



Board of Commissioners
Regular Meeting Agenda
Thursday, October 5, 2023, 6:00 PM
City Hall, Lakeland, Tennessee 38002

This meeting will be held in Conference Room A at City Hall due to ongoing construction in the Board Room.

- I. CALL TO ORDER BY MAYOR:
- II. INVOCATION:
- III. PLEDGE:
- IV. ROLL CALL BY RECORDER:
- V. PUBLIC HEARING:
 1. **Ordinance - Second and Final Reading** - amending Article III. Section 2 of the Lakeland Land Development Regulations in order to regulate the placement of short-term rental property.
- VI. TREASURER'S REPORT:
- VII. REPORTS FROM COMMITTEES, MEMBERS OF THE BOARD OF COMMISSIONERS & OTHER OFFICERS:
 - Commissioners' Reports
 - a. Land Development Regulations Subcommittee - *Commissioner Atkinson*
- VIII. PUBLIC COMMENTS:
- IX. SEWERAGE COMMISSION BUSINESS:
- X. CONSENT AGENDA:
 1. Approval of Meeting Minutes from Previous Meetings:
 - a. Regular Meeting Minutes - September 21, 2023
 - b. Special Called Meeting Minutes - September 29, 2023
- XI. REGULAR AGENDA:
 1. **Ordinance - Second and Final Reading** - amending Article III. Section

2 of the Lakeland Land Development Regulations in order to regulate the placement of short-term rental property.

2. **Ordinance - First Reading** - amending Title II Chapter 3 Section 11-301 of the Lakeland Municipal Code in order to modify and expand language regarding disturbing the peace. *Sponsored by Vice-Mayor Wright*
3. **Resolution** - approving the purchase of a restroom facility for International Harvester Managerial Park from Public Restroom Company from Sourcewell contract #081721-PRM.
4. **Resolution** - approving an agreement with the Tennessee Department of Transportation for Davies Plantation Road from SR-15 (US Highway 64) to I-40.
5. **Resolution** - authorizing the City Manager to join the H-GAC Cooperative Purchasing Program.
6. **Resolution** - approving a contract with Michael's Tree and Loader Service for Emergency Debris Removal.
7. **Resolution** - approving amendment #1 to the agreement with Cannon & Cannon, Inc. for the Highway 70 at Seed Tick Road intersection improvements project.
8. **Resolution** - authorizing the City Manager and City Attorney to draft an agreement for use of City property at 0 Huff N Puff Road by The Refuge Church. *Sponsored by Vice-Mayor Wright*

XII. ANNOUNCEMENTS:

XIII. ADJOURNMENT:



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, SEPTEMBER 21, 2023, 6:00 P.M.
CITY HALL. LAKE LAND. TENNESSEE 38002**

- I. **CALL TO ORDER BY MAYOR:** The meeting was called to order by Vice Mayor Wesley Wright at 6:00 p.m. on Thursday, September 21, 2023.
- II. **INVOCATION:** Offered by City Manager Michael Walker.
- III. **PLEDGE:** Vice Mayor Wright led the pledge to the flag.
- IV. **ROLL CALL BY RECORDER:** Mayor Josh Roman, Vice-Mayor Wesley Wright, Commissioner Jim Atkinson, Commissioner Michele Dial, and Commissioner Connie McCarter were present.

Staff personnel in attendance were City Manager Michael Walker, City Planner Alex Barthol, City Engineer Emily Harrell, Recreation Manager Andrew Fisher, Staff Engineer Luis Camarillo- Hernandez, City Recorder Cheyenne Carter, Recorder Pro Tempore Sue Lipscomb and City Attorney Will Patterson.

V. **PUBLIC HEARING:**

VI. **TREASURER'S REPORT:**

VII. **REPORTS FROM COMMITTEES, MEMBERS OF THE BOARD OF COMMISSIONERS & OTHER OFFICERS:**

- Sheriff's Report: A representative of the Shelby County Police Department offered the August 2023 crime report.
- City Manager's Report: City Manager Michael Walker offered the September 2023 report.
 - Update provided for Quantum Hotels Property Acquisitions: Asbestos survey complete and will require abatement and change order, empty lot closed on Wednesday, 9/20/23.
 - Recapped RightFiber meeting with HOA presidents and provided customer hotline phone number for concerns.
 - Provided update on paving and pavement preservation in Bentbrooke Hills, Evergreen Hill, The Grove and Plantation Hills.
 - Provided Code Enforcement statistics.
 - Provided cash flow and timeline for New Canada Road
 - Provided an update on Bulk Waste Pick up pertaining to the new route schedule to start in November.
 - Provided city staff updates.
- Commissioners' Reports:
 - Industrial Development Board, Mayor Roman
 - Lakeland Board of Education, Vice Mayor Wright
 - Parks and Recreation & Natural Resources Board, Commissioner Dial
 - Municipal Planning and Design Review Commission, Commissioner Atkinson



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, SEPTEMBER 21, 2023, 6:00 P.M.
CITY HALL, LAKELAND, TENNESSEE 38002**

VIII. PUBLIC COMMENTS:

For the record: Comments were heard from the following:

Francis Fairley – 4000 block of White Cedar Cove
Richard Gonzalez – 5000 block of Conifer View
John Brown – 4000 Loch Louise Point
Mark Pledge – 9000 block of Pint Point Drive

IX. SEWERAGE COMMISSION BUSINESS:

X. CONSENT AGENDA:

1. Approval of Meeting Minutes from Previous Meeting:

a. Regular Meeting Minutes – September 7, 2023

Commissioner Atkinson moved to bring this item to the floor, seconded by Mayor Roman.

For the record: Commissioner McCarter requested a roll call vote.

When the question was called the consent agenda was approved as presented, roll call vote, 4 in favor 1 against (4-1).

Vice-Mayor Wright	Yea
Commissioner Atkinson	Yea
Commissioner Dial	Yea
Commissioner McCarter	Nay
Mayor Roman	Yea

XI. REGULAR AGENDA:

1. Ordinance – First Reading – amending Article III. Section 2 of the Lakeland Land Development Regulations in order to regulate the placement of short-term rental property.

Mayor Roman motioned to move to the floor to amend section 5 seconded by Commissioner Dial.

For the record: City Attorney, Will Patterson, provided a briefing of the proposed ordinances.

Discussion ensued.

After discussion, Mayor Roman moved to amend adding a section 5 with a sunset provision with exact wording provided by City Attorney Will Patterson, seconded by Commissioner Atkinson.



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, SEPTEMBER 21, 2023, 6:00 P.M.
CITY HALL, LAKE LAND. TENNESSEE 38002**

When the question was called the motion to amend the resolution carried, roll call vote, 5 in favor 0 against (5-0).

Vice-Mayor Wright	Yea
Commissioner Atkinson	Yea
Commissioner Dial	Yea
Commissioner McCarter	Yea
Mayor Roman	Yea

Discussion ensued.

After discussion, Commissioner Atkinson moved to amend the ordinance to expand coverage to all zoning districts, seconded by Mayor Roman.

When the question was called the motion to amend the resolution carried, roll call vote, 5 in favor 0 against (5-0).

Vice-Mayor Wright	Yea
Commissioner Atkinson	Yea
Commissioner Dial	Yea
Commissioner McCarter	Yea
Mayor Roman	Yea

Discussion ensued.

After discussion, Commissioner McCarter moved to amend the ordinance to add a registry requirement for rentals with an annual fee of \$10 paid to the City of Lakeland and a required application. Commissioner McCarter moved to change this amendment to add the words "short-term"; such change failed to be seconded.

When the question was called the motion to amend, as originally submitted, failed, roll call vote, 1 in favor 4 against (1-4).

Vice-Mayor Wright	Yea
Commissioner Atkinson	Nay
Commissioner Dial	Nay
Commissioner McCarter	Nay
Mayor Roman	Nay

When the question was called the ordinance passed as amended by amendments 1 and 2, roll call vote, 5 in favor 0 against (5-0).

Vice-Mayor Wright	Yea
Commissioner Atkinson	Yea
Commissioner Dial	Yea
Commissioner McCarter	Yea
Mayor Roman	Yea



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, SEPTEMBER 21, 2023, 6:00 P.M.
CITY HALL. LAKELAND. TENNESSEE 38002**

2. **Resolution** – appointing a commissioner liaison to the City of Lakeland's Land Development Regulations Update sub-committee.

Mayor Roman moved to bring this item to the floor, seconded by Commissioner Dial.

Discussion ensued. Mayor Roman moved to appoint Commissioner Atkinson as liaison of the City of Lakeland's Land Development Regulations Update sub-committee, seconded by Vice Mayor Wright. Commissioner Atkinson accepted.

When the question was called the resolution passed as presented, roll call vote, 5 in favor 0 against (5-0).

Vice-Mayor Wright	Yea
Commissioner Atkinson	Yea
Commissioner Dial	Yea
Commissioner McCarter	Yea
Mayor Roman	Yea

3. **Resolution** – approving an agreement with Pavement Management Group, LLC for the pavement assessment services.

Commissioner Dial moved to bring this item to the floor, seconded by Commissioner Atkinson

Discussion ensued.

When the question was called the resolution passed as presented, roll call vote, 5 in favor 0 against (5-0).

Vice-Mayor Wright	Yea
Commissioner Atkinson	Yea
Commissioner Dial	Yea
Commissioner McCarter	Yea
Mayor Roman	Yea

4. **Resolution** – approving Amendment #1 to the agreement with Cannon & Cannon, Inc. for the Highway 70 at Seed Tick Road Intersection Improvements project.

Vice Mayor Wright moved to bring this item to the floor, seconded by Commissioner Atkinson.

Discussion ensued. Mayor Roman motioned to table item to a later date, seconded by Commissioner Atkinson.



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, SEPTEMBER 21, 2023, 6:00 P.M.
CITY HALL. LAKELAND. TENNESSEE 38002**

When the question was called the resolution passed as presented, roll call vote, 5 in favor 0 against (5-0).

Vice-Mayor Wright	Yea
Commissioner Atkinson	Yea
Commissioner Dial	Yea
Commissioner McCarter	Yea
Mayor Roman	Yea

5. **Resolution** – amending resolutions R-134-2022, R-25-2023, and R-70-2023 and the calendar year 2023 City of Lakeland meeting calendar.

Commissioner Dial moved to bring this item to the floor, seconded by Vice Mayor Wright

Discussion ensued.

When the question was called the resolution passed as presented, roll call vote, 5 in favor 0 against (5-0).

Vice-Mayor Wright	Yea
Commissioner Atkinson	Yea
Commissioner Dial	Yea
Commissioner McCarter	Yea
Mayor Roman	Yea

XII. ANNOUNCEMENTS:

- XIII. ADJOURNMENT:** There being no other business on which to act, the meeting was adjourned without objection at 8:23 p.m. on Thursday, September 21, 2023.

These minutes were approved on October 5, 2023.

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter
City Recorder



**BOARD OF COMMISSIONERS
SPECIAL CALLED MEETING MINUTES
FRIDAY, SEPTEMBER 29, 2023, 12:00 P.M.
CITY HALL. LAKE LAND. TENNESSEE 38002**

I. **CALL TO ORDER BY MAYOR:** The meeting was called to order by Mayor Josh Roman at 12:00 p.m. on Friday, September 29, 2023.

II. **INVOCATION:** Offered by Mayor Josh Roman.

III. **PLEDGE:** Mayor Roman led the pledge to the flag.

IV. **ROLL CALL BY RECORDER:** Mayor Josh Roman, Vice-Mayor Wesley Wright, and Commissioner Jim Atkinson were present. Commissioner Michele Dial and Commissioner Connie McCarter were absent.

Staff personnel in attendance were City Manager Michael Walker, City Engineer Emily Harrell, Planning Director Paul Luker, Staff Planner Alex Barthol and City Attorney Will Patterson.

V. **PUBLIC HEARING:**

VI. **TREASURER'S REPORT:**

VII. **REPORTS FROM COMMITTEES, MEMBERS OF THE BOARD OF COMMISSIONERS & OTHER OFFICERS:**

VIII. **PUBLIC COMMENTS:**

IX. **SEWERAGE COMMISSION BUSINESS:**

X. **CONSENT AGENDA:**

XI. **REGULAR AGENDA:**

1. **Resolution** - authorizing the purchase of property owned by Gita Sam Shiv f/k/a Gangaben Patel pursuant to resolution R-68-2023. **Sponsored by Mayor Roman.**

Vice Mayor Wright moved to bring this item to the floor, seconded by Commissioner Atkinson.

Discussion ensued.

When the question was called the ordinance passed as presented, voice vote, 3 in favor 0 against (3-0).



**BOARD OF COMMISSIONERS
SPECIAL CALLED MEETING MINUTES
FRIDAY, SEPTEMBER 29, 2023, 12:00 P.M.
CITY HALL. LAKELAND. TENNESSEE 38002**

2. **Resolution** - authorizing the purchase of property owned by Belz Investco GP.

Commissioner Atkinson moved to bring this item to the floor, seconded by Vice Mayor Wright.

Discussion ensued.

When the question was called the resolution passed as presented, voice vote, 3 in favor 0 against (3-0).

3. **Resolution** – approving a letter from the Board of Commissioners of the City of Lakeland, Tennessee, to Tennessee Governor Bill Lee in support of the Youth Villages request for fiscal year 2025 funding from the State of Tennessee to continue implementation of the Memphis Allies Initiative.

Commissioner Atkinson moved to bring this item to the floor, seconded by Vice Mayor Wright.

Discussion ensued.

When the question was called the resolution passed as presented, voice vote, 3 in favor 0 against (3-0).

4. **Resolution** – approving Change Order #1 to the Building Demolition project.

Vice Mayor Wright moved to bring this item to the floor, seconded by Commissioner Atkinson.

Discussion ensued.

When the question was called the resolution passed as presented, voice vote, 3 in favor 0 against (3-0).

XII. ANNOUNCEMENTS:

- XIII. ADJOURNMENT:** There being no other business on which to act, the meeting was adjourned without objection at 12:17p.m. on Friday, September 29, 2023.



**BOARD OF COMMISSIONERS
SPECIAL CALLED MEETING MINUTES
FRIDAY, SEPTEMBER 29, 2023, 12:00 P.M.
CITY HALL. LAKELAND. TENNESSEE 38002**

These minutes were approved on October 5, 2023

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter
City Recorder

DRAFT



Board of Commissioners

Meeting Cycle: Thursday, October 5, 2023

Subject: **Ordinance - Second and Final Reading** - amending Article III. Section 2 of the Lakeland Land Development Regulations in order to regulate the placement of short-term rental property.

Staff Contact: Paul Luker, Planning Director

STAFF RECOMMENDATION

City Staff recommends that the Board of Commissioners approve ordinance O-13-2023.

BUDGET IMPACT

There is no budgetary impact related to this resolution.

DISCUSSION

The proposed ordinance was developed in response to community concerns expressed to the Board of Commissioners at the September 7, 2023 meeting regarding the negative impact of short-term rental property in the City of Lakeland. Final review of the ordinance by the City Attorney, along with comparison to surrounding municipality codes, will be completed prior to second reading.

ORDINANCE O-13-2023

AMENDING ARTICLE III. SECTION 2 OF THE LAKELAND LAND DEVELOPMENT
REGULATIONS IN ORDER TO REGULATE THE PLACEMENT OF SHORT-TERM
RENTAL PROPERTY

WHEREAS, the City of Lakeland's Board of Commissioners has reviewed the following edits on September 21, 2023, and recommended said edits; and,

WHEREAS, in accordance with Tennessee Code Annotated, Section 13-7-203 the legislative body held a public hearing to obtain citizen input on said amendments; and,

WHEREAS, said public hearing notice was published in a newspaper of general circulation at least 15 days prior to the aforementioned public hearing:

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Lakeland, Tennessee, as follows:

SECTION 1. Article III. Section 2. C. 5 (Lodging and Housing Uses) Short-Term Rental Property. Any existing dwelling (whether attached, detached, two-family, multi-family, townhouse, mobile home, manufactured home, or modular home), dwelling unit, or residence used for transient occupancy. Bed and Breakfast homestays shall not be considered Short-Term Rental Property.

SECTION 2. The City of Lakeland Land Development Regulations is hereby amended as follows:
Article III. Section 2. L (Use Table) to show the following: Short-Term Rental Property, as defined in Article III. Section 2. C. 5 is a prohibited use in all zoning districts.

SECTION 3. Any presently operating short term rental unit may continue business operation unless the property is sold, transferred, ceases being used as a short-term rental unit for a period of thirty (30) continuous months or has been in violation of generally applicable local laws three (3) or more separate times, In accordance with TCA 13-7-604(b)(3).

SECTION 4. All ordinances in conflict with the provisions of this ordinance are hereby repealed. Further, the provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application".

ORDINANCE O-13-2023

AMENDING ARTICLE III. SECTION 2 OF THE LAKELAND LAND DEVELOPMENT
REGULATIONS IN ORDER TO REGULATE THE PLACEMENT OF SHORT-TERM
RENTAL PROPERTY

SECTION 5. This ordinance shall take effect immediately upon final passage, the public welfare requiring it.

First Reading: September 21, 2023

Public Hearing: October 5, 2023

Final Reading: October 5, 2023

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter
City Recorder

ORDINANCE O-14-2023

AMENDING TITLE II CHAPTER 3 SECTION 11-301 OF THE LAKE LAND MUNICIPAL CODE IN ORDER TO MODIFY AND EXPAND LANGUAGE REGARDING DISTURBING OF THE PEACE

WHEREAS, the Board of Commissioners of the City of Lakeland, Tennessee, (the “Board”) desires to increase the restrictions on disturbances of the peace:

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Lakeland, Tennessee, as follows:

SECTION 1. The City of Lakeland Municipal Code is hereby amended to repeal the existing *Title 11 Chapter 3. Offences Against the Peace and Quiet*, and replacing it with the following:

11-301 Anti Noise Regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity or duration as to be detrimental to the life and health of any individual or in disturbance of the public peace and welfare is prohibited. (1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

11-302 Noise Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All technical definitions are in accordance with American National Standards Institute S1-1960 entitled “Acoustical Terminology.”

AMBIENT NOISE.

The all-encompassing noise associated with a given environment being usually a composite of sounds from many sources, near and far.

BANK PRESSURE LEVEL.

Sound for a specified frequency band is the sound pressure level for sound contained within the restricted band. The reference pressure must be specified.

CYCLE.

The complete sequence of values of a periodic quantity that occur during that period.

DECIBEL

One-tenth of a BEL and is a unit level when the base of the logarithm is the tenth root to ten and the quantities concerned are proportional to power.

AMENDING TITLE II CHAPTER 3 SECTION 11-301 OF THE LAKELAND MUNICIPAL
CODE IN ORDER TO MODIFY AND EXPAND LANGUAGE REGARDING DISTURBING
OF THE PEACE

PERSON.

Any person, person's firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.

SOUND ANALYZER.

A device for measuring the band pressure spectrum level of a sound as a function of frequency.

SOUND-LEVEL METER.

An instrument, including a microphone, an amplifier, an output meter and frequency weighting networks for measurement of noise and sound levels in a specific manner.

SOUND PRESSURE LEVEL.

In decibels of sound is 20 times the logarithm to the base ten of the ratio of the pressure of this sound to the reference pressure, which reference pressure is for the purpose of this section a reference pressure of 20 micro-newtons per meter squared.

WEIGHTED LEVEL.

The total sound pressure level of all noise as measured with a sound level meter using the "A" weighing network. The unit of measurement is the db (A).

(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

11-303 Vehicle Noise. It shall be unlawful to operate a motorized vehicle, including, but not limited to, cars, trucks, buses, motorcycles, motorbikes, minibikes and go carts within the corporate limits on private or public property which creates a noise or sound which exceeds the noise level limits set out below:

1. Trucks and buses over 10,000 pounds.
 - a. 87 db (A) measured at 50 feet maximum allowable limit.
 - b. 93 db (A) measured at 25 feet maximum allowable limit.
2. Under 10,000 pounds.
 - a. 80 db (A) measured at 50 feet maximum allowable limit.
 - b. 86 db (A) measured at 25 feet maximum allowable limit.
 - c. 78 db (A) measured at 50 feet maximum allowable limit.
 - d. 84 db (A) measured at 50 feet maximum allowable limit.
 - e. 93 db (A) measured at 25 feet maximum allowable limit.

ORDINANCE O-14-2023

AMENDING TITLE II CHAPTER 3 SECTION 11-301 OF THE LAKELAND MUNICIPAL CODE IN ORDER TO MODIFY AND EXPAND LANGUAGE REGARDING DISTURBING OF THE PEACE

Exempted vehicles. The following uses and activities shall be exempt from noise level regulations:

1. Ambulances, whether owned by private company or City operated, while upon call to the scene of an accident or an emergency situation;
2. Vehicles used as garbage collection trucks while in performance of duties and used for either loading or processing of garbage and debris, whether privately owned or City operated;
3. Fire equipment upon emergency call and return;
4. Shelby County Sheriff's Office equipment and/or other City, county, state and federal law enforcement equipment upon emergency call;
5. When the trucks have been issued permits by the Shelby County Sherrifs Office;
6. Vehicular equipment used in connection with the removal of trees, brush, undergrowth and the like, whether privately owned or City operated;
7. All of the above mentioned vehicles, with the exception of the City of Lakeland equipment, shall be required to maintain mufflers and related equipment within the noise level regulations contained in this section.

(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

11-304 Measurement of Noise. The measurement of sound or noise shall be made with a sound level meter meeting those standards prescribed by the American National Standards Institute. The instrument shall be maintained in calibration. A check shall be made of the systems at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source and shall not exceed the above levels as measured in any direction. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interfered with the primary noise being measured.

1. Measurement of noise levels caused by a moving vehicle shall be confirmed by a noise level measurement taken with the vehicle stationary. The driver of the vehicle shall be required to accelerate his or her engine to one-half throttle in order to conduct the noise level reading.

AMENDING TITLE II CHAPTER 3 SECTION 11-301 OF THE LAKE LAND MUNICIPAL
CODE IN ORDER TO MODIFY AND EXPAND LANGUAGE REGARDING DISTURBING
OF THE PEACE

- a. Mufflers. It shall be unlawful for any person to operate or cause to be operated any muffler attached to any motor vehicle or any other mechanized unit which produces noise levels within the corporation exceeding db (A) ratings as set out in the above table and accompanying the subsections above.
- b. Horns and other warning devices. Generally, it shall be unlawful for any person to operate or cause to be operated any horn, siren, whistle, bell or any electronic blast which may be attached to any motor vehicle or other mechanized unit which is in any manner inconsistent with subsection (a).
- c. Trains. It shall be unlawful for any person to operate or cause to be operated a warning device of any type, included, but not limited to, a whistle, horn or electronic blast on trains or vehicles which operate on stationary rails, in excess of 87 db (A) at 50 feet within the corporation for a sustained period of more than 30 seconds, except as may be required by any federal safety regulations requiring sounding of warning signals at grade crossings.

(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

11-305 Radios, televisions, musical instruments and similar devices.

It shall be unlawful to operate or play any radio, television, phonograph, loudspeaker, sound amplifying equipment or similar device on a public right-of-way in a public park or from a motor vehicle which produces or reproduces sound in a manner as to be plainly audible at a distance of 7.5 meters (25 feet). It shall be unlawful to operate or play, or allow to be operated or played, any radio, television, phonograph, musical instrument, loudspeaker or similar device in a residential area that is plainly audible to any person off the premises of the operating party unless a permit has been issued. It shall be unlawful to operate or play any musical instrument on a public right-of- way, in a public park, playground or recreation area which produces sound in such a manner as to be plainly audible at a distance of 15 meters (50 feet), unless a permit has been issued. It shall be unlawful for the use of any drum, loudspeaker or other instrument or device emitting noise for the purpose of attracting attention to any performance, show or sale or display of merchandise.

(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

AMENDING TITLE II CHAPTER 3 SECTION 11-301 OF THE LAKE LAND MUNICIPAL
CODE IN ORDER TO MODIFY AND EXPAND LANGUAGE REGARDING DISTURBING
OF THE PEACE

11-306 Yelling, shouting, hooting and the like. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of any persons in any hospital, dwelling, hotel or other type of residence or of any person in the vicinity. The keeping of any animal, bird or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity. The use of any automobile, motorcycle, truck or vehicle so out of repair, so loaded or grinding, rattling or other noises.
(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

11-307 Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger upon request of proper municipal authorities.
(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

11-308 Building operations. Noise-producing activities, including but not limited to, framing, roofing, grading, the use of trucks, the operation of any tools or equipment associated with the construction (including excavation), demolition, alteration or repair of any building in any residential area or section, other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays or between the hours of 8:00 a.m. and 4:00 p.m. on Saturdays shall be unlawful. Exceptions are permissible in cases of urgent necessity in the interest of public health and safety with written approval from the City's Building Official granted for a time period established by the City's Building Official. The written approval for any such work shall be available at all times at the building site for review by any City enforcement officer. This is not intended to regulate non-noise-producing activities.
(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

11-309 Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading and unloading of any vehicle or the opening and destruction of bales, boxes, crates and other containers.
(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

AMENDING TITLE II CHAPTER 3 SECTION 11-301 OF THE LAKE LAND MUNICIPAL
CODE IN ORDER TO MODIFY AND EXPAND LANGUAGE REGARDING DISTURBING
OF THE PEACE

11-310 Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against the following:

1. Repair of streets and the like. Excavations or repairs of bridges, streets or highways at night, by or on behalf of the municipality, the county or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.
2. Noncommercial and non-profit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the cause of public addresses which are noncommercial in character and in the course of advertising functions sponsored by non-profit organizations. However, no such use shall be made until a permit thereof is secured from the City Clerk. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit.

(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

11-311 Manner of enforcement. Violations of this section shall be prosecuted in the same manner as other misdemeanor violations of the City Code and shall be initiated upon issuance of a citation ticket or brought upon complaint by a private citizen by issuance of a summons, after verification by a code enforcement officer using a sound meter. Violations. Any violation of the provisions of this section shall be punishable by a fine not to exceed \$50, subject to the discretion of the court.

(1989 Code, § 10-217, as replaced by Ordinance O-14-2023).

SECTION 2. All ordinances in conflict with the provisions of this ordinance are hereby repealed. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

SECTION 3. This ordinance shall take effect the latter of fifteen (15) days after first reading or immediately upon final passage, the public welfare requiring it.

ORDINANCE O-14-2023

AMENDING TITLE II CHAPTER 3 SECTION 11-301 OF THE LAKELAND MUNICIPAL
CODE IN ORDER TO MODIFY AND EXPAND LANGUAGE REGARDING DISTURBING
OF THE PEACE

First Reading: October 5, 2023

Public Hearing:

Final Reading:

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter

City Recorder



Board of Commissioners

Meeting Cycle: Thursday, October 5, 2023

Subject: **Resolution** - approving the purchase of a restroom facility for International Harvester Managerial Park from Public Restroom Company from Sourcewell contract #081721-PRM.

Staff Contact: Patrick O'Mara, Parks & Recreation Director

STAFF RECOMMENDATION

City Staff recommends the Board of Commissioners approve Resolution R-131-2023

BUDGET IMPACT

The purchase will be made using Park Development funds and balance transfers.

DISCUSSION

International Harvester Managerial Park is one of the most visited parks in Lakeland based on the 2022 Comprehensive Parks Master Plan and community comments one of the most requested amenities is restroom facilities for the general public.

This purchase is through the Sourcewell purchasing cooperative contract # 081721-PRM.

RESOLUTION R-131-2023

APPROVING THE PURCHASE OF A RESTROOM FACILITY FOR INTERNATIONAL
HARVESTER MANAGERIAL PARK FROM PUBLIC RESTROOM COMPANY
THROUGH STATE OF TENNESSEE STATEWIDE CONTRACT #081721-PRM

WHEREAS, the City of Lakeland, Tennessee, (the “City”) desires to purchase a restroom facility for IH Park; and,

WHEREAS, Public Restroom Company is able to provide the building through statewide contract #081721-PRM; and,

WHEREAS, funding for this purchase is appropriated in the Fiscal Year 2023 Annual Budget for the General Fund:

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the City Manager is hereby authorized to purchase a restroom facility in the amount of two hundred ninety-seven thousand, five dollars (\$297,005).

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 5TH day of October 2023, the public welfare requiring it.

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter
City Recorder

Price Proposal: International Harvester Park
Owner: City of Lakeland, TN
Date: September 22, 2023
Reference: 11664-9/19/2023-1
Sourcewell: Contract # 081721-PRM

Our Offer to Sell:

1. Restroom Building delivered to site @ \$ 261,357

Public Restroom Company (PRC) herein bids to *furnish (building only per plans and specifications, delivered to site with all costs except installation including applicable taxes excluding retention.* (Retention is not allowed as this is materials or a product fully assembled before shipment to the site and therefore not subject to retention.)

2. Installation: Turnkey Installation of the Building above @ \$ 35,648 with retention allowed.

Public Restroom Company also includes in this two-part quotation our turnkey installation package for this building. Our national factory authorized installation team will:

- a. Arrive onsite to confirm and verify the Owner/General Contractor provided scope of work in preparation for installation including access to the site.
- b. Verify the building pad size, building corners, finished slab elevation, utility depth and location, meter size and distance from building, and compaction compliance.
- c. Excavate the utility trenches for placement of our prefabricated underground piping tree for the buildings plumbing and electrical, set the kit in place, provide the water test for inspection before backfilling, and then place the site adjacent coarse sand you provide to us alongside the building pad and screed it level for final building placement. We will need onsite water availability for wetting the sand bed before building placement to consolidate the pad.
- d. Set the building on the site pad.
- e. Connect the utility piping stub ups to the building piping stub down building points of connection for water, sewer, and electrical conduit to the building internal electrical panel.

3. Owner/General Contractor Final Tie In of Utilities and other site work:

- a. The Owner/Contractor is responsible for making all **final plumbing connections** at the 6' POC locations.
- b. The Owner/Contractor is responsible for pulling wire and completing all final tie-ins to the electrical panel from the 6' POC location.
- c. The Owner/Contractor is responsible for preparing the pad/foundation. PRC will trench through provided pad/foundation to run utilities to 6' POC locations.

4. Total Cost of building and installation @ \$ 297,005

International Harvester Park - City of Lakeland, TN | 09/22/2023 | Reference # 11664-9/19/2023-1
2587 Business Parkway | Minden, NV 89423 | www.PublicRestroomCompany.com | p: 888-888-2060 | f: 888-888-1448

OWNER/GENERAL CONTRACTOR SCOPE OF WORK WITH/WITHOUT FOOTINGS:**Scope of Work Background:**

Owner/General Contractor shall survey the site, establish survey for the building pad and prefabricated building slab elevation and front corners, excavate for building footings (if required), locate footing sleeves for electrical, waste, and water, pour the footings (if required), furnish sand base adjacent to subgrade pad, and provide location for utility POC's nominally 6' outside the foundation.

Preparation of Building Pad:

Owner/General Contractor is responsible for providing the building subgrade pad or when required footings to frost depth per Public Restroom Company design specifications. PRC will provide detailed drawings for the subgrade building pad, utilities POC's, and if required the footings, attached to this scope of work.

Subgrade Pad/Foundation Requirements:

1. Owner/General Contractor shall survey the building site and provide a finished slab elevation for the prefabricated building. The building pad size we require is larger than the final actual building footprint. Provide building front corner stakes with 10' offsets.
2. Excavate the existing site to the depth of the required footings to local code if required.
3. Furnish coarse concrete sand adjacent to subgrade pad so PRC can cut the utility trenches, install underground utilities, and screed sand.

Owner/General Contractor verification of site access to allow Building Delivery:

1. You certify to PRC that suitable delivery access to the proposed building site is available. Suitable access is defined as 14' minimum width, 16' minimum height, and sufficient turning radius for a crane and 70' tractor-trailer.
2. Our cost is based upon the crane we provide being able to get within 35' from the building center and for the delivery truck to be no more than 35' from the crane center picking point.
3. If the path to the building site traverses curbs, underground utilities, landscaping, sidewalks, or other obstacles that could be damaged, it is the Owner/General Contractor's responsibility for repair and all costs, if damage occurs.
4. If trench plating is required, it shall be the cost responsibility of the Owner/General Contractor.
5. If unseen obstacles are present when site installation begins, it is the Owner/General Contractor responsibility to properly mark them and verbally notify PRC before installation.
6. If weather becomes an issue for safety or site installation delays due to weather, Owner/General Contractor or PRC with General Contractor's confirmation may call-off set. If building set is stopped, relocation of the building modules to an onsite or offsite location may incur additional costs to Owner/General Contractor.

Installation Notice and Site Availability:

PRC will provide sufficient notice of delivery of the prefabricated building. The Owner/General Contractor shall make the site available during the delivery period. During the delivery period, on an

improved site, Owner should stop site watering several days before delivery to minimize the impact on the soils for the heavy equipment needed for installation.

Caution: *If site is not ready for our field crew to perform their installation and if no notice of delay in readiness from Owner/General Contractor is received, PRC will provide a change order for re-mobilization on a daily basis until the site is ready for us. Ready means that the site pad is completed, the corner required survey stakes are in place, the slab elevation stakes are in place, the location of the front of the building is confirmed on site, and access to the site is available from an improved roadway. Owner/General Contractor shall sign the change order before we will continue delivery.*

Public Restroom Company will “turn-key” set the buildings including the hook up of utilities inside the building (only) when they are available. PRC will use its own factory trained staff for the installation.

Utility Connections:

1. PRC to complete all internal building plumbing connections and connections from the electrical panel to building’s fixtures. The Owner/ Contractor is responsible for making the **final plumbing connections** at the 6’ POC locations.
2. The Owner/Contractor is responsible for pulling the wire and completing the final tie-in to the electrical panel from the 6’ POC location.
3. The Owner/Contractor is responsible for commissioning the building once final utility connections are made. This includes flushing & testing all water service lines before final startup.

Special Conditions, Permits, and Inspection Fees:

Follow any published specifications governing local building procedures for applicable building permit fees, health department fees, all inspection fees, site concrete testing fees, and compaction tests, if required by Owner. PRC is responsible for all required State inspections and final State insignia certification of the building, if applicable.

Jurisdiction for Off-site Work:

Jurisdiction, for permitting and inspection of this building shall be either the State agency who manages prefabricated building compliance in the state or the local CBO (when the State does not provide certification.) If the responsibility for building inspection is the local CBO, we will provide a certified plan set, calculations, and a third-party engineer inspection report for any and all closed work the local official cannot see.

PUBLIC RESTROOM COMPANY SCOPE OF WORK:

Our In Plant/Off-Site Construction Scheduling System:

PRC has several off-site manufacturing centers in the United States, strategically located, with the proper equipment and trained staff to fabricate our custom buildings to our high-quality fit and finish standards. PRC manages quality control in our off-site production facility to comply with the approved drawings and provides an inspection certification and photos as required. When proprietary materials,

which we have designed and fabricated, are part of the project, PRC supplies the manufacturing centers with these proprietary PRC components. We then schedule the in-plant construction process to coordinate with your delivery date through our Operations Division field staff. We guaranty on time at cost delivery weather permitting.

Special Payment and Progress Billing Terms:

Invoicing begins on the 30th of the month following an order and/or the acceptance of the proposal/contract. The first progress billing invoice will be issued for the commencement of design and engineering of architectural plans. This will be 10% of the contracted amount. Once construction begins invoicing will commence monthly based on plant percentage of completion, supported by photographs.

In the event of project stoppage, additional fees may be assessed for re-mobilization, storage, crane costs, etc. ***Our discounted project costs are based upon timely payments. Delays in payment could change delivery schedules and project costs.***

Delivery and Installation:**Site Inspection:**

PRC staff, upon site arrival, will verify the required dimensions of the building pad and the corner locations/elevation. We will also verify the delivery path from an accessible road or street and install the underground utilities to the point of connection nominally 6' from the exterior of the building.

Installation:

PRC will install the building turn-key, except for any exclusion (listed under "Exclusions," herein.)

Installation of Utilities under the Prefabricated Building:

We fabricate off-site an underground utilities (water, and DWV piping and fittings) preassembled plumbing and electrical tree. Our site staff will set the underground tree into code depth excavated trenches and our staff will install the coarse concrete sand to bed the piping per our submitted drawing.

We provide all the buildings under-slab piping including the driven electrical ground rod. The Owner/General Contractor brings utility services to within 6' of the pad and are responsible for final connections at that point.

Connection of Utilities Post Building Placement:

After placement of the building on the pad by PRC, our field staff will tie in the water and sewer connection "inside" the building only and terminate at a point of connection (POC) outside the building clearly marked for each utility service. The Owner/General Contractor is responsible for final utility point of service connections at the nominal 6' from building locations.

Electrical:

PRC provides the electrical conduit to the POC 6' from the building. The Owner/General Contractor pulls the wire and ties it off on the electrical panel.

Plumbing:

PRC provides the POC up to 6' from the building footprint and the Owner/General Contractor connects the water to our stub out location.

Sewer:

Some sites depending on the local jurisdiction will require an outside house trap which Owner/General Contractor shall install if needed. PRC will provide you with a sewer point of connection including a clean out to which Owner/General Contractor will terminate the site sewer service.

Testing of Water, Sewer, and Electrical in Plant and Final Site Utility Connection:

Before the building leaves the manufacturing center, PRC certifies a pressure water piping test, DWV, and the electrical connections for compliance with code. While the building is fully tested for leaks at the plant before shipment, road vibration may loosen some plumbing slip fittings and require tightening once the building services (water) is completed. Owner/General Contractor is responsible for minor fitting tightening to handle small slip fitting leaks caused by transportation.

Time of Completion:

PRC estimates a 240 calendar day schedule to complete our scope of work from receipt of written notice to proceed together with signed approved architectural submittals; including final construction documents and structural calculations from all authorities required to approve them.

Exclusions/Exceptions:

1. **Access issues for delivery of the building by a clear unobstructed path of travel from an improved roadway to the final installation pad or foundation may cause site delays and extra cost at each site. This exclusion covers sites whose access is limited by trees, inaccessible roadways, overhead power lines at location where crane will lift building, grade changes disallowing our delivery trailers with only 4" of clearance to grade, berms, or uneven site grades, or when the path of travel is over improvements such as sidewalks, all of which are not within the scope of work by PRC. On some sites without on-site storage availability for buildings that cannot be set, relocation to a proximal crane yard and later relocated to the site for installation, will incur additional fees at rates that vary depending on local rates. PRC will provide written costs for this additional work by change order.**
2. **If weather on site causes site delivery issues, the delivery may have to be diverted to an off-site location and the additional costs will be a change order to the bid. Our staff works with the Owner/General Contractor in advance to make sure sound decisions for delivery are made to avoid this issue. But sometimes Owner/General Contractor take risks for weather, but this risk is clearly at the Owner/General Contractor risk, not PRC.**
3. **Sidewalks outside the building footprint.**
4. **Trench plates or matting needed for protection of site soils, sidewalks, hardscaping, or site utilities shall be the responsibility of the Owner/General Contractor. Any site soils damage or other site improvements if damaged during installation shall be the responsibility of the Owner/General Contractor.**

5. Not responsible for removing any soil, sand, or other debris as a result of trenching or installation.
6. Survey, location of building corners, finish floor elevation, excavation, and construction of subgrade building pad and footings (if required) per PRC plans.
7. Soil conditions not suitable for bearing a minimum of 1500 PSF with compaction to 90% maximum dry density shall require Owner/General Contractor correction before building placement. If no soils testing report is available before bid, Owner/General Contractor must verify site supporting soils at a minimum of 1500 PSF because that is the least we can place our structures on or Owner/General Contractor or engineer of record must design a foundation system to meet the imposed loads of site placement.
8. Improper water pressure, an undersized meter, or improper water volume flow to the building may necessitate a change order for installation of a building internal diaphragm tank to provide the minimum flow rate and static pressure of up to 60 PSI and a minimum of 40 PSI to properly flush the fixtures. Building water service chlorination, post installation, shall be by Owner/General Contractor.
9. Our bid included crane costs are based on a maximum 35' radius from the center pin of the crane (10' back from the rear of the crane) to the building center point of the furthest building module roof. If additional distance requires a larger crane, additional costs will be assessed by change order to the Owner/General Contractor.
10. Bonds, building permits, a site survey, special inspection fees, minor trash removal (nominally one pickup truck of shipping materials), final utility connections to the on-site water, sewer and electrical are by the Owner/General Contractor. Since the building is fully inspected and tested in plant, minor plumbing leaks (if water is not available when building site work installation is completed) is by the Owner/ General Contractor.
11. Site Traffic Control, if applicable, shall be by Owner/ General Contractor, not PRC.
12. Any equipment installation, site work or special inspections other than described within this proposal, shall be by Owner/General Contractor.
13. Backflow certification if applicable by Owner/ General Contractor.

Insurance and Prevailing Wage Certification:

PRC shall comply with the required insurance requirements, wage reports, and safety requirements for the project, including OSHA regulations.

Special Insurance to protect the Building before acceptance:

As PRC requires payment for each month of off-site construction, and since the building is not on owner property where their insurance will cover the building, we maintain a special policy that insures the property even when paid for off-site until the building is finally accepted by the owner. This special policy protects the Owner's custom ordered materials to be used in the fabrication of the building during this period. PRC provides this Stock Throughput Policy to cover the building materials from supplier to manufacturer, while it is being built off-site, while in transit to the job site, during and after it is installed on-site until final acceptance. This special policy has a \$1,000,000 coverage limit. This exceeds the cost of any single building we have offered for sale herein.

Errors and Omissions Insurance:

Our firm employs licensed architects, engineers, and drafting staff to provide design of our buildings. Since these buildings are required to meet accessibility standards and building codes on site, and since we are the designer, we carry Errors and Omissions Insurance (E & O) to protect our clients from any errors. The policy covers a limit of up to \$2,000,000 per occurrence and is more clearly explained in the insurance certificates we provide after receipt of a purchase order.

WARRANTY

All work performed by PUBLIC RESTROOM COMPANY (called "Company") shall be warranted to the Owner to be of good quality, free of faults and defects in material, workmanship, and title for 5 years from last date of installation if building is installed by Company or 1 year if building is installed by Owner or Owner's agent without on-site supervision by Company. Company warranty on building shell including exterior walls, concrete 8" slab/foundation, and roof system is warranted for 20 years structurally. The Company will repair or replace at their sole option any defects in work upon proper notice to the below stated address below.

Our Company extended warranties shall be Company only and shall have no effect on any required Performance, Payment, or Warranty Bonds where Surety shall assume no liability to the Company, the Owner, or any third parties should the Company fail for any reason to deliver acceptable maintenance warranties beyond the one year period. The warranty extension is solely between the owner and PRC and not the general contractor, bonding company, or architect/engineer of record.

This warranty applies only if all work performed by Company has been fully paid for, including change orders if applicable. Company has no responsibility for any neglect, abuse, or improper handling of building product.

The warranties expressed herein are exclusive, and are in lieu of all other warranties expressed or implied, including those of merchantability and fitness.

There are no warranties which extend beyond those described on the face of this Warranty. The foregoing shall constitute the full liability of the Company and be the sole remedy to the Owner.

Term of Offer to Sell and Owner/General Contractor Acceptance:

This offer is valid for acceptance within 90 days or when a part of a public bid for the applicable duration imposed within the Owner's bid documents. Acceptance is by approving our post bid preliminary notice to begin drawings subject to final Owner/General Contractor approval of our submittals and receipt of a contract or a purchase order/contract.

Special Notice of Possible Project Cost Increases as a Result of Late Payments:

In the event of delayed or late payment, PRC shall have the right to remedies including late charges, overall project total cost increases, and other damages as allowed by applicable law. The contract price quoted herein is a discounted price based upon our receipt of progress payments as invoiced on the agreed billing schedule of PRC. In the event of non-payment, PRC will provide a 5 day written notice to

cure and if payment is still not received, the discounted price for the payment due may increase, to an undetermined amount, to cover work stoppage, remobilization, cancellation of materials and subsequent restocking charges, resale of the contracted building to another party, storage fees, additional crane fees, travel and per diem costs for field crews, and any other cost applicable to the project, as allowed by law. Interest if applicable to non-payment will be assessed at the maximum amount allowed by law or 18% whichever is greater.

Termination

Upon Termination for any reason, Owner/General Contractor shall be liable for the cost of all work performed up to the date of termination. Additionally, Owner/General Contractor shall pay for off-site demolition and disposal of the partially or fully fabricated building as well as any non-returnable materials which were custom-ordered to complete fabrication in PRC's factory location. Any returned materials are subject to return and restocking fees at the Owner/General Contractor expense.

Venue for Contract Jurisdiction:

Public Restroom Company requires all contracts accepted by our firm to hold that the venue for legal jurisdiction for this contract offer and acceptance shall be Douglas County, Nevada. In the event of your default, PRC shall be entitled to the full amount due including reasonable attorney fees, costs, storage, expenses of physical recovery, and statutory interest, as allowed by law.

No modifications to this offer shall be authorized unless confirmed in writing by the President of Public Restroom Company.

Offered by: Public Restroom Company by



Charles E. Kaufman IV, President

This provides conditional acceptance of this preliminary purchase order for this building subject to acceptance of the submittals, furnished by Public Restroom Company. Once you accept the preliminary submittals, this shall become a final purchase agreement or at your discretion the final purchase order or a contract may be substituted with this attached.

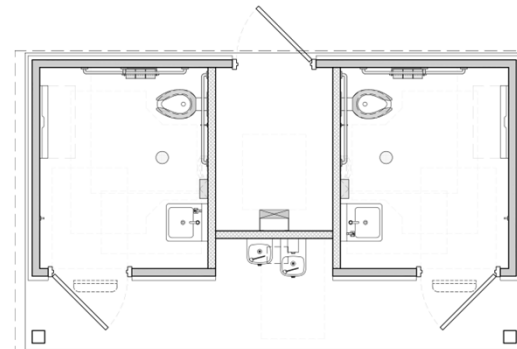
Accepted by:

Authorized Signature

Date Signed

Printed Name

Legal Entity Name and Address



FLOOR PLAN
SCALE: NOT TO SCALE

INTERNATIONAL HARVESTER PARK

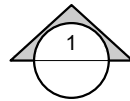
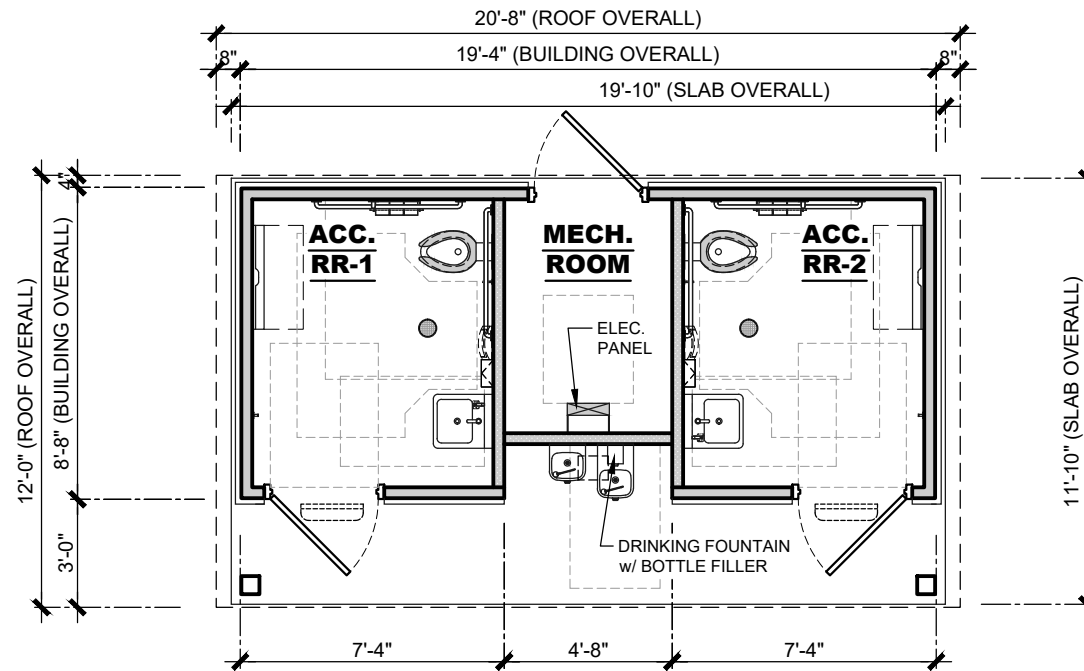


www.PublicRestroomCompany.com

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MINDEN NEVADA 89423
P: 888-888-2060 F: 888-888-1448

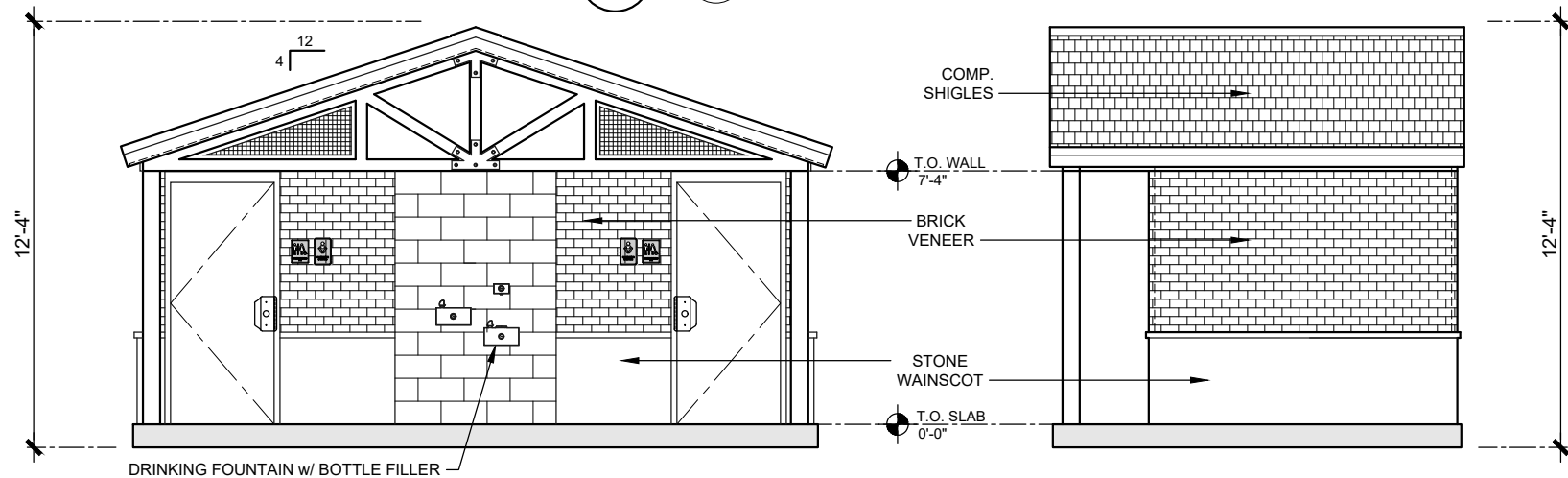
RESTROOM
BUILDING
LAKELAND, TENNESSEE
ARTIST IMPRESSION: 3D
RENDERING ONLY FOR
REPRESENTATION.
COLORS AND MATERIALS
ARE SUBJECT TO CHANGE

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PUBLIC RESTROOM
COMPANY.



FLOOR PLAN

SCALE: 3/16"=1'-0"



ELEVATION 1

SCALE: 3/16"=1'-0"



ELEVATION 2

SCALE: 3/16"=1'-0"



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BUILDING TYPE:

RESTROOM BUILDING

PROJECT:

INTERNATIONAL HARVESTER PARK
CITY OF LAKELAND, TN

REVISION #

1

REVISION DATE: 9/19/2023

DRAWN BY: EOR

PROJECT #:
11664

START DATE: 6/21/2023

DRAWN BY: EOR

SHEET#

A-1

MAX. PERSON / HOUR:

90 S



Board of Commissioners

Meeting Cycle: Thursday, October 5, 2023

Subject: **Resolution** - approving an agreement with the Tennessee Department of Transportation for Davies Plantation Road from SR-15 (US Highway 64) to I-40.

Staff Contact: Luis Camarillo Hernandez, Staff Engineer

STAFF RECOMMENDATION

City Staff recommends the Board of Commissioners approve Resolution R-132-2023.

BUDGET IMPACT

This expenditure is budgeted in the Fiscal Year 2024 Annual Budget for the General Fund.

DISCUSSION

The Davies Plantation Road from SR-15 (US Highway 64) to I-40 project proposes to add bicycle and pedestrian facilities on Davies Plantation Road, which will extend from the intersection of Highway 64 and Davies Plantation Road to the Interstate 40 overpass. The City was awarded a Transportation Alternative Program ("TAP") grant through the Memphis Metropolitan Planning Organization for the design of these facilities. Upon completion of design, the City will apply for grant funds to cover the the construction cost.

RESOLUTION R-132-2023

APPROVING AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF
TRANSPORTATION FOR DAVIES PLANTATION ROAD FROM SR-15 (US HIGHWAY
64) TO I-40

WHEREAS, the City desires to add bicycle and pedestrian facilities on Davies Plantation Road; and,

WHEREAS, the City is a recipient of a Transportation Alternative Grant in the amount of three hundred thousand dollars (\$300,000) for the design of bicycle and pedestrian facilities on Davies Plantation Road from SR-15 (US Highway 64) to I-40; and,

WHEREAS, the City is required to provide a (20%) local match in the amount of sixty thousand dollars (\$60,000); and,

WHEREAS, funding is appropriated in the Fiscal Year 2024 Annual Budget for the General Fund:

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the Mayor is hereby authorized and directed to execute, and the City Attorney to attest, an agreement with the Tennessee Department of Transportation for Davies Plantation Road SR-15 (US Highway 64) to I-40.

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 5th day of October 2023, the public welfare requiring it.

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter
City Recorder



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
PROGRAM DEVELOPMENT & ADMINISTRATION DIVISION
LOCAL PROGRAMS DEVELOPMENT OFFICE
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-5314

BUTCH ELEY
DEPUTY GOVERNOR &
COMMISSIONER OF TRANSPORTATION

BILL LEE
GOVERNOR

September 25, 2023

The Honorable Josh Roman
Mayor, City of Lakeland
10001 Highway 70
Lakeland, TN 38002

Re: Davies Plantation Road from SR-15 (US Highway 64) to I-40
Lakeland, Shelby County
PIN:133939.00
Federal Project Number: TAP-M-2278(10)
State Project Number: 79LPLM-F3-774
Contract Number: 230172

Dear Mayor Roman:

I am attaching a contract providing for the development of the referenced project. Please review the contract and advise me if it requires further explanation. If you find the contract satisfactory, please execute it in accordance with all rules, regulations, and laws. Adobe Sign will then forward the document for the signature of the attorney for your agency. Once the contract is fully executed Adobe Sign will send you a link to the download the contract for your files.

If you have any questions or need any additional information, please contact Meghan Wilson at 615-253-2166 or meghan.wilson@tn.gov.

Sincerely,

Chasity Bell
Transportation Manager 1

Attachment

Agreement Number: 230172

Project Identification Number: 133939.00

Federal Project Number: TAP-M-2278(10)

State Project Number: 79LPLM-F3-774

State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20__ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the CITY OF LAKE LAND (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

Davies Plantation Road from SR-15 (US Highway 64) to I-40

A. PURPOSE OF AGREEMENT

A.1 Purpose:

- a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

- a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

- a)

	Responsible Party	Funding Provided by Agency or Project.
Environmental Clearance by:	AGENCY	PROJECT
Preliminary Engineering by:	AGENCY	PROJECT
Right-of-Way by:	AGENCY	AGENCY

Utility Coordination by:	AGENCY	AGENCY
Construction by:	AGENCY	PROJECT

- b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.
- c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

B.2 Completion Date:

- a) This Agreement shall be effective from the period beginning on the fully executed date, and ending **five (5) years from the fully executed date**. The Agency shall provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase by **three (3) years from the fully executed date**. If the Agency does not provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase by the aforesaid date, then the Department may terminate this Agreement. If the Agency does not complete the herein described phases of the Project within the time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. The Agency hereby acknowledges and affirms that the Department shall have no obligation for Agency services or expenditures that were not completed within this specified contract period.

B.3 Environmental Regulations:

- a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.

- b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.
- c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

- a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.
 - 1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.
- c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

- a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.
- b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.
- c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.
- d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

- a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

- c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.
- d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.
- e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

- a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

- a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.
- b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:
 - 1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.
 - 2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

B.9 Railroad

- a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

- a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

- b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.
- c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.
- b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.
- c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

- a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper to ensure the carrying out of the Project and payment of the eligible

costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**

The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**

There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**

The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**

There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**

The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department.

Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

- a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the “State Comprehensive Travel Regulations,” as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

- a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.
- b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

- a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be

made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

- a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

- a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

- a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

- a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

- a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Agreement shall be construed to create a

principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

- b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

- a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

- a) **DBE Policy:**
It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.
- b) **DBE Obligation:**
The Agency and its Contractors agree to ensure that Disadvantaged Business

Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

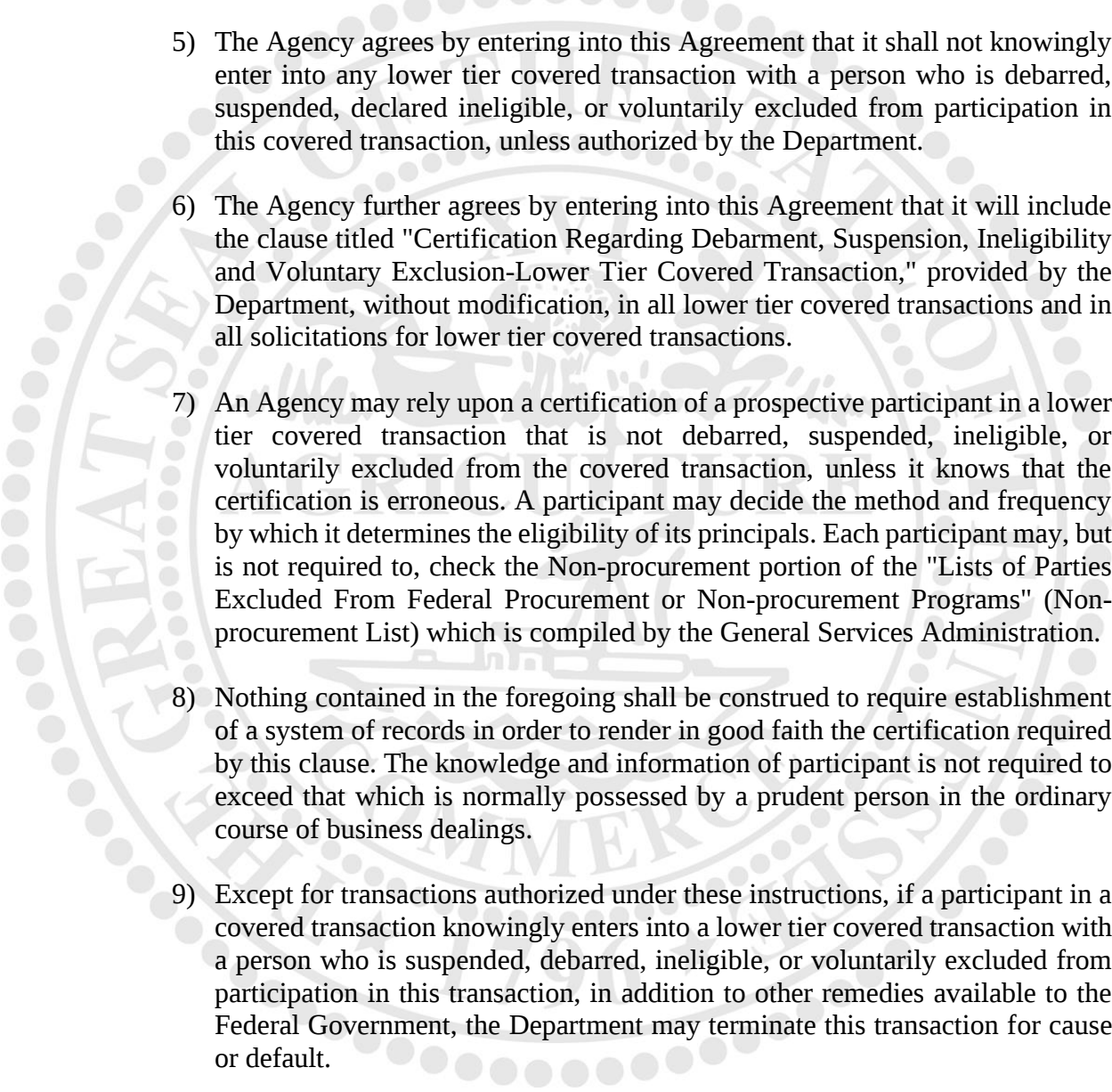
- a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

- a) **Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

- 1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- 2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.
- 3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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- 4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
 - 5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.
 - 6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
 - 7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.
 - 8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - 9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;
- 2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and
- 4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

- a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for

Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

- a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

- a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

- a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.
- b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of its subcontracts, the following provision:
 - 1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

- a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

- a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of

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

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

D.19 Records:

- a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.
- b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

- a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.
- b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

- a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.
- b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.
- c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

- a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation

for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

- a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.
- b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.
- c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

- a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

- a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

- a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.
- b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.
- c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.
- d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

- a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

- a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

- a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

- a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

- a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc
- b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

- a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

- a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

- a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

- a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.
 - 1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

- a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount		Open to Public and Vehicular Traffic
\$1.00 - \$200,000	=	5 Years
>\$200,000 - \$500,000	=	10 Years
>\$500,000 - \$1,000,000	=	20 Years

- b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

- a) **If the Project is funded with federal funds the following shall apply:** The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF LAKELAND

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

Signature:

Email:

B

Signature:

Email:

**APPROVED AS TO
FORM AND LEGALITY**

**APPROVED AS TO
FORM AND LEGALITY**

Signature:

Email:

E

Signature:

Email:

Signature:

Email:

EXHIBIT “A”

AGREEMENT #: 230172

PROJECT IDENTIFICATION #: 133939.00

FEDERAL PROJECT #: TAP-M-2278(10)

STATE PROJECT #: 79LPLM-F3-774

PROJECT DESCRIPTION: Davies Plantation Road from SR-15 (US Highway 64) to I-40 - Improvements consist of on-street bike lanes, sidewalks on each side of the roadway, resurfacing and striping of Davies Plantation Road, and amenities for bike and pedestrian users.

CHANGE IN COST: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

TYPE OF WORK: Miscellaneous Improvements

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-NEPA	TAP-U	80	0	20	\$50,000.00
PE-DESIGN	TAP-U	80	0	20	\$325,000.00
CONSTRUCTION	TAP-U	80	0	20	\$1,823,699.00
CEI	TAP-U	80	0	20	\$204,910.00
TDOT ES	TAP-U	80	0	20	\$20,491.00

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds if the use of said state or federal funds is ruled ineligible at any time by the Federal Highway Administration.

LEGISLATIVE AUTHORITY: TAP: FAST Act § 1109; 23 U.S.C. 133(h)

TDOT ENGINEERING SERVICES (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to ensure that TDOT’s expenses associated with the project during construction are covered.

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.



Board of Commissioners

Meeting Cycle: Thursday, October 5, 2023

Subject: **Resolution** - authorizing the City Manager to join the H-GAC Cooperative Purchasing Program.

Staff Contact: Andrew Fisher, Recreation Manager

STAFF RECOMMENDATION

City Staff recommends the Board of Commissioners approve resolution R-133-2023.

BUDGET IMPACT

There is no budgetary impact related to this resolution.

DISCUSSION

According to the City of Lakeland purchasing policies, purchasing equipment through a purchasing cooperative allows the City to bypass performing a competitive bid process. Joining H-GAC allows for the best purchase price for the replacement of the City Hall Park Pavilion. This will also allow opportunities for future purchases to be made by City Staff.

RESOLUTION R-133-2023

APPROVING THE JOINING OF THE H-GAC COOPERATIVE PURCHASING
PROGRAM

WHEREAS, the City of Lakeland, Tennessee, (the “City”) desires to join the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Program; and,

WHEREAS, H-GAC Cooperative Purchasing Program is able to provide purchasing opportunities.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the City Manager is hereby authorized to enter into agreement with the H-GAC Cooperative Purchasing Program.

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 5TH day of October 2023, the public welfare requiring it.

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter
City Recorder

THIS INTERLOCAL CONTRACT ("Contract"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Houston-Galveston Area Council, hereinafter referred to as "H-GAC," having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, and **City of Lakeland, TN**, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "End User," having its principal place of business at **10001 HWY 70 Lakeland, TN 38002**.

WITNESSETH

WHEREAS, H-GAC is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

WHEREAS, End User has represented that it is an eligible entity under the Act, that its governing body has authorized this Contract on **10/05/2023** (Date), and that it desires to contract with H-GAC on the terms set forth below;

NOW, THEREFORE, H-GAC and the End User do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The End User represents and warrants to H-GAC that (1) it is eligible to contract with H-GAC under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state), or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Contract.

ARTICLE 2: APPLICABLE LAWS

H-GAC and the End User agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Contract.

ARTICLE 3: WHOLE AGREEMENT

This Contract and any attachments, as provided herein, constitute the complete contract between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 4: PERFORMANCE PERIOD

The period of this Contract shall be for the balance of the fiscal year of the End User, which began **07/01/2023** and ends **06/30/2024**. This Contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the End User may make any payment due an H-GAC contractor beyond the fiscal year in which such obligation was incurred under this Contract.

ARTICLE 5: SCOPE OF SERVICES

The End User appoints H-GAC its true and lawful purchasing agent for the purchase of certain products and services through the H-GAC Cooperative Purchasing Program. End User will access the Program through HGACBuy.com and by submission of any duly executed purchase order, in the form prescribed by H-GAC to a contractor having a valid contract with H-GAC. All purchases hereunder shall be in accordance with specifications and contract terms and pricing established by H-GAC. Ownership (title) to products purchased through H-GAC shall transfer directly from the contractor to the End User.

ARTICLE 6: PAYMENTS

H-GAC will confirm each order and issue notice to contractor to proceed. Upon delivery of goods or services purchased, and presentation of a properly documented invoice, the End User shall promptly, and in any case within thirty (30) days, pay H-GAC’s contractor the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall H-GAC have any financial liability to the End User for any goods or services End User procures from an H- GAC contractor.

ARTICLE 7: CHANGES AND AMENDMENTS

This Contract may be amended only by a written amendment executed by both parties, except that any alterations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

H-GAC reserves the right to make changes in the scope of products and services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

ARTICLE 8: TERMINATION PROCEDURES

H-GAC or the End User may cancel this Contract at any time upon thirty (30) days written notice by certified mail to the other party to this Contract. The obligations of the End User, including its obligation to pay H-GAC’s contractor for all costs incurred under this Contract prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Contract, until performed or discharged by the End User.

ARTICLE 9: SEVERABILITY

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

ARTICLE 10: FORCE MAJEURE

To the extent that either party to this Contract shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 11: VENUE

Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.

THIS INSTRUMENT HAS BEEN EXECUTED BY THE PARTIES HERETO AS FOLLOWS:

City of Lakeland, TN

Name of End User (local government, agency, or non-profit corporation)

10001 HWY 70

Mailing Address

Lakeland, TN 38002

City, State ZIP Code

Signature of chief elected or appointed official | **Date**

Michael Walker, City Manager

Typed Name & Title of Signatory

Houston-Galveston Area Council
3555 Timmons Lane, Suite 120, Houston, TX
77027

By: _____
Executive Director

Date: _____

END USER DATA

Please sign and return the Interlocal Contract, along with this completed form, to H-GAC by emailing it to cpcontractfax@h-gac.com or by faxing it to 713-993-2424. The contract may also be mailed to:

H-GAC Cooperative Purchasing Program
P.O. Box 22777, Houston, TX 77227-2777

Name of End User Agency: **City of Lakeland, TN** County Name: **Shelby**

Mailing Address: **10001 HWY 70 Lakeland, TN 38002**

Main Telephone Number: **901-867-2717** FAX Number:

Physical Address: **10001 HWY 70 Lakeland, TN >38002**

Web Site Address: **www.lakelandtn.gov**

Official Contact: Andrea Perkins

Mailing Address: **10001 HWY 70
Lakeland, TN 38002**

Title: **Finance Director**

Ph No.: **901-867-2717**

FX No.:

E-Mail Address: **accounting@lakelandtn.org**

Authorized Official: Michael Walker

Mailing Address: **10001 HWY 70
Lakeland, TN 38002**

Title: **City Manager**

Ph No.: **901-867-2717**

FX No.:

E-Mail Address: **citymanager@lakelandtn.org**

Authorized Official: Andrew Fisher

Mailing Address: **10001 HWY 70
Lakeland, TN 38002**

Title: **Parks and Recreation Director**

Ph No.: **901-867-2717**

FX No.:

E-Mail Address: **parksdirector@lakelandtn.org**

Authorized Official: Matt Brown

Mailing Address: **10001 HWY 70
Lakeland, TN 38002**

Title: **Public Works Director**

Ph No.: **901-867-2717**

FX No.:

E-Mail Address: **mbrown@lakelandtn.org**

Authorized Official: Emily Harrell

Mailing Address: **10001 HWY 70
Lakeland, TN 38002**

Title: **City Engineer**

Ph No.: **901-867-2717**

FX No.:

E-Mail Address: **eharrell@lakelandtn.org**

COMPLETING AND EXECUTING THE ILC PROCESS

Step 1 (complete)

Thank you for completing this step. A PDF copy of the ILC document will be delivered to the email address entered.

Step 2

Secure a signature by the individual identified as the Authorized Official to contractually bind your entity.

Step 3

Scan and email a copy of the contract to H-GAC at cpcontractfax@h-gac.com, or fax it to 713-993-2424.

The contract may also be mailed to:

H-GAC Cooperative Purchasing Program

PO Box 22777

Houston, TX 77227-2777

If you require an original signed contract, please print, sign, and mail two (2) sets of the ILC documents.

Step 4

H-GAC will execute the contract and return a copy to you electronically.



Board of Commissioners

Meeting Cycle: Thursday, October 5, 2023

Subject: **Resolution** - approving a contract with Michael's Tree and Loader Service for Emergency Debris Removal.

Staff Contact: Matthew Brown, Public Works Director

STAFF RECOMMENDATION

City Staff recommends the Board of Commissioners approve Resolution R-134-2023.

BUDGET IMPACT

This expenditure was anticipated during the FY2024 budget adoption. Annual costs of this multi-year contract will be included in the respective years' spending plans during the budget adoption.

DISCUSSION

The Emergency Debris Removal is a three (3) year contract for services related to major storm debris removal. The City received sealed bids on September 12, 2023. The bids received were as follows:

BIDDER	BID AMOUNT
Michael's Tree and Loader Service	\$23,355.00
DRC	\$34,186.50
CTC	\$19,502.00

City Staff recommends awarding the contract to Michael's Tree and Loader Service as they are a local contractor and therefore would have a shorter response time in the event of an emergency.

RESOLUTION R-134-2023

APPROVING A CONTRACT WITH MICHEALS' TREE AND LOADER SERVICE FOR
EMERGENCY DEBRIS REMOVAL.

WHEREAS, the City of Lakeland, Tennessee, (the "City") desires to enter a contract with Michaels Tree and Loader Service for Emergency Debris Removal; and,

WHEREAS Michael's Tree and Loader Service was selected as the qualified bidder from sealed proposals received; and,

WHEREAS, Micheal's Tree and Loader Service is willing and able to provide services as specified in the contract documents; and,

WHEREAS, funding for this contract is appropriated in the Fiscal Year 2024 Annual Budget.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the City Manager is hereby authorized to approve the contract with Micheal's Tree and Loader Services for Emergency Debris Removal in the amount of [Twenty-Seven Thousand Three Hundred and Fifty-Five Dollars] (\$27,355.00).

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 5th day of October 2023, the public welfare requiring it.

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter, *City Recorder*

STANDARD FORM OF
AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is made between the City of Lakeland, hereinafter referred to as the "Owner," and Michael's Tree and Loader Service, hereinafter referred to as the "Contractor."

WHEREAS, the City of Lakeland is desirous of debris removal from roadways in the event of a natural disaster; and,

WHEREAS, Michael's Tree and Loader Service is able and willing to provide those services to the City of Lakeland, Tennessee.

NOW, THEREFORE, it is hereby agreed as follows:

ARTICLE 1. WORK.

Contractor shall perform all the work required by the Contract documents for **Emergency Debris Removal**, Lakeland, Tennessee.

ARTICLE 2. ENGINEER.

The Project has been designed by the City of Lakeland Engineering Office, 10001 U.S. Highway 70, Lakeland, Tennessee, who is hereinafter referred to as the "Engineer" and who is to act as Owner's representative, assume all duties and responsibilities and have the rights and authority assigned to Engineer in the Contract documents.

ARTICLE 3. CONTRACT TIME.

- 3.1 The Contract time shall be October 6, 2023 to October 6, 2026. During the contract period the Contractor shall begin work within three hours of Owners request for services.
- 3.2 Liquidated Damages. Owner and Contractor recognize that time is of the essence of the Agreement. Accordingly, Owner and Contractor agree that as liquidated damages for delay in services (but not as penalty) Contractor shall pay Owner Five Hundred Dollars per hour (\$500/hr) beginning after Owner notification not to exceed One Thousand Five Hundred Dollars per day (\$1,500/day).

ARTICLE 4. CONTRACT UNIT PRICE.

In Consideration of the performance of the work in accordance with the Contract documents for this Unit Price Contract, Owner shall pay Contractor in current funds for services actually performed based on the unit prices contained in the Bid Form and Itemized Bid Schedule, subject to additions and deductions by Change Order approved by the Owner.

ARTICLE 5. PAYMENT PROCEDURES.

Contractor shall submit Applications for Payment biweekly per event. The application for payment shall be in a format acceptable to the City of Lakeland and in accordance with federal, state and local rules, regulations and laws. Applications for payment shall include original receipts and all supporting documentation as required by the Federal Emergency Management Association (FEMA). Payment shall be made equal to work completed based on unit prices provided for on the Bid Schedule.

ARTICLE 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- 7.1 Contractor has familiarized himself with the nature and extent of the Contract documents, Work, locality, and with all local conditions and federal, state, and local Laws and Regulations that in any manner may affect cost, progress, or performance of the Work.
- 7.2 Contractor has given Engineer written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract documents and the written resolution thereof by Engineer is acceptable to Contractor.

ARTICLE 7. CONTRACT DOCUMENTS.

The Contract documents which comprise the entire agreement between Owner and Contractor are attached to this Agreement, made a part hereof and consist of the following:

- 8.1 This Agreement (Pages SFA-1 to SFA-5, inclusive).
- 8.2 Exhibit "A" - Bid Form and Bid Schedule.
- 8.3 Affidavit of Drug Free Work Program
- 8.4 No Addenda
- 8.5 Performance Bond
- 8.6 Certificates of Insurance, of Workers' Compensation Coverage, and of Unemployment Insurance Coverage.
- 8.7 General Requirements, consisting of two (2) sections
- 8.8 Technical Specifications consisting of one (1) section
- 8.9 Notice of Award.
- 8.10 Minutes of the Pre-Bid Conference, if any.

SFA-2

8.11 Any modifications, amendments, and supplements on or after the effective date of this Agreement.

ARTICLE 9. MISCELLANEOUS PROVISIONS.

9.1 The CONTRACTOR hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the CONTRACTOR on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The CONTRACTOR shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in one (1) original copy on the day and year first above written.

APPROVED AS TO FORM:

(PROJECT: Emergency Debris Removal)

DATED this _____ day of _____, 2023.

ATTEST:

By: _____

Title: _____

CONTRACTOR:

Name: _____

Address Line 1: _____

Address Line 2: _____

By: _____

Title: _____

OWNER:
CITY OF LAKELAND, TENNESSEE
A Municipal Corporation

ATTEST:

By: _____
Cheyenne Carter

By: _____
Josh Roman

Title: City Recorder

Title: Mayor

Meeting Cycle: Thursday, October 5, 2023

Subject: **Resolution** - approving amendment #1 to the agreement with Cannon & Cannon, Inc. for the Highway 70 at Seed Tick Road intersection improvements project.

Staff Contact: Emily Harrell, City Engineer

STAFF RECOMMENDATION

City Staff recommends the Board of Commissioners approve Resolution R-126-2023.

BUDGET IMPACT

This expenditure will be managed through budget transfers and/or amendments within the General Fund fiscal year 2024 appropriations.

DISCUSSION

The City contracted with Cannon and Cannon to design intersection improvements on Highway 70 at Seed Tick Road. The original scope of services included the design of a traffic signal and widening of Highway 70 to include a dedicated left turn lane. In an effort to reduce ongoing maintenance costs and provide traffic calming on Highway 70, the City requested the consultant review the feasibility of a roundabout at this location. The consultant confirmed that a roundabout is feasible. The proposed roundabout was presented to the Tennessee Department of Transportation (TDOT) who favored the project as well.

Amendment #1 increases the contract amount by \$89,300 for a total contract amount of \$124,900. The additional costs are primarily due to additional roadway design required for the roundabout. The construction cost of the roundabout is expected to be similar to the cost of a traffic signal, however the long maintenance cost is significantly lower for the roundabout. Additionally, the roundabout will provide much needed traffic calming on Highway 70.

RESOLUTION R-126-2023

APPROVING AMENDMENT #1 TO THE AGREEMENT WITH CANNON & CANNON,
INC. FOR THE HIGHWAY 70 AT SEED TICK ROAD INTERSECTION
IMPROVEMENTS PROJECT

- WHEREAS,** the City of Lakeland, Tennessee, (the “City”) desires to improve the intersection of Highway 70 at Seed Tick Road; and,
- WHEREAS,** the City entered into an agreement with Cannon & Cannon, Inc. for the design of a traffic signal at the intersection; and,
- WHEREAS,** the City proposes to install a roundabout instead of a traffic signal to decrease long term maintenance costs and promote traffic calming on Highway 70; and,
- WHEREAS,** Amendment #1 revises the scope of work to include design of a roundabout increasing the contract \$89,300 to a total contract amount of \$124,900; and,
- WHEREAS,** funding for the design will be managed through budget transfers and/or amendments within the General Fund fiscal year 2024 appropriations:

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the City Manager is hereby authorized to execute Amendment #1 to the agreement with Cannon & Cannon, Inc. for the Highway 70 at Seed Tick Road Intersection Improvements project.

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 5th day of October 2023, the public welfare requiring it.

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter
City Recorder

AMENDMENT NO. 1

FOR

DESIGN OF HIGHWAY 70 AT SEED TICK ROAD INTERSECTION IMPROVEMENTS

THIS AMENDMENT (hereinafter "Amendment") is made and entered into this _____ day of _____ 2023 by and between City of Lakeland (hereinafter "CITY") and Cannon & Cannon, Inc. (hereafter "CONSULTANT").

WHEREAS, the parties previously entered into an agreement (hereinafter "Agreement") dated November 15, 2022, for the design of improvements to the intersection of Highway 70 and Seed Tick Road.

WHEREAS, the parties now desire to enter into this Amendment to expand the scope of services provided by CONSULTANT and to increase the amount of the Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises of the parties to this agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. Section I of the Agreement entitled SCOPE OF WORK is hereby amended to expand the Scope of Services to include Supplement Request dated August 4, 2023, described in greater detail in Exhibit "A", attached hereto and incorporated fully herein by reference.
2. Section 3 of the Agreement entitled COMPENSATION is hereby amended as follows:

Original Agreement	\$70,600
Amendment No. 1	\$89,300
Total Amount	\$124,900

The terms and conditions of the original Agreement, except as amended herein, shall remain in full force and effect.

APPROVED TO AS FORM:

(Highway 70 at Seed Tick Road Intersection Improvements Amend #1)

CITY OF LAKELAND

Cannon & Cannon, Inc..

ATTEST

ATTEST

August 4, 2023

Ms. Emily Harrell P.E.
City Engineer
City of Lakeland
10001 US 70
Lakeland, Tennessee 38002

**RE: Supplemental Scope of Services and Fee Proposal
US 70/Seed Tick Road Roundabout and Roadway Design**

Dear Emily:

Cannon & Cannon, Inc. (CCI) is pleased to submit this Scope of Services and Fee Proposal for professional engineering services associated with the US 70/Seed Tick Road Roundabout Intersection Modification design.

This effort will utilize unspent funds from the previous signalizations project that was suspended in order to transition to a roundabout intersection design. This project will include project management, engineering analysis documentation, additional field survey, pre-bid services, bid phase services, and construction phase services.

PROJECT OVERVIEW

The engineering services for this project will generally include the additional survey, roundabout design, and signing/marketing plans.

A detailed description of the Scope of Services, Fee, and Schedule is listed on the following pages.

TASK 1 – PROJECT MANAGEMENT

Task 1 will be an ongoing task throughout the project, which will include coordination, status meeting coordination, preparation of meeting minutes, general project management, and accounting activities. The meetings will include a meeting the TDOT Region IV Traffic Engineering to discuss the project design.

TASK 2 – ADDITIONAL FIELD SURVEY

1. Additional ROW survey, including property owner research for a portion of the project not collected during the initial survey. This will primarily be for the portion of the roundabout that is located north of US 70. The survey shall be tied to the Tennessee State Plane Coordinate System NAD83 by VRS RTK GPS methods by using the Tennessee Department of Transportation GNSS Network.
2. Topographic survey including planimetric and utilities.

TASK 3 – PROJECT DESIGN

Plans submittal

1. Concept Plans – Completed
2. Preliminary Plans
3. Right-Of-Way Plans
 - a. Estimate of probable construction cost
 - b. Property acquisition maps and table
 - c. Utility Coordination
 - d. Legals
4. Construction Plans
 - a. Roundabout Lighting Plans (if required) While Lakeland does not generally provide roadway lighting, CCI's experience has been that TDOT may require lighting of a roundabout on a state route given the uniqueness of the design for safety purposes.
5. Final Construction Plans
 - a. Final Estimate of probable construction cost
6. Bid Administration and Specifications
 - a. Construction Set for Bid Administration
 - b. Construction Stakeout data
 - c. Attend Pre-bid Meeting and Respond to Questions

TASK 9 – ADDITIONAL SERVICES

The following services are not included in the scope of services but can be provided as additional services if authorized by the City of Lakeland. Compensation for additional services will be agreed upon before their performance.

- Attendance at public hearings
- Attendance at additional meetings and/or field visits during the Construction Phase
- Construction Engineering and Inspection (CEI)
- Other services as requested

Fee:

The fee development is as follows:

Additional Survey (Topo, base plotting and acquisition plats)	\$ 9,800
Geometric Design	\$ 64,500
Lighting Design (if required)	\$ 10,000
Bid Phase Services	\$ 5,000
<u>Amount Remaining in current Seed Tick Contract</u>	<u>\$ 35,600</u>
Total	\$124,900

The fee amount for this amendment will be \$89,300 when the amount remaining in the current contract is subtracted from the total

If the outlined terms of this proposed budget supplement agreement are acceptable, please have this document signed in the space provided and return a copy via e-mail for our records.

Please do not hesitate to give me a call if you have questions or require additional information.

Sincerely,



Wain Gaskins, P.E.
Vice President

Attachment:

Accepted Printed Name

Signature

Date

CONTRACT FOR PROFESSIONAL SERVICES

PART I - AGREEMENT

THIS AGREEMENT, entered into by and between the City of Lakeland, a Municipal Corporation, 10001 U.S. Highway 70, Lakeland, Tennessee, hereinafter referred to as the "Owner," and Cannon and Cannon, Inc., Memphis, Tennessee, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the Owner is undertaking installation of a new traffic signal at the intersection of Highway 70 and Seed Tick Road; and,

WHEREAS, the Project requires professional services for project management, survey, capacity analysis, design, bid services and construction administration; and,

WHEREAS, the Contractor represents that it is ready, willing, and able to provide the professional services to Owner as required by this Contract; and,

WHEREAS, the Owner desires to retain the Contractor to such services.

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein to be performed, the parties agree as follows:

1. SCOPE OF SERVICES:

Contractor shall perform the following services in connection with and respecting the Project:

The scope of services related to this project are outlined in the attached Fee Proposal.

2. TIME OF PERFORMANCE:

The services of the Contractor shall be undertaken and completed within a period that may reasonably be required for the completion of the Project but will not exceed 180 calendar days from the date of the contract.

3. COMPENSATION:

In consideration of the performance of services rendered under this Contract, the Contractor shall be compensated for services performed in accordance with Paragraph 1, not to exceed a lump sum fee of Seventy Thousand Six Hundred Dollars (\$70,600).

4. METHOD OF PAYMENT:

Payment will be paid following receipt of an itemized invoice of services rendered in conformance with the Contract, from the Contractor. Contractor shall submit with the invoice a voucher for payment from the Contractor specifying that he has performed the services rendered under this Contract, in conformance with the Contract, and that he is entitled to receive the amount requested under the terms of the Contract:

5. TERMS AND CONDITIONS:

This Contract is subject to and incorporates the provisions attached hereto as PART II - GENERAL TERMS AND CONDITIONS.

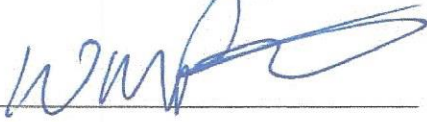
6. EXTENT OF AGREEMENT:

The Contract represents the entire and integrated Contract between the Owner and the Contractor, and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended only by written instrument signed by both the Owner and the Contractor.

IN WITNESS WHEREOF, the Owner and the Contractor have executed this Contract as of the date below.

DATED THIS 15th day of November 2022.

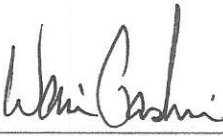
APPROVED AS TO FORM:



CONTRACTOR:

Cannon and Cannon, Inc.
51 Germantown Court, Suite 111
Memphis, TN 38018

ATTEST:

By: 

Title: Vice-President/Principal

By: 

Title: Office Manager

ATTEST:

CITY OF LAKELAND, TENNESSEE
A Municipal Corporation


Debra Murrell
City Recorder


Michael Walker
City Manager

CONTRACT FOR PROFESSIONAL SERVICES

PART II - GENERAL TERMS AND CONDITIONS

1. TERMINATION OF CONTRACT:

The Owner or Consultant may terminate this Contract anytime by providing thirty (30) days written notice to Owner or Consultant of intent to terminate said Contract. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Consultant under this Contract shall, at the option of the Owner, become its property, and the Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

Notwithstanding the above, the Consultant shall not be relieved of liability to the Owner through damages sustained by the Owner, by virtue of termination of the Contract by Consultant or any breach of the Contract by the Consultant, and the Owner may withhold any payments to the Consultant for the purpose of setoff until such time as the exact amount of damages due the Owner from the Consultant are determined.

2. CHANGES:

The Owner may, from time to time, request changes in the scope of the services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon between the Owner and the Consultant, shall be incorporated in written amendments to this Contract. There shall be no increase in the amount of Consultant's compensation, as set forth above, unless approved by Resolution adopted by the Lakeland Mayor and Board of Commissioners.

3. ASSIGNABILITY:

The Consultant shall not assign any interest in the Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the Owner: provided, however, that claims for money due or to become due the Consultant from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution, or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer shall be furnished to the Owner.

4. AUDIT:

The Owner or any of its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant which are directly pertinent to the specific contracted Project for the purpose of making audit, examination, excerpts, and transactions.

5. EQUAL EMPLOYMENT OPPORTUNITY:

In carrying out the program, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or disability. The Consultant shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their 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 Consultant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this nondiscrimination clause. The Consultant shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex national origin, or disability.

6. OWNERSHIP OF PROJECT MATERIALS:

It is agreed that all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, films, duplicating plates, and reports prepared by the Consultant under this Contract shall be considered the property of the Owner, and upon completion of the services to be performed, they will be turned over to the owner provided that, in any case, the Consultant may, at no additional expense to the Owner, make and retain such additional copies thereof as Consultant desires for its own use; provided further, that in no event may any of the documents, data, studies, surveys, drawings, maps, models, photographs, films, duplicating plates, or other reports retained by the Consultant be released to any person, agency, corporation, or organization without the written consent of the Owner.

7. FINDINGS CONFIDENTIAL:

All reports, information, data, etc., given to, or prepared or assembled by the Consultant under this Contract, shall be deemed confidential and none shall be made available to any individual or organization by the Consultant without the prior written consent of the Owner.

8. GOVERNING LAW:

This Contract has been executed by the parties hereto on the day and year first above written and shall be governed by the laws of the State of Tennessee. The Consultant shall also comply with all applicable laws, ordinances, and codes of the Federal, State, or local governments and shall not trespass on any public or private property in performing any of the work embraced by the Contract.

9. PERSONNEL:

The Consultant represents that it has, or will secure, all personnel required in performing the services under this Contract. Such personnel shall not be employees of the City of Lakeland. All of the services required hereunder shall be performed by the Consultant, or under its supervision, and all personnel engaged in the work shall be fully qualified. All personnel employed by Consultant shall be employed in conformity with applicable State or Federal laws.

10. SUB-CONSULTANT:

The Consultant shall not employ any Sub-consultant to perform any services in the scope of this project, unless said Sub-consultant is approved in writing by the Owner. Said Sub-consultant shall be paid by the Consultant.

11. INSURANCE:

Prior to commencement of work, Consultant shall procure and maintain, with insurer acceptable to the owner, the following minimum insurance protecting the Consultant and Owner against liability from damages because of injuries, including death suffered by persons, including employees of the Owner, and liability from damages to property arising from and growing out of the Consultant's negligent operations in connection with the performance of the contract.

LIMITS

A.	Worker's Compensation	Statutory
B.	Comprehensive General Liability Premises/Operations Products/Completed Operations Contractual Liability	\$500,000 Per occurrence
C.	Professional Liability/Errors and Omissions	\$500,000

Consultant shall provide Owner with certificates evidencing such insurance as outlined above prior to beginning any work under this agreement. Such certificates shall provide the thirty (30) days advance written notice to Owner of cancellation, material change, reduction of coverage, or non-renewal, and shall list the City of Lakeland as an additional insured.

In addition, Consultant shall provide Owner with copies of insurance policies and/or policy endorsements listing the City of Lakeland as an additional insured. City's failure to request or review such insurance certificates or policies shall not affect City's rights or Consultant's obligations hereunder.

Consultant agrees to forever indemnify the City and hold it harmless from all liability for damage to property, or injury to or death to persons, including all costs, expenses, and attorney's fees incurred related thereto, arising from negligence of the Consultant.

12. INTENT:

Consultant represents that it has read and agrees to the terms of this Contract and further agrees that it is the intent of the parties hereto that Consultant shall perform all the services to be provided hereunder for the compensation set forth hereinabove. Consultant also agrees that it is the specific intent of the parties hereto, and a material condition of this Contract, that it shall not be entitled to compensation for other services rendered unless specifically authorized by the Owner by Resolution of its governing body. Consultant agrees that it has made a careful examination of the services to be rendered hereunder, and that the Contract price set forth hereinabove is adequate compensation for all the services to be rendered under the terms of this Contract.

14. GOVERNMENTAL TORT LIABILITY ACT:

The City does not waive any right or rights it may have pursuant to the Tennessee Governmental Tort Liability Act, , Tennessee Code Annotated § 20-29-101, et seq. The City specifically reserves the right to assert any and all immunities, rights and defenses it may have including those found in the Tennessee Governmental Tort Liability Act.

RESOLUTION R-135-2023

AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO DRAFT AN
AGREEMENT FOR USE OF CITY PROPERTY AT 0 HUFF N PUFF ROAD BY THE
REFUGE CHURCH

WHEREAS, the City of Lakeland owns certain vacant property located at 0 Huff N Puff Road (the "Property"), formerly owned privately and used as a graveled parking lot; and,

WHEREAS, leadership of The Refuge Church, located adjacent to the aforementioned Property, desires to utilize the Property for additional parking during their service times; and,

WHEREAS, the Board of Commissioners of the City of Lakeland, Tennessee, desires to authorize such use contingent upon maintenance of the property by The Refuge Church and other valuable consideration:

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the City Manager and City Attorney are authorized to take all necessary actions to draft a use agreement for subsequent Board of Commissioners approval regulating the use of property at 0 Huff N Puff Road by The Refuge Church.

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 5th day of October 2023, the public welfare requiring it.

Josh Roman, *Mayor*

ATTEST:

Cheyenne Carter
City Recorder