
* b. Employer/Taxpayer Identification Number (EIN/TIN): <input type="text" value="62-6000374"/>	* c. UEI: <input type="text"/>	
<b>d. Address:</b>		
* Street1: <input type="text" value="111 West Vine Street"/>	Street2: <input type="text"/>	
* City: <input type="text" value="Murfreesboro"/>	County/Parish: <input type="text" value="Rutherford"/>	
* State: <input type="text" value="TN: Tennessee"/>	Province: <input type="text"/>	
* Country: <input type="text" value="USA: UNITED STATES"/>	* Zip / Postal Code: <input type="text" value="37130-0001"/>	
<b>e. Organizational Unit:</b>		
Department Name: <input type="text"/>	Division Name: <input type="text"/>	
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>		
Prefix: <input type="text" value="Mr."/>	* First Name: <input type="text" value="Clad"/>	
Middle Name: <input type="text"/>	* Last Name: <input type="text" value="Ghetke"/>	
Suffix: <input type="text"/>	Title: <input type="text" value="Airport Director"/>	
Organizational Affiliation: <input type="text" value="City of Murfreesboro"/>		
* Telephone Number: <input type="text" value="615-848-3254"/>	Fax Number: <input type="text" value="615-848-3256"/>	
* Email: <input type="text" value="cghetke@murfreesborotn.gov"/>		

**ATTACHMENT ONE  
PAGE TWO**

<b>Application for Federal Assistance SF-424</b>	
<b>* 9. Type of Applicant 1: Select Applicant Type:</b> D: Special District Government	
Type of Applicant 2: Select Applicant Type:	
Type of Applicant 3: Select Applicant Type:	
* Other (specify):	
<b>* 10. Name of Federal Agency:</b> FAA - Federal Aviation Administration	
<b>11. Catalog of Federal Domestic Assistance Number:</b>	
CFDA Title:	
<b>* 12. Funding Opportunity Number:</b>	
* Title: Airport Improvement Program	
<b>13. Competition Identification Number:</b>	
Title:	
<b>14. Areas Affected by Project (Cities, Counties, States, etc.):</b>	
	<input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>
<b>* 15. Descriptive Title of Applicant's Project:</b> 34:1 Approach Surface Obstruction Clearing (Final Design & Bidding Phase)	
Attach supporting documents as specified in agency instructions.	
<input type="button" value="Add Attachments"/>	<input type="button" value="Delete Attachments"/> <input type="button" value="View Attachments"/>

**ATTACHMENT ONE  
 PAGE THREE**

Application for Federal Assistance SF-424	
<b>16. Congressional Districts Of:</b>	
* a Applicant <input type="text" value="4th"/>	* b Program/Project <input type="text" value="4th"/>
Attach an additional list of Program/Project Congressional Districts if needed	
<input type="text"/> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>	
<b>17. Proposed Project:</b>	
* a Start Date <input type="text" value="05/01/2024"/>	* b End Date <input type="text" value="12/30/2025"/>
<b>18. Estimated Funding (\$):</b>	
* a Federal <input type="text" value="237,960.00"/>	<div style="border: 1px solid black; padding: 5px;"> <p><b>TDOT USE ONLY</b></p> <p>Staff Recommended: APPROVED</p> <p>Fiscal Year: 2024</p> <p>Federal: \$237,960.00 <sup>6227,430</sup> PSR Signature: <i>[Signature]</i> Date: 04/12/2024</p> <p>State: \$13,220.00 <sup>12,635</sup> AC Signature: <i>[Signature]</i> Date: 04/25/2024</p> <p>Local: \$13,220.00 <sup>12,635</sup></p> </div>
* b Applicant <input type="text" value="0.00"/>	
* c State <input type="text" value="13,220.00"/>	
* d Local <input type="text" value="13,220.00"/>	
* e Other <input type="text" value="0.00"/>	
* f Program Income <input type="text" value="0.00"/>	
* g TOTAL <input type="text" value="264,400.00"/>	
<b>* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?</b> <input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on <input type="text"/> <input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review. <input checked="" type="checkbox"/> c. Program is not covered by E.O. 12372.	
<b>* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes", provide explanation and attach <input type="text"/> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>	
<b>21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)</b> <input checked="" type="checkbox"/> ** I AGREE ** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.	
<b>Authorized Representative:</b>	
Prefix: <input type="text" value="Mr."/>	* First Name: <input type="text" value="Chad"/>
Middle Name: <input type="text"/>	
* Last Name: <input type="text" value="Gehrke"/>	
Suffix: <input type="text"/>	
* Title: <input type="text" value="Airport Director"/>	
* Telephone Number: <input type="text" value="615-838-3254"/>	Fax Number: <input type="text"/>
* Email: <input type="text" value="cgehrke@murfreesborotn.gov"/>	
* Signature of Authorized Representative: 	* Date Signed: <input type="text" value="3-15-2024"/>

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Approach Mitigation Design Work Authorization

**Department:** Airport

**Presented by:** Chad Gehrke, Airport Manager

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Consider Work Authorization for approach mitigation design work.

**Staff Recommendation**

Approve the approach mitigation design Work Authorization with Barge Design Solutions.

**Background Information**

A substantial number of trees have been identified penetrating the approach for Runway 36 at the Murfreesboro Municipal Airport. The Federal Aviation Administration (FAA) and Tennessee Aeronautics Division are assisting with a project to develop an extensive plan to effectively mitigate the penetrations of the approach surface for Runway 36. Barge Design Solutions has provided a Work Authorization with a scope of work with their primary focus on developing the best method to mitigate the approach eventually eliminating the displaced Runway 36 threshold. LTL-Schock Group, a subcontractor, will oversee the Environmental Assessment public information and input meetings as well as conducting all correspondence with our neighbors. This mitigation plan will most likely resemble similar programs that Middle Tennessee Electric Membership Corporation and other utilities employ to protect electrical service to our homes, businesses, schools, etc. including tree removal and replacement with various selections of lower growth trees.

**Council Priorities Served**

*Expand infrastructure*

Development and maintenance of our airport’s runway and approaches assures the City’s aviation infrastructure is in good condition and provides for safe and efficient airport operations for the flying and non-flying public.

**Fiscal Impacts**

The Work Authorization is for \$264,400 with 90% Federal (BIL) funding up to \$237,960, 5% State funding equaling \$13,220, and 5% local funding equaling \$13,220 paid for through the FY24 CIP and or Airport Fund.

**Attachments:**

Barge Design Solutions Work Authorization





**WORK AUTHORIZATION NO. 2024-01**  
**MURFREESBORO MUNICIPAL AIRPORT**  
**RUNWAY 36 OBSTRUCTION REMOVAL – PHASE I**

It is agreed to undertake the following work in accordance with the provisions of the Owner-Engineer Agreement between the City of Murfreesboro, Tennessee (“OWNER”) and Barge Design Solutions, Inc. (“ENGINEER”) dated January 1, 2021.

**Scope of Services**

The Engineer shall provide Project Development, Master Clearing Plan and Parcel Exhibits, Environmental Assessment, and Public Engagement Phase Services for clearing of Runway 36 approach obstructions. See attached Exhibit “A” for a more detailed description of services to be provided.

**Time of Performance**

Refer to Exhibit A, Section II for the Preliminary Project Schedule.

**Compensation**

A total compensation budget of **\$264,320** is proposed for this project. See the attached Exhibit “C” for a full budget itemization.

Agree as to Scope of Services, Time of Performance and Compensation:

**CITY OF MURFREESBORO**

**BARGE DESIGN SOLUTIONS**

\_\_\_\_\_  
Name

Michael J. Cole  
Name

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

Date: 8/26/2024

APPROVED BY: AS TO FORM  
Adam F. Tucker  
Adam F. Tucker, City Attorney

## EXHIBIT "A"

### SCOPE OF SERVICES

#### WORK AUTHORIZATION NO. 2024-01

#### MURFREESBORO MUNICIPAL AIRPORT

#### RUNWAY 36 OBSTRUCTION REMOVAL – PHASE I

##### PROJECT DESCRIPTION:

The OWNER intends to make the following improvements:

- A. Runway 36 Obstruction Removal – Phase I , (hereinafter called the PROJECT) and engage the ENGINEER to perform services as specified herein.

This Scope of Work is the first Phase of a project to remove obstructions from the approaches to Runway 36 at the Murfreesboro Municipal Airport (MBT). The project involves obtaining the right to remove trees, either through fee simple purchase or avigation easement, on approximately 70 parcels of land located in a dense urban area just south of the airport.

Phase I will seek to identify parcels which contain trees that violate the approach surface and develop a plan for removal. The following principal tasks will be accomplished in Phase I:

- 1) Conduct an Environmental Assessment in accordance with NEPA requirement to determine likely impacts related to removal of the trees.
- 2) Prepare exhibits for each affected parcel showing and classifying obstruction and recommended action (i.e. removal, trimming, etc.). Exhibits will also show proposed easements on each parcel or indicate acquisition of entire parcel as applicable.
- 3) Initiate contact with property owners either one on one or through public meetings.

Existing aerial obstruction data will be used to complete this scope of work. This existing data was obtained through aerial surveys performed in NV5 for the Runway 36 Threshold Relocation Project (Aerial photography date 10/21/2023).

Where applicable, the trees that have been removed will be replaced with lower growing species. This project also includes design of a sample planting area which will

allow landowners to see what proposed replanting will look like. This is being referred to as the “showcase area”.

Middle Tennessee Electric (MTE) has its own plan for removing and replacing vegetation which may interfere with its electrical system. As part of the scope of Phase I, Barge will review the MTE plan for any overlap which may exist with the airport plan.

Two parcels containing condominiums and apartments have already been acquired by the City of Murfreesboro for the purpose of tree removal. Barge will prepare a plan to clear trees considered obstructions as well as a planting plan to replace the trees with lower growing species.

## **SECTION I – DESIGN CRITERIA AND REQUIREMENTS**

The most current versions at the time of this agreement of the following design criteria and standards, as well as other applicable standards will be used for design and execution of the PROJECT:

- FAA AC 150/5300-13B                      Airport Design
- FAA AC 150/5370-10H                    Standards for Specifying Construction on Airport
- FAA AC 150/5370-2G                    Operation Safety on Airports During Construction

## **SECTION II – GENERAL ASSUMPTIONS AND CLARIFICATIONS**

The following is a list of general assumptions and clarifications forming the basis of the fee proposal included herein as Exhibits A and B for providing the services detailed in this Scope of Services. It must be noted that any change to these general assumptions constitutes a change in the project scope and may result in a revision to the attached cost proposal, schedule and the Scope of Services.

1. This scope and fee is limited to the Project Development, Master Clearing Plan and Parcel Exhibits, Environmental Assessment, and Public Engagement Phase services for this project.
2. The Design Schedule has been included below. Any and all additions, changes or deletions to this Scope of Services may require additional negotiations to the ENGINEER’s Scope, Fee and Schedule.
3. Designs will be based on visual observations from site trips. Unforeseen conditions that require repair or remediation may be revealed during construction. Additional

Engineering services to address unforeseen conditions is excluded from the Scope of Services and will be negotiated as required.

### **Tentative Project Schedule**

The following Tentative milestone schedule has been established for this project:

- |  |               |
|--|---------------|
| • Scoping Meeting                      | February 2024 |
| • Begin Environmental Assessment       | June 2024     |
| • Design Showcase Planting Area        | October 2024  |
| • 30% Drawings and Easement Exhibits   | February 2025 |
| • 90% Drawings and Easement Exhibits   | October 2025  |
| • Final Drawings and Easement Exhibits | December 2025 |
| • Final EA/ Final FONSI/NOI            | December 2025 |

### **SECTION III - SERVICES OF THE ENGINEER**

To develop the Scope of Services and associated fees, the work has been divided into various phases. This section presents the specific phases to be undertaken in this Scope of Services. The work phases will be performed by the ENGINEER's staff, consisting primarily of Project Management Staff, Technical Design and Production Staff, and Field Staff. The individual work tasks will be assigned to appropriate personnel as deemed necessary by the ENGINEER to provide the services identified in each task. Where pertinent, staff assignments are included in the description of the work tasks.

The ENGINEER will perform for the above-named PROJECT professional services as hereinafter set forth:

#### **BASIC SERVICES**

##### **PROJECT DEVELOPMENT SERVICES**

The ENGINEER will conduct and attend a scoping meeting with the OWNER and TDOT and prepare scoping meeting minutes. The ENGINEER will prepare a proposal for the services identified in the scope of the project and will assist the OWNER in preparing applicable forms and documents to apply for funding from the Tennessee Aeronautics Commission.

## **CLEARING PLAN DEVELOPMENT AND EXHIBITS**

Under this phase, the ENGINEER will collect and review existing site data, including currently available aerial obstruction mapping and observable site conditions of the Runway 36 approach. The ENGINEER will also prepare and obtain OWNER's approval of detailed drawings which show the properties on which obstructions exist and determine the required actions to be taken to mitigate said obstructions. Approximately 70 parcels of land are anticipated to be affected by this project.

The ENGINEER will prepare a Master Obstruction Clearing map as well as individual parcel exhibits (approximately 70 are anticipated) which identify obstructions on each parcel and the recommended action, i.e. avigation easement, acquisition, etc. so that obstructions may be mitigated or removed. The ENGINEER will also recommend actions to be taken to replace vegetation with appropriate species that will not interfere with the approach surfaces.

The ENGINEER will furnish the OWNER engineering data for, and assist in the preparation of, the required documents so that the OWNER may secure approval of such governmental authorities as have jurisdiction over design criteria applicable to the project.

The ENGINEER will prepare an Engineer's Opinion of Probable Construction Cost, to be submitted with the Clearing Plan and Parcel Exhibits. The Owner understands that Barge has no control over the cost or availability of labor, equipment, materials, over-market conditions, or the contractor's method of pricing, and that Barge's EOPCC is made on the basis of Barge's professional judgment and experience. Barge makes no warranty, express or implied, that the bids or the negotiated cost of the work will not vary from Barge's EOPCC

The ENGINEER will provide electronic copies of the Project Documents to the OWNER, TDOT, and FAA as applicable. Please refer to the individual Phases outlined in the Scope of Services for additional information pertaining to specific deliverables.

## **ENVIRONMENTAL ASSESSMENT**

The ENGINEER will provide services related to environmental due diligence for proposed tree clearing by the Murfreesboro Municipal Airport. The area being considered for this project is approximately 50 acres located in Murfreesboro, Rutherford County, Tennessee.

The ENGINEER will perform a desktop analysis based on available information for potential environmental constraints that may affect the proposed development. As part of the analysis, several data sources will be reviewed, including: National Wetlands Inventory (NWI), National Hydrography Dataset (NHD) maps, U.S. Geological Survey (USGS) topographic maps, USDA Natural Resources Conservation Service Maps (NRCS) soil maps, Federal Emergency Management Agency (FEMA) maps, U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) database, and aerial imagery. The results of this analysis will

be provided in the Summary of Natural Resources Memorandum (including delineation findings), with narrative descriptions of the findings and associated figures.

Based on the findings of the desktop analysis, the ENGINEER will prepare a matrix of the state and federal permit requirements for this project.

The ENGINEER will perform a threatened and endangered species survey. Data available from the U.S. Fish and Wildlife Service (USFWS), Tennessee Wildlife Resources Agency (TWRA), and Tennessee Department of Environment and Conservation (TDEC) will be reviewed to determine if there are any species of concern that may exist within the approximate 50-acre project area. Following desktop review, Barge ecologists will traverse the site for potential protected species of concern and/or their habitat. Because some forested areas occur on the property, it is expected that there could be concerns for the Indiana bat, northern long-eared bat (NLEB), and tricolored bat; therefore, Barge ecologists will need to evaluate the site for the presence of suitable summer roosting habitat for all three bat species. Land features indicative of suitable habitat will first be identified during a preliminary desktop analysis using GIS land coverage and property data. Features such as forested areas, open fields, water resources, and flight corridors will be noted and examined further during the field investigation. Features such as dead trees/snags, trees with loose or shaggy bark, and man-made structures (such as bridges, culverts, and old buildings/houses for the NLEB) will be identified and surveyed using a GPS unit. The results of the analysis will be incorporated into the Natural Resources Technical Report and existing conditions map.

Barge ecologists will delineate the boundaries of any wetlands located inside the approximate 50-acre project area using the U.S. Army Corps of Engineers (USACE) Routine On-site Determination method as described in the 1987 Corps of Engineers Wetlands Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0). This will include documenting presence or absence of hydrophytic vegetation, hydrology and hydric soil indicators at designated sample points, which will then be used to determine wetland boundaries. In addition to wetlands, any other potential jurisdictional features such as ephemeral, intermittent, and/or perennial streams will be identified, and the extent of these channels will be determined.

Streams will be evaluated regarding their designated or potential regulatory status per Tennessee's Anti-degradation Statement pertaining to impaired [303(d)] or high-quality waters (Exceptional Tennessee Waters). Barge will complete Hydrologic Determination forms for any marginal jurisdictional channels (i.e., intermittent and wet weather conveyance/ephemeral). The boundaries of jurisdictional features will be marked in the field with flagging, and GPS data will be generated for each sampled point. Delineated jurisdictional features, such as wetlands and streams, will be flagged by a certified wetland delineator and a Tennessee Qualified Hydrologic Professional (TN-QHP). Hydrologic Determinations for all headwater channel(s) will be conducted by a TN-QHP to determine their status as being that of a "wet weather conveyance" or a "jurisdictional stream" by TDEC.

Data collected during the desktop review and field surveys will be used to produce the Natural Resources Technical Memorandum (Technical Memo) summarizing the findings of the environmental review, including ecology, vegetation, and aquatic ecology. An "Existing Conditions" map will also be prepared showing approximate waters and protected species habitat found on-site. A KMZ file depicting the identified environmental features will also be provided.

Preparation of the EA will be done pursuant to NEPA legislation. Based on the available information, it is assumed that an EA, resulting in a Finding of No Significant Impact (FONSI) or Notice of Intent (NOI), will be needed for the project. The EA will address the proposed actions and alternative impacts on the affected environmental resources. Specifically, it will:

- Identify the purpose and need for the proposed action,
- Define the proposed action,
- Detail the reasonable alternatives considered, including the no action alternative,
- Describe the affected environment of the property and surrounding areas,
- Provide a discussion of the environmental consequences of the proposed action and reasonable alternatives,
- Identify mitigation measures, if necessary,
- Provide for consultation with state and federal agencies, other organizations, and interested parties, and
- Provide the opportunity for public comment.

The ENGINEER will oversee the environmental review and EA preparation. The ENGINEER will evaluate and identify impacts related to and from evaluated resources and medias. It is anticipated the following areas will need to be evaluated and discussed within the EA.

- Land Use
- Geology, Soils, and Prime Farmland
- Water Resources
- Biological Resources
- Visual Resources
- Noise
- Air Quality /Greenhouse Gas Emissions
- Cultural Resources
- Waste Management
- Public and Occupational Health and Safety

- Transportation
- Socioeconomics
- Environmental Justice
- Cumulative Impacts

Due to work being limited to tree clearing/ tree trimming, the ENGINEER anticipates that some of the resources listed above will require minimal evaluation as the proposed tree trimming/tree clearing is not expected to have an impact on these resources. The ENGINEER will meet with TDOT and City staff to determine which of the resources mentioned above should be addressed in the EA.

The ENGINEER will complete the work except for a cultural resources survey and bat mist-net survey. A cultural resources survey should not be needed for this EA. If a survey is required, the ENGINEER will subcontract a qualified and experienced company to prepare this study and will provide an amendment to the contract to cover the additional cost. The work will be consistent with Section 106 of the National Historic Preservation Act (NHPA) and will meet the requirements of the Secretary of the Interior (36 CFR §61; 48 CFR §44720-23) and the Tennessee Historical Commission. Based on the findings of the field investigations, a bat mist-net survey should not be needed. If a survey is required, the ENGINEER will subcontract a qualified and experienced company to conduct the mist-net survey and prepare the technical report consistent with the most current edition of the USFWS's Range-wide Indiana Bat & Northern Long-eared Bat Survey Guidelines. The ENGINEER will provide an amendment to the contract to cover the additional cost of this survey.

### **EA Scope Understandings, Assumptions, and Exclusions**

The ENGINEER will provide the above-noted services based upon a given set of assumptions. These assumptions are as follows.

- The ENGINEER will have access to the site and adjoining areas, as required.
- Scope and fee are only applicable if all property is accessible and can be observed during a single trip to the project area.
- There are no historical structures or archaeological resources involved with the project.
- The investigation area will be approximately 50 acres as identified above.
- A geotechnical investigation is excluded at this time.
- There will not be more than 50 public comments to address.
- For the Draft EA, the ENGINEER will respond to up to two rounds of comments each from the Client and TDOT.



The following excluded services can be provided as an additional service with an appropriate adjustment in fees.

- Land Acquisition Services
- CLOMR/LOMR, if required for FEMA floodplain permitting
- A cultural resources survey/ bat mist survey
- Surveying services
- Hydrologic modeling services
- Air quality modeling and detailed impact studies, deemed necessary by regulatory agencies
- Specialized biological surveys including a presence/probable absence survey for all threatened and endangered species
- Bat radio tracking
- Final negotiation of mitigation strategy or ratios
- Development of final mitigation plans
- Hydrologic Determination/Jurisdictional Determination packages
- 401/404 permitting from USACE and/or TDEC
- Compensatory Mitigation
- Stream Quantification Tool (SQT) assessment
- Asbestos assessment
- Floodway modeling/studies
- Architectural and engineering design services
- Construction staking
- Foundation survey
- Planning and participating in any public meetings
- Assisting the Client in dealing with issues and concerns raised by businesses and public
- Services resulting from significant changes in general scope or character of the project or its design, particularly those resulting from differing field conditions discovered during construction (such as, but not limited to, soil conditions, environmental issues, etc.)

### **EA Time of Performance**

The ENGINEER will prepare a schedule upon receipt of a signed professional services agreement or written authorization to proceed. The EA will be prepared in tandem with the other tasks being performed in this contract, but is anticipated to be completed by December 2025 as outlined in the tentative schedule.

The ENGINEER and the client are aware that many factors outside the ENGINEERS control may affect the ENGINEER'S ability to complete the services to be provided under this Agreement.

The ENGINEER will perform these services with reasonable diligence and expediency, consistent with sound professional practices.

### **Client's Responsibilities**

The ENGINEER strives to work closely with its clients. For the project team to function efficiently, certain information needs to be provided by the client and other interested stakeholders in a timely manner. These items and responsibilities are noted below.

- Provide information as required to support development of ENGINEER's scope, as required in the project agreement for services.
- Provide review comments in a timely manner.
- Provide single point of contact for project coordination purposes.

### **PUBLIC ENGAGEMENT AND PROJECT DEVELOPMENT SERVICES (THE LTL-SCHOCK GROUP)**

The ENGINEER will subcontract The LTL-Schock Group to perform Phase 1 Project Development and Public Engagement. Services will include planning meetings, property owner research, development of policies and procedures manual for avigation easement acquisition, public involvement outreach and meetings as applicable. The full scope of services is more completely detailed in the attached proposal dated February 27, 2024.

### **PROPERTY MAP REVISIONS**

The ENGINEER will update the existing airport property map (provided by others) to include recently acquired parcels. This will be considered a "pen and ink" change and not a full update of the property map. A boundary survey is not included. Property boundaries are approximate only. Any properties the city of Murfreesboro has acquired since the last drawing will be added to the new airport boundary.

### **GRANT CLOSEOUT SERVICES**

The ENGINEER will compile financial documents as well as other project related documents to submit to TDOT for grant closeout.

**GENERAL PROJECT SERVICES**

The following general project services fall under more than one of the Phases outlined above. As such, compensation for these tasks is distributed throughout the respective Phases under which they fall.

- **Project Management and Administration**

The ENGINEER will provide a main Point of Contact to manage the PROJECT. The ENGINEER will be responsible for coordinating OWNER and Agency issues for the PROJECT, such as interfacing with OWNER staff, FAA and TDOT, and other federal, state and local agencies. The ENGINEER will work closely with identified project stakeholders to ensure that the OWNER's goals and objectives are met within the agreed upon schedule.

- **Quality Program**

Engage Subject Matter Specialists and provide milestone reviews and incorporation of comments in accordance with the ENGINEER's Quality Program. In addition, review comments provided by the OWNER, FAA, TDOT and other agencies reviews of deliverables will be incorporated as appropriate.

**EXHIBIT "B"**

**COMPENSATION**

**WORK AUTHORIZATION NO. 2024-01**

**MURFREESBORO MUNICIPAL AIRPORT**

**RUNWAY 36 OBSTRUCTION REMOVAL – PHASE I**

**BASIC SERVICES**

1. The ENGINEER shall be compensated for Project Development Services identified in the Scope of Services by the Owner. Said total compensation shall be a lump sum fee of:

\$ 8,567.00

2. The ENGINEER shall be compensated for Clearing Plan Development and Exhibits identified in the Scope of Services by the Owner. Said total compensation shall be a lump sum fee of:

\$ 101,511.00

**SPECIAL SERVICES**

3. The ENGINEER shall be compensated for Environmental Assessment identified in the Scope of Services by the Owner. Said total compensation shall be a not to exceed fee of:

\$ 56,700.00

4. The ENGINEER shall be compensated for Phase I Project Development, Pilot 1 and Public Engagement identified in the Scope of Services by the Owner. Said total compensation shall be a not to exceed fee of:

\$ 97,542.00

**EXHIBIT "C"**  
**SUMMARY OF PROFESSIONAL FEES**  
**WORK AUTHORIZATION NO. 2024-01**  
**MURFREESBORO MUNICIPAL AIRPORT**  
**RUNWAY 36 OBSTRUCTION REMOVAL – PHASE I**

Please refer to the attached Fee Proposal

# A & E FEE PROPOSAL

**Murfreesboro Municipal Airport  
Murfreesboro, Tennessee**



**Barge Design Solutions**

February 23, 2024

Project Number:

3741909

TAD Number                      TBD  
 MBT RUNWAY 36 OBSTRUCTION REMOVAL PHASE I

SECTION A : BASIC FEE FOR AIRPORT DEVELOPMENT	NUMBER OF SHEETS	NUMBER OF HOURS	HOURLY RATE UNIT COST	EXTENDED COST	TOTAL COST
<b>1. PROJECT DEVELOPMENT</b>					
A. PRINCIPAL (P)		1	\$90.84	\$90.84	
B. PROJECT MANAGER (PM)		20	\$77.64	\$1,552.80	
C. CIVIL ENGINEER (CE)		0	\$58.67	\$0.00	
D. ENGINEERING INTERN (EI)		0	\$31.58	\$0.00	
E. ELECTRICAL ENGINEER (EE)		0	\$76.49	\$0.00	
F. ARCHITECT(A)		0	\$73.79	\$0.00	
G. SENIOR AVIATION PLANNER (SAP)		12	\$62.65	\$751.80	
H. ENVIRONMENTAL PLANNER (EP)		0	\$56.39	\$0.00	
I. DESIGNER/DRAFTING (D)		0	\$43.59	\$0.00	
J. SECRETARIAL/TYPIST (S)		0	\$34.03	\$0.00	
K. RESIDENT PROJECT REP. (RPR)		0	\$38.76	\$0.00	
<b>PROJECT DEVELOPMENT PHASE DIRECT LABOR:</b>				<b>\$2,395.44</b>	
<b>COMBINED OVERHEAD:</b>		205.58%		<b>\$4,924.55</b>	
J. DOCUMENTS	SETS	0	\$0.10	\$0.00	
K. SHIPPING	SETS	0	\$15.50	\$0.00	
L. TRIPS	MILES	96	\$0.670	\$128.64	
M. FLIGHTS		0	\$750.00	\$0.00	
N. TRAVEL SUBSTINENCE		0	\$12.75	\$0.00	
<b>PROJECT DEVELOPMENT PHASE EXPENSES:</b>				<b>\$128.64</b>	
<b>SUBTOTAL:</b>					<b>\$7,448.63</b>
<b>OPERATING MARGIN:</b>		15%			<b>\$1,098.00</b>
<b>FCCM (APPLIED TO DIRECT LABOR ONLY):</b>		0.87%			<b>\$20.84</b>
<b>TOTAL PROJECT DEVELOPMENT PHASE:</b>					<b>\$8,567.00</b>
<b>2. DESIGN PHASE</b>					
A. PRINCIPAL (P)		0	\$90.84	\$0.00	
B. PROJECT MANAGER (PM)		68	\$77.64	\$5,279.52	
C. CIVIL ENGINEER (CE)		76	\$58.67	\$4,458.92	
D. ENGINEERING INTERN (EI)		0	\$31.58	\$0.00	
E. ELECTRICAL ENGINEER (EE)		0	\$76.49	\$0.00	
F. ARCHITECT(A)		0	\$73.79	\$0.00	
G. SENIOR AVIATION PLANNER (SAP)		140	\$62.65	\$8,771.00	
H. ENVIRONMENTAL PLANNER (EP)		0	\$56.39	\$0.00	
I. DESIGNER/DRAFTING (D)		236	\$43.59	\$10,287.24	
J. SECRETARIAL/TYPIST (S)		0	\$34.03	\$0.00	
K. RESIDENT PROJECT REP. (RPR)		0	\$38.76	\$0.00	
<b>DESIGN PHASE DIRECT LABOR:</b>				<b>\$28,796.68</b>	
<b>COMBINED OVERHEAD:</b>		205.58%		<b>\$59,200.21</b>	
L. TOTAL PLAN SHEETS (50%)	SETS	0	\$2.50	\$0.00	
M. SHIPPING (50%)	SETS	0	\$40.00	\$0.00	
N. TOTAL SPEC SHEETS (90%)	SETS	0	\$0.10	\$0.00	
O. TOTAL PLAN SHEETS (90%)	SETS	0	\$2.50	\$0.00	
P. SHIPPING (90%)	SETS	0	\$40.00	\$0.00	
Q. TOTAL SPEC SHEETS (FINAL)	SETS	0	\$0.10	\$0.00	
R. TOTAL PLAN SHEETS (FINAL)	SETS	0	\$2.50	\$0.00	
S. SHIPPING (FINAL)	SETS	0	\$40.00	\$0.00	
T. TRIPS	MILES	96	\$0.670	\$64.320	
U. FLIGHTS		0	\$750.00	\$0.00	
V. TRAVEL SUBSTINENCE		0	\$12.75	\$0.00	
<b>DESIGN PHASE EXPENSES:</b>				<b>\$64.32</b>	
<b>SUBTOTAL:</b>					<b>\$88,061.21</b>
<b>OPERATING MARGIN:</b>		15%			<b>\$13,199.53</b>
<b>FCCM (APPLIED TO DIRECT LABOR ONLY):</b>		0.87%			<b>\$250.53</b>
<b>TOTAL DESIGN PHASE:</b>					<b>\$101,511.00</b>

SECTION A : BASIC FEE FOR AIRPORT DEVELOPMENT (Continued)				NUMBER OF SHEETS	NUMBER OF HOURS	HOURLY RATE UNIT COST	TOTAL COST
<b>3. BID PHASE</b>							
A. PRINCIPAL (P)					0	\$90.84	\$0.00
B. PROJECT MANAGER (PM)					0	\$77.64	\$0.00
C. CIVIL ENGINEER (CE)					0	\$58.67	\$0.00
D. ENGINEERING INTERN (EI)					0	\$31.58	\$0.00
E. ELECTRICAL ENGINEER (EE)					0	\$76.49	\$0.00
F. ARCHITECT(A)					0	\$73.79	\$0.00
G. SENIOR AVIATION PLANNER (SAP)					0	\$62.65	\$0.00
H. ENVIRONMENTAL PLANNER (EP)					0	\$56.39	\$0.00
I. DESIGNER/DRAFTING (D)					0	\$43.59	\$0.00
J. SECRETARIAL/TYPIST (S)					0	\$34.03	\$0.00
K. RESIDENT PROJECT REP. (RPR)					0	\$38.76	\$0.00
<b>BID PHASE DIRECT LABOR:</b>							<b>\$0.00</b>
<b>COMBINED OVERHEAD:</b>				205.58%			<b>\$0.00</b>
L. DOCUMENTS	SETS		200			\$0.10	\$0.00
M. SHIPPING						\$40.00	\$0.00
N. TRIPS	MILES	96	0			\$0.670	\$0.000
O. FLIGHTS			0			\$750.00	\$0.00
P. TRAVEL SUBSTINENCE			0			\$12.75	\$0.00
<b>BID PHASE EXPENSES:</b>							<b>\$0.00</b>
<b>SUBTOTAL:</b>							<b>\$0.00</b>
<b>OPERATING MARGIN:</b>				15%			<b>\$0.00</b>
<b>FCCM (APPLIED TO DIRECT LABOR ONLY):</b>				0.87%			<b>\$0.00</b>
<b>TOTAL BID PHASE:</b>							<b>\$0.00</b>
<b>4. CONSTRUCTION PHASE</b>							
A. PRINCIPAL (P)					0	\$90.84	\$0.00
B. PROJECT MANAGER (PM)					0	\$77.64	\$0.00
C. CIVIL ENGINEER (CE)					0	\$58.67	\$0.00
D. ENGINEERING INTERN (EI)					0	\$31.58	\$0.00
E. ELECTRICAL ENGINEER (EE)					0	\$76.49	\$0.00
F. ARCHITECT(A)					0	\$73.79	\$0.00
G. SENIOR AVIATION PLANNER (SAP)					0	\$62.65	\$0.00
H. ENVIRONMENTAL PLANNER (EP)					0	\$56.39	\$0.00
I. DESIGNER/DRAFTING (D)					0	\$43.59	\$0.00
J. SECRETARIAL/TYPIST (S)					0	\$34.03	\$0.00
K. RESIDENT PROJECT REP. (RPR)					0	\$38.76	\$0.00
<b>CONSTRUCTION PHASE DIRECT LABOR:</b>							<b>\$0.00</b>
<b>COMBINED OVERHEAD:</b>				205.58%			<b>\$0.00</b>
J. DOCUMENTS	SETS		0			\$0.10	\$0.00
K. SHIPPING						\$40.00	\$0.00
L. TRIPS	MILES	96	0			\$0.670	\$0.000
M. FLIGHTS			0			\$750.00	\$0.00
N. TRAVEL SUBSTINENCE			0			\$12.75	\$0.00
<b>CONSTRUCTION PHASE EXPENSES:</b>							<b>\$0.00</b>
<b>SUBTOTAL:</b>							<b>\$0.00</b>
<b>OPERATING MARGIN:</b>				15%			<b>\$0.00</b>
<b>FCCM (APPLIED TO DIRECT LABOR ONLY):</b>				0.87%			<b>\$0.00</b>
<b>TOTAL CONSTRUCTION PHASE:</b>							<b>\$0.00</b>
<b>TOTAL BASIC FEE FOR AIRPORT DEVELOPMENT</b>							
PROJECT DEVELOPMENT PHASE			\$8,567.00	8%			
CLEARING PLAN DEVELOPMENT AND EXHIBITS			\$101,511.00	92%			
BID PHASE (N/A)			\$0.00	0%			
CONSTRUCTION PHASE (N/A)			\$0.00	0%			
<b>TOTAL SECTION A:</b>							<b>\$110,078.00</b>
<b>SECTION B: FEES FOR AIRPORT PLANS AND OTHER ITEMS IF INCLUDED AS BASIC SERVICES</b>							
							\$0.00
							\$0.00
							\$0.00
							\$0.00
<b>TOTAL SECTION B:</b>							<b>\$0.00</b>
<b>TOTAL BASIC ENGINEERING FEE (Sections A and B):</b>							<b>\$110,078.00</b>

<b>ESTIMATED ADDITIONAL SERVICES - IF AUTHORIZED BY OWNER (ESTIMATED BUDGETS)</b>									
<b>SECTION C: AIRPORT PLANS, AND STUDIES INCLUDED AS ADDITIONAL SERVICES</b>									
1. ENVIRONMENTAL ASSESSMENT								\$56,700.00	
2. PUBLIC ENGAGEMENT AND PROJECT DEVELOPMENT (THE LTL-SCHOCK GROUP)								\$97,541.74	
3. AIRPORT LAYOUT PLAN UPDATE								\$0.00	
								\$0.00	
<b>TOTAL SECTION C:</b>								<b>\$154,242.00</b>	
<b>SECTION D: EXHIBIT A BOUNDARY SURVEY AND DRAWING PREPARATION</b>									
0		DAYS OF DESIGN SURVEY							
0		DAYS OF CONSTRUCTION SURVEY							
0		TOTAL DAYS OF SURVEY							
1. 2-MAN SURVEY CREW (1 PARTY CHIEF, 1 INSTRUMENT MAN)									
REGULAR		0	HRS @		\$0.00 / HR =		\$0.00		
OVERTIME		0	HRS @		\$0.00 / HR =		\$0.00		
2. SURVEY MANAGER									
		0	HRS @		\$0.00 / HR =		\$0.00		
4. SURVEY PROCESSOR									
		0	HRS @		\$0.00 / HR =		\$0.00		
<b>DIRECT LABOR TOTAL SECTION D:</b>							<b>\$0.00</b>		
<b>COMBINED OVERHEAD:</b>							205.58%	<b>\$0.00</b>	
5. AUTO EXPENSES 0 DAYS @ 96 MILES/DAY @ \$0.670 =									
							\$0.00		
6. PER DIEM 0 DAYS @ \$12.75 / DAY / PERSON =									
							\$0.00		
<b>EXPENSES TOTAL SECTION D:</b>							<b>\$0.00</b>		
<b>SUBTOTAL:</b>							<b>\$0.00</b>		
<b>OPERATING MARGIN:</b>							10%	<b>\$0.00</b>	
<b>FCCM (APPLIED TO DIRECT LABOR ONLY):</b>							0.87%	<b>\$0.00</b>	
<b>TOTAL SECTION D:</b>							<b>\$0.00</b>		
<b>SECTION E: ENVIRONMENTAL</b>									
1. ADEM PERMITTING								\$0.00	
2. COE 404 PERMITTING								\$0.00	
3. ENVIRONMENTAL ASSESSMENT								\$0.00	
4. WETLAND DELINEATION SURVEY [ ] DAYS @ [ ] =								\$0.00	
<b>TOTAL SECTION E:</b>							<b>\$0.00</b>		
<b>SECTION F: RESIDENT PROJECT REPRESENTATIVE</b>									
0		CALENDAR DAY CONTRACT							
0		DAYS @		10	HRS @		\$38.76 / HR =	\$0.00	
1. RESIDENT PROJ. REPS									
<b>DIRECT LABOR TOTAL SECTION F:</b>							<b>\$0.00</b>		
<b>COMBINED OVERHEAD:</b>							205.58%	<b>\$0.00</b>	
2. AUTO EXPENSES 0 DAYS @ 96 MILES/DAY @ \$0.670									
							\$0.00		
3. PER DIEM 0 DAYS @ \$12.75 / DAY =									
							\$0.00		
<b>EXPENSES TOTAL SECTION F:</b>							<b>\$0.00</b>		
<b>SUBTOTAL:</b>							<b>\$0.00</b>		
<b>OPERATING MARGIN:</b>							10%	<b>\$0.00</b>	
<b>FCCM (APPLIED TO DIRECT LABOR ONLY):</b>							0.87%	<b>\$0.00</b>	
<b>TOTAL SECTION F:</b>							<b>\$0.00</b>		
<b>TOTAL ESTIMATED ADDITIONAL SERVICES (Sections C through F)</b>								<b>\$154,242.00</b>	
<b>GRAND TOTAL - FEE PROPOSAL (Includes Basic Fee + Estimated Add'l Services)</b>								<b>\$264,320.00</b>	

<b>ADDITIONAL PROJECT EXPENSES (IF REQUIRED)</b>									
1. DBE PLAN UPDATE FOR PROJECT (FOR FAA PROJECT FUNDING OF \$250,000 OR MORE)								\$0.00	
2. NEWSPAPER ADVERTISING								\$0.00	
3. PAVEMENT ANALYSIS AND TESTING								\$0.00	
4. GEOTECHNICAL EVALUATION								\$0.00	
5. CONSTRUCTION TESTING [ ] DAYS @ [ ] =								\$0.00	
<b>TOTAL ADDITIONAL PROJECT EXPENSES:</b>							<b>\$0.00</b>		







# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Hazen & Sawyer Master Services Agreement

**Department:** Water Resources

**Presented by:** Valerie Smith

**Requested Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Consider a Master Services Agreement (MSA) with Hazen and Sawyer (H&S) in order to assign tasks associated with preliminary engineering and permitting for the Water Resource Recovery Facility (WRRF) Expansion.

**Staff Recommendation**

Approve the MSA. The Water Resources Board recommended approval of these revisions on August 27, 2024.

**Background Information**

MWRD has been working on a water quality model for the West Fork Stones River (WFSR) since 2021 with H&S. The purpose of the water quality model was to provide the foundation for the WRRF NPDES permit expansion. In other terms, the model was foundational to demonstrate additional discharge from the WRRF would not degrade water quality criteria in the WFSR.

The completed model was submitted to TDEC on July 11, 2024. TDEC has asked for a couple of model revisions from H&S. Once those revisions are submitted to TDEC we hope to receive their approval of the model soon after.

In preparation of that approval, staff requested an MSA with H&S to assign tasks to complete the preliminary engineering and permitting requirements that, when approved by TDEC, would ultimately allow for the next WRRF expansion; expected to start in the 2027-2028 timeframe.

**Council Priorities Served**

*Expand infrastructure*

The expansion of the WRRF will allow development and redevelopment to continue into approximately 2048.

**Attachments**

Hazen and Sawyer MSA

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES

TASK ORDER EDITION

Prepared by



and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
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**AGREEMENT  
BETWEEN CITY OF MURFREESBORO WATER RESOURCES  
DEPARTMENT AND HAZEN AND SAWYER  
FOR  
PROFESSIONAL SERVICES  
TASK ORDER EDITION**

THIS IS AN AGREEMENT effective as of \_\_\_\_\_ (“Effective Date”) between  
\_\_\_\_\_  
City of Murfreesboro (“Owner”) and  
\_\_\_\_\_  
Hazen and Sawyer. (“Engineer”).

From time to time Owner may request that Engineer provide professional services for Specific Projects. Each engagement will be documented by a Task Order. This Agreement sets forth the general terms and conditions which shall apply to all Task Orders duly executed under this Agreement.

Owner and Engineer further agree as follows:

**ARTICLE 1 – SERVICES OF ENGINEER**

1.01 *Scope*

- A. Engineer’s services will be detailed in a duly executed Task Order for each Specific Project. Each Task Order will indicate the specific services to be performed and deliverables to be provided. Basic and Additional Services that may be included in a Task Order are set forth in Exhibit A, "Engineer's Services."
- B. This Agreement is not a commitment by Owner to Engineer to issue any Task Orders.
- C. Engineer shall not be obligated to perform any prospective Task Order unless and until Owner and Engineer agree as to the particulars of the Specific Project, including the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters.

1.02 *Task Order Procedure*

- A. Owner and Engineer shall agree on the scope, time for performance, and basis of compensation for each Task Order. Each duly executed Task Order shall be subject to the terms and conditions of this Agreement.

- B. Engineer will commence performance as set forth in the Task Order.

**ARTICLE 2 – OWNER’S RESPONSIBILITIES**

2.01 *General*

- A. Owner shall have the responsibilities set forth herein, in Exhibit B, "Owner's Responsibilities," and in each Task Order.
- B. Owner shall compensate Engineer as set forth in each Task Order, pursuant to the applicable terms of Exhibit C.
- C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

**ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES**

3.01 *Term*

- A. This Agreement shall be effective and applicable to Task Orders issued hereunder for 4 years from the Effective Date of the Agreement.
- B. The parties may extend or renew this Agreement, with or without changes, by written instrument establishing a new term.

3.02 *Times for Rendering Services*

- A. The times for performing services or providing deliverables will be stated in each Task Order. If no times are so stated, Engineer will perform services and provide deliverables within a reasonable time.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer’s services is impaired, or Engineer’s services are delayed or suspended, then the time for completion of Engineer’s services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Specific Project, then the time for completion of Engineer’s services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer’s performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.
- F. With respect to each Task Order, the number of Construction Contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established shall be identified in the Task Order. If the Work designed or specified by Engineer under a Task Order is to be performed or furnished under more than one prime contract, or if Engineer's services are to be



separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), then Owner and Engineer shall, prior to commencement of final design services, develop a schedule for performance of Engineer's remaining services in order to sequence and coordinate properly such services as are applicable to the work under such separate Construction Contracts. This schedule is to be prepared and included in or become an amendment to the authorizing Task Order whether or not the work under such contracts is to proceed concurrently.

## ARTICLE 4 – INVOICES AND PAYMENTS

### 4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices, the terms of Exhibit C, and the specific Task Order. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

### 4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
  - 1. the compounded amount due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
  - 2. Engineer may, after giving seven days written notice to Owner, suspend services under any Task Order issued until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner contests an invoice, Owner may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions:* If after the Effective Date of a Task Order any governmental entity takes a legislative action that imposes on Engineer's services or compensation under the Task Order, then the Engineer may invoice such new fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C and the specific Task Order.

## ARTICLE 5 – OPINIONS OF COST

### 5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's estimate as an experienced and qualified professional generally familiar with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions,

Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator as provided in Exhibit B.

5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit for a Specific Project is established between Owner and Engineer in a Task Order, Engineer's rights and responsibilities with respect thereto will be governed by Exhibit F, "Construction Cost Limit," to this Agreement.

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

**ARTICLE 6 – GENERAL CONSIDERATIONS**

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer shall serve as Owner's prime professional under each Task Order. Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:* Engineer and Owner shall comply with applicable Laws and Regulations.
  - 1. Prior to the Effective Date of each Task Order, Owner shall provide to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under such Task Order. Engineer shall comply with such policies and procedures pursuant to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.

2. Each Task Order is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date of such Task Order. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.
- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such certification.
  - G. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless both parties mutually agree in a Task Order to use other General Conditions.
  - H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.
  - I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
  - J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or for enforcement of construction insurance or surety bonding requirements.
  - K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at a Site or otherwise furnishing or performing any of a Contractor's work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification of the Contract Documents other than those made by Engineer.
  - L. While at a Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

#### 6.02 *Design Without Construction Phase Services*

- A. For each design performed or furnished, Engineer shall be responsible only for those Construction Phase services that have been itemized and expressly required of Engineer in the authorizing Task Order. With the exception of such expressly required services, Engineer shall have no design, shop drawing review, or other obligations during construction and Owner assumes all responsibility for the application and interpretation of the Contract Documents, contract administration, construction observation and review, and all other necessary Construction Phase engineering and professional services. Owner waives all claims against the Engineer that may be in any way connected to

Construction Phase engineering or professional services except for those services that are expressly required of Engineer in the authorizing Task Order.

### 6.03 *Use of Documents*

- A. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.
- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such are set forth in Exhibit J.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Specific Project by Owner. Engineer grants Owner a limited license to use the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or its Consultants; and (3) such limited license to Owner shall not create any rights in third parties.
- F. If Engineer at Owner's request verifies or adapts the Documents for extensions of the Specific Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

### 6.04 *Insurance*

- A. At all times when any Task Order is under performance, Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer which is applicable to a Specific Project.

- B. Owner shall require Contractors to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractors.
- C. Engineer shall deliver to the Owner certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services under any Task Order and at renewals thereafter during the life of this Agreement.
- D. All policies of property insurance relating to a Specific Project shall contain provisions to the effect that Engineer's and Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds, additional insureds, or loss payees thereunder.
- E. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and Engineer and to each other additional insured (if any) to which a certificate of insurance has been issued.
- F. Under the terms of any Task Order, or after commencement of performance of a Task Order, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner.

#### 6.05 *Suspension and Termination*

##### A. *Suspension*

- 1. *By Owner:* Owner may suspend a Task Order upon seven days written notice to Engineer.
- 2. *By Engineer:* If Engineer's services are substantially delayed through no fault of Engineer, then Engineer may, after giving seven days written notice to Owner, suspend services under a Task Order.

##### B. *Termination:* The obligation to provide further services under this Agreement, or under a Task Order, may be terminated:

- 1. For cause,
  - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement or any Task Order through no fault of the terminating party.

b. By Engineer:

- 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
- 2) upon seven days written notice if the Engineer's services under a Task Order are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
- 3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, neither this Agreement nor the Task Order will terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination:* The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Task Order materials in orderly files.

D. *Payments Upon Termination:*

1. In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.
2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.06 *Controlling Law:*

- A. This Agreement is to be governed by the law of the state or jurisdiction in which the Specific Project is located.

6.07 *Successors, Assigns, and Beneficiaries:*

- A. Owner and Engineer each is hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
  - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
  - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
  - 3. The Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in any Contract Documents prepared for any Specific Project under this Agreement.

6.08 *Dispute Resolution:*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights under law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.08.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights under law.

6.09 *Environmental Condition of Site:*

- A. With respect to each Task Order, Specific Project, and Site:
  - 1. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.

2. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
3. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (a) Owner and (b) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
4. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Specific Project affected thereby until Owner: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
5. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (a) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (b) terminating this Agreement for cause on 30 days notice.
6. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

#### 6.10 *Indemnification*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages arising out of or relating to this Agreement, any Task Order, or any Specific Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. **This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."**
- B. *Percentage Share of Negligence:* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.



- C. *Mutual Waiver*: To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to a Specific Project.

#### 6.11 *Miscellaneous Provisions*

- A. *Notices*: Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival*: All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability*: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver*: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims*: To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion of each particular Specific Project.
- F. *Applicability to Task Orders*: The terms and conditions set forth in this Agreement apply to each Task Order as if set forth in the Task Order, unless specifically modified. In the event of conflicts between this Agreement and a Task Order, the conflicting provisions of the Task Order shall take precedence for that Task Order. The provisions of this Agreement shall be modified only by a written instrument. Such amendments shall be applicable to all Task Orders issued after the effective date of the amendment if not otherwise set forth in the amendment.
- G. *Non-Exclusive Agreement*: Nothing herein shall establish an exclusive relationship between Owner and Engineer. Owner may enter into similar agreements with other professionals for the same or different types of services contemplated hereunder, and Engineer may enter into similar or different agreements with other project owners for the same or different services contemplated hereunder.

### ARTICLE 7 – DEFINITIONS

#### 7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto and any Task Order) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits or Task Order, or in the following provisions:
  - 1. *Addenda*: Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.

2. *Additional Services*: Services to be performed for or furnished to Owner by Engineer in accordance with a Task Order which are not included in Basic Services for that Task Order.
3. *Agreement*: This "Agreement between Owner and Engineer for Professional Services – Task Order Edition" including those Exhibits listed in Article 8 and any duly executed Task Order.
4. *Application for Payment*: The form acceptable to Engineer which is to be used by a Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
5. *Asbestos*: Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
6. *Basic Services*: Specified services to be performed for or furnished to Owner by Engineer in accordance with a Task Order.
7. *Bid*: The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
8. *Bidding Documents*: The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.
9. *Change Order*: A document recommended by Engineer, which is signed by a Contractor and Owner to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times.
10. *Constituent of Concern*: Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
11. *Construction Agreement*: The written instrument which is evidence of the agreement, contained in the Contract Documents, between Owner and a Contractor covering the Work.
12. *Construction Contract*: The entire and integrated written agreement between Owner and Contractor concerning the Work.
13. *Construction Cost*: The cost to Owner of those portions of an entire Specific Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner's costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with a Specific Project; or the

cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

14. *Consultants:* Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as Engineer's independent professional associates, consultants, subcontractors, or vendors. The term Engineer includes Engineer's Consultants.
15. *Contract Documents:* Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
16. *Contract Price:* The moneys payable by Owner to a Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.
17. *Contract Times:* The numbers of days or the dates stated in a Construction Agreement to:  
(i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
18. *Contractor:* The entity or individual with which Owner has entered into the Construction Contract.
19. *Correction Period:* The time after Substantial Completion during which a Contractor must correct, at no cost to Owner, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.
20. *Defective:* An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation of final payment.
21. *Documents:* Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
22. *Drawings:* That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by a Contractor. Shop Drawings are not Drawings as so defined.
23. *Effective Date of the Construction Agreement:* The date indicated in a Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.
24. *Effective Date of the Agreement:* The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

25. *Effective Date of the Task Order*: The date indicated in the Task Order on which it becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.
26. *Engineer*: The individual or entity named as such in this Agreement.
27. *Field Order*: A written order issued by Engineer which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
28. *General Conditions*: That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by a Contractor with respect to a Specific Project.
29. *Hazardous Waste*: The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
30. *Laws and Regulations; Laws or Regulations*: Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
31. *Owner*: The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any construction contracts concerning the Project.
32. *PCBs*: Polychlorinated biphenyls.
33. *Petroleum*: Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
34. *Project*: The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
35. *Radioactive Materials*: Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Record Drawings*: The Drawings as issued for construction on which Engineer, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which Engineer considers significant based on record documents furnished by Contractor to Engineer and which were annotated by Contractor to show changes made during construction.
37. *Reimbursable Expenses*: The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for a Specific Project for which Owner shall pay Engineer as indicated in Exhibit C.
38. *Resident Project Representative*: The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff

of the RPR agreed to by Owner. The duties and responsibilities of the RPR will be as set forth in each Task Order.

39. *Samples*: Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
40. *Shop Drawings*: All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for a Contractor and submitted by a Contractor to Engineer to illustrate some portion of the Work.
41. *Site*: Lands or areas indicated in the Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for use of a Contractor.
42. *Specifications*: That part of the Contract Documents prepared by Engineer consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work to be performed by a Contractor and certain administrative details applicable thereto.
43. *Specific Project*: An undertaking of Owner as set forth in a Task Order.
44. *Subcontractor*: An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at a Site.
45. *Substantial Completion*: The time at which the Work has progressed to the point where, in the opinion of Engineer, the Work is sufficiently complete, in accordance with the Contract Documents, so that the Work can be utilized for the purposes for which it is intended.
46. *Supplementary Conditions*: That part of the Contract Documents which amends or supplements the General Conditions.
47. *Supplier*: A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
48. *Task Order*: A document executed by Owner and Engineer, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services and other relevant information for a Specific Project.
49. *Total Project Costs*: The sum of the Construction Cost, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling, or auditing services, or interest and financing charges incurred in connection with a Specific Project, or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.
50. *Work*: The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents for a Specific Project. Work includes and is the result of performing or providing all labor, services, and documentation necessary

to produce such construction and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by those Contract Documents.

51. *Work Change Directive:* A written directive to a Contractor signed by Owner upon recommendation of the Engineer, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

## **ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS**

### 8.01 *Exhibits*

Exhibit A, Engineer's Services

Exhibit B, Owner's Responsibilities

Exhibit C, Payments to Engineer for Services and Reimbursable Expenses

Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative

Exhibit E, Notice of Acceptability of Work

Exhibit F, Construction Cost Limit

Exhibit G, Insurance

Exhibit H, Dispute Resolution

Exhibit I, Limitations on Liability

Exhibit J, Special Provisions

Exhibit K, Amendment to Task Order

### 8.02 *Total Agreement*

- A. This Agreement (together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format provided in Exhibit K to this Agreement, "Amendment to Task Order."

### 8.03 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have

authority to transmit instructions, receive information, and render decisions relative to the Agreement on behalf of each respective party. Each Task Order shall likewise designate representatives of the two parties.

8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
  3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on Page 1.

OWNER:  
CITY OF MURFREESBORO, TENNESSEE

ENGINEER:

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

By:  \_\_\_\_\_  
Signed by: Scott Woodard  
00EEE35B6011497...

Name: Scott Woodard

APPROVED AS TO FORM:

Title: Vice President

 \_\_\_\_\_  
Signed by: Adam F. Tucker  
43A2035E51E9401...  
Adam F. Tucker, City Attorney

Engineer License or Firm's  
Certificate No. 6042

State of : Tennessee

Date Signed: 8/16/2024

Date Signed: 8/19/2024

Address for giving notices:  
City of Murfreesboro  
111 W. Vine Street  
Murfreesboro, TN 37130

Address for giving notices:  
545 Mainstream Dr  
Suite 320  
Nashville, TN 37228

DESIGNATED REPRESENTATIVE  
(Paragraph 8.03.A):

Valerie Smith

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Title: Interim Director

Phone Number: 615-848-3200

Facsimile Number: \_\_\_\_\_

E-Mail

Address: vsmith@murfreesborotn.gov

DESIGNATED REPRESENTATIVE  
(Paragraph 8.03.A):

Saya Hickey

---

Title: Associate Vice President

Phone Number: 615-294-4779

Facsimile Number: \_\_\_\_\_

E-Mail

Address: shickey@hazensawyer.com



This is **EXHIBIT A**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

## **Engineer's Services**

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### **PART 1 – STUDY AND REPORT PHASE SERVICES**

#### *A1.01 Study and Report Phase*

*For each Task Order that includes study or report services, select from or supplement the following possible services:*

A. The Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for a Specific Project and available data.
2. Advise Owner as to the necessity of Owner's providing data or services of the types described in Exhibit B, and, if requested, assist Owner in obtaining such data and services.
3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of a Specific Project designed or specified by Engineer, including but not limited to mitigating measures identified in the environmental assessment.
4. Identify and evaluate potential solutions available to Owner for a Specific Project, and, after consultation with Owner, recommend to Owner those solutions which in Engineer's judgment meet Owner's requirements for a Specific Project.
5. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to Owner which Engineer recommends. The Report will be accompanied by:

Engineer's opinion of Total Project Costs for each solution which is so recommended for a Specific Project with each component separately itemized, including the following, which will be separately itemized:

- B. Engineer's opinion of Total Project Costs for each solution which is so recommended for a Specific Project with each component separately itemized, including the following, which will be separately itemized:
- a. opinion of probable Construction Cost,
  - b. allowances for contingencies and for the estimated total costs of design, professional, and related services provided by Engineer and,
  - c. on the basis of information furnished by Owner, allowances for other items and services included within the definition of Total Project Costs.

6. Furnish the number of review copies of the Report to Owner within the time period set forth in the Task Order and review it with Owner.
7. Revise the Report in response to Owner's and other parties' comments, as appropriate, and furnish the number of final copies of the revised Report to the Owner within the time period set forth in the Task Order.

C. Engineer's services under the Study and Report Phase will be considered complete on the date when the final copies of the revised Report have been delivered to Owner.

## **PART 2: DESIGN ACTIVITIES**

### *A1.02 Preliminary Design Phase*

*For each Task Order that includes preliminary design services, select from or supplement the following possible services:*

- A. Engineer shall on the basis of the above acceptance, selection, and authorization:
  1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of a Specific Project.
  2. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners.
  3. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
  4. Based on the information contained in the Preliminary Design Phase documents, submit a current opinion of probable Construction Cost and any adjustments to Total Project Costs known to Engineer, which will be itemized as provided in the Study and Report Phase Services section above.
  5. Furnish the Preliminary Design Phase documents to and review them with Owner.
  6. Submit to Owner the number of final copies of the Preliminary Design Phase documents and revised opinion of probable Construction Cost within the time period set forth in the Task Order.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when final copies of the Preliminary Design Phase documents have been delivered to Owner.

### *A1.03 Final Design Phase*

*For each Task Order that includes final design services, select from or supplement the following possible services:*

- A. Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. Where appropriate, prepare Specifications in general conformance with the format of the Construction Specifications Institute.
2. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of a Specific Project and assist Owner in consultations with appropriate authorities.
3. Provide Owner a current opinion of probable Construction Cost and any adjustments to Total Project Costs known to Engineer, itemized as provided in the Study and Report Phase Services section above.
4. Prepare and furnish Bidding Documents for review and approval by Owner, its legal counsel, and other advisors, as appropriate, and assist Owner in the preparation of other related documents.
5. Submit the number of final copies of the Bidding Documents and a current opinion of probable Construction Cost to Owner within the time period set forth in the Task Order.
6. Prepare for, coordinate with, participate in, and respond to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and perform or furnish services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.

B. Engineer's services under the Final Design Phase will be considered complete on the date when the required submittals have been delivered to Owner.

### **PART 3: BIDDING AND NEGOTIATION**

#### *A1.04 Bidding or Negotiating Phase*

*For each Task Order that includes bidding or negotiation services, select from or supplement the following possible services:*

A. The Engineer shall:

1. Assist Owner in advertising for and obtaining bids or negotiating proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-Bid conferences, if any, and receive and process Contractor deposits or charges for the Bidding Documents.
2. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.
3. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by the Bidding Documents.

4. Prepare additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
5. If bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders, but subject to the provisions below regarding additional compensation for an excessive number of such substitute or "or equal" submittals.
6. Attend the bid opening, prepare bid tabulation sheets, and assist Owner in evaluating bids or proposals and in assembling and awarding contracts for the Work.
7. Assist Owner with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
8. Perform or provide the following additional Bidding or Negotiating Phase tasks or deliverables: [*here list any such tasks or deliverables*]

B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors (except as may be required if Exhibit F is a part of the Task Order).

#### **PART 4: CONSTRUCTION AND COMMISSIONING**

##### *A1.05 Construction Phase*

*For each Task Order that includes Construction Phase services, select from or supplement the following possible services:*

A. Engineer shall provide the following services:

1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities and authority of Engineer as assigned in said General Conditions shall not be modified, except as Engineer may otherwise agree in writing. All of Owner's instructions to Contractor will be issued through Engineer, who shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.
2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site of the Specific Project to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in the Task Order and in Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative." The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D. [*Note: For those Specific Projects for which Engineer will not be providing the services of an RPR, do not incorporate this Paragraph A1.05.A.2, and do not include Exhibit D.*]
3. *Selecting Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Paragraph B2.01.0.

4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.
5. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
6. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
7. *Visits to Site and Observation of Construction:* In connection with observations of Work in progress :
  - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, in order to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work in progress or to involve detailed inspections of the Work in progress beyond the responsibilities specifically assigned to Engineer in the Task Order and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.
  - b. The purpose of Engineer's visits to, and representation by the Resident Project Representative, if any, at the Site of the Specific Project, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to Contractor's Work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish or perform the Work in accordance with the Contract Documents.
8. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the Contract Documents or (c) will

imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

9. *Clarifications and Interpretations; Field Orders:* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the Work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Engineer may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.
10. *Change Orders and Work Change Directives:* Recommend change orders and work change directives to Owner, as appropriate, and prepare change orders and work change directives as required.
11. *Shop Drawings and Samples:* Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.
12. *Substitutes and "or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to any provisions below regarding additional compensation for evaluation of such substitute or "or equal" submittals.
13. *Inspections and Tests:* Require such special inspections or tests of the Work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.
14. *Disagreements between Owner and Contractor:* Render formal written decisions on all duly submitted issues relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance or progress of the Work; review each duly submitted Claim by Owner or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if Engineer in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Engineer shall be fair and not show partiality to Owner or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
15. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

- a. Determine the amounts that Engineer recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, the Work has progressed to the point indicated, the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of Engineer contained in Paragraph A1.05.A.15.a are expressly subject to the limitations set forth in Paragraph A1.05.A.15.b and other express or general limitations in this Agreement and elsewhere.
  - b. By recommending any payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of the Work as it is performed and furnished have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of the Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.
16. *Contractor's Completion Documents:* Receive, review and transmit to Owner maintenance and operating instructions, schedules guarantees, bonds, certificates, or other evidence of insurance not previously submitted and required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided above, and transmit the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such review by Engineer will be limited as provided above.
17. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to determine if the Work is Substantially Complete. If after considering any objections of Owner, Engineer considers the Work Substantially Complete, Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.

18. *Final Notice of Acceptability of the Work:* Conduct a final payment inspection to determine if the completed Specific Project of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of Paragraph A1.05.A.15.b) to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.
  19. *Defective Work:* Together with Owner, visit the Site to observe any apparent defects in the Work, assist Owner in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of Defective Work, if any.
  20. *Correction Period:* Together with Owner or Owner's representative, visit the Site within one month before the end of the Correction Period to ascertain whether any portion of the Work is subject to correction.
- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Agreement for a Specific Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If a Specific Project involves more than one prime contract as indicated in the Task Order, Construction Phase services may be rendered at different times in respect to the separate contracts.

#### A1.06 *Commissioning Phase*

*For each Task Order that includes facilities commissioning services, select from or supplement the following possible services:*

A. Engineer shall:

1. Assist Owner in connection with the adjusting of Specific Project equipment and systems.
2. Assist Owner in training Owner's staff to operate and maintain Specific Project equipment and systems.
3. Prepare operation and maintenance manuals.
4. Assist Owner in developing procedures for (a) control of the operation and maintenance of Specific Project equipment and systems, and (b) related record-keeping.
5. Prepare and furnish to Owner, in the format agreed to, Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.



## **PART 5– OTHER SERVICES**

A2.01 *For each Task Order, consider the inclusion of the following possible services:*

A. Engineer shall:

1. Prepare applications and supporting documents for private or governmental grants, loans or advances in connection with a Specific Project; prepare or review environmental assessments and impact statements; review and evaluate the effects on the design requirements for a Specific Project of any such statements and documents prepared by others; and assist in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of a Specific Project.
2. Provide services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner.
3. Provide renderings or models for Owner's use.
4. Undertake investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; assist in obtaining financing for a Specific Project; evaluate processes available for licensing, and assist Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.
5. In addition to baselines and benchmarks, provide more extensive construction surveys and staking to enable a Contractor to perform its work and any type of property surveys or related engineering services needed for the transfer of interests in real property; and provide other special field surveys.
6. Provide assistance in responding to the presence of any Constituent of Concern at any Site, in compliance with current Laws and Regulations.
7. Prepare to serve or serve as a consultant or witness for Owner in any litigation, arbitration or other dispute resolution process related to a Specific Project.

## **PART 6: ADDITIONAL SERVICES REQUIRING AMENDMENT TO TASK ORDER**

A2.02 *Additional Services Requiring an Amendment to Task Order*

- A. *Advance Written Authorization Required:* During performance under a Task Order, Owner may authorize Engineer in writing to furnish or obtain from others Additional Services of the types listed below. The Task Order shall be amended to reflect the inclusion of such Additional Services. Services resulting from significant changes in the scope, extent, or character of the portions of a Specific Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract

Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of the Task Order or are due to any other causes beyond Engineer's control.

1. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in Paragraph A.1.01.A.4.
2. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
3. Providing Construction Phase services beyond the Contract Times set forth in the Task Order.
4. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner, subject to the terms of Paragraph 6.01.F of the Agreement.
5. Overtime work requiring higher than regular rates.
6. Other services proposed to be performed or furnished by Engineer not otherwise provided for in this Agreement.

B. *Advance Written Authorization Not Required:* Engineer shall advise Owner in advance that Engineer will immediately commence to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner. The Task Order shall be amended to reflect the inclusion of such Additional Services.

1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner so as to make the compensation commensurate with the extent of the Additional Services rendered.
2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after the award of any Construction Contract in evaluating and determining the acceptability of a proposed substitution, whether approved or not; evaluation and determination of an excessive number of proposed "or equals" or substitutions whether proposed before or after award of the Construction Contract.
3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.

5. Services in connection with any partial utilization of any part of the Work on a Specific Project by Owner prior to Substantial Completion.
6. Reviewing a Shop Drawing more than three times, as a result of repeated inadequate submissions by Contractor.
7. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program enacted or provided to Engineer subsequent to the Effect Date of the Task Order that exceed those normally required of engineering personnel by federal, state, or local safety authorities for similar construction sites.
8. Evaluation of an unreasonable claim or an excessive number of claims or requests for information submitted by a Contractor or others in connection with the Work on a Specific Project.

This is **EXHIBIT B**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

## **Owner's Responsibilities**

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Article 2 of the Agreement is amended and supplemented to include the following responsibilities unless expressly stated otherwise in a Task Order.

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Specific Project including reports and data relative to previous designs, or investigation at or adjacent to the Site of the Specific Project.
- C. Following Engineer's assessment of initially-available Specific Project information and data and upon Engineer's request, furnish or otherwise make available such additional Specific Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
  - 1. Property descriptions.
  - 2. Zoning, deed, and other land use restrictions.
  - 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
  - 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
  - 5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to a Specific Project, the Site and adjacent areas.
  - 6. Data or consultations as required for a Specific Project but not otherwise identified in the Agreement, the Exhibits thereto, or the Task Order.
- D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects

the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.

- E. Authorize Engineer to provide Additional Services as set forth in the Task Order as required.
- F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Task Order.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer for the Specific Project (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Specific Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Specific Project.
- I. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Specific Project:
  - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
  - 2. Legal services with regard to issues pertaining to the Specific Project as Owner requires, a Contractor raises, or Engineer reasonably requests.
  - 3. Such auditing services as Owner requires to ascertain how or for what purpose a Contractor has used the moneys paid.
- J. Place and pay for advertisement for Bids in appropriate publications.
- K. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Specific Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- L. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling and legal advice) for Owner so that Engineer may assist the Owner in collating the various cost categories which comprise Total Project Costs.
- M. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth in the Task Order the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- N. If more than one prime contract is to be awarded for the Work of the Specific Project designed or specified by Engineer, designate in the Task Order a person or entity to have authority and

responsibility for coordinating the activities among the various prime Contractors. Define and set forth in the Task Order the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer.

- O. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Site.
- P. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work for the Specific Project with appropriate professional interpretation thereof.
- Q. Provide Engineer with the findings and reports generated by any independent testing laboratory, if Engineer is required to review such documents.
- R. Inform Engineer of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

This is **EXHIBIT C**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

## **Payments to Engineer for Services and Reimbursable Expenses**

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

### **ARTICLE 2 – OWNER'S RESPONSIBILITIES**

#### *C2.01 Method of Payment*

- B. Owner shall pay Engineer for services in accordance with one or more of the following methods as identified in each Task Order:
1. Method A: Lump Sum
  2. Method B: Standard Hourly Rates
  3. Method C: Direct Labor Costs Times a Factor

#### *C2.02 Explanation of Methods*

##### A. Method A – Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services.
2. The Lump Sum will include compensation for Engineer's services and services of Consultants, if any. Appropriate amounts will be incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
3. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

##### B. Method B – Standard Hourly Rates

1. For the specified category of services, the Owner shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class for all services performed on the Specific Project, plus Reimbursable Expenses and Consultant's charges, if any.
2. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
3. Engineer's Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit as Appendices 1 and 2.

4. The total estimated compensation for the specified category of services shall be stated in the Task Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, Reimbursable Expenses, and Consultants' charges, if any. This estimated compensation shall not be exceeded by ENGINEER without written confirmation by OWNER in advance.
5. The amounts billed will be based on the cumulative hours charged to the specified category of services on the Specific Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultant's charges, if any.
6. The Standard Hourly Rates and Reimbursable Expenses Schedule shall be adjusted annually (as of \_\_ July 1 \_\_\_\_\_) to reflect equitable changes in the compensation payable to Engineer.

### C2.03 *Reimbursable Expenses*

Costs incurred by Engineer in the performance of the Task Order in the following categories constitute Reimbursable Expenses:

- A. Transportation and subsistence incidental thereto; advertisements, postage, and shipping costs; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and their assistants; toll telephone calls, faxes, and telegrams; and reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Specific Project-related items in addition to those required under Exhibit A. If authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for computer time and the use of other highly specialized equipment. Reimbursable expenses shall be paid at rates set forth in Appendix 1 to this Exhibit C which shall be adjusted annually (as of \_\_ July 1 \_\_\_\_\_) to reflect equitable changes in the rates.
- B. The amounts payable to Engineer for Reimbursable Expenses will be the project-specific internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to a Specific Project, the latter multiplied by a Factor of 1.0 \_\_\_\_\_.

### C2.04 *Serving as a Witness*

- A. For services performed by Engineer's employees as witnesses giving testimony in any litigation, arbitration or other legal or administrative proceeding under Paragraph A2.01.A.20, at a rate of 1.5 times the witness's standard hourly rate. Compensation for Consultants for such services will be by reimbursement of Consultants' reasonable charges to Engineer for such services.

### C2.05 *Other Provisions Concerning Payment*

- A. *Extended Contract Times.* Should the Contract Times to complete the Work be extended beyond the period stated in the Task Order, payment for Engineer's services shall be continued based on the Standard Hourly Rates Method of Payment.
- B. *Estimated Compensation Amounts*



1. Engineer's estimate of the amounts that will become payable for services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
2. When estimated compensation amounts have been stated in a Task Order and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof. Promptly thereafter Owner and Engineer shall review the matter of services remaining to be performed and compensation for such services. Owner shall either agree to such compensation exceeding said estimated amount or Owner and Engineer shall agree to a reduction in the remaining services to be rendered by Engineer so that total compensation for such services will not exceed said estimated amount when such services are completed. If Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, the Engineer shall give written notice thereof to Owner and shall be paid for all services rendered thereafter.

This is **Appendix 1 to EXHIBIT C**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Standard Form of Agreement between Owner and Engineer for Professional Services – Task Order Edition**, dated \_\_\_\_\_, \_\_\_\_\_.

**Reimbursable Expenses Schedule**

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Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Rates for reimbursable expenses effective on the date of this Agreement are:

Travel Mileage	\$0.67/ mile
Meals and Lodging	At Cost

This is **Appendix 2 to EXHIBIT C**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_,

**Standard Hourly Rates Schedule**

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Current agreements for engineering services stipulate that the standard hourly rates are subject to review and adjustment per Exhibit C. Hourly rates for services effective on the date of this Agreement are:

<b>Category</b>	<b>2024-25 Hr. Rate</b>
Vice President	\$ 294
Associate Vice President	\$ 276
Senior Associate	\$ 266
Associate	\$ 240
Sr. Principal Engineer	\$ 195
Principal Engineer	\$ 167
Engineer	\$ 154
Assistant Engineer	\$ 149
Water Quality Specialist	\$ 196
Sr. Principal Scientist	\$ 179
Principal Scientist	\$ 154
Scientist	\$ 134
Assistant Scientist	\$ 121
Sr. Principal Architect	\$ 185
Principal Architect	\$ 161
Architect	\$ 143
Assistant Architect	\$ 135
Sr. Hydraulic Modeler	\$ 218
Hydraulic Modeler	\$ 156
Sr. Principal Designer	\$ 208
Principal Designer	\$ 172
Senior Designer	\$ 141
Designer/Technician	\$ 129
Drafter	\$ 114
Construction Manager	\$ 203
Sr. Field Coordinator	\$ 161
Field Coordinator	\$ 151
Sr. Field Inspector	\$ 156
Field Inspector	\$ 133
Administrator	\$ 119
Intern/Co-Op	\$ 81

This is **EXHIBIT D**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

### **Schedule of Duties, Responsibilities, and Limitations of Authority of Resident Project Representative**

The following duties, responsibilities, and limitations of authority may be incorporated in the Task Order for a Specific Project:

#### *D1.01 Resident Project Representative*

- A. Engineer shall furnish a Resident Project Representative ("RPR") to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree.
- B. Through RPR's observations of Contractor's work in progress and field checks of materials and equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such RPR field checks or as a result of such RPR observations of Contractor's work in progress, by the RPR, supervise, direct, or have control over Contractor's work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected or used by any contractor, for security or safety at the Site, for safety precautions and programs incident to any contractor's work in progress, or for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific limitations set forth in Paragraph A1.05 of Exhibit A as incorporated in the Task Order are applicable.
- C. The duties and responsibilities of the RPR are limited to those of Engineer in the Agreement with the Owner and in the Contract Documents, and are further limited and described as follows:
  1. *General:* RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
    - RPR's dealings in matters pertaining to a Contractor's work in progress shall in general be with Engineer and Contractor.
    - RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor.
    - RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
  2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by a Contractor and consult with Engineer concerning acceptability.

3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
4. *Liaison:*
  - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, and assist in providing information regarding the intent of the Contract Documents.
  - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
  - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
5. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and approved Shop Drawings.
  - b. Receive Samples which are furnished at the Specific Project Site by Contractor, and notify Engineer of availability of Samples for examination.
  - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. *Review of Work and Rejection of Defective Work:*
  - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Specific Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
9. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Accompany visiting inspectors representing public or other agencies having jurisdiction over a Specific Project, record the results of these inspections, and report to Engineer.

10. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all change orders, field orders, work change directives, addenda, additional Drawings issued subsequent to the execution of the Construction Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Specific Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of change orders, field orders, work change directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Record names, addresses, fax numbers, e-mail addresses, web site locations and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- d. Maintain records for use in preparing project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Specific Project documentation to Engineer.

11. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed change orders, work change directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system startup reports.
- d. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern..

12. *Payment Requests:*

- a. Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals:*

- a. During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by a Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. *Completion:*

- a. Participate in visits to the Project to assist in determining Substantial Completion, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
- b. Participate in a final visit to the Project in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
- c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work. (See Exhibit E).

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of a Contractor, subcontractors, suppliers, or a Contractor's superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Contractor's work.
5. Advise on, issue directions regarding, or assume control over security safety practices, precautions and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

8. Authorize Owner to occupy a Specific Project in whole or in part.



This is **EXHIBIT E**, consisting of \_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

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**NOTICE OF ACCEPTABILITY OF WORK**

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PROJECT:

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OWNER:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

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To: \_\_\_\_\_  
OWNER

And To: \_\_\_\_\_  
CONTRACTOR

From: \_\_\_\_\_  
ENGINEER

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The Engineer hereby gives notice to the above Owner and Contractor that the completed Work furnished and performed by Contractor under the above Contract is acceptable, expressly subject to the provisions of the related Contract Documents and the terms and conditions set forth in this Notice.

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

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

Dated: \_\_\_\_\_

## **CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK**

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all persons who receive said Notice and rely thereon agree:

1. Said Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. Said Notice reflects and is an expression of the professional judgment of Engineer.
3. Said Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. Said Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Specific Project (including observation of the Contractor's work) under Engineer's Agreement with Owner and under the Construction Contract referenced in this Notice, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under Engineer's Agreement with Owner and the Construction Contract referenced on the reverse hereof.
5. Said Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract referenced in this Notice nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents.

This is **EXHIBIT F**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

## **Construction Cost Limit**

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Paragraph 5.02 of the Agreement is amended and supplemented to include the following when incorporated in the Task Order for a Specific Project:

### *F5.02 Designing to Construction Cost Limit*

- A. A Construction Cost limit may be set forth in the Task Order.
- B. If a Construction Cost limit is set forth in a Task Order, then the Task Order will also specify bidding or negotiating contingency to be added to such Construction Cost limit.
- C. The acceptance by Owner at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.
- D. Engineer will be permitted to determine what types of materials, equipment and component systems, and the types and quality thereof are to be included in the Drawings and Specifications and to make reasonable adjustments in the scope, extent, and character of a Specific Project to the extent consistent with the project requirements and sound engineering practices to bring the project within the Construction Cost limit.
- E. If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on Engineer, and Owner shall consent to an adjustment in such Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.
- F. If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, Owner shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Specific Project within a reasonable time, or (3) cooperate in revising the Specific Project's scope, extent, or character to the extent consistent with the Specific Project's requirements and with sound engineering practices. In the case of (3), Engineer shall modify the Contract Documents as necessary to bring the Construction Cost within the Construction Cost limit. Owner shall pay Engineer's cost to provide such modification services, including the costs of the services of its Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to Engineer on account of such services. The providing of such services will be the limit of its responsibility in this regard and, having done so, Engineer shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or bid exceeding the established Construction Cost limit.

This is **EXHIBIT G**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

**Insurance**

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Paragraph 6.04 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.04 *Insurance*

A. The limits of liability for the insurance required by Paragraphs 6.04.A and 6.04.B of the Agreement are as follows:

1. *By Engineer:*
  - a. Workers' Compensation: Statutory
  - b. Employer's Liability –
    - 1) Each Accident: \$1,000,000.00
    - 2) Disease, Policy Limit: \$1,000,000.00
    - 3) Disease, Each Employee: \$1,000,000.00
  - c. General Liability –
    - 1) Each Occurrence  
(Bodily Injury and Property Damage): \$1,000,000.00
    - 2) General Aggregate: \$2,000,000.00
  - d. Excess or Umbrella Liability –
    - 1) Each Occurrence: \$5,000,000.00
    - 2) General Aggregate: \$5,000,000.00
  - e. Automobile Liability –
    - 1) Combined Single Limit  
(Bodily Injury and Property Damage):  
Each Accident \$1,000,000.00
  - f. Professional Liability –
    - 1) Each Claim Made: \$1,000,000.00
    - 2) Annual Aggregate: \$1,000,000.00

g. Other (specify): \$ \_\_\_\_\_

B. *Additional Insureds:*

1. Engineer and the Consultants identified in the Task Order for a Specific Project shall be listed on Owner's general liability policies of insurance as additional insureds, and on any applicable property insurance policy as loss payees, as provided in Paragraph 6.04.B.

This is **EXHIBIT H**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

## **Dispute Resolution**

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Paragraph 6.08 of the Agreement is supplemented to include the following agreement of the parties:

### *H6.08 Dispute Resolution*

- A. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement, including any Task Order, or the breach thereof ("Disputes") to mediation by a mutually acceptable mediator. The cost of the mediation to be shared equally by Owner and Engineer. Owner and Engineer agree to participate in the mediation process in good faith. The process should be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

This is **EXHIBIT I**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

**Limitations of Liability**

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*16.10.A Limitation of Engineer's Liability*

1. *Engineer's Liability Limited to Amount of Insurance Proceeds*: Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to a Specific Project or Task Order, or this Agreement, from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty, express or implied, of Engineer or Engineer's officers, directors, partners, agents, employees, or Consultants, or any of them (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, or Consultants, to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's Claims shall not exceed \$ 1,000,000.00.
  
2. *Exclusion of Special, Incidental, Indirect, and Consequential Damages*. To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, consistent with the terms of paragraph 6.10 the Engineer and Engineer's officers, directors, members, partners, agents, employees, or Consultants, shall not be liable to Owner or anyone claiming by, through, or under Owner for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to a Specific Project, Task Order, or this Agreement, from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty, express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants.
  
3. *Agreement Not to Claim for Cost of Certain Change Orders*: Owner recognizes and expects that certain Change Orders may be required to be issued as the result in whole or part of imprecision, incompleteness, errors, omissions, ambiguities, or inconsistencies in the Drawings, Specifications, and other design documentation furnished by Engineer or in the other professional services performed or furnished by Engineer for each Task Order under this Agreement ("Covered Change Orders"). Accordingly, Owner agrees not to sue or to make any claim directly or indirectly against Engineer on the basis of professional negligence, breach of contract, or otherwise with respect to the costs of approved Covered Change Orders on a Specific Project unless the costs of such approved Covered Change Orders exceed   5   % of Construction Cost for that Specific Project, and then only for an

amount in excess of such percentage. Any responsibility of Engineer for the costs of Covered Change Orders in excess of such percentage will be determined on the basis of applicable contractual obligations and professional liability standards. For purposes of this paragraph, the cost of Covered Change Orders will not include any costs that Owner would have incurred if the Covered Change Order work had been included originally without any imprecision, incompleteness, error, omission, ambiguity, or inconsistency in the Contract Documents and without any other error or omission of Engineer related thereto. Nothing in this provision creates a presumption that, or changes the professional liability standard for determining if, Engineer is liable for the cost of Covered Change Orders in excess of the percentage of Construction Cost stated above or for any other Change Order. Wherever used in this paragraph, the term Engineer includes Engineer's officers, directors, members, partners, agents, employees, and Consultants.

Owner further agrees not to sue or to make any claim directly or indirectly against Engineer with respect to any Covered Change Order not in excess of such percentage stated above.



This is **EXHIBIT J**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

**Special Provisions**

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Paragraph(s) \_\_\_\_ of the Agreement is/are amended to include the following agreement(s) of the parties:

This is **EXHIBIT K**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated \_\_\_\_\_, \_\_\_\_\_.

**Amendment To Task Order No. \_\_\_\_\_**

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1. Background Data:

- a. Effective Date of Task Order Agreement:
- b. Owner:
- c. Engineer:
- d. Specific Project:

2. Description of Modifications

*[Include the following paragraphs that are applicable and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]*

- a. Engineer shall perform the following Additional Services:
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Task Order and previous amendments, if any, is modified as follows:
- c. The responsibilities of Owner with respect to the Task Order are modified as follows:
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:
- e. The schedule for rendering services under this Task Order is modified as follows:
- f. Other portions of the Task Order (including previous amendments, if any) are modified as follows:

*[List other Attachments, if any]*

3. Task Order Summary (Reference only)

- a. Original Task Order amount: \$ \_\_\_\_\_
- b. Net change for prior amendments: \$ \_\_\_\_\_

c. This amendment amount: \$ \_\_\_\_\_  
d. Adjusted Task Order amount: \$ \_\_\_\_\_

The foregoing Task Order Summary is for reference only and does not alter the terms of the Task Order, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Task Order as set forth in this Amendment. All provisions of the Agreement and Task Order not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is \_\_\_\_\_.

OWNER:

ENGINEER:

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

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

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

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

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

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

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Hazen & Sawyer Task Order No. 1 Prelim Engineering & Permitting for WRRF Expansion

**Department:** Water Resources

**Presented by:** Valerie Smith

**Requested Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Consider Task Order (TO) No. 1 with Hazen and Sawyer (H&S) for preliminary engineering and permitting associated with the WRRF Expansion.

**Staff Recommendation**

Approve TO No. 1. The Water Resources Board recommended approval of these revisions on August 27, 2024.

**Background Information**

MWRD has been working on a water quality model for the West Fork Stones River (WFSR) since 2021 with H&S. The purpose of the water quality model was to provide the foundation for the WRRF NPDES permit expansion. In other terms, the model was foundational to demonstrate additional discharge from the WRRF would not degrade water quality criteria in the WFSR.

The completed model was submitted to TDEC on July 11, 2024. TDEC has asked for a couple of model revisions from H&S. Once those revisions are submitted to TDEC we hope to receive their approval of the model soon after.

In preparation of that approval, H&S and SSR have collaboratively provided the scope of work and fees for the necessary tasks to complete the preliminary engineering and permitting requirements that, when approved by TDEC, would ultimately allow for the next WRRF expansion; expected to start in the 2027-2028 timeframe.

The attached TO details the scope of work and associated costs. The most significant effort of work is in conjunction with developing a calibrated process and capacity model for the WRRF and the preliminary engineering design.

**Council Priorities Served**

*Expand infrastructure*

The expansion of the WRRF will allow development and redevelopment to continue into approximately 2048.

**Fiscal Impact**

The total Task Order expense, \$894,000, is funded from the Water Resources Working Capital Reserves.

**Attachments**

Hazen and Sawyer Task Order No. 1

# Murfreesboro Water Resources Department

## WRRF Expansion

### Preliminary Engineering and Permitting

## BACKGROUND

The Murfreesboro Water Resources Recovery Facility (MWRRF) is currently rated to treat 24 MGD of municipal wastewater; however, the MWRRF must expand its treatment capacity to 32 MGD to accommodate the rapid growth that is occurring within its service area. The MWRRF is currently authorized via NPDES Permit No TN0022586 to discharge 16 MGD into the West Fork Stones River (WFSR) 11 miles upstream of J. Percy Priest reservoir. The reach that receives the discharge is currently assessed as being impaired for dissolved oxygen (DO). Tennessee's antidegradation regulations<sup>1</sup> prohibit any increase in discharge that would cause measurable lowering of instream DO concentration.

Hazen recently completed and submitted to TDEC, a calibrated CE-QUAL-W2 water quality model to evaluate the impact of an increased discharge from the MWRRF with the goal of demonstrating that the expanded discharge will not result in a measurable decrease of the DO concentration in the WFSR. The model predicted that increased discharge will not measurably decrease the DO concentration in the WFSR. The model and documentation will be submitted to the Tennessee Department of Environment and Conservation, Division of Water Resources (TDEC-DWR) for review. The results of this model will be used in the development of design criteria for the MWRRF expansion to 32 mgd. In order to expand the capacity of the MWRRF, Murfreesboro must request and ultimately be granted a modification to their NPDES permit authorizing the increased discharge. TDEC-DWR has a multi-phased process for approval of increased discharges including:

- NPDES permit modification submission that includes a completed application form and a planning-level preliminary engineering report that provides required information for development of a draft permit modification
- Preliminary Design Submission that includes an engineering report that finalizes design criteria and provides the basis of design, and preliminary (30 %) plans

Hazen will lead the effort to develop these permitting and preliminary design materials with data from process and hydraulic models to establish unit process needs and sizing.

Hazen & Sawyer and the City of Murfreesboro signed a Master Services Agreement on \_\_\_\_\_, 2024. The following Task Orders 1-5 are pursuant to that Master Services Agreement.

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<sup>1</sup> 0400-40-.03-.06 (2)

# SCOPE OF WORK

## 1. Task 1 Project Management

### 1.1 Project Administration

Project administration services will include the following:

- Manage day-to-day activities for the Preliminary Engineering and Permitting Project.
- Develop a Project Management Plan, including the scope of services, project schedule, and budget.
- Develop a Project Quality Control Program, including scheduling and requiring QA/QC review activities.
- Coordinate with the MWRD Project Manager and staff.
- Coordinate with teaming partners and sub-consultants.
- Coordinate, schedule, and hold meetings and workshops.

### 1.2 QA/QC

Hazen will provide QA/QC services throughout the project. Quality Assurance (QA) will be provided, for example, by engaging national experts for technical input, following standard procedures for analyses and documentation, and having regular review meetings to maintain direction toward achieving project goals. Hazen will also perform Quality Control (QC) reviews for each task and deliverable.

### 1.3 Meetings and Workshops

A kick-off meeting will be conducted with Murfreesboro Water Resources Department (MWRD) within 2 weeks of notice to proceed. Topics to be covered will include scope, schedule, and budget for the project, communication plan for project team members, key milestones and deliverables and information requests for the facility. Additional meetings and workshops will include:

- Monthly Check-in Meetings
- Condition Assessment and Capacity Analysis Review Workshop
- Preliminary Project Discussion with TDEC-DWR
- Design Criteria Development Workshop
- Design Criteria and Project Need Workshop
- Discharge Alternatives and Recommendations Workshop
- Process Alternatives and Recommendations Workshop
- Permit Application Materials Workshop
- TDEC-DWR Check-in Meetings (assume 4)

## **1.4 Regulatory Coordination**

Hazen recommends maintaining open lines of communication with TDEC-DWR during the preliminary engineering and permitting process. To that end, Hazen will coordinate communication/meetings with TDEC-DWR to include up to 4 check-in meetings in addition to the Preliminary Project Discussion prior to submittal of the required permit application materials.

## **1.5 Deliverables**

Hazen will develop deliverables in draft form and submit them to MWRD prior to conducting review meetings or workshops. Hazen will address any MWRD comments and finalize deliverables for submission.

## **2. Task 2 Condition Assessment/Code Safety Evaluation**

### **2.1 Facilities Data Gathering and Review**

Hazen will work with other team members to develop an information request on the existing facilities and submit to MWRD prior to the kickoff meeting with the requested items discussed at that meeting.

### **2.2 Condition Assessment/Code Safety Evaluation**

Hazen will coordinate an on-site visual assessment of existing facilities. The visual assessment will include information for each major discipline as appropriate for that facility and unit process, such as architectural, civil, mechanical, electrical, structural, instrumentation, HVAC, and plumbing. Hazen will also solicit feedback from the MWRRF's operation and maintenance personnel and review procedures where available.

Hazen will collaborate with MWRRF personnel and other team members to rank identified improvements in order of replacement urgency. These improvements will be considered during development of the alternatives and facility upgrade plan. In instances where high priority improvements are not addressed by specific capacity / regulatory related improvements, recommended timing, and inclusion of improvements in specific projects will be identified.

An evaluation of the WWTP for code and safety compliance will be conducted concurrent with the asset condition site visits. The purpose of the evaluation will be to identify potential code and safety issues including NFPA820 and NEC that should be addressed as part of planned future improvements. Appropriate specialty disciplines including electrical, architectural, HVAC, civil/site (stormwater) will visit the site and review each building / unit process and overall site for code compliance and identify potential safety issues. The site visits will also include interviews with plant operations and maintenance staff.



## **2.3 Technical Memorandum 1: Condition Assessment**

The Hazen team will develop a Condition Assessment Technical Memorandum (TM). The TM will summarize the findings of the visual assessment, the recommended improvements to the existing facilities. The TM will also summarize the findings of the safety code evaluation. A draft TM will be provided to MWRD for review. The TM will be discussed at the Condition Assessment Review Workshop with comments integrated into a finalized memo, which will become a part of the Preliminary Engineering Report.

## **3. Task 3 Process Capacity Evaluation**

### **3.1 Operational Data Gathering and Review**

Hazen will work with other team members to develop an information request and submit it to MWRD prior to the kickoff meeting and will discuss the requested items at that meeting. MWRD will provide 5 years of plant operating data, including but not limited to influent and effluent data, liquid and solids process operating data, chemical use data. Additional existing documentation will include, but not be limited to, previous master planning or design reports; record drawings; standard operating procedures, O&M manuals.

Hazen will review existing documentation provided by MWRD. Additional information may be requested subject to the kickoff meeting based on discussions with MWRD and review of information provided. It is assumed that MWRD will provide data and information in electronic format where possible.

The Hazen modeling team will meet with operations personnel and tour the facility to understand the existing operations that will inform the development of the process model layout and to coordinate the facility sampling plan.

Hazen will compile and evaluate the historical data provided by MWRD for verification of the biological process model. The evaluation of the historical data will include an evaluation of trends and data quality, including:

- Creation of trend plots to evaluate plant performance
- Calculation of plant performance metrics
- Calculation of flow balances, mass balances and yields throughout plant based on available data
- Evaluation of data quality to identify any issues or areas for further investigation through field sampling

### **3.2 WRRF Process Sampling**

Hazen will develop a field sampling plan for the biological process modeling update based upon the existing data available and project modeling goals. Hazen will coordinate a meeting to review the draft sampling plan and division of responsibilities. The supplemental sampling period is expected to be 1 month.

Additional data will be collected by MWRRF personnel for the full supplemental sampling period (1 month) The scope of the data collected is expected to be limited to additional analyses on the existing influent and effluent composites but will be finalized in coordination with MWRD after the historical data review is completed. Analysis of samples taken by MWRRF staff may be divided between the MWRRF laboratory and a contract laboratory, to be paid for by MWRD.

Detailed sample collection and analysis will be performed by Hazen in a field laboratory set up on-site for up to 3 days during the supplemental sampling month. Detailed data collection will include influent COD characterization on composites and process profiles. MWRRF personnel will perform analyses in the MWRRF laboratory based on capacity and lab staff availability. Hazen will coordinate with an outside laboratory service as needed to complete any analyses that cannot be completed in the field laboratory or the MWRRF laboratory, to be paid for by MWRD.

### **3.3 Biological Process Model Development**

The Hazen modeling team will develop a calibrated biological process model of the MWRRF. It is anticipated that BioWin™ will be used for simulations, but other modeling platforms, including GPS-X™, or SUMO could also be used if desired by MWRD. Hazen will calibrate the biological process model according to industry best practices. The model will be calibrated with steady state and dynamic calibration to industry accepted Level 2, which is based on historical data and limited supplemental sampling. Level 2 calibration is appropriate for planning studies.

The Hazen modeling team will set up the model in the simulator to reflect the current plant configuration and operating conditions. Hazen will select recent historical period(s) for evaluation in the model. The supplemental process sampling will be used in conjunction with the historical data to develop influent fractions and process operating inputs. The data will be formatted and imported into the model for comparison with modeled results.

Hazen will conduct iterative steady state and dynamic simulations to calibrate solids production, treatment performance, and oxygen requirements to historical data. The model will be validated with an independent historical period.

### **3.4 Hydraulic Model Development**

The Hazen team will develop a hydraulic profile model of the current MWRRF. A hydraulic profile will be created and calibrated in a spreadsheet-based model based upon the existing record drawings. Hazen will revise and update the hydraulic profile model of the MWRRF to include the improvements necessary to expand treatment capacity to 32 mgd.

### **3.5 Capacity Evaluation**

Hazen will use the process and hydraulic models to aid in the evaluation of the available capacity of the MWRRF unit processes and overall plant capacity required to meet the effluent quality levels established by the CE-QUAL-W2 WFSR Model. The models will also be used to develop process alternatives for expansion to 32 mgd.

### **3.6 Technical Memorandum 2: Process Capacity Analysis**

Hazen will develop a Process Capacity Analysis Technical Memorandum . The TM will provide a summary of process model development and calibration, hydraulic model development, and plant/unit process capacity. A draft TM will be provided to MWRD for review. The TM will be discussed at the Process/Capacity Analysis Review Workshop. Comments will be integrated into a finalized memo, which will become a part of the Preliminary Engineering Report.

## **4. Task 4 Preliminary Engineering**

### **4.1 Preliminary Project Discussion with TDEC-DWR**

In accordance with Appendix 1-D-1 of TDEC-DWR's *Design Criteria for Review of Sewage Works Construction Plans and Documents*, Hazen will conduct a Preliminary Project Discussion with TDEC-DWR. This discussion will cover several topics including the preliminary engineering report requirements, potential funding opportunities, receiving water status, required permits, preliminary engineering plans requirements and proposed project schedule. Hazen will prepare meeting minutes for MWRD's review and use when reviewing minutes prepared by TDEC-DWR.

### **4.2 Design Criteria Development/Documentation of Project Need**

#### **Design Criteria Development**

Hazen will work with MWRD to develop design criteria based on future flow projection information provided by MWRD, the effluent limits indicated by the CE-QUAL-W2 model and results from process and hydraulic modeling. Hazen will facilitate a Design Criteria Development Workshop with MWRD. Prior to the workshop, Hazen will submit an information request to MWRD to supplement operational data and information gathered previously, and may include:

- Existing Service Area and Anticipated Additions
- Reclaimed Service Area and Anticipated Additions
- Collection System
- I/I Evaluations
- Population Projections
- Industrial Growth

Hazen will work with MWRD and other team members to develop future design criteria, including anticipated flows and loads at annual average, maximum month, peak week, and peak day conditions. Future conditions will be finalized through discussions with MWRD, but a 25-year window (from 2023) is anticipated for this project.

Additional information may be requested based on a review of information provided by MWRD and the outcome of the workshop.

## **Documentation of Purpose and Need**

Hazen will identify and document the primary drivers for this project such as population growth and regulatory requirements. Hazen will also evaluate the economic and social impacts resulting from the expansion of the MWRRF. This evaluation is required to support the demonstration of economic and social necessity set out in Tennessee's antidegradation regulations.

### **4.3 Technical Memorandum 3: Design Criteria and Project Need**

Hazen will develop a memorandum summarizing the basis for the design criteria used in the evaluation of alternatives, effluent treatment goals, and demonstrating the need for the expansion of the MWRRF. A draft TM will be provided to MWRD for review. The TM will be discussed at the Design Criteria and Project Need Workshop. Comments will be integrated into the finalized memo, which will be included as part of the Preliminary Engineering Report.

### **4.4 Evaluation of Discharge Alternatives**

Hazen will conduct and document an evaluation of discharge alternatives to satisfy the requirements of the Tennessee Department of Environment and Conservation (TDEC) Chapter 0400-40-03-.06 General Water Quality Criteria's Antidegradation Statement regarding the proposed increase in discharge to the West Fork Stones River. Based on this evaluation, Hazen will provide a recommend plan for managing the increased flow from the MWRRF. Hazen will also identify all required permits necessary for the increased discharge.

### **4.5 Technical Memorandum 4: Discharge Alternatives and Recommendations**

Hazen will develop a memorandum to summarize the evaluation of alternatives, effluent treatment goals, and provide the recommended plan for increased discharge from the MWRRF. A draft TM will be provided to MWRD for review. The TM will be discussed at the Discharge Alternatives and Recommendations Workshop. Comments will be integrated into the finalized memo, which will be included as part of the Preliminary Engineering Report.

### **4.6 Evaluation of Process Alternatives and Recommendations**

#### **Treatment Process Alternative Development**

Hazen will identify and screen alternatives for process improvements necessary for the expansion of the MWRRF to 32 mgd. The effort will result in the development of a short-list of alternatives for detailed evaluation. Hazen will develop the short-listing methodology and will include order of magnitude capital costs, life-cycle costs, and non-cost criteria. Non-cost criteria will be discussed with MWRD and could include community / social impacts, complexity of operations, reliability, and flexibility for future regulatory changes, and others. The draft short-list of alternatives will be distributed to the MWRD prior to the Alternatives Screening Workshop. Consensus on the short-list of alternatives for more detailed evaluation will be finalized at the Workshop.

## **Evaluate Alternatives**

Hazen will further develop and evaluate the short-listed alternatives identified in the Alternatives Screening Workshop. It is assumed that up to six overall processes may be evaluated, with combinations of up to two options for each unit process.

Alternative analysis will include the following:

- Capital costs. Opinions of probable construction cost (OPCC) will be developed to AACE Level 5.
- Operational costs, including electricity, chemical, manpower, spare parts, projected periodic repair and replacement, and annual maintenance.
- Construction phasing, sequencing, and staging.
- 20-year total net present worth cost development.
- Non-cost factor considerations such as reliability to meet NPDES permit; land requirements; impacts on community; ability for future expansion, etc. Weighting factors for non-cost impacts will be developed in collaboration with MWRD.

Hazen will conduct the Alternatives Analysis Workshop to present the initial findings of the alternative analysis to MWRD.

### **4.7 Technical Memorandum 5: Process Alternatives and Recommendations**

Hazen will develop a memorandum that summarizes the detailed evaluation of alternatives as well as the recommended approach for increasing the capacity of the MWRRF to 32 mgd. A draft TM will be provided to MWRD for review. The TM will be discussed at the Evaluation of Alternatives and Recommendations Workshop. Comments will be integrated into the finalized memo, which will be included as part of the Preliminary Engineering Report.

### **4.8 Environmental Impacts and Environmental Justice Considerations**

Hazen will review readily available data and information to survey the existing environmental / cultural characteristics of the area in and around the MWRRF including land use, water resources, downstream water intakes, physical features (topographic, hydrologic, and geologic), fish and wildlife, and historical, cultural, or archeological features. As part of this review, Hazen will also evaluate the potential for the discharge to have a discernable impact on flood elevations. Hazen will also screen for overburdened (minority and/or low-income communities) and evaluate the potential for the project to disproportionately present risks to these communities.

### **4.9 Technical Memorandum 6: Environmental Impacts and Environmental Justice Considerations**

Hazen will summarize the efforts and findings from the evaluations in a memorandum that includes a location map of the area around the MWRRF. Hazen will provide the draft TM to MWRD for review. MWRD comments will be integrated into the finalized memo, which will be included as part of the Preliminary Engineering Report.

#### **4.10 Preliminary Engineering Report (Facilities Plan)**

Hazen will develop a Preliminary Engineer Report (PER) that provides a summary of work, conclusions, and recommendations that satisfies TDEC-DWR's permitting, plans review, and antidegradation requirements to support expansion of the MWRRF. The PER will include as appendices each detailed technical memorandum developed for the specific purposes outlined in this scope of work. The PER will summarize the findings of the condition assessment/safety evaluation (TM1), process/capacity evaluation (TM2) project drivers, economic impact, and facility design criteria (TM3), discharge alternatives, anticipated effluent quality and list of required permits (TM4), unit process sizing, and recommended layouts AACE Class 5 opinion of probable construction cost, detailed design sheet lists, anticipated construction schedule (TM5), and potential secondary environmental impacts to the area in and around the MWRRF as well as increased health or environmental risks to any nearby overburdened communities(TM6).

### **5. Task 5 Permit Application Support**

#### **5.1 Compile and Submit Permit Application**

Hazen will compile the following documents to comprise the Permit Application Materials:

- Cover letter
- Permit application form with required information and data
- Preliminary Engineering Report

Once materials are compiled, the permit application and supporting documentation will be submitted to TDEC. Prior to submittal of the permit application materials, Hazen will coordinate a meeting with TDEC-DWR to review the information to be submitted, address any questions posed by the agency, and discuss permit and project timelines. Hazen will coordinate submittal of these materials with MWRD.

#### **5.2 Post-Application Submittal Support**

Once the application materials are submitted, it is anticipated that the process will require one year to achieve modification of the MWRRF permit. Following submittal of the application package, Hazen will continue to provide support throughout the permitting process to include:

- Attending any TDEC-DWR meetings and/or public hearings (6 assumed)
- Review of draft permit and any comments made by others. Hazen will provide comments and recommended action items.
- Review of final permit and providing recommendation regarding appealing any provisions of the final permit.

#### **5.3 Post-Issuance Support**

If additional permit support is needed including any appeal-related issues, Hazen will provide engineering services on an as-needed basis.

## SCHEDULE

Tasks up to and including Task 4.1 (TDEC permit submittal) will be completed within **12 months** of written notice to proceed.

	<b>Completion (months from NTP)</b>
<b>Task 2 Condition Assessment/Code Safety Evaluation</b>	<b>6</b>
2.1 Data Gathering and Review	2
2.2 Condition Assessment and Safety Evaluation	6
2.3 TM1: Condition Assessment/Safety Evaluation	11
<b>Task 3 Process/Capacity Evaluation</b>	<b>6</b>
3.1 Operational Data Gathering and Review	2
3.2 WRRF Process Sampling	3
3.3 Biological Process Model Development	5
3.4 Hydraulic Model Development	5
3.5 Capacity Evaluation	5
<u>3.6 TM2: Process Capacity Analysis</u>	6
<b>Task 4 Preliminary Engineering</b>	<b>11</b>
3.1 Preliminary Project Discussion	7
3.2 Design Criteria Development / Project Need	7
<u>3.3 TM3: Design Criteria and Project Need</u>	8
3.4 Evaluation of Discharge Alternatives	9
<u>3.5 TM4: Discharge Alternatives and Recommendations</u>	9
3.6 Evaluation of Process Alternatives and Recommendations	10
<u>3.7 TM5: Process Alternatives and Recommendations</u>	10
3.8 Environmental Impacts and Justice	10
<u>3.9 TM6: Environmental Impacts and Justice</u>	10
<u>3.10 Preliminary Engineering Report</u>	11
<b>Task 5 Permit Application Support (permit application submittal)</b>	<b>12</b>
5.1 Compile and Submit Permit Application	12

## FEE

The fee to complete the outlined scope of work is **\$894,000** and will be billed based on Hazen standard hourly rates defined in the enclosed hourly rate table. Sub-consultants will be billed at cost plus 5 percent. Direct expenses will be billed at cost. Hazen may increase hourly rates annually on the anniversary of the executed task order.

Task	Hours			Total Fee
	Hazen	SSR	Total	
Task 1 Project Management / Coordination	265	82	347	\$ 73,000
Task 2 Condition Assessment	101	280	381	\$ 73,000
Task 3 Process / Capacity Evaluation	862	82	944	\$ 202,000
Task 4 Preliminary Engineering	1600	466	2066	\$ 432,000
Task 5 Permit Application Support	442	16	458	\$ 99,000
Sub-Total	3269	926	4195	\$ 879,000
Expenses (travel, sampling supplies, etc.)				\$ 15,000
<b>Total</b>				<b>\$ 894,000</b>



**Hazen and Sawyer**  
Hourly Rate Categories

<b>Category</b>	<b>2024-25 Hr. Rate</b>
Vice President	\$ 294
Associate Vice President	\$ 276
Senior Associate	\$ 266
Associate	\$ 240
Sr. Principal Engineer	\$ 195
Principal Engineer	\$ 167
Engineer	\$ 154
Assistant Engineer	\$ 149
Water Quality Specialist	\$ 196
Sr. Principal Scientist	\$ 179
Principal Scientist	\$ 154
Scientist	\$ 134
Assistant Scientist	\$ 121
Sr. Principal Architect	\$ 185
Principal Architect	\$ 161
Architect	\$ 143
Assistant Architect	\$ 135
Sr. Hydraulic Modeler	\$ 218
Hydraulic Modeler	\$ 156
Sr. Principal Designer	\$ 208
Principal Designer	\$ 172
Senior Designer	\$ 141
Designer/Technician	\$ 129
Drafter	\$ 114
Administrator	\$ 119
Intern/Co-Op	\$ 81

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Fifth Amendment to Agreement – Fountains at the Gateway

**Department:** Administration

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

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Fifth Amendment to the Agreement for Conveyance of Real Estate – Extension of Phase 2 Deadline.

**Staff Recommendation**

Approve the Fifth Amendment extending the deadline to start construction of Phase 2.

**Background Information**

The City and Scott Graby entered into an agreement in 2015 to convey real estates for the development of The Fountains at The Gateway. Phases 1 A and B have been completed and occupied. In 2022, Graby proposed amendments to the Agreement to initiate Phase 2A and following those Amendments, the City transferred a 5.12 acre parcel to Graby for that Phase. As work progressed on development plans and initial site work, Graby has approached the current deadline for starting vertical construction on Phase 2A and has requested additional time to start that work. City staff developed the attached amendment which proposes an 18-month extension and an additional extension with consent of the City. Mr. Graby’s current plan is to begin construction this calendar year. This amendment also allows Mr. Graby to utilize Option Tracts 2B and 3 to accommodate construction phase work on Phase 2A.

**Council Priorities Served**

*Improve economic development*

The Fountains has provided economic development benefits to the City since Phase 1 has been completed. Additional economic benefits are anticipated with the completion of Phase 2.

*Establish strong City brand*

The Fountains has established a identifiable development contributing to the brand of the Gateway and Medical Center Parkway.

**Fiscal Impact**

No fiscal impact is required with this amendment.

**Attachments**

Fifth Amendment to Agreement for Conveyance of Real Estate

Rev 7.27.24

**FIFTH AMENDMENT TO AGREEMENT FOR  
CONVEYANCE OF REAL ESTATE -  
EXTENSION OF PHASE 2 DEADLINES**

This Fifth Amendment to Agreement for Conveyance of Real Estate – Extension of Phase 2 Deadlines (“Fifth Amendment”) is by and between the City of Murfreesboro, Tennessee, a municipal corporation (“City”) and Fountains at Gateway, LLC, as assignee of and successor to Scott Graby, (“Fountains”), together, (the “Parties”).

WHEREAS, the following facts exist:

A. The Parties or their predecessors entered into an Agreement for Conveyance of Real Estate effective March 19, 2015 (the “Agreement”), amended by a First Amendment to Agreement for Conveyance of Real Estate dated April 20, 2015 (the “First Amendment”), and further amended by a Second Amendment to Agreement for Conveyance of Real Estate dated April 13, 2017 (, the “Second Amendment”), and further amended by a Third Amendment to Agreement for Conveyance of Real Estate – Extension of Phase 2 Option dated November 4, 2021 (“Third Amendment”), and further amended by a Fourth Amendment to Agreement for Conveyance of Real Estate – Extension of Phase 2 Options dated December 29, 2022, Section 15 of the Agreement, as amended, granted Graby an option to purchase certain defined “Phase 2” property (the “Phase 2 Option”), and contains certain timing conditions.

B. The Fountains is designed to serve as a mixed-use environment attractive to employers bringing white-collar employment opportunities to the City. The Parties agrees that the additional development outlined herein will create the cutting-edge technological elements currently desired by corporate tenants. The City believes that the projects identified by Graby will support the City’s goals of attracting high-quality, white-collar jobs along with providing the amenities such as restaurants and retail space required for modern office environment and which will create significant direct and indirect tax revenues supportive of the City’s services to the community as a whole.

NOW THEREFORE, for good and valuable mutual considerations, including but not limited to the benefits expected to be derived by both Parties, the receipt and sufficiency of all of which is hereby irrevocably acknowledged and confirmed, the Parties agree that Sec. 15.H shall be amended as follows:

Rev 7.27.24

1. By deleting Sec. 15.H.(i) in its entirety and replacing it with the following:

“(i). GRABY shall substantially begin vertical construction within 30 months after the Phase 2 Closing Date. The City Manager may, for good cause shown, and after an informational notice to the City Council on an advertised agenda at a regular meeting, extend this 30-month deadline to a date certain. If Graby fails to have substantially begun construction within this 30-month period, as it may have been extended, the City will have the right to require Graby to re-convey the Phase 2 Property back to the City for an amount equal to the adjusted sales price of the Phase 2 Property calculated pursuant to this Section 15.”

2. Graby, Fountains, and its Contractor shall have the right to work on either the Phase 2B Option Property or the Phase 3 Option Property, without charge or cost, to the extent reasonably necessary to complete the Phase 2A mass grading and site preparation, including removal of unsuitable fill, to the extent reasonably necessary to support the Phase 2A site preparation.

3. Graby, Fountains, and its Contractor shall have the right to store any excess general fill from the Phase 2A mass grading and site preparation work at a mutually acceptable location on the Phase 3 Option Property, without charge or cost. Graby and / or Fountains will cause its Contractor to shape the storage site with slopes not to exceed 4 to 1 so as to provide for reasonable maintenance, and will seed and straw, and otherwise prepare the excess materials for storage so as to avoid erosion or material migration, promote positive drainage, and to minimize aesthetic impacts to the extent reasonably possible.

4. All other provisions of the Agreement, as amended by the First Amendment, the Second Amendment, Third Amendment, and the Fourth Amendment shall remain in full force and effect as written.

5. This Fifth Amendment shall be binding on the Parties together with any permitted successors or assigns.

6. This Fifth Amendment shall be effective as of the date of the last party to sign, provided that in no event will this Fifth Amendment be effective until approved by the Murfreesboro City Council.

*signatures on following page*

Rev 7.27.24

**CITY OF MURFREESBORO**

**FOUNTAINS AT GATEWAY, LLC**

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

By Scott Graby  
Scott Graby

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

Title: Manager  
Date: 8/21/24

**ATTEST:**

\_\_\_\_\_  
Amanda DeRosia, Acting City Recorder

**APPROVED AS TO FORM:**

Signed by:  
Adam F. Tucker  
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Adam Tucker, City Attorney

Approved by Murfreesboro City Council: \_\_\_\_\_, 2024.

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** First Amendment to Caroline Farms Road Development Agreement

**Department:** Administration

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

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Amendment to the Caroline Farms Road Development Agreement – Adjustment to Road Construction and Preservation of Wetlands.

**Staff Recommendation**

Approve the Amendment adjusting the proposed road construction and transferring wetlands to the City.

**Background Information**

The City and Caroline Farms entered into an agreement in 2017 to among other things construct Quarter Horse Drive at the north end of Caroline Farms. The roadway is planned to extend as a local road from the north end of Caroline Farms to Cherry Lane just west of Siegel Soccer Park. A 152-foot portion of Quarter Horse Drive could not be constructed with the other infrastructure construction as an existing fence along MTSU's horse paddocks was in the RoW. Construction was delayed and would require a remobilization and re-initiation of construction. If extended 152 feet, Quarter Horse Drive would not connect to other roadways to serve a public traffic purpose until the remaining 2,300 feet is constructed at a later date. Therefore, an amendment to the Road Development Agreement is proposed to allow Caroline Farms to pay fees in lieu of construction for the unbuilt portion and additionally to credit a present value of 45,000 square feet of preserved wetlands to be transferred to the City.

**Council Priorities Served**

*Responsible budgeting*

The public private partnership leverages private construction and funding for public needs.

*Expand infrastructure*

The connection of Quarter Horse Drive to Cherry Lane is a recommended project from the City's Major Transportation Plan.

**Fiscal Impact**

Approval of the amendment would result in a payment of \$130,100 to the City for fees in lieu of construction and transfer of 45,000 sq ft of preserved wetlands to the City.

# COUNCIL COMMUNICATION

Meeting Date: 09/05/2024

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**Item Title:** Election of Vice Mayor  
**Department:** Mayor's Office  
**Presented by:** Shane McFarland, Mayor

**Requested Council Action:**

- Ordinance
  - Resolution
  - Motion
  - Direction
  - Information
- 

**Summary**

Council election of the Vice Mayor.

**Background Information**

The City Charter provides for the election of a Vice Mayor from among the Council. The Charter permits the Vice Mayor to act in place of the Mayor when the Mayor is absent or unable to perform the mayoral duties. Additionally, in the event of a vacancy in the office of the Mayor, the Vice Mayor serves as an interim until an individual is elected by the citizens to that office.

Section 11 of the City Charter anticipates that at the first or any subsequent regular meeting after the election of Council members, one of the members of Council will be elected to serve as Vice Mayor. This is the first meeting after the seating of the newly elected Council, and the election of a Vice Mayor is appropriate at this time.

**Fiscal Impact**

None

**Attachments**

Caroline Farms Road Development Agreement First Amendment



## **First Amendment to Road Development Agreement**

### **The City of Murfreesboro and Caroline Farms, LLC**

Whereas, the following facts exist:

- A. Caroline Farms, LLC has substantially built out the Caroline Farms subdivision and desires to complete the obligations of development of the public infrastructure including repair lists, punch lists, warranty period, and termination of sureties as well as commitments in the Road Development Agreement.
- B. Caroline Farms, LLC could not complete approximately 152 linear feet of Quarter Horse Drive due to factors beyond their control including a fence in the right-of-way of Quarter Horse Drive.
- C. Construction of 152 feet of Quarter Horse Drive by Caroline Farms, LLC as a separate project would create additional costs and inconvenience for Carlone Farms, LLC and would not create additional public benefit at this time.
- D. Caroline Farms, LLC preserved approximately 45,000 sq ft of land as a Wetland Preservation Area within the Common Area 2/Drainage Easement and Detention Pond as shown on the Plat of Record (PB 45, Pg 29) west of Alyne Court.
- E. Caroline Farms, LLC purchased the 22.995-acre development track for \$1,400,000 (\$1.3977/sq. ft.) and recent land sales near the Caroline Farms subdivision have been approximately \$3.00/sq. ft.
- F. The City has been delayed in construction of Cherry Lane Phase 2 due to stream and wetland permit negotiations and approvals with TDEC and the Corps of Engineers.
- G. The City intends to extend Quarter Horse Drive approximately an additional 2,300 feet to connect to Cherry Lane Phase 2 as envisioned in the City's Major Transportation Plan project MTI-8 following the construction of Cherry Lane Phase 2.
- H. Including the construction of the Caroline Farms portion of Quarter Horse Drive with the 2300 feet of City portion provides minimal inconvenience to the City project and mutual benefits to both parties.

In order to accomplish the construction of Quarter Horse Drive, the City and Caroline Farms, LLC agree to amend the Road Development Agreement that was effective as of August 3, 2017, as follows:

1. Caroline Farms, LLC will:
  - a. Submit fees in lieu of construction for the 152 ft incomplete portion of Quarter Horse Drive to the City in an amount of \$130,100.00 calculated as follows: \$197,600 (152 ft @ \$1300/ft = \$197,600) less credit of \$67,500 for Wetland Preservation Area = \$130,100.
  - b. Prepare a warranty deed for Common Area 2 substantially as shown on Exhibit A which includes the 45,000 sq ft Wetland Preservation Area for transfer to the City.
  - c. Include necessary easements and obligations for the Caroline Farms Homeowners Association to maintain the detention pond elements as described in the Stormwater Facilities Management Plan.

- d. Prepare an application for a Mandatory Referral to the Murfreesboro Planning Commission for the City to accept the grant of Common Area 2.
  - e. Prepare a warranty deed for Common Area #1 (mail kiosk) as shown on the Section Two, Caroline Farms Subdivision Final Plat (PB 45, PG 29) for transfer to the City and reserve the rights of access, use, maintenance of mail kiosk and surrounding hardscaped/landscaped area, and postal delivery and pickup for the Caroline Farms Homeowners Association and residents of the Caroline Farms subdivision.
2. The City will:
- a. Credit the fees in lieu of construction \$67,500 for the Wetland Preservation Area of 45,000 sq ft based on 50% of recent land values near the Caroline Farms subdivision (\$3.00 / sq. ft).
  - b. Construct Quarter Horse Drive substantially as shown on Exhibit B across the remainder of Caroline Farms development tract at a time and in a manner determined by the City.

All other provisions of the Development Agreement shall remain in full force and effect.

This First Amendment to Development Agreement shall be effective only after approval by the Murfreesboro City Council and execution on behalf of the City.

CITY OF MURFREESBORO

\_\_\_\_\_  
Bill Shacklett  
Vice Mayor

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

CAROLINE FARMS, LLC

\_\_\_\_\_  
*Steven Dotson*  
CF5609A3AA244F9...  
Steven Dotson  
Managing Member

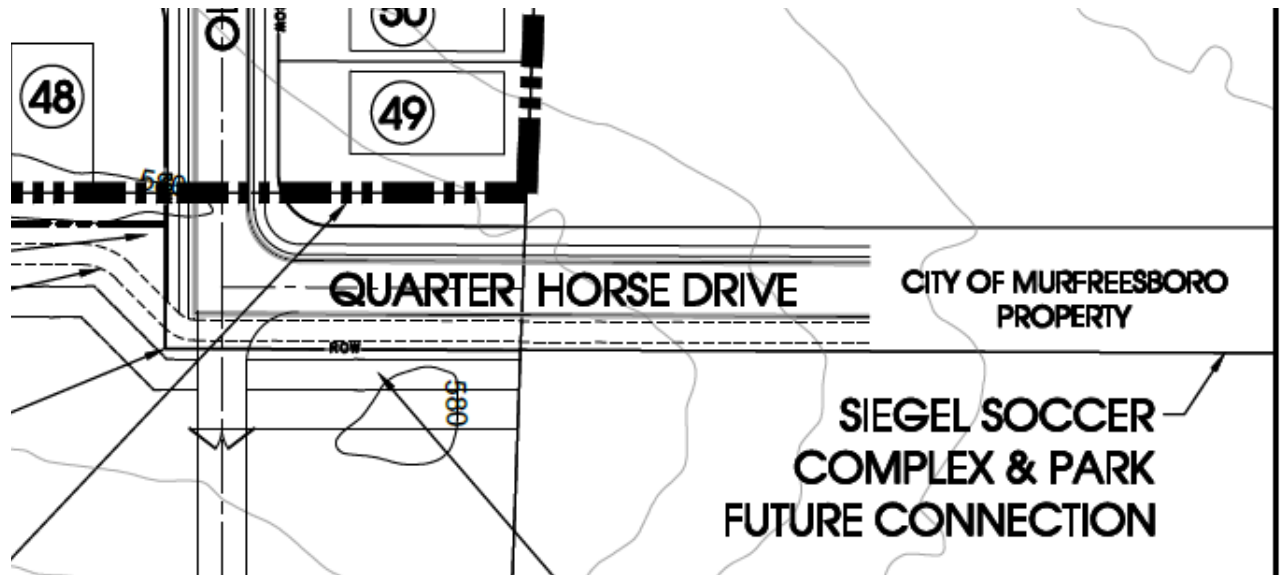
Date: 8/26/2024

Approved by Murfreesboro City Council on: \_\_\_\_\_

Approved as to form

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





Caroline Farms – Exhibit B Quarter Horse Drive Extension in Caroline Farms

**No Items.**

# COUNCIL COMMUNICATION

Meeting Date: 09/07/2024

**Item Title:** Beer Permits  
**Department:** Finance  
**Presented by:** Erin Tucker, 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
Red Lobster Restaurants, LLC	Red Lobster #0604	2108 Lothric Way	On-Premises	Restaurant	Ownership Change
We Love Empanadas	We Love Empanadas	452 N Thompson Ln	Combined	Grocery/Market	New Location

**Special Event Beer Permits**

Name of Applicant	Date of Event	Type of Event	Location of Event
MTSU Foundation	09/20/2024	Homecoming Party/Scholarship Fundraiser	116 N Walnut Street

**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** Red Lobster Restaurants LLC  
**Name of Business** Red Lobster #0604  
**Business Location** 1745 Old Fort Parkway

**Type of Application:**

**New Location** \_\_\_\_\_  
**Ownership Change** \_\_\_\_\_ X \_\_\_\_\_  
**Name Change** \_\_\_\_\_  
**Corporation or LLC** \_\_\_\_\_ X \_\_\_\_\_  
**Partnership or LLC** \_\_\_\_\_  
**Sole Proprietor** \_\_\_\_\_

**5% or more ownership:**

**Name** Jesse McNamara  
**Age** 42  
**Residency City/State** Smyrna, TN  
**Race/Sex** White/M

**10 Year Background Check Findings**

City of Murfreesboro: None  
Rutherford County: None

**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:

<b>Name of Business Entity/Sole Proprietor</b>	We Love Empanadas
<b>Name of Business</b>	We Love Empanadas
<b>Business Location</b>	452 N Thompson Ln
<b>Type of Business</b>	Grocery/market
<b>Type of Permit Applied For</b>	Combined

Type of Application:

<b>New Location</b>	<u>          X          </u>
<b>Ownership Change</b>	<u>                          </u>
<b>Name Change</b>	<u>                          </u>
<b>Permit Type Change</b>	<u>                          </u>
<b>Corporation</b>	<u>                          </u>
<b>Partnership</b>	<u>                          </u>
<b>LLC</b>	<u>                  X          </u>
<b>Sole Proprietor</b>	<u>                          </u>

5% or more Ownership

<b>Name</b>	Guillermo Cepero
<b>Age</b>	48
<b>Residency City/State</b>	Murfreesboro, TN
<b>Race/Sex</b>	Hispanic/M
<b>Background Check Findings</b>	
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:

<b>Name of Non-Profit Organization</b>	Middle Tennessee State University Foundation
<b>Organization Address</b>	MTSU Box 104
<b>Event Location</b>	Walnut House 116 N. Walnut St.
<b>Event Date</b>	9/20/2024
<b>Event Time</b>	8:00 p.m. until 12:00 a.m.
<b>Period for Beer to be Served</b>	8:00 p.m. until 12:00 a.m.
<b>Nature and Purpose of Event</b>	Homecoming Party & Scholarship Fundraiser
<b>Approximate Number of Persons Expected to Attend</b>	200-250
<b>Special Event Permit Approved?</b>	No
<b>Application Completed Properly?</b>	Yes
<b>Internal Revenue Letter Provided?</b>	Yes

The actual beer application is available in the office of the City Recorder.

**No Items.**

