CITY OF LAKELAND TENNESSEE

Board of Commissioners
Regular Meeting Agenda
Thursday, April 4, 2024, 5:30 PM
City Hall, Lakeland, Tennessee 38002

I. CALL TO ORDER BY MAYOR:

II. INVOCATION:

III. PLEDGE:

IV. ROLL CALL BY RECORDER:

V. PUBLIC HEARING:

VI. TREASURER'S REPORT:

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

- City Manager's Report
  - a. April 2024 City Manager's Report
- Commissioners' Report
  - a. Lakeland Board of Education - *Vice Mayor Wright*
  - b. Industrial Development Board of the City of Lakeland - *Mayor Roman*

VIII. PUBLIC COMMENTS:

IX. SEWERAGE COMMISSION BUSINESS:

X. CONSENT AGENDA:

XI. REGULAR AGENDA:

1. **Approval of minutes from previous meeting** - February 29, 2024 (BOC/MPC joint meeting)

2. **Approval of minutes from previous meeting** - March 7, 2024 (regular meeting)

3. **Approval of minutes from previous meeting** - March 26, 2024

(special called meeting)

4. **Approval of minutes from previous meeting** - March 26, 2024 (budget workshop)

5. **Ordinance- First Reading** - amending the fiscal year 2024 annual budget passed by Ordinance O-10-2023.

6. **Resolution** - authorizing the Mayor and City Manager to execute a funding agreement between the City of Lakeland and the Lakeland Area Chamber of Commerce for fiscal year 2024-2025.

7. **Resolution** - authorizing the Mayor to sign a proclamation designating April 12, 2024 as Blue & Green Day Mid-South.

8. **Resolution** - approving an agreement with the Tennessee Department of Transportation for Lakeland Pavement Management Software.

9. **Resolution** - approving an amendment to Agreement CA-2300023-2 with Shelby County Government for City Hall ADA Improvements using the Community Development Block Grant funds.

10. **Resolution** - authorizing Andritz Separation, Inc. to perform maintenance on the Scotts Creek Wastewater Treatment Plant Heavy Duty Belt Filter Press.

11. **Discussion and Possible Action** - Update on Contract Patching request by the Board of Commissioners.

XII. ANNOUNCEMENTS:

XIII. ADJOURNMENT:

BOARD OF COMMISSIONERS & MUNICIPAL PLANNING COMMISSION SPECIAL CALLED JOINT MEETING MINUTES
THURSDAY, FEBRUARY 29, 2024, 5:30 P.M.
CITY HALL, LAKELAND, TENNESSEE 38002

I. CALL TO ORDER BY MAYOR:

The meeting was called to order by Mayor Josh Roman at 5:30 p.m. on Thursday, February 29, 2024.

II. INVOCATION:

Offered by Mayor Josh Roman.

III. PLEDGE:

Mayor Josh Roman led the pledge to the flag.

IV. MUNICIPAL PLANNING COMMISSION ROLL CALL BY RECORDER:

Commissioner Jim Atkinson	Present
Wyatt Bunker	Absent
Sal Feraci	Present
Carl Helton	Present
Amber Hitchcock	Present
Shawn Rowland	Present
Chair Adam Henry	Present

V. BOARD OF COMMISSIONERS ROLL CALL BY RECORDER:

Commissioner Jim Atkinson	Present
Commissioner Michele Dial	Absent
Commissioner Connie McCarter	Present
Vice Mayor Wesley Wright	Present
Mayor Josh Roman	Present

Staff personnel in attendance were Planning Director Paul Luker, City Engineer Emily Harrell, Staff Planner Alex Barthol, Community Development Specialist Lisa West, and City Manager Michael Walker (*serving as Recorder pro Tempore during the Special Called Joint Meeting*).

For the Record: Mayor Roman moved that Robert's Rules of Order be relaxed for the presentation and discussion portion of the meeting, approved without objection by the Board of Commissioners.

VI. REPORTS:

1. **Presentation and Discussion** – Lakeland Transportation Plan 2024 and Lakeland PULSE Comprehensive Plan 2024.

Planning Director Paul Luker introduced the presentation and representatives of Kimley-Horn continued the presentation.

Discussion ensued.

VII. PUBLIC COMMENTS:

Trey Sowell of Seed Tick LLC, 100 block of Plainview Road, addressed the joint Municipal Planning Commission and Board of Commissioners.

For the record: At 6:35pm, Mayor Roman called for a 5-minute recess without objection. The Joint Meeting resumed at 6:39pm.

VIII. REGULAR AGENDA:

1. **Municipal Planning Commission Business:**
   a. **<u>Action</u> – recommending approval of the Lakeland Transportation Plan 2024.**

For the Record: Mayor Roman recognized Municipal Planning Commission Chair Adam Henry, who chaired the meeting during the Municipal Planning Commission business.

Sal Feraci motioned to bring the item to the floor, seconded by Carl Helton.

Sal Feraci made a recommendation that it be approved with the condition that the area adjacent to Donelson Farms Parkway to be reviewed in conjunction with future use of that property.

Shawn Rowland motioned to approve the Lakeland Transportation Plan 2024 with the aforementioned condition, seconded by Sal Feraci.

When the question was called, the Lakeland Transportation Plan 2024 was recommended for approval by the Municipal Planning Commission with the condition noted above, voice vote, 6 in favor, 0 against:

   b. **<u>Action</u> – recommending approval of the Lakeland PULSE Comprehensive Plan 2024.**

Amber Sawyer motioned to bring this item to the floor, seconded by Sal Feraci.

Sal Feraci proposed the same condition as item a. above, as well as a condition to review density and land use south of Interstate 40 and North of Highway 64.

Sal Feraci motioned to approve with the aforementioned conditions, seconded by Carl Helton.

When the question was called, the Lakeland PULSE Plan 2024 was recommended for approval by the Municipal Planning Commission with conditions, voice vote, 6 in favor, 0 against:

2. **Board of Commissioners Business:**
   a. **<u>Resolution</u> – approving the Lakeland Transportation Plan 2024.**

For the Record: Mayor Roman resumed chairing the meeting. Mayor Roman noted that the resolution considered included the conditions established by the Municipal Planning Commission.

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

Discussion ensued.

When the question was called, the resolution was approved by the Board of Commissioners, roll call vote, 4 in favor, 0 against:

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

   b. **<u>Resolution</u> – approving the Lakeland PULSE Comprehensive Plan 2024.**

For the Record: Mayor Roman noted that the resolution considered included the conditions established by the Municipal Planning Commission.

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

Discussion ensued.

When the question was called, the resolution was approved by the Board of Commissioners, roll call vote, 4 in favor, 0 against:

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

IX. ANNOUNCEMENTS:

None.

X. ADJOURNMENT:

There being no other business on which to act, the meeting was adjourned without objection at 6:58 p.m. on Thursday, February 29, 2024.

These minutes were approved by the Board of Commissioners on April 4, 2024.

____
Josh Roman
Mayor

ATTEST:

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Cheyenne Carter
City Recorder

These minutes were approved by the Municipal Planning Commission on April 11, 2024.

____
Adam Henry
Chair

ATTEST:

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Shawn Rowland
Secretary

BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, MARCH 7, 2024, 5:30 P.M.
CITY HALL, LAKELAND, TENNESSEE 38002

I. CALL TO ORDER BY MAYOR:

The meeting was called to order by Mayor Josh Roman at 5:31 p.m. on Thursday, March 7, 2024.

II. INVOCATION:

Offered by Mayor Josh Roman.

III. PLEDGE:

Mayor Josh Roman led the pledge to the flag.

IV. ROLL CALL BY RECORDER:

Commissioner Jim Atkinson	Present
Commissioner Michele Dial	Present
Commissioner Connie McCarter	Present
Mayor Josh Roman	Present
Vice Mayor Wesley Wright	Present

Staff personnel in attendance were City Manager Michael Walker, City Attorney Will Patterson, City Engineer Emily Harrell, Parks and Recreation Director Andrew Fisher, Finance Director Andrea Perkins, Staff Engineer Luis Camarillo Hernandez, Staff Engineer Paul Posey and City Recorder Cheyenne Carter.

For the record: Mayor Roman motioned to move regular agenda item 14 up to be presented after roll call and before public hearing followed by regular agenda item number 12 without objection. These two items were presented at this time; please reference the actions taken in the correlating regular agenda item section.

V. PUBLIC HEARING:

VI. TREASURER'S REPORT:

1. Fiscal Year to Date Treasurer's Reports

   This report was offered by Finance Director Andrea Perkins.

   Discussion ensued.

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

1. Sheriff's Report
   a. February Lakeland Crime Report

   This report was offered by Lieutenant Less.

2. City Manager's Report
   a. March 2024 City Manager's Report

This report was offered by City Manager Michael Walker.

3. Commissioners' Reports

   a. Industrial Development Board of the City of Lakeland, Tennessee – *Mayor Roman*

This report was offered by Mayor Roman.

   b. Lakeland Board of Education – *Vice Mayor Wright*

This report was offered by Vice Mayor Wright.

VIII. PUBLIC COMMENTS:
None

IX. SEWERAGE COMMISSION BUSINESS:
None

X. CONSENT AGENDA:
None

XI. REGULAR AGENDA:

For the record: Mayor Roman motioned to remove regular agenda item number 13 requested by the item's sponsor without objection.

For the record: Mayor Roman motioned to add a number 15 regular agenda item: discussion and possible action regarding Gateway land planning with one objection by voice. Mayor Roman called for a roll call vote.

When the question was called agenda item 15 (discussion and possible action) was added to the regular agenda, roll call vote, 4 in favor 1 against (4-1).

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

1. **Approval of regular meeting minutes** – February 15, 2024.

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

Discussion ensued.

When the question was called the meeting minutes passed as presented, roll call vote, 4 in favor 1 against (4-1).

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

2. **<u>Resolution</u>** – approving the strategic goals of the Board of Commissioners of the City of Lakeland, Tennessee.

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

   City Manager Michael Walker presented this item.

   Discussion ensued.

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

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

3. **<u>Resolution</u>** – approving a contract with Kimley Horn, Gresham Smith, Renaissance Group, and 4F Design for On-Call Architecture and Engineering Services.

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

   Staff Engineer Luis Camarillo Hernandez presented this item.

   Discussion ensued.

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

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

4. **Resolution** – approving an agreement with Pavement Technology, Inc. for the FY24 Street Preservation Project.

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

   Staff Engineer Luis Camarillo Hernandez presented this item.

   Discussion ensued.

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

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

5. **Resolution** – approving a contract with Midsouth Forestry Services for underbrush clearing on Parcel ID L0159 00573 and L0159 00574.

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

   Staff Engineer Paul Posey presented this item.

   Discussion ensued.

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

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

6. **Resolution** – appointing the Public Works Director to represent the City of Lakeland on the Shelby County Municipal Solid Waste Regional Board.

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

   City Engineer Emily Harrell presented this item.

   Discussion ensued.

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

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

7. **Resolution** – approving the Second Renewal of the Inter-Governmental Agreement Between Lakeland and Shelby County Government Contract Number CA2400232 related to the Hazardous Household Waste Facility.

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

City Engineer Emily Harrell presented this item.

Discussion ensued.

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

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

8. **Resolution** – approving a commercial subdivision development contract with Ashmont Developer, LLC for Ashmont Planned Development Area 6 Lot 1 & Area 7A Lots 2-6.

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, roll call vote, 5 in favor 0 against (5-0).

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

9. **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 Dial.

   City Engineer Emily Harrell presented this item.

   Discussion ensued.

   When the question was called the resolution failed, roll call vote, 2 in favor 3 against (2-3).

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

10. **Resolution** – approving the purchase of sports field lighting for the Lakeland Athletic Complex Phase I from Musco Sports lighting through Sourcewell contract #041123-MSL.

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

    Parks and Recreation Director Andrew Fisher presented this item.

    Discussion ensued.

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

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

11. **Resolution** – approving Change Order #1 for the FY24 Street Paving project.

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

    Staff Engineer Luis Camarillo Hernandez presented this item.

Discussion ensued.

Mayor Roman motioned to table this item to a future meeting seconded by Commissioner Dial.

When the question was called the motion to table this item passed, voice vote, 5 in favor 0 against (5-0).

12. **Resolution** – approving Amendment #5 to the contract with Fisher & Arnold, Inc for the design of the New Canada Road project.

    For the record: This item was presented after regular agenda item 14 which was moved to after roll call motioned by Mayor Roman and without objection.

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

    City Engineer Emily Harrell presented this item.

    For the record: John Pankey from Fisher Arnold answered the board's questions at the board's request.

    Discussion ensued.

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

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

13. **Resolution** – authorizing the use of City of Lakeland facilities in partnership with the Lakeland Arts Council for a May 2024 event.

    For the record: This item was removed from the agenda at the request of the item's sponsor motioned by Mayor Roman and without objection.

14. **Resolution** – authorizing the City Manager to coordinate with the Midsouth Veterans League and MVLI Foundation to arrange an appearance of The Vietnam Traveling Memorial Wall in the City of Lakeland.

    For the record: This item was presented after roll call motioned by Mayor Roman and without objection.

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

Terry Adams from the Midsouth Veterans League presented this item.

Discussion ensued.

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

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

15. **<u>Discussion and Possible Action</u>** – regarding Gateway land planning.

Mayor Roman presented this item.

Discussion ensued.

No action planned at this time.

XII. ANNOUNCEMENTS:

XIII. ADJOURNMENT:

There being no other business on which to act, the meeting was adjourned without objection at 7:19 p.m. on Thursday, March 7, 2024.

These minutes were approved on April 4, 2024.

____
Josh Roman
Mayor

ATTEST:

____
Cheyenne Carter
City Recorder

BOARD OF COMMISSIONERS
SPECIAL CALLED MEETING MINUTES
TUESDAY, MARCH 26, 2024, 5:30 P.M.
CITY HALL, LAKELAND, TENNESSEE 38002

I. CALL TO ORDER BY MAYOR:

The meeting was called to order by Mayor Josh Roman at 5:30 p.m. on Tuesday, March 26, 2024.

II. INVOCATION:

Offered by Mayor Josh Roman.

III. PLEDGE:

Mayor Josh Roman led the pledge to the flag.

IV. ROLL CALL BY RECORDER:

Commissioner Jim Atkinson	Present
Commissioner Michele Dial	Present
Commissioner Connie McCarter	Present
Vice Mayor Wesley Wright	Present
Mayor Josh Roman	Present

Staff personnel in attendance were City Manager Michael Walker, Planning Director Paul Luker, City Engineer Emily Harrell, Finance Director Andrea Perkins, City Attorney Will Patterson, Parks and Recreation Director Andrew Fisher, Public Works Director Matt Brown, ITS Director Josh Thompson, and City Recorder Cheyenne Carter

V. PUBLIC COMMENTS:

None.

VI. REGULAR AGENDA:

1. **Resolution** – approving an agreement for use of City property at 0 Huff N Puff Road Parcel ID L0159 00410 by The Refuge Church.

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

   City Manager Michael Walker presented this item.

   Discussion ensued.

   For the record: Mayor Roman motioned to amend the agreement to allow more available dates for use of the parking lot. Staff will make appropriate adjustments. No objections were heard.

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

2. **Resolution** – approving a contract for Municipal Solid Waste Collection and Disposal Services with Waste Connections of Tennessee, INC.

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

   Public Works Director Matt Brown presented this item.

   Discussion ensued.

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

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

3. **Discussion and Possible Action** – regarding Lakeland Trace build out – *Sponsored by Mayor Roman.*

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

   Mayor Roman presented this item.

   Discussion ensued.

   For the record: Mayor Roman motioned to nominate Commissioner Atkinson as a board liaison for future meetings regarding this project seconded by Commissioner Dial.

   When the question was called the nomination passed a, roll call vote, 5 in favor 0 against (5-0).

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

VII. ANNOUNCEMENTS:
None.

VIII. ADJOURNMENT:

There being no other business on which to act, the meeting was adjourned without objection at 5:48 p.m. on Tuesday, March 26, 2024.

These minutes were approved on April 4, 2024.

____
Josh Roman
Mayor

ATTEST:

____
Cheyenne Carter
City Recorder

BOARD OF COMMISSIONERS
CITY FUNDS BUDGET WORKSHOP MEETING MINUTES
TUESDAY, MARCH 26, 2024, 5:45 P.M.
CITY HALL, LAKELAND, TENNESSEE 38002

I. CALL TO ORDER BY MAYOR:

The meeting was called to order by Mayor Josh Roman at 5:53 p.m. on Tuesday, March 26, 2024.

II. INVOCATION:

Offered by Mayor Josh Roman at the previously held Special Called Meeting at 5:30 p.m.

III. PLEDGE:

Mayor Josh Roman led the pledge to the flag at the previously held Special Called Meeting at 5:30 p.m.

IV. ROLL CALL BY RECORDER:

Commissioner Jim Atkinson	Present
Commissioner Michele Dial	Present
Commissioner Connie McCarter	Present
Vice Mayor Wesley Wright	Present
Mayor Josh Roman	Present

Staff personnel in attendance were City Manager Michael Walker, Finance Director Andrea Perkins, Planning Director Paul Luker, City Engineer Emily Harrell, ITS Director Josh Thompson, Parks and Recreation Andrew Fisher, Public Works Director Matt Brown, and City Recorder Cheyenne Carter

V. PUBLIC HEARING:

None.

VI. TREASURER'S REPORT:

None.

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

None.

VIII. PUBLIC COMMENTS:

None.

IX. SEWERAGE COMMISSION BUSINESS:

None.

X. CONSENT AGENDA:

None.

XI. REGULAR AGENDA:

1. **Discussion and Possible Action** – City Funds budget workshop (presentation of City Staff-prepared first draft of the Fiscal Year 2025 Annual Budget, to obtain feedback from the Board of Commissioners).

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

   City Manager Michael Walker presented this item.

   Discussion ensued.

XII. ANNOUNCEMENTS:
None.

XIII. ADJOURNMENT:
There being no other business on which to act, the meeting was adjourned without objection at 6:35 p.m. on Tuesday, March 26, 2024.

These minutes were approved on April 4, 2024.

____
Josh Roman
Mayor

ATTEST:

____
Cheyenne Carter
City Recorder

CITY OF LAKELAND TENNESSEE

Board of Commissioners

Meeting Cycle: Thursday, April 4, 2024

Subject: **Ordinance- First Reading** - amending the fiscal year 2024 annual budget passed by Ordinance O-10-2023.

Staff Contact: Michael Walker, City Manager

STAFF RECOMMENDATION

City Staff recommends the Board of Commissioners approve Ordinance O-3-2024.

BUDGET IMPACT

This ordinance revises the fiscal year 2024 budget by the amounts listed in the discussion section below.

DISCUSSION

This ordinance increases expenditures as follows:

- Park Athletic Complex by $50,000 related to the Lakeland Athletic Complex Phase 1 Lighting due to increased costs associated with the project.
- Park I.H. Park Improvements by $50,000 related to the I.H. Park Restroom Facility Project due to increased costs associated with the project.
- Solid Waste -Other Contracted services will receive a transfer in from the General Fund and a transfer out of Other Financing Uses of $275,000 related to the Storm 23 Clean-up.
- Recognize an increase in budgeted revenues in CDBG Grant Revenue and an increase in GOV Building Improvements by $53,356 related to project change orders.

This ordinance also recognizes the increased appropriations of the Lakeland School System, as approved by their Board of Education.

ORDINANCE O-3-2024

AMENDING THE FISCAL YEAR 2024 ANNUAL BUDGET
PASSED BY ORDINANCE O-10-2023

WHEREAS, the City of Lakeland adopted the fiscal year 2023-2024 budget by passage of Ordinance O-10-2023 on June 15, 2023; and,

WHEREAS, revenues, expenditures, other financing sources, and/or other financing uses in the City of Lakeland's funds are expected to differ from the budget, as amended:

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Lakeland, Tennessee, that changes be made to the fiscal year 2023-2024 annual budget as follows**:**

SECTION 1. Ordinance O-10-2023 is hereby amended to increase budgeted expenditures in accounts 110 E 44710 937 000 (PRK Athletic Complex) by fifty thousand dollars ($50,000) related to Lakeland Athletic Complex Phase 1 Lighting and to increase budgeted expenditures in account 110 E 44710 968 000 (PRK-I.H. Park Improvements) by fifty thousand dollars ($50,000) related to the I.H. Park Restroom Facility Project.

Ordinance O-10-2023 is hereby amended to increase budgeted other financing sources in account 424 R 37950 000(Transfers In from General Fund), expenditures in account 424 E 43260 289 (SDW- Other Contracted Service), and other financing uses in account 110 E 51625 710 (Transfers Out to Solid Waste Fund) related to Storm 23 Clean-up by two-hundred-seventy-five thousand dollars ($275,000).

Ordinance O-10-2023 is hereby amended to increase budgeted revenues in account 110 R 33111 000 (CDBG Grant Revenue) as well as increase budgeted expenditures in account 110 E 41000 932 (GOV-Building Improvements) by fifty-three thousand three-hundred fifty-six dollars ($53,356) related to project change orders.

SECTION 2. The Board of Commissioners authorizes the Finance Director to cause said changes to be made in the accounting system.

SECTION 3. 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 4. This ordinance shall take effect the latter fifteen (15) days after first reading or immediately upon final passage, the public welfare requiring it.

BE IT FURTHER ORDAINED by the Board of Commissioners of the City of Lakeland, Tennessee, that appropriations in the Lakeland School System ("LSS"), duly approved by the Lakeland Board of Education, have increased as follows using revenue sources and/or LSS fund balance independent of any contributions from the City of Lakeland:

SECTION 5. Appropriations increases, by LSS fund:

Expenditures & Other Financing Uses

	Original Budget	Amendments	Revised Budget
General Purpose School Fund	$ 24,977,168	$ 4,498,929	$ 29,476,097
School Federal Programs	$ 948,990	$ 291,219	$ 1,240,209
School Nutrition	$ 692,700	$ 444,978	$ 1,137,678
School State Discretionary Funds	$ -	$ 171,822	$ 171,822
LEAP Fund	$ 280,000	$ -	$ 280,000
School Capital Projects Fund	7,000,000	$ -	7,000,000
	$ 33,898,858	$ 5,406,948	$ 39,305,806

First Reading: April 4, 2024
Public Hearing: April 18, 2024
Final Reading: April 18, 2024

ATTEST:

Josh Roman
Mayor

Cheyenne Carter
City Recorder

CITY OF LAKELAND TENNESSEE

Board of Commissioners

Meeting Cycle: Thursday, April 4, 2024

Subject: **Resolution** - authorizing the Mayor and City Manager to execute a funding agreement between the City of Lakeland and the Lakeland Area Chamber of Commerce for fiscal year 2024-2025.

Staff Contact: Michael Walker, City Manager

STAFF RECOMMENDATION

City Staff recommends the Board of Commissioners approve resolution R-48-2024.

BUDGET IMPACT

Funds related to this agreement will be included in the Annual Budget for fiscal year 2024-2025.

DISCUSSION

Attached to the resolution is the annual funding agreement with the Chamber of Commerce. Chamber representatives will be on hand during the meeting to answer any questions related to the need for ongoing financial support by the City.

RESOLUTION R-48-2024

AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A FUNDING AGREEMENT BETWEEN THE CITY OF LAKELAND AND THE LAKELAND AREA CHAMBER OF COMMERCE FOR FISCAL YEAR 2024-2025

WHEREAS, the Lakeland Area Chamber of Commerce (the "Chamber") provides value to the City of Lakeland, Tennessee, through business retention and expansion, marketing and promotion, and public relations related to economic development; and,

WHEREAS, the Board of Commissioners of the City of Lakeland, Tennessee, desires to supplement the operational costs of the Chamber while providing oversight of the performance of their duties; and,

WHEREAS, funding for this agreement is anticipated to be appropriated in the Fiscal Year 2025 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 and City Manager are hereby authorized to execute an agreement with The Lakeland Area Chamber of Commerce, attached hereto, for annual support of twenty-four thousand dollars ($24,000).

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 4th day of April 2024, the public welfare requiring it.

____
Josh Roman, *Mayor*

ATTEST:

____
Cheyenne Carter
City Recorder

2024-2025 FUNDING AGREEMENT BETWEEN THE CITY OF LAKELAND AND THE LAKELAND AREA CHAMBER OF COMMERCE

THIS AGREEMENT is entered into this ___ day of ___________, 2024, by and between the **CITY OF LAKELAND**, a Tennessee municipal corporation established under the laws of the State of Tennessee (hereinafter referred to as "the City") with a principal address of 10001 Highway 70, Lakeland, Tennessee, 38002, and **The Lakeland Area Chamber of Commerce**, a not-for-profit Tennessee corporation (hereafter referred to as "the Chamber"), with a principal address of 10001 Highway 70, Lakeland, Tennessee, 38002.

WITNESSETH

WHEREAS, the Chamber exists to promote 1) Business Advocacy by assisting in identifying and eliminating challenges within the business community at large; 2) Economic Development by serving as effective private sector partners for the community and public sector partners in utilizing resources with greater flexibility and confidentiality; 3) Marketing of the community at large in local and out-bound promotional programs for the community as a place to live and work; and 4) Community development by serving as an important voice in supporting community development projects in a cost effective and independent manner; and

WHEREAS, the Chamber has applied to the City for funds for contracted services in order to provide such services and/or programs as are set forth in Exhibit "A" attached hereto (hereinafter “Services”) and incorporated herein by this reference; and

WHEREAS, the City and Chamber have determined that the public will benefit from such Services in order to promote the general health, welfare and/or safety of the community and that the provision of such Services is in the best interests of the City, and, to that end, the City has appropriated funds to be paid to the Chamber for such Services; and

WHEREAS, the Chamber commits to making available the necessary qualified and trained personnel, resources, materials and supplies to perform such Services as set forth in this Agreement; including, but not limited to, a part- time coordinator, professional economic development consulting, and an independent Board of Directors; and

WHEREAS, the City desires to enter into an agreement with the Chamber whereby the Chamber will receive and disburse said funds of the City for the purpose of providing the Services in accordance with the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises, the mutual covenants, and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **INCORPORATION OF RECITALS.** The recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

2. **FUNDING.** The City will appropriate for the period commencing July 1, 2024, and ending June 30, 2025, in monthly installments of $2,000 to be administered and disbursed by the Chamber solely for the purposes set forth herein (hereinafter “Funds”). The Chamber will also possess the ability to seek/request reimbursable expenses and other incidental from the City (for example, travel expenses, promotional material design and duplication, etc.). The Chamber hopes for a continued funding relationship from the City as is the traditional arrangement between

other municipalities and their local chambers within Shelby County as we continue to prove the value of the Chamber’s efforts to the City and community; however, the Chamber will continue to solicit financial contributions, grants, appropriations, sponsorships, public and private government funding, and in-kind contributions to support the organization, with a long-term goal to generate majority funding from those sources. The City will oversee the Chamber’s progress toward funding goals as outlined in Exhibit “B”.

3. **PAYMENTS.** Under the terms and conditions of this Agreement, the City agrees to contribute the Funds to the Chamber in monthly installments, unless otherwise approved and authorized in writing by the City Manager and the Finance Director of the City. Payments by the City shall be contingent upon the following:

(a) receipt and approval by the City of the records specified in Paragraph 4 of this Agreement;

(b) inclusion of the oversight provisions in sub-recipient agreements as set forth in Paragraph 7 of this Agreement;

(c) compliance with such other oversight and administrative requirements specifically set forth in Exhibit "B" of this Agreement; and

(d) continuing faithful performance of all of the provisions of this Agreement by the Chamber.

4. **PERFORMANCE MEASURES**; **PROGRESS AND FINANCIAL REPORTS.** The City shall use the Performance Measures listed in Exhibit “A” to determine the effectiveness of the Services provided by the Chamber. The Chamber agrees to the oversight measures outlined in Exhibit “B”, which shall be consistent with the Services and Performance Measures, and shall detail the expenditure of the Funds in attachments to and/or minutes of the Chamber’s regular business meetings. Copies of such financial reports and minutes shall be available for review by the City Manager, as needed. Failure to comply with these oversight requirements shall constitute grounds for termination of this Agreement and may result in the ineligibility of the Chamber to receive contributions from the City.

5. **BOARD MEETINGS.** A member of City staff, designated by the City Manager, shall be permitted to attend board meetings, upon request to do so. The City shall receive electronic copies of Chamber Board Meeting minutes after each meeting (normally monthly).

6. **NONPROFIT STATUS.** The Chamber shall maintain its corporate, non-profit status in the State of Tennessee and will pursue and secure 501(c)6 status with the Federal Internal Revenue Service for the term of this Agreement. If the Chamber should, during the term of this Agreement, lose its corporate or non-profit status, it shall immediately notify the City within ten (10) days of the event. Upon such an event, the City reserves the right to immediately terminate this Agreement and discontinue distribution of Funds to the Chamber.

7. **NONDISCRIMINATION**. The Chamber agrees to provide the Services without regard to race, color, creed, sex, age, national origin, or disability.

8. **ACCOUNTING.** The Chamber shall utilize and maintain such records and practices regarding receipts and disbursements of the Funds as to be in accordance with generally accepted accounting principles. All such records shall be open to inspection by the City or by the City's designee during normal business hours during the term hereof and for a period of three (3) years after the termination of this Agreement.

9. **MONITORING.** The Chamber shall permit the City to monitor the Services and the Chamber's records and facilities, and/or interview the Chamber's clients or employees in order to ensure compliance with the terms of this Agreement. The Chamber shall, to assist monitoring of its program, provide to the City or the City's designee access to all client records and such other information as the City may deem necessary. The Chamber shall interact with City staff during regular hours of business for the purposes of continual monitoring of this agreement, and to coordinate mutual program activities.

10. **TERM.** Unless earlier terminated, this Agreement shall remain in effect for the period commencing July 1, 2024, and terminating June 30, 2025. This agreement will be reviewed annually with the potential for reapplication for support in the City of Lakeland's Budgeting Cycle.

11. **TERMINATION.** This Agreement may be terminated by either party at any time, with or without cause, upon no less than thirty (30) days' notice in writing to the other party. Said notice shall be delivered by certified mail or in person to the business address of the party upon whom such notice is served.

12. **DEFAULT.** The following shall constitute an Event of Default under this Agreement:

(a) Chamber's failure to provide the Services in accordance with the terms and conditions of this Agreement;
(b) Chamber makes a material representation in any certification or communication submitted by the Chamber to the City in an effort to induce the contribution of the Funds or the administration thereof that is later determined by the City to be false, misleading, or incorrect in any material manner; or
(c) Chamber's failure to comply with any of the terms and conditions in this Agreement.

Upon the occurrence of any Event of Default, or any other breach of this Agreement, the City shall have the authority to terminate this Agreement and discontinue the Funds and/or exercise all rights and remedies available to it under the terms of this Agreement under statutory law, or under common law.

13. **NO WAIVER.** The continued performance by either party hereto, pursuant to the terms of this Agreement, after an Event of Default shall not be deemed a waiver of any rights by the City. Furthermore, the waiver of any default by the City shall in no event be construed as a waiver of rights with respect to any other default, past or present.

14. **CONSTRUCTION; SEVERABILITY.** This Agreement shall be construed in accordance with the laws of the State of Tennessee. It is agreed by and between the parties that if any covenant, condition or provision contained in this Agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenants, conditions or provisions herein contained.

15. **NONASSIGNABILITY.** The Chamber may not assign its rights hereunder without the prior written consent of the City. Failure to comply with this section may result in immediate termination of this Agreement.

16. **NO JOINT VENTURE.** It is mutually understood and agreed that nothing contained in this Agreement is intended, or shall be construed, as in any way creating or establishing the relationship as partner or joint ventures between the parties hereto or as constituting the Chamber as the agent or representative of the City for any purpose or in any manner whatsoever.

17. **VENUE.** Any litigation occurring as a result of this Agreement shall be held in the courts of Shelby County, Tennessee and shall be governed by the laws of the State of Tennessee. The Chamber agrees to notify the City of an occurrence of any incident or action filed against the agency, such as but not limited to, lawsuits, injuries, or allegations of abuse or neglect.

18. **CORPORATE TABLES.** The Chamber agrees that, if it holds any fund raising events during the term of this Agreement at which "corporate tables" are sold, the City shall receive a table without cost in consideration of the contribution provided to the Chamber under this Agreement.

20. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof; any representations or statement heretofore made with respect to such subject matter, whether verbal or written, are merged herein. No other agreement, whether verbal or written, with regard to the subject matter hereof shall be deemed to exist. This Agreement may only be modified in writing, signed by both parties.

21. **NOTICE.** Any notices to be delivered hereunder shall be in writing and be deemed to be delivered when (i) hand delivered to the person hereinafter designated, or (ii) deposited in the United States Mail, addressed to a party at the addresses set forth opposite the party's name below, or at such other address as the applicable party shall have specified, from time to time, by written notice to the other party delivered in accordance herewith:

City: City of Lakeland
Attn: City Manager
10001 Highway 70
Lakeland, TN 38002

Chamber: Lakeland Area Chamber of Commerce
Wil Ashworth, President
10001 Highway 70
Lakeland, TN 38002

IN WITNESS WHEREOF, the parties hereto have executed these presents and have set their hands and seals the day and year first above written.

CITY OF LAKELAND, TENNESSEE

By: ______________________________
Mayor

By: ______________________________
City Manager

STATE OF TENNESSEE
COUNTY OF SHELBY

PERSONALLY APPEARED before me, the undersigned authority, MAYOR JOSH ROMAN, well known to me, and known to me to be the Mayor of the City of Lakeland,

And MR. MICHAEL WALKER, well known to me, and known to me to be the City Manager of the City of Lakeland, and acknowledged before me that they executed the foregoing instrument on behalf of the City of Lakeland as its true act and deed, and that they were duly authorized to do so.

WITNESS my hand and official seal this _____________day of _______________, 2024.

NOTARY PUBLIC ____

Print Name: ____

My Commission Expires: ____

THE LAKELAND AREA CHAMBER OF COMMERCE

By:
____
President

Federal I.D. No. : ______________

STATE OF TENNESSEE
COUNTY OF SHELBY

PERSONALLY APPEARED before me, the undersigned authority, Mr. Wil Ashworth, well known to me, and known to me to be the President of the Lakeland Area Chamber of Commerce and acknowledged before me that he executed the foregoing instrument on behalf of the Lakeland Area Chamber of Commerce as its true act and deed, and that he was duly authorized to do so.

WITNESS my hand and official seal this _____________day of _______________, 2024.

NOTARY PUBLIC ____

Print Name: ____

My Commission Expires: ____

EXHIBIT “A”
EXECUTIVE SUMMARY

The Lakeland Economic Development (LED) initiative is designed as an endeavor of the Lakeland Area Chamber of Commerce to work with the City of Lakeland and other constituents to promote and sustain economic development within the Lakeland Area. As a result of planning processes conducted by LED and other community groups, the Lakeland Chamber believes the most immediate (and promising) strategy is one to protect and grow opportunities within the business sector.

Support of Existing Businesses

The existing business community is a ready source for expansion and additional investment. The principal components of Chamber support would be to educate and organize existing businesses to support and provide a voice for community efforts for economic development and the implementation of the City of Lakeland’s Economic Development Strategic Plan. The existing business plan calls for existing businesses in Lakeland to be visited and engaged each year of the program. Our feedback has been that both the business and residential communities support this approach, but understand the need for organizational leadership, which this program would provide. The goal would be that at least 65% of the existing business community would be engaged in this program each year.

Areas of Service

Three broad areas of service have been identified to be offered as a value added benefit to the City of Lakeland:

- Business retention and expansion that will include a business visitation program
- Marketing/Promotion at various venues including special events, business conventions, publications, and public relations presence
- Tourism

Other Efforts

The Chamber will document efforts toward increasing funding resources. The Chamber will provide in its quarterly reports the use of funds provided by the City, and other revenue generated by the Chamber to improve funding leverage (for example, in grant-writing, etc.).

EXHIBIT "B"

OVERSIGHT

The Chamber will report progress toward the services in this agreement monthly at its regular Chamber board meetings. Chamber board meetings will be open to attendance by the City Manager. The Board of Commissioners of the City of Lakeland may also appoint a liaison to attend the Chamber board meetings.

The City Manager, or Lakeland City Staff designee, will attend each Chamber board meeting and receive and review board meeting minutes and associated attachments and financial reports to ensure compliance with the terms and performance measures of this Agreement.

A Chamber representative will appear before the Board of Commissioners of the City of Lakeland (the "BOC") to provide an update on progress toward the goals contained herein upon thirty (30) days written notice, communicated through the City Manager.

Additional regular contact with the City's Planning Director will occur during business hours to provide for monitoring of services, and to coordinate shared efforts. The City Manager and/or Planning Director may engage the Chamber board as necessary regarding services.

The Chamber will electronically deliver and/or mail any requested existing reports and records by mutually agreed means to:

City of Lakeland
Attn: City Manager
10001 Highway 70
Lakeland, TN 38002
citymanager@lakelandtn.org

RESOLUTION R-40-2024

AUTHORIZING THE MAYOR TO SIGN A PROCLAMATION DESIGNATING APRIL 12, 2024 AS BLUE & GREEN DAY MID-SOUTH

WHEREAS, the City of Lakeland and the Board of Commissioners desire to promote the observance of Blue & Green Day Mid-South in the City of Lakeland:

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 sign a Proclamation honoring April 12, 2024, as the City of Lakeland Blue & Green Day Mid-South.

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee this 4TH day of April 2024, the public welfare requiring it.

ATTEST:

___________________________	___________________________
Josh Roman	Cheyenne Carter
Mayor	*City Recorder*

CITY OF LAKELAND TENNESSEE

Proclamation

WHEREAS, Every year, National Donate Life observes Blue & Green Day to amplify the importance of registering as an organ and tissue donor, and encourage the public to wear blue and green to raise awareness; and,

WHEREAS, More than 100,000 Americans, including 4,000 in the Mid-South area, are currently on the national transplant waiting list; and,

WHEREAS, Another person is added to the waiting list every nine minutes, and on average, seventeen people die every day because the organs they need are not donated in time; and,

WHEREAS, We can all do our part to save lives by educating and encouraging our peers and loved ones to register as an organ and tissue donor; and,

WHEREAS, The City of Lakeland, TN supports National Donate Life and Mid-South Transplant Foundation and its efforts to bring new life to men, women and children in need of lifesaving organ and tissue transplants; and,

WHEREAS, We hold those that have saved lives through the gift of donation in the highest regard and are grateful for their selflessness.

NOW, THEREFORE, I, Josh Roman, Mayor of the City of Lakeland, Tennessee, do hereby proclaim the 12th day of April 2024 in honor of Blue & Green Day Mid-South in the City of Lakeland, and thus encourage all residents to promote the importance of organ and tissue donation.

Josh Roman, *Mayor*
City of Lakeland, Tennessee

CITY OF LAKELAND TENNESSEE

Board of Commissioners

Meeting Cycle: Thursday, April 4, 2024

Subject: **Resolution** - approving an agreement with the Tennessee Department of Transportation for Lakeland Pavement Management Software.

Staff Contact: Luis Camarillo Hernandez, Staff Engineer

STAFF RECOMMENDATION

City Staff recommends the Board of Commissioners approve Resolution R-41-2024.

BUDGET IMPACT

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

DISCUSSION

Lakeland proposes to utilize a new pavement management software to keep inventory, inspect, manage, and analyze data related to the City's roadways. The software program we are looking at will help us keep more accurate data of the road conditions and provide analysis of maintenance and improvements needed. The software we are seeking will be integrated with the City's asset management system, Cityworks, to better track maintenance performed on the roadways.

RESOLUTION R-41-2024

APPROVING AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR LAKELAND PAVEMENT MANAGEMENT SOFTWARE

WHEREAS, the City desires to utilize a new pavement management software; and,

WHEREAS, the City is a recipient of a Surface Transportation Block Grant in the amount of forty thousand dollars ($40,000) for a new pavement management software; and,

WHEREAS, the City is required to provide a (20%) local match in the amount of eight thousand dollars ($8,000); 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 Lakeland Pavement Management Software.

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 4th day of April 2024, the public welfare requiring it.

ATTEST:

____________________________	____________________________
Josh Roman	Cheyenne Carter
Mayor	*City Recorder*

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
BUREAU OF PLANNING
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

March 18, 2024

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

Re: Lakeland Pavement Management Software
Lakeland, Shelby County
PIN:134588.00
Federal Project Number: STP-M-7900(69)
State Project Number: 79LPLM-F1-781
Contract Number: 230420

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 Erich Moody at 615-253-4896 or Erich.Moody@tn.gov.

Sincerely,

Chasity M. Bell

Chasity M. Bell
Transportation Manager 1

Attachment

Agreement Number: 230420

Project Identification Number: 134588.00

Federal Project Number: STP-M-7900(69)

State Project Number: 79LPLM-F1-781

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 LAKELAND (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:

Lakeland Pavement Management Software

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:	**N/A**	**N/A**

Utility Coordination by:	**N/A**	**N/A**
Construction by:	**N/A**	**N/A**

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.

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.

<u>D.13 Equal Employment Opportunity:</u>

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 it's 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: B	**Signature:**
Email: jroman@lakelandtn.org	**Email:** TDOT.COMMISSIONER'S.Office@tn.gov
APPROVED AS TO FORM AND LEGALITY	**APPROVED AS TO FORM AND LEGALITY**
Signature: B	**Signature:**
Email: wpatterson@pattersonbray.com	**Email:** TDOT.Legal.Attorneys@tn.gov
B	**Signature:**
	Email: Daniel.Pallme@tn.gov

EXHIBIT "A"

AGREEMENT #: 230420
PROJECT IDENTIFICATION #: 134588.00
FEDERAL PROJECT #: STP-M-7900(69)
STATE PROJECT #: 79LPLM-F1-781

PROJECT DESCRIPTION: Lakeland Pavement Management Software - Purchasing a software program to manage the data and provide analysis on maintenance and Capital Improvement needs. The software will also be integrated with the City's asset management system, Cityworks, to track maintenance performed on the roadways.

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

TYPE OF WORK: Intelligent Transportation System

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-DESIGN	STBG-U	80	0	20	**$40,000.00**

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: STBG: 23 U.S.C.A., Section 133, Surface Transportation Block Grant Program funds allocated or subject to allocation to the Agency.

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.

CITY OF LAKELAND TENNESSEE

Board of Commissioners

Meeting Cycle: Thursday, April 4, 2024

Subject: **Resolution** - approving an amendment to Agreement CA-2300023-2 with Shelby County Government for City Hall ADA Improvements using the Community Development Block Grant funds.

Staff Contact: Paul Posey, Staff Engineer

STAFF RECOMMENDATION

City Staff recommends the Board of Commissioners to approve Resolution R-45-2024

BUDGET IMPACT

A portion of the project is appropriated in the original budget for the General Fund as part of the FY2023 Annual Budget. A budget amendment will be required for the FY2023 General Fund to revenue and expenditure line items for Fifty-Three Thousand Three Hundred and Fifty-Six Dollars ($53,356.00).

DISCUSSION

The City of Lakeland is the recipient of a Community Development Block Grant from the Shelby County Government for ADA improvements at City Hall. This contract was originally approved by the Board of Commissioners in February 2023 for Two Hundred Eighty-Five Thousand Dollars ($285,000). This amendment increases the total grant to Three Hundred Thirty-Eight Thousand Three Hundred Fifty-Six Dollars ($338,356.00) to cover the actual cost after the ADA projects were bid.

The City's ADA Transition Plan identified multiple barriers at City Hall, reducing accessibility to public facilities for someone with a disability. The exterior improvements include replacing sidewalks and ramps around the building. The interior improvements include automatic front doors, lowering the reception counter, replacing doorways, replacing dais, and restroom improvements. The grant is 100% funded with no local match required.

RESOLUTION R-45-2024

APPROVING AN AMENDMENT TO AGREEMENT CA-2300023-2 WITH SHELBY COUNTY GOVERNMENT FOR CITY HALL ADA IMPROVEMENTS USING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

WHEREAS, the City of Lakeland (the "City") Americans with Disabilities Act ("ADA") Transition Plan identified barriers at City Hall for persons with disabilities; and,

WHEREAS, the City applied for Community Development Block Grant ("CDBG") funds to make ADA improvements to its public facilities; and,

WHEREAS, the Board of Commissioners ("BOC") approved an agreement for Two Hundred Twenty-Five Thousand Dollars ($225,000) through Resolution R-129-2022; and,

WHEREAS, the Board of Commissioners ("BOC") approved an agreement for Two Hundred Eighty-Five Thousand Dollars ($285,000) through Resolution R-23-2023; and,

WHEREAS, this amendment increases the grant amount to Three Hundred Thirty-Eight Thousand Three Hundred Fifty-Six Dollars ($338,356.00) to cover the actual cost after the ADA projects were bid; and,

WHEREAS, the funding for the ADA Improvements project is appropriated in the fiscal year 2023 Annual Budget for the General Fund, and through an anticipated third budget amendment of Fifty-Three Thousand Three Hundred and Fifty-Six Dollars ($53,356.00):

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the Mayor is authorized to execute an amendment to Agreement CA-22300023-2 with Shelby County Government for City Hall ADA Improvements using Community Block Development Grant funds.

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 4th day of April 2024, the public welfare requiring it.

ATTEST:

______________________________	______________________________
Josh Roman	Cheyenne Carter
Mayor	*City Recorder*

Amendment to Agreement
CA-2300023-1

THIS AMENDMENT (hereinafter "Amendment") is made and entered into the _______ of ___________________, 2023, by and between Shelby County Government (hereinafter "County") and the City of Lakeland (hereinafter "Lakeland").

WHEREAS, the parties previously entered into an agreement (hereinafter "Agreement") dated January 6, 2023, for $225,000.00 for City Hall ADA improvements in the City of Lakeland; and

WHEREAS, the parties now desire to enter into this Amendment to increase funding by $60,000 due to increased construction costs, for a total contract amount of $60,000.00.

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 Service is hereby amended to increase funding by $60,000.00.
2. The total cost for this Amendment shall not exceed Sixty Thousand and 00/100 ($60,000.00) Dollars, for a new total contract amount not to exceed Two Hundred Eighty-Five Thousand and 00/100 ($285,000.00) Dollars payable in accordance with the terms of the Agreement.
3. **Lakeland shall not be permitted or authorized to incur costs beyond the extent that purchase orders have been issued on approved contracts and/or purchases prior to the commencement date, during the term of the contract, and/or subsequent to the termination date of County contracts or purchases without prior, expressly written, appropriate authorization pursuant to County purchasing procedures and rules and regulations. County is not obligated to pay nor shall Lakeland be entitled to receive payments for contract fees and expenses incurred in violation of this provision**.
4. This Amendment shall be subject to the availability of funds in the Fiscal Year 2023 Operating Budget of Shelby County Government and approval of the cost for this Amendment within said Operating Budget by the Board of County Commissioners.
5. The terms and conditions of the original Agreement, except as amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment on the

_____________ __day of ____________________20__.

APPROVED AS TO FORM AND LEGALITY:

____
Contract Administration/
Assistant County Attorney

SHELBY COUNTY GOVERNMENT

____
Lee Harris, MAYOR, Shelby County

CITY OF LAKELAND

____
Josh Roman Mayor, City of Lakeland

RESOLUTION R-23-2023

APPROVING AN AMENDMENT TO AGREEMENT CA-22300023-1 WITH SHELBY COUNTY GOVERNMENT FOR CITY HALL ADA IMPROVEMENTS USING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

WHEREAS, the City of Lakeland (the "City") Americans with Disabilities Act ("ADA") Transition Plan identified barriers at City Hall for persons with disabilities; and,

WHEREAS, the City applied for Community Development Block Grant ("CDBG") funds to make ADA improvements to its public facilities; and,

WHEREAS, the Board of Commissioners ("BOC") approved an agreement for two hundred twenty-five thousand dollars ($225,000) through Resolution R-129-2022; and,

WHEREAS, this amendment increases the grant amount to two hundred eighty-five thousand dollars ($285,000) to cover the actual cost after the ADA projects were bid; and,

WHEREAS, the funding for the ADA Improvements project is appropriated in the fiscal year 2023 Annual Budget for the General Fund, and through an anticipated third budget amendment of sixty thousand dollars ($60,000):

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the Mayor is authorized to execute an amendment to Agreement CA-22300023-1 with Shelby County Government for City Hall ADA Improvements using Community Block Development Grant funds.

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 9th day of February 2023, the public welfare requiring it.

Josh Roman, *Mayor*

ATTEST:

Debra Murrell
City Recorder

RESOLUTION R-129-2022

APPROVING A CONTRACT BETWEEN SHELBY COUNTY, TENNESSEE AND CITY OF LAKELAND, TENNESSEE FOR CITY HALL ADA IMPROVEMENTS USING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

WHEREAS, the City of Lakeland (the "City") Americans with Disabilities Act ("ADA") Transition Plan identified barriers at City Hall for persons with disabilities; and,

WHEREAS, the City applied for Community Development Block Grant ("CDBG") funds to make ADA improvements to its public facilities; and,

WHEREAS, the City was awarded two hundred twenty-five thousand dollars ($225,000) in CDBG funds which require no local match; and,

WHEREAS, funding for the ADA Improvements project is appropriated in the General Fund FY2023 Annual Budget:

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that the Mayor is authorized to execute a contract between Shelby County, Tennessee and City of Lakeland, Tennessee for City Hall ADA Improvements using Community Block Development Grant funds.

APPROVED AND ADOPTED by the Board of Commissioners of Lakeland, Tennessee, this 1st day of December 2022, the public welfare requiring it.

Josh Roman, *Mayor*

ATTEST:

Debra Murrell
City Recorder

CONTRACT NUMBER ____________

CONTRACT BETWEEN SHELBY COUNTY TENNESSEE AND CITY OF LAKELAND, TENNESSEE FOR CITY HALL ADA IMPROVEMENTS USING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

THIS AGREEMENT, entered into this_____Day of_____, 2022, by and between Shelby County, Tennessee (herein called "Shelby County") and the City of Lakeland(herein called "Lakeland"):

WHEREAS, Shelby County has applied for and received Community Development Block Grant (CDBG) funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; and

WHEREAS, Shelby County wishes to engage Lakeland to assist Shelby County in utilizing such funds;

NOW THEREFORE, the parties agree to the following:

I. SCOPE OF SERVICE

A. Work to Be Performed

As a sub-recipient, Lakeland will be responsible for administering a project eligible under the CDBG program and utilizing CDBG funds received by Shelby County in a manner satisfactory to Shelby County and consistent with any standards required as a condition to the provision and use of funds. The purpose of the project will be to provide funds for Lakeland City Hall ADA improvements. The project will include the following activities eligible under the Community Development Block Grant program:

1. Work Description

Lakeland will utilize up to Two Hundred Twenty Five Thousand Dollars ($225,000.00) in CDBG funds for the Lakeland City Hall ADA improvements in accordance with Appendix 1. The project involves the improvement of public facilities for persons presumed to be of low and moderate income under 24 C. F.R. 570.208 (a) (2) (I) (A).

2. General Administration

Lakeland will procure all necessary engineering designs for the project.

3. Budget

Lakeland's expenditure of funds for the project shall be in accordance with the budget agreed upon by the parties, as set forth in **Appendix 1**. Any expenditure in any line item category of the budget in excess of the specific amount set forth in **Appendix 1** shall require the written approval of Shelby County prior to said expenditure. It is expressly understood between the parties that the anticipated total cost of the project is $225,000.00 and that Lakeland shall be solely responsible for paying any and all amounts over $225,000.00.

4. Monitoring of Performance

Shelby County will monitor the performance of Lakeland against the goals and performance standards required herein. Substandard performance as determined by Shelby County will constitute noncompliance with this Agreement. If no action to correct such substandard performance is taken by Lakeland within a reasonable period of time after being notified by Shelby County, Shelby County may exercise the contract suspension or termination procedures set forth in paragraph VII

II. BEGINNING OF PERFORMANCE AND TERM AGREEMENT

The work being performed by Lakeland hereunder shall begin no later than twenty (20) days after complete execution of this Agreement. This Agreement shall terminate on the 30th day of June 2023. In accordance with the amendment procedures set forth in paragraph VI, the term of this Agreement and the provisions herein may be extended to cover any additional period during which Lakeland remains in control of CDBG funds or other assets, including program income.

III. PAYMENT

In consideration for the service to be performed by Lakeland hereunder, Shelby County shall pay an amount to Lakeland from the CDBG program funds up to, but not to exceed Two Hundred Twenty Five Thousand Dollars ($225,000.00). Such funds shall be used only for payment of expenses eligible for coverage under the

CDBG program. In the discretion of Shelby County, drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph I. A.3 herein. Expenses for general administration shall also be paid against line item budgets specified in Paragraph I .A. 3 and in accordance with performance. Payments may be contingent upon Lakeland's compliance with all applicable uniform administration requirements as set forth in 24 CFR 571.502. Lakeland agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

IV. NOTICES

Communications and details concerning this contract shall be directed to the following contract representatives:

Shelby County	Town of Lakeland
Scott Walkup, Administrator Shelby County Department of Housing 1075 Mullins Station Memphis, TN 38134	Josh Roman, Mayor Lakeland City Hall 10001 Highway 70 Lakeland, TN 38002 (901) 867-2717

V. General Conditions

A. General Compliance with Federal Regulations

Lakeland agrees to comply with all applicable requirements of 24 CFR Part 570 concerning CDBG funds, all applicable portions of 24 CFR Part 85, and all other federal requirements and policies issued pursuant to these regulations, including, but not limited to, those set forth in Paragraphs VIII, IX, and X. A copy of 24 CFR parts 570 is attached hereto as Appendix 3. Lakeland shall be responsible for complying with all applicable changes or additions to the requirements currently set forth in said regulations. Lakeland agrees to comply with all other applicable Federal State or Local laws.

VI. AMENDMENTS

The parties may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are executed in writing, and are signed by a duly authorized representative of both parties and approved by either party's governing body to the extent required by state law, local charter or otherwise. In addition, Shelby County may, in its sole discretion amend this Agreement to conform with federal, state, or local governmental guidelines, policies, and available funding amounts. However, if any such amendments result in a change in the funding, the scope of services, or the scheduling of services to be undertaken as a part of this Agreement such modifications will be incorporated only by written amendment signed by both parties.

VII. SUSPENSION OR TERMINATION

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. However, any partial termination of the work to be performed as set forth in Paragraph I.A. above may only occur with the prior approval of Shelby County. Shelby County may also suspend or terminate this Agreement, in whole or in part, if Lakeland materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein. In such event, Shelby County may declare Lakeland ineligible for any further participation in Shelby County contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Lakeland is in noncompliance with any applicable rules or regulations, Shelby County may suspend payment of up to fifteen (15) percent of the contract funds until such time as Lakeland is found to be in compliance by Shelby County or is otherwise adjudicated to be in compliance. In the event of any termination, all finished or unfinished documents, data reports, or other materials prepared by Lakeland under this agreement shall, at the option of Shelby County, become the property of Shelby County. In the event of termination, Lakeland shall be entitled to receive just and equitable compensation for any satisfactory work completed prior to termination. Shelby County shall be entitled to the repayment of any payments made to Lakeland over and above that to which it is entitled as just and equitable compensation for satisfactory work completed.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

Lakeland agrees to comply with all the accounting principles and procedures as set forth in 24 CFR 570.502 and 570.610 and all other pertinent regulations and OMB Circulars referred to herein, including, but not limited to, those relating to adequate internal controls and maintenance of necessary source documentation for all cost incurred.

B. Documentation and Record-Keeping

1. Records To Be Maintained

Lakeland shall maintain all records required by federal regulations as specified in 24 CFR 571.506, as they are pertinent to the activities to be funded under this Agreement. Such records shall include, but not be limited to:

a. Records providing a full description of the activity undertaken;

b. Records demonstrating that each activity undertaken meet one of the national objectives of the CDBG program. As set forth in 24 CFR 570.208, namely, benefiting low/moderate income persons, aiding in the prevention or elimination of slums or blight, and meeting community development needs having a particular urgency;

c. Records required determining the eligibility of activities;

d. Records required to document the acquisition, improvements, use or disposition of any real property acquired or improved with CDBG assistance;

e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program to the extent applicable;

f. Financial records as required by CFR 570.502; and

g. Other records necessary to document any required compliance with 24 CFR 570.600, 570.612

2. Retention

Lakeland shall retain records pertinent to expenditures incurred under this contract for a period of three (3) years after the termination of all activities funded under the contract, or after the resolution of all federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after he/she has received final payment.

3. Disclosure

Lakeland understands that any information collected under this agreement on specific residents in the affected HUD LMI Census Block is private, and the public use or disclosure of such information, when not directly connected with the administration of responsibilities with respect to the services provided under this Agreement, without the written consent of the resident involved and, in case of a minor, that of a responsible parent/guardian, is prohibited to the extent such use or disclosure is required by applicable federal, state or local law.

4. Property Records

Lakeland shall maintain real property inventory records, which clearly identify any properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 560.503 (b) (8).

5. Close-Outs

Lakeland's obligation to Shelby County shall not end until all closeout requirements are completed, as set forth in 24 CFR 570.509. Activities during this closeout period shall include, but are not limited to, making final payments, disposing of the program assets (including the return of all unspent cash advances and program income balances to Shelby County), and determining the custodianship of records.

6. Audits and Inspections

All of Lakeland's records with respect to any matters covered by this Agreement shall be made available to Shelby County, or its designees, or the U.S. Department of Housing and Urban Development, or its designees, at any time during the normal business hours, as often as deemed necessary, in order to audit, examine or make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Lakeland within thirty (30) days after receipt by Lakeland. Failure by Lakeland to comply with the above requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Specifically, all rights and remedies regarding performance reviews as set forth in 24 CFR 570.900 - 570.913 shall be available to Shelby County and the U.S. Department of Housing and Urban Development, or their designees.

C. Reporting and Payment Procedures

1. Budgets

Lakeland will submit a detailed contract budget of a form and content prescribed by Shelby County for approval by Shelby County. The parties shall revise the budget from time to time if necessary in order to be in accordance with the existing Shelby County policies.

2. Program Income

Lakeland shall report on a monthly basis any program income, as defined at 24 CFR 570.500 (a), generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by Lakeland shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, Lakeland may use such income during the contract period for activities permitted under this Agreement and shall reduce requirements for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to Shelby County at the end of the contact period. Any interest earned on cash advances from the U.S. treasury is not program income and shall be remitted promptly to Shelby County.

3. Indirect Costs

If indirect administration costs are charged, Lakeland will develop an indirect cost allocation plan for determining the appropriate share of administration costs and shall submit the plan to Shelby County for approval prior to Shelby County's payment for any such costs.

4. Payment Procedures

Shelby County will pay to Lakeland funds available under this Agreement based upon information submitted by Lakeland and consistent with any approved budget and Shelby County policy concerning such payments. With the exception of any funds that Shelby County in its discretion decide to advance, payments will be made for eligible expenses actually incurred by Lakeland, not to exceed the contract amount as set forth in Paragraph I. A. 1. Payments will be adjusted by Shelby County in accordance with the advance funds and program income balances available in Lakeland's accounts. In addition, Shelby County reserves the right to reduce funds available under this agreement for costs incurred by Shelby County on behalf of Lakeland in carrying out the project.

5. Progress Reports

Lakeland shall submit for each calendar month during which work is performed hereunder progress reports to Shelby County in the form and content as required by Shelby County. Said progress reports shall be submitted no later than the tenth day of the month following the month covered by the report.

D. Procurement

1. Standards of Procurement

Lakeland shall procure materials and services in accordance with the requirements of 24 CFR 85.236, and accordance with the requirements of 24 CFR 85.36.

2. Travel

Lakeland shall obtain written approval from Shelby County for any travel outside the metropolitan area with funds provided under this Agreement.

3. Relocation, Acquisition and Displacement

Lakeland agrees to comply with 24 CFR 570.606 and 24 CFR 85.31 relating to the acquisition and disposition of all real property utilizing grant funds and to any displacement of persons, businesses, non-profit organizations and farms occurring as a direct result of any acquisition of real property utilizing grant funds. Lakeland further agrees to comply with any applicable Shelby County ordinances, resolutions and/or policies concerning displacement of individuals from their residences.

IX. Personnel and Participating Conditions

A. Civil Rights

1. Compliance

Lakeland agrees to comply with all the requirements set forth in 24 CFR 570.600, including, but not limited to, compliance with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development act of 1974, Executive order 11063, and Executive Order 11246 as amended by Executive Order 12086. Lakeland also agrees to comply with all applicable provisions of the Americans with Disabilities Act of 1990.

B. Employment Activity

Lakeland is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities, sectarian or religious activities, and lobbying, political patronage and nepotism activities.

1. Labor Standards

Lakeland agrees to comply with the requirements of the secretary of labor in accordance with the Davis Bacon Act as amended (40 U.S.C. 276a-276a5), the provisions of Contract Work-Hours the Safety standards Act (40 U.S.C.327 et seq.), the Copeland "Anti-Kickback" Act (40 U.S.C. 276, 327-333) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. Specifically, Lakeland agrees to adhere to all wage decisions issued pursuant to the Davis-Bacon Act as amended that are applicable to this project. Attached hereto as **Appendix 2** is the most recent wage decision applicable to this project. Lakeland agrees to display this wage decision at the job site, as well as any updates, and applicable posters from the U.S. department of Labor, Wage and House Division that may be furnished to it. Lakeland shall be responsible for insuring that weekly payroll reports (WH347 or equivalent) are submitted by all contractors (and by all subcontractors through contractors) which certify that all laborers and mechanics engaged in the construction of this project have been paid no less than the minimum wage rates as listed on the applicable wage decision(s). Lakeland shall maintain documentation that demonstrates compliance with the hour and wage requirements of this part. Such documentation shall be made available to Shelby County for review upon request.

2. Employment Opportunities for Low Moderate Income Persons

   a. Lakeland acknowledges and agrees to comply with Section 3 of the Housing and Urban Development Act of 1968, as found at 24 CFR Part 135.

   b. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

   c. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

d. Lakeland agrees to send to each labor organizations or representative of workers with which the contractor has a collective bargaining agreement or other understanding. If any, a notice advising the labor organization or workers' representative of Lakeland's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

e. Lakeland agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR parts 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. Lakeland will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

f. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

g. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

h. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogations of compliance with section 7(b).

i. Conflict of Interest

Lakeland further agrees that, in the performance of this contract, no person having a financial interest shall be employed or retained by Lakeland. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of Lakeland or Shelby County, or of any designated public agencies or subrecipients which are receiving funds under the CDBG program.

4. Subcontracts

a. Approvals

Lakeland shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of Shelby County prior to the execution of such contract.

b. Monitoring

Lakeland will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in Lakeland's monthly written reports to Shelby County and supported with documentation evidence of follow-up actions taken to correct areas noncompliance.

c. Content

Lakeland shall cause all of the provisions of this contract in their entirety to be included in and made part of any subcontract executed in the performance of this Agreement.

d. Selection Process

Lakeland shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open basis. Executed copies of all subcontracts shall be forwarded to Shelby County along with documentation concerning the selection process.

X. ENVIRONMENTAL CONDITIONS

A. Air and Water

Lakeland agrees to comply with the following regulations insofar as they apply to the performance of this contract:

The Clean Air Act (42 U.S.C., 1857, et seq.);

The Federal Water Pollution Control Act as Amended 33 U.S.C. 1251 et seq.); Environmental Protection Agency (EPA) regulations set forth in 40 CFR Part 50, as amended;

The National Environmental Policy Act of 1969; and

HUD environmental review procedures as set forth in 24 CFR 58 et seq.

B. Flood Disaster Protection

To the extent applicable, Lakeland agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this contract.

C. Historic Preservation

Lakeland agrees to comply with the historic preservation requirements set forth in the National Historic Preservation Act of 1966 as amended (16

U.S.C. 470) and the procedures set forth in 36 CFR 800 et seq. Insofar as they apply to the performance of this contract.

IN WITNESS WHEREOF, the parties have executed this contract on the date first above written.

APPROVED AS TO FORM

____

Jill Shirley, Assistant County Attorney

SHELBY COUNTY, TENNESSEE

____

Lee Harris, Mayor

TOWN OF LAKELAND

____

Josh Roman, Mayor

Appendix 1

Budget for Lakeland Lakeland City Hall ADA improvements

City Hall ADA Improvements	-	$225,000.00

APPENDIX 2

DAVIS BACON WAGE DECISION

"General Decision Number: TN20220200 09/02/2022

Superseded General Decision Number: TN20210200

State: Tennessee

Construction Type: Building
BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories)

Counties: Fayette and Shelby Counties in Tennessee.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least $15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2022.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least $11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at https://www.dol.gov/agencies/whd/government-contracts.

Modification Number	Publication Date
0	03/11/2022
1	04/22/2022
2	05/06/2022
3	08/19/2022
4	09/02/2022

ASBE0086-002 03/01/2022

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR	$ 33.25	17.22

CARP0345-001 05/01/2021

	Rates	Fringes
CARPENTER	$ 26.08	13.90

ELEC0474-002 08/01/2022

	Rates	Fringes
ELECTRICIAN (Excludes Low Voltage Wiring)	$ 31.05	14.96

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* IRON0492-002 05/01/2022

	Rates	Fringes
IRONWORKER, ORNAMENTAL	$ 31.15	15.66
IRONWORKER, REINFORCING	$ 31.15	15.66
IRONWORKER, STRUCTURAL	$ 31.15	15.66

SHEE0004-008 01/01/2022

	Rates	Fringes
SHEET METAL WORKER (HVAC Duct Installation Only)	$ 31.80	15.90
SHEET METAL WORKER (HVAC Unit Installation Only)	$ 31.80	15.90

SHEE0004-009 01/01/2022

	Rates	Fringes
SHEET METAL WORKER (Excludes HVAC Duct Installation)	$ 31.80	15.90

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* SUTN2017-053 04/16/2021

	Rates	Fringes
BRICKLAYER	$ 20.00	0.00
CEMENT MASON/CONCRETE FINISHER	$ 20.25	0.00
ELECTRICIAN (Low Voltage Wiring)	$ 25.31	9.18
GLAZIER	$ 16.99	3.70
LABORER DEMOLITION	$ 16.74	0.00

LABORER GRADE CHECKER	$ 13.01 **	0.00
LABORER: Common or General	$ 13.97 **	1.30
LABORER: Mason Tender - Brick	$ 13.54 **	0.00
LABORER: Mason Tender - Cement/Concrete	$ 15.33	0.00
LABORER: Pipelayer	$ 14.99 **	2.41
OPERATOR: Backhoe/Excavator/Trackhoe	$ 23.06	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader	$ 16.84	0.00
OPERATOR: Bulldozer	$ 28.19	9.65
OPERATOR: Crane	$ 25.70	7.75
OPERATOR: Drill	$ 26.50	4.09
OPERATOR: Forklift	$ 15.00	0.00
OPERATOR: Paver (Asphalt, Aggregate, and Concrete)	$ 14.70 **	0.00
OPERATOR: Roller	$ 14.35 **	0.00
PAINTER (Brush and Roller)	$ 17.00	0.00
PIPEFITTER	$ 29.54	12.41
PLUMBER	$ 26.86	10.40
ROOFER	$ 16.29	0.00
TILE FINISHER	$ 14.00 **	0.00
TILE SETTER	$ 19.65	0.00
TRUCK DRIVER: Dump Truck	$ 15.28	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 ($15.00) or 13658 ($11.25). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

APPENDIX 3

24 CFR PART 570

CITY OF LAKELAND TENNESSEE

Board of Commissioners

Meeting Cycle: Thursday, April 4, 2024

Subject: **Resolution** - authorizing Andritz Separation, Inc. to perform maintenance on the Scotts Creek Wastewater Treatment Plant Heavy Duty Belt Filter Press.

Staff Contact: Emily Harrell, City Engineer

STAFF RECOMMENDATION

City staff recommends the Board of Commissioners approve Resolution R-46-2024.

BUDGET IMPACT

This item is allocated in the fiscal year 2024 Annual Spending Plan for the Sewer Fund.

DISCUSSION

The belt filter press at the Scotts Creek Wastewater Treatment plant is used to press water out of the sludge prior to hauling the sludge to the landfill. The rollers on the press are showing signs of wear and require replacement. The manufacturer performed an inspection of the press and offered two options: refurbished rollers or new rollers. The City proposes to refurbish the rollers as they are original to the equipment and, once refurbished, will be equal to new rollers.

RESOLUTION R-46-2024

AUTHORIZING ANDRITZ SEPARATION, INC. TO PERFORM MAINTENANCE ON THE SCOTTS CREEK WASTEWATER TREATMENT PLANT HEAVY DUTY BELT FILTER PRESS

WHEREAS, the City of Lakeland, Tennessee, (the "City") desires to refurbish the rollers on the belt filter press; and,

WHEREAS, Andritz Separation, Inc. is the manufacturer of the press and is the sole source for maintenance of the press; and,

WHEREAS, funding for this work is appropriated in the Fiscal Year 2024 Annual Spending Plan for the Sewer Fund:

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Lakeland, Tennessee, that Andritz Separation, Inc. is hereby authorized to perform maintenance on the Scotts Creek Wastewater Treatment Plant Heavy Duty Belt Filter Press in the amount of one hundred eighty-eight thousand three hundred forty-seven dollars ($188,347.00).

APPROVED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 4th day of April 2024, the public welfare requiring it.

ATTEST:

____________________	____________________
Josh Roman	Cheyenne Carter
Mayor	*City Recorder*

BFP Inspection Report and Refurbishment Proposal

Lakeland, TN – Scotts Creek Plant
Date issued: 1-18-2024
Quote numbers: SQ21053903 - New rolls quote
SQ21054459 – Refurbishment of rolls quote
Original job number: 1547
BFP serial number: 0648
Date: 1-18-2024

ENGINEERED SUCCESS

ANDRITZ Separation Inc. ⁄ 1010 Commercial Blvd. S. ⁄ Arlington 76001 ⁄ Texas ⁄ p: 817 465 5611 ⁄ separation.us@andritz.com ⁄ andritz.com

Wear strips worn

Seals damaged

ENGINEERED SUCCESS

Seals damaged

Wash boxes need rebuilt

ENGINEERED SUCCESS

Option 1: Budgetary Quote SQ21054459

Scope of Supply with Refurbished Rollers

Refurbished parts:

- Refurbish the existing rollers 23“ and 15 3/8“ perforated rollers will be pressure washed all other roller coatings will be stripped and recoated
- Drive and tracking willbe Buna rubber coated all other rollers Rilsan coated
- Existing bearing housings will stripped and recoated with new bearing internal components
- Spray bars will have new nozzles, gaskets, internal brush and seal kit

New Parts:

- New bearings, seals and internal components
- Distribution chute seal
- Side wall seals
- Splash guard end seals
- Grid wear strips
- Belt tension bellows
- Belt tracking bellows
- Tracking air control valves
- Tracking sensing arms
- Shower box seals
- Shower pipe nozzles
- Shower pipe internal brushes
- Shower pipe seal kit
- Chicane plows
- Rostas tensioning units for doctor blades
- Doctor blades
- New electrical switches
- (Eurodrive) belt drive gear box and motor
- Set of filter belts

Site Work:

- ANDRITZ will supply transportation of belt filter press parts to the customers site.
- ANDRITZ to provide two (2) service technicians to be onsite for the refurbishment. Technicians working 10-12 hour shifts and working through the weekend will be required to meet scope of work quoted. There will be two site visits first visit to remove parts for refurbishing and second visit to install refurbished and new components.
- ANDRITZ will provide forklift.
- Additional time required due to delays outside of ANDRITZ control or request for additional work will be charged per the attatched service rate sheet.

Not in Scope:

- No work will be done to the pneumatic control panel.
- No work will be done to the electrical control panel.
- No Freight in pricing
- Customer will be responsible to power washing and cleaning of the equipment prior to work.
- Customer will be responsible for disconnecting (and reconnection) of all utilites from the machine. Such as sludge, water, compressed air and electrical service.
- Customer will be responsible for removal of any walkways or handrails to allow access to the belt press.
- **Rollers will be inspected by ANDRITZ. Rollers found needing additional repair (such as machining of roller journals) will be photographed, documents and pricing for additional costing due to repairs will be provided**.

Refurbishment Price: $188,347.00

Comments:
Seven (7) extra chicane plows will be installed for better sludge distribution

Option 2: Budgetary Quote SQ21053903

Scope of Supply with New Rollers

Refurbished parts:

- 23“ and 15 3/8“ perforated rollers will be reused as is with new bearing housing assemblies installed.
- Spray bars will have new nozzles, gaskets, internal brush and seal kit

New Parts:

- New rollers drive and tracking rollers will be Buna rubber coated all other rollers are rilsan nylon coated.
- New coated bearing housing assemblies with internal components
- Distribution chute seal
- Side wall seals
- Splash guard end seals
- Grid wear strips
- Belt tension bellows
- Belt tracking bellows
- Tracking air control valves
- Tracking sensing arms
- Shower box seals
- Shower pipe nozzles
- Shower pipe internal brushes
- Shower pipe seal kit
- Chicane plows
- Rostas tensioning units for doctor blades
- Doctor blades
- New electrical switches
- (Eurodrive) belt drive gear box and motor
- Set of filter belts

Site Work:

- ANDRITZ will supply transportation of belt filter press parts to the customers site.
- ANDRITZ to provide two (2) service technicians to be onsite for the refurbishment. Technicians working 10-12 hour shifts and working through the weekend will be required to meet scope of work quoted.
- ANDRITZ will provide forklift.
- Additional time required due to delays outside of ANDRITZ control or request for additional work will be charged per the attatched service rate sheet.

Not in Scope:

- No work will be done to the pneumatic control panel.
- No work will be done to the electrical control panel.
- No Freight in pricing
- Customer will be responsible to power washing and cleaning of the equipment prior to work.
- Customer will be responsible for disconnecting (and reconnection) of all utilites from the machine. Such as sludge, water, compressed air and electrical service.
- Customer will be responsible for removal of any walkways or handrails to allow access to the belt press.

Refurbishment Price: $248,865.00

Comments:

Seven (7) extra chicane plows will be installed for better sludge distribution

Summary:
We are offering two options as seen above, option 1 is for us to come and tear down the BFP pull off the old rolls and have them refurbished, do a full inspection while we are doing this and ensure we have all the parts ready to go once the rolls are returned. This will require you to be without the BFP for 6-10 weeks. This is what we recomened and is the cheaper option at a budgetary cost estimate of 188,347.00. Option 2 is for all new rollers and will reduce your down time but will not have the full inspection beforehand without the need for a service visit, this is considerably higher budgetary cost estimate of $248,865.00, due to rising cost of materials.

Commercial conditions

This proposal is based on the attached ANDRITZ Separation Inc. "Standard Terms and Conditions of Sale".

Special Information

- Pricing does not include any unloading and does not include any local, state or federal taxes, permits or other fees. Any taxes or fees that may apply must be added to the quoted price and paid by the buyer.
- Quotation is valid for 90 days.
- All prices quoted in U.S. dollars.

Terms of Payment

- 10% of total price with receipt of acknowledged copy of purchase order.
- Balance upon notification of readiness of shipment.

QUOTATION

Customer: 177632
City of Lakeland, TN
Scott's Creek WWTP
9708 Old Brownsville Road
Lakeland TN 38002-3923

Contact: **Mr. Spencer Smalley**
Fax:
Copy to:
Your inquiry: **EMAIL**

Our quote no: **21054459**

Supplier: **Andritz Separation Inc.**
Contact: **Vanessa Becerra**
Phone: **-**
Fax:
E-mail:
Date: **01/17/2024**

Sales Responsible: **MR. CHRISTOPHER PAYNE**

Dear Mr. Spencer Smalley,

We thank you for your inquiry and are pleased to quote as follows:

1. Scope of supply

For 400195274 Heavy Duty Belt Press
Model: Heavy Duty Belt Press SMX 2,0
Serial number: 0648
Should you choose to place an order, please provide the following information:

1. Shipping Address for Delivery
2. Billing Address for Invoice
3. Shipping Terms: If a specific carrier is preferred, please list as FCA, Origin Collect with preferred carrier. Otherwise, list as FCA, Origin Prepaid & Add.
4. Reference this quote number.

Freight is excluded.

Delivery of product(s) to be determined from receipt of approved purchase order and any clarifications.

Please note currency is in US Dollars
Andritz Inc Standard Terms & Conditions apply
Returned goods require pre approval and are subject to restocking and inspection fees.

Item	Product	ID No.	S/W*	Quantity	Unit	Unit Price	Amount

ANDRITZ Separation Inc.
600 Boston - Providence Highway
Walpole, MA 02081 USA
Tel : +1 (508) 404-1400
Fax: +1 (508) 668-6855

Remit to:
ANDRITZ Separation Inc.
Dept: 0312
P.O. Box 120312
Dallas, TX 75312-0312 USA
Federal Tax ID Number: 59-3773483

Wire instructions:
Nordea Bank Abp
New York Branch
SWIFT: NDEAUS3N
Account: 8879433001
ABA: 026010786

Our quote no: **21054459**

Item	Product	ID No.	S/W*	Quantity	Unit	Unit Price	Amount
10	REFURBISHED ROLLERS	100031960		1	EA	188,347.00	188,347.00
Total Amount						USD	188,347.00

* S = Spare Parts, W = Wear Parts

Technical contact: Larry Conley /**Phone:** +1 817 239 5688 / larry.conley@andritz.com

Terms and Conditions

2 . **Delivery Time:**
after receipt of order and any clarifications.

3 . **Terms of delivery:**
Our terms of delivery are FCA ORIGIN PREPAID & ADD, according to INCOTERMS 2020.

4 . **Terms of Payment:**
Within 30 days Due net
(1% default interest per month for delayed payment).

5 . **Validity of quotation:**
This quotation is valid to 02/17/2024.

Other Terms:

6 . **********
COVID-19 pandemic delays, disrupts, or prevents Andritz's performance, or increases shipping or freight costs, Andritz shall be entitled to change order containing an appropriate adjustment in the contract price and/or delivery schedule. Furthermore, in the event that developments related to the pandemic, whether initiated prior to or after the date of this proposal, quotation, or order, including but not limited to travel advisories, steps taken to protect the health and safety of employees, Government orders, and temporary facility shutdowns, increase the cost or time for delivery, Andritz shall be entitled to adjust the price and delivery dates herein to reflect these impacts. Andritz's delivery date and prices (including freight) are estimates only based on Andritz's standard delivery dates and prices and do not account for the present and future schedule impacts of the COVID-19 pandemic. Nothing in this proposal, quotation, or order, or any contract based hereon, shall be construed as a waiver of these rights.

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Federal Tax ID Number: 59-3773483

Wire instructions:
Nordea Bank Abp
New York Branch
SWIFT: NDEAUS3N
Account: 8879433001
ABA: 026010786

****

The crisis in Russia/Ukraine is impacting the complete global supply chain, including but not limited to, raw material shortages, extended delivery times, unavailability/restricted availability of transport as well as unforeseeable price increases. The Parties therefore agree that the price and delivery times in this order confirmation are indicative only. In case the crisis leads to any impacts on the delivery time or to a price increase of more than 5% of the order value after the date of the order confirmation, we reserve our right to adapt the prices and/or the delivery times accordingly. Nothing in this order confirmation can be construed as a waiver of such right. Of course, we will stay in close contact with you, being stipulated that we are doing our best effort to overcome this significant cost pressure and hurdles in the supply chain.

****

TERMS APPLICABLE

This quotation or acknowledgement and Seller's sale of Products and /or provision of Services described in Buyer's purchase order issued in whole or in part in response to this quotation or in response to which this acknowledgement is issued are expressly limited to and expressly made conditional on, Buyer's acceptance of the Terms and Conditions of Sale and/or Service listed below, which are the exclusive terms and conditions upon which Andritz Separation Inc. or the applicable Andritz entity supplying the same ("Seller") will accept a purchase order for the sale of new, used and refurbished products, equipment, parts and/or the provision of services ("Products" and "Services"). These Terms and Conditions of Sale and/or Service control, supersede and replace any and all other additional and/or different terms and conditions of Buyer, and Seller hereby objects to and rejects all such terms and conditions of Buyer without further notification, except to the extent Seller expressly agrees to such conditions in writing. Seller's commencement of work under the Purchase Order or Buyer's acceptance of delivery of or payment for any Products or Services covered by this Agreement, in whole or in part, shall be deemed Buyer's agreement to the foregoing. The term "this Agreement" as used herein means this quotation or acknowledgment or Buyer's purchase order, together with any attachment thereto, any documents expressly incorporated by reference (but excluding any Buyer terms and conditions attached thereto or incorporated therein by reference), and these Terms and Conditions of Sale and/or Service.

7. DELIVERY OR PERFORMANCE

Delivery or performance dates are good faith estimates and do not mean that "time is of the essence." Buyer's failure to promptly make advance or interim payments, supply technical information, drawings and approvals will result in a commensurate delay in delivery or performance. Installation of any Product shall not be Seller's responsibility unless specifically provided for in this Agreement. Upon and after delivery, risk of loss or damage to the Products shall be Buyer's. Delivery of the Products hereunder will be made on the terms agreed to by the parties as set forth in this Agreement, according to INCOTERMS 2010.

8. WARRANTY

(a) Products Warranty.

(i) New Equipment Warranty. In the case of the purchase of new equipment the Seller warrants to Buyer that the new equipment manufactured by it will be delivered free from defects in material and workmanship. This warranty shall commence upon delivery of the new equipment to Buyer and shall expire on the earlier to occur of 12 months from initial operation of the new equipment and 18 months from delivery thereof (the "Warranty Period").

(ii) Parts and Used or Reconditioned Machinery or Equipment Warranty. In the case of parts or used or reconditioned machinery or equipment, and unless otherwise indicated, Seller warrants to Buyer that the parts or the used or reconditioned machinery or equipment manufactured by it will be delivered free from defects in material and workmanship. This warranty shall commence upon delivery of the parts or the used or reconditioned machinery or equipment to the buyer and shall expire 6 months from delivery thereof (the "Warranty Period").

(iii) If during the Warranty Period Buyer discovers a defect in material or workmanship of a Product and gives Seller written notice thereof within 10 days of such discovery, Seller will, at its option, either deliver to Buyer, on the same terms as the original delivery was made, according to INCOTERMS 2010, a replacement part or repair the defect in place. Any repair or replacement part furnished pursuant to this warranty are warranted against defects in material and workmanship for one period of 12 months from completion of such repair or replacement, with no further extension. Seller will have no warranty obligations for the Products under this Paragraph 3(a): (i) if the Products have not been stored, installed, operated and maintained in accordance with generally approved industry practice and with Seller's specific written instructions; (ii) if the Products are used in connection with any mixture or substance or operating condition other than that for which they were designed; (iii) if Buyer fails to give Seller such written 10 day notice; (iv) if the Products are repaired by someone other than Seller or have been intentionally or accidentally damaged; (v) for corrosion, erosion, ordinary wear and tear or in respect of any parts which by their nature are exposed to severe wear and tear or are considered expendable; or (vi) for expenses incurred for work in connection with the removal of the defective articles and reinstallation following repair or replacement.

(b) Services Warranty. Seller warrants to Buyer that the Services performed will be free from defects in workmanship and will conform to any mutually agreed upon specifications. If any failure to meet this warranty appears within 12 months from the date of completion of the Services, on the condition that Seller be promptly notified in writing thereof, Seller as its sole obligation for breach of this warranty will correct the failure by re-performing any defective portion of the Services furnished. Seller does not warrant the accuracy of, or performance results of, any conclusions or recommendations provided, nor that any desired objective will result from the Service provided and Seller shall not be liable for any loss of use or any production losses whatsoever.

c) Seller further warrants to Buyer that at delivery, the Products manufactured by it will be free of any liens or encumbrances. If there are any such liens or encumbrances, Seller will cause them to be discharged promptly after notification from Buyer of their existence.

(d) THE EXPRESS WARRANTIES SELLER MAKES IN THIS PARAGRAPH 3 ARE THE ONLY WARRANTIES IT WILL MAKE. THERE ARE NO OTHER WARRANTIES, WHETHER STATUTORY, ORAL, EXPRESS OR IMPLIED. IN PARTICULAR, THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(e) The remedies provided in Paragraphs 3(a), 3(b) and 3(c) are Buyer's exclusive remedy for breach of warranty.

(f) With respect to any Product or part thereof not manufactured by Seller, Seller shall pass on to Buyer only those warranties made to Seller by the manufacturer of such Product or part which are capable of being so passed on.

9. LIMITATION OF LIABILITY

Notwithstanding any other provision in this Agreement, the following limitations of liability shall apply:

(a) In no event, whether based on contract, tort (including negligence), strict liability or otherwise, shall Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies be liable for loss of profits, revenue or business opportunity, loss by reason of shutdown of facilities or inability to operate any facility at full capacity, or cost of obtaining other means for performing the functions performed by the Products, loss of future contracts, claims of customers, cost of money or loss of use of capital, in each case whether or not foreseeable, or for any indirect, special, incidental or consequential damages of any nature resulting from, arising out of or connected with the Products, Services, or this Agreement or from the performance or breach hereof.

(b) The aggregate liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies, for all claims of any kind for any loss, damage, or expense resulting from, arising out of or connected with the Products, Services or this Agreement or from the performance or breach hereof, together with the cost of performing make good obligations to pass performance tests, if applicable, shall in no event exceed the contract price.

(c) The limitations and exclusions of liability set forth in this Paragraph 4 shall take precedence over any other provision of this Agreement and shall apply whether the claim of liability is based on contract, warranty, tort (including negligence), strict liability, indemnity, or otherwise. The remedies provided in this Agreement are Buyer's exclusive remedies.

(d) All liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies, resulting from, arising out of or connected with the Products, Services or this Agreement or from the performance or breach hereof shall terminate on the third anniversary of the date of this Agreement.

(e) In no event shall Seller be liable for any loss or damage whatsoever arising from its failure to discover or repair latent defects or defects inherent in the design of goods serviced (unless such discovery or repair is normally discoverable by tests expressly specified in the scope of work under this Agreement) or caused by the use of goods by the Buyer against the advice of Seller. If Seller furnishes Buyer with advice or assistance concerning any products or systems that is not required pursuant to this Agreement, the furnishing of such advice or assistance will not subject Seller to any liability whether in contract, indemnity, warranty, tort (including negligence), strict liability or otherwise.

10. CHANGES, DELETIONS AND EXTRA WORK

Seller will not make changes in the Products unless Buyer and Seller have executed a written Change Order for such change. Buyer, without invalidating this Agreement, may make changes by altering, adding to or deducting from the general scope of the

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Wire instructions:
Nordea Bank Abp
New York Branch
SWIFT: NDEAUS3N
Account: 8879433001
ABA: 026010786

Services by written Change Order. Any such Change Order will include an appropriate adjustment to the contract price and delivery schedule. If the change impairs Seller's ability to satisfy any of its obligations to Buyer, the Change Order will include appropriate modifications to this Agreement. Seller shall be entitled to a Change Order adjusting the contract price, delivery schedule and/or any affected obligations of Seller if after the date of this Agreement a change in applicable law should require a change in the Products or Services or in the event and to the extent that an act or omission of Buyer, or any error or change in Buyer-provided information, affects the Seller's performance hereunder.

11. TAXES

Seller's prices do not include any sales, use, excise or other taxes. In addition to the price specified herein, the amount of any present or future sales, use, excise or other tax applicable to the sale or use of the Products or Services shall be billed to and paid by Buyer unless Buyer provides to Seller a tax-exemption certificate acceptable to the relevant taxing authorities.

12. SECURITY INTEREST

Seller shall retain a purchase money security interest and Buyer hereby grants Seller a lien upon and security interest in the Products until all payments hereunder have been made in full. Buyer acknowledges that Seller may file a financing statement or comparable document as required by applicable law and may take all other action it deems reasonably necessary to perfect and maintain such security interest in Seller and to protect Seller's interest in the Products.

13. SET OFF

Neither Buyer nor any of its affiliates shall have any right to set off claims against Seller or any of its affiliates for amounts owed under this Agreement or otherwise.

14. PATENTS

Unless the Products or any part thereof are designed to Buyer's specifications and provided the Product or any part thereof is not used in any manner other than as specified or approved by Seller in writing, (i) Seller shall defend against claims made in a suit or proceeding brought against Buyer by an unaffiliated third party that any Product infringes a device claim of a United States or Canadian patent issued as of the effective date of this Agreement and limited to the field of the specific Products provided under this Agreement; provided Seller is notified promptly in writing and given the necessary authority, information and assistance for the defense of such claims; (ii) Seller shall satisfy any judgment (after all appeals) for damages entered against Buyer on such claims so long as such damages are not attributable to willful conduct or sanctioned litigation conduct; and (iii) if such judgment enjoins Buyer from using any Product or a part thereof, then Seller will, at its option: (a) obtain for Buyer the right to continue using such Product or part; (b) eliminate the infringement by replacing or modifying all or part of the Products; or (c) take back such Product or part and refund to Buyer all payments on the purchase price that Seller has received for such Product or part. The foregoing states Seller's entire liability for patent infringement by any Product or part thereof.

15. SOFTWARE LICENSE, WARRANTY, FEES

The following Software Terms and Conditions apply to any embedded or separately packaged software produced by Seller and furnished by Seller hereunder:

(a) Seller hereby grants to Buyer a non-exclusive, non-transferable, non-sub-licensable license to the Software, and any modifications made by Seller thereto only in connection with configuration of the Products and operating system for which the Software is ordered hereunder, and for the end-use purpose stated in the related Seller operating documentation. Buyer agrees that neither it nor any third party shall modify, reverse engineer, decompile or reproduce the Software, except Buyer may create a single copy for backup or archival purposes in accordance with the related Seller operating documentation (the "Copy"). Buyer's license to use the Software and the Copy of such Software shall terminate upon any breach of this Agreement by Buyer. All copies of the Software, including the Copy, are the property of Seller, and all copies for which the license is terminated shall be returned to Seller with written confirmation after termination.

(b) Seller warrants that, on the date of shipment of the Software or the Products containing the Software to Buyer: (1) the Software media contain a true and correct copy of the Software and are free from material defects; (2) Seller has the right to grant the license hereunder; and (3) the Software will function substantially in accordance with the related Seller operating documentation.

(c) If within 12 months from the date of delivery of the Software or Products containing the Software, Buyer discovers that the Software is not as warranted above and notifies Seller in writing prior to the end of such 12 month period, and if Seller determines that it cannot or will not correct the nonconformity, Buyer's and Buyer's Seller-authorized transferee's exclusive remedies, at Seller's option, are: (1) replacement of the nonconforming Software; or (2) termination of this license and a refund of a pro rata share of the contract price or license fee paid.

(d) If any infringement claims are made against Buyer arising out of Buyer's use of the Software in a manner specified by Seller, Seller shall: (i) defend against any claim in a suit or proceeding brought by an unaffiliated third party against Buyer that the Software violates a registered copyright or a confidentiality agreement to which Seller was a party, provided that Seller is notified promptly in writing and given the necessary authority, information and assistance for the defense and settlement of such claims (including the sole authority to select counsel and remove the Software or stop accused infringing usage); (ii) Seller shall satisfy a final judgment (after all appeals) for damages entered against Buyer for such claims, so long as such damages are not attributable to willful conduct or sanctioned litigation conduct; and (iii) if such judgment enjoins Buyer from using the Software, Seller may at its option: (a) obtain for Buyer the right to continue using such Software; (b) eliminate the infringement by replacing or modifying the Software, or (c) take back such Software and refund to Buyer all payments on the purchase price that Seller has received. However, Seller's obligations under this Paragraph shall not apply to the extent that the claim or adverse final judgment relates to: (1) Buyer's running of the Software after being notified to discontinue; (2) non-Seller software, products, data or processes; (3) Buyer's alteration of the Software; (4) Buyer's distribution of the Software to, or its use for the benefit of, any third party; or (5) Buyer's acquisition of confidential information (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a third party who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the confidential information. Buyer will reimburse Seller for any costs or damages that result from actions 1 to 5. In Seller's discretion and at Seller's own expense, with regard to any actual or perceived infringement claim related to the Software, Seller may: (i) procure the right to use the Software, (ii) replace the Software with a functional equivalent, an/or (iii) modify the Software. Under (ii) and (iii) above, Buyer shall immediately stop use of the allegedly infringing Software.

(e) This warranty set forth in subparagraph (c) above shall only apply when: (1) the Software is not modified by anyone other than Seller or its agents authorized in writing; (2) there is no modification in the Products in which the Software is installed by anyone other than Seller or its agents authorized in writing; (3) the Products are in good operating order and installed in a suitable operating environment; (4) the nonconformity is not caused by Buyer or a third party; (5) Buyer promptly notifies Seller in writing, within the period of time set forth in subparagraph (c) above, of the nonconformity; and (6) all fees for the Software due to Seller have been timely paid. SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THE SOFTWARE, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.

(f) Buyer and its successors are limited to the remedies specified in this Paragraph.

(g) Any subsequent modifications or enhancements to the Software made by Seller are, at Seller's option, subject to a fee.

16. SITE RISKS

(a) Concealed Conditions. The parties acknowledge and agree that increased costs or schedule extensions due to any concealed conditions at the job site shall be to Buyer's account. Buyer shall hold Seller harmless for increased costs and grant any necessary schedule extensions if any concealed or hazardous conditions are found.

(b) Environmental Remediation. Buyer acknowledges that Seller is not an expert in environmental remediation and shall not be directed by change order or otherwise to perform any environmental remediation as part of the Services, including but not limited to asbestos and lead paint removal. If any environmental remediation becomes necessary, Buyer will contract directly with a qualified third party to perform such work.

17. TERMINATION

(a) Buyer may terminate this Agreement upon breach by Seller of a material obligation hereunder and Seller's failure to cure, or to commence a cure of, such breach within a reasonable period of time (but not less than 30 days) following written receipt of notice of the same from Buyer.

(b) Buyer may only terminate this Agreement for Buyer's convenience upon written notice to Seller and upon payment to Seller of Seller's termination charges, which shall be specified to Buyer and shall take into account among other things expenses (direct and indirect) incurred and commitments already made by Seller and an appropriate profit; provided, that in no event shall Seller's termination charges be less than 25% of the contract price.

(c) Seller shall have the right to suspend and/or terminate its obligations under this Agreement if payment is not received within 30 days of due date. In the event of the bankruptcy or insolvency of Buyer or in the event of any bankruptcy or insolvency proceeding brought by or against Buyer, Seller shall be entitled to terminate any order outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its cancellation charges.

18. CONFIDENTIALITY

Buyer acknowledges that the information that Seller submits to Buyer in connection with this Agreement and the performance hereof includes Seller's confidential and proprietary information, both of a technical and commercial nature. Buyer agrees not to disclose such information to third parties without Seller's prior written consent. Seller grants to Buyer a non- exclusive, royalty-free, perpetual, non-transferrable license to use Seller's confidential and proprietary information for the purpose of the installation, operation, maintenance and repair of the Products that are the subject hereof only. Buyer further agrees not to, and not to permit any third party to, analyze, measure the properties of, or otherwise reverse engineer the Products, fabricate the Products or any parts thereof from Seller's drawings or to use the drawings other than in connection with this Agreement. Buyer will defend and indemnify Seller from any claim, suit or liability based on personal injury (including death) or property damage related to any Product or part thereof which is fabricated by a third party without Seller's prior written consent and from and against related costs, charges and expenses (including attorneys' fees). All copies of Seller's confidential and proprietary information shall remain Seller's property and may be reclaimed by Seller at any time in the event Buyer is in breach of its obligations under this Paragraph.

19. END USER

If Buyer is not the end user of the Products sold hereunder (the "End User"), then Buyer will use its best efforts to obtain the End User's written consent to be bound to Seller by the provisions hereof. If Buyer does not obtain such End User's consent, Buyer shall defend and indemnify Seller and Seller's agents, employees, subcontractors and suppliers from any action, liability, cost, loss, or expense for which Seller would not have been liable or from which Seller would have been indemnified if Buyer had obtained such End User's consent.

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New York Branch
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Account: 8879433001
ABA: 026010786

20 . FORCE MAJEURE

(a) Force Majeure Defined. For the purpose of this Agreement "Force Majeure" will mean all events, whether or not foreseeable, beyond the reasonable control of either party which affect the performance of this Agreement, including, without limitation, acts of God, acts or advisories of governmental or quasi-governmental authorities, laws or regulations, strikes, lockouts or other industrial disturbances, acts of public enemy, wars, insurrections, riots, epidemics, pandemics, outbreaks of infectious disease or other threats to public health, lightning, earthquakes, fires, storms, severe weather, floods, sabotage, delays in transportation, rejection of main forgings and castings, lack of available shipping by land, sea or air, lack of dock lighterage or loading or unloading facilities, inability to obtain labor or materials from usual sources, serious accidents involving the work of suppliers or sub-suppliers, thefts and explosions.

(b) Suspension of Obligations. If either Buyer or Seller is unable to carry out its obligations under this Agreement due to Force Majeure, other than the obligation to make payments due hereunder, and the party affected promptly notifies the other of such delay, then all obligations that are affected by Force Majeure will be suspended or reduced for the period of Force Majeure and for such additional time as is required to resume the performance of its obligations, and the delivery schedule will be adjusted to account for the delay.

(c) Option to Terminate. If the period of suspension or reduction of operations will extend for more than four (4) consecutive months or periods of suspension or reduction total more than 6 months in any 12 month period, then either Buyer or Seller may terminate this Agreement.

(d) Strikes On-Site. Notwithstanding anything herein to the contrary, in the event a strike, lockout, labor, union or other industrial disturbance at Buyer's site affects, delays, disrupts or prevents Seller's performance of this Agreement, Seller shall be entitled to a Change Order containing an appropriate adjustment in the contract price and delivery schedule.

21 . INDEMNIFICATION AND INSURANCE

(a) Indemnification. Seller agrees to defend and indemnify Buyer from and against any third-party claim for bodily injury or damage to tangible property ("Loss") arising in connection with the Products or the Services provided by Seller hereunder, but only to the extent such Loss has been caused by the negligence, willful misconduct or other legal fault ("Fault") of Seller. Buyer shall promptly tender the defense of any such third-party claim to Seller. Seller shall be entitled to control the defense and resolution of such claim, provided that Buyer shall be entitled to be represented in the matter by counsel of its choosing at Buyer's sole expense. Where such Loss results from the Fault of both Seller and Buyer or a third party, then Seller's defense and indemnity obligation shall be limited to the proportion of the Loss that Seller's Fault bears to the total Fault.

(b) Insurance. Seller shall maintain commercial general liability insurance with limits of $2,000,000 per occurrence and in the aggregate covering claims for bodily injury (including death) and physical property damage arising out of the Products or Services. Seller shall also provide workers' compensation insurance or the like as required by the laws of the jurisdiction where the Services will be performed, and owned and non-owned auto liability insurance with limits of $1,000,000 combined single limit. Seller will provide a Certificate of Insurance certifying the existence of such coverages upon request.

22 . GENERAL

(a) Seller represents that any Products or parts thereof manufactured by Seller will be produced in compliance with all applicable federal, state, and local laws applicable to their manufacture and in accordance with Seller's engineering standards. Seller shall not be liable for failure of the Products to comply with any other specifications, standards, laws or regulations.

(b) This Agreement shall inure only to the benefit of Buyer and Seller and their respective successors and assigns. Any assignment of this Agreement or any of the rights or obligations hereunder, by either party without the written consent of the other party shall be void.

(c) This Agreement contains the entire and only agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written understandings between Buyer and Seller concerning the Products, Services and any prior course of dealings or usage of the trade not expressly incorporated herein.

(d) This Agreement may be modified, supplemented,or amended onlyby a writing signed by an authorized representative of Seller. Seller's waiver of any breach by Buyer of any terms of this Agreement must also be in writing and any waiver by Seller or failure by Seller to enforce any of the terms and conditions of this Agreement at any time, shall not affect, limit, or waive Seller's right thereafter to enforce and compel strict compliance with every term and condition hereof.

(e) All terms of this Agreement which by their nature should apply after the cancellation, completion or termination of this Agreement shall survive and remain fully enforceable after any cancellation, completion, or termination hereof.

(f) (i) If Seller's office is located in the United States, this Agreement and the performance hereof will be governed by and construed according to the laws of the State of Georgia. (ii) If Seller's office is located in Canada, this Agreement and the performance hereof will be governed by and construed according to the laws of the Province of New Brunswick.

(g) (i) In the circumstances of f(i) above, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, or to the Products or the Services provided pursuant hereto, shall be definitively settled by arbitration, to the exclusion of courts of law, administered by the American Arbitration Association ("AAA") in accordance with its Construction Industry Arbitration Rules in force at the time this Agreement is signed and to which the parties declare they will adhere (the "AAA Rules"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the party against whom enforcement is sought or having jurisdiction over any of such party's assets. The arbitration shall be conducted in Atlanta, Georgia by a panel of three members, one of whom will be appointed by each of Buyer and Seller and the third of whom will be the chairman of the panel and will be appointed by mutual agreement of the two party appointed arbitrators. All arbitrators must be persons who are not employees, agents, or former employees or agents of either party. In the event of failure of the two party appointed arbitrators to agree within 45 days after submission of the dispute to arbitration upon the appointment of the third arbitrator, the third arbitrator will be appointed by the AAA in accordance with the AAA Rules. In the event that either of Buyer or Seller fails to appoint an arbitrator within 30 days after submission of the dispute to arbitration, such arbitrator, as well as the third arbitrator, will be appointed by the AAA in accordance with the AAA Rules. (ii) In the circumstances of f(ii) above, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, or to the Products or the Services provided pursuant hereto, shall be definitively settled under the auspices of the Canadian Commercial Arbitration Centre ("CCAC"), by means of arbitration and to the exclusion of courts of law, in accordance with its General Commercial Arbitration Rules in force at the time the Agreement is signed and to which the parties declare they will adhere (the "CCAC Rules"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the party against whom enforcement is sought or having jurisdiction over any of such party's assets. The arbitration shall be conducted in Saint John, New Brunswick by a panel of three arbitrators, one of whom will be appointed by each of Buyer and Seller and the third of whom will be the chairman of the arbitral tribunal and will be appointed by mutual agreement of the two party-appointed arbitrators. All arbitrators must be persons who are not employees, agents, or former employees or agents of either party. In the event of failure of the two party-appointed arbitrators to agree within 45 days after submission of the dispute to arbitration upon the appointment of the third arbitrator, the third arbitrator will be appointed by the CCAC in accordance with the CCAC Rules. In the event that either of Buyer or Seller fails to appoint an arbitrator within 30 days after submission of the dispute to arbitration, such arbitrator, as well as the third arbitrator, will be appointed by the CCAC in accordance with the CCAC Rules.

(h) In the event this Agreement pertains to the sale of any goods outside the United States or Canada, the parties agree that the United Nations Convention for the International Sale of Goods shall not apply to this Agreement.

(i)The parties hereto have required that this Agreement be drawn up in English. Les parties aux présentes ont exigé que la présente convention soit rédigée en anglais.

Please do not hesitate to contact us if you require further information.

Yours sincerely

Andritz Separation Inc.
This document is issued electronically and valid without signature.

ANDRITZ Separation Inc.
600 Boston - Providence Highway
Walpole, MA 02081 USA
Tel : +1 (508) 404-1400
Fax: +1 (508) 668-6855

Remit to:
ANDRITZ Separation Inc.
Dept: 0312
P.O. Box 120312
Dallas, TX 75312-0312 USA
Federal Tax ID Number: 59-3773483

Wire instructions:
Nordea Bank Abp
New York Branch
SWIFT: NDEAUS3N
Account: 8879433001
ABA: 026010786

QUOTATION

Customer: 177632
City of Lakeland, TN
Scott's Creek WWTP
9708 Old Brownsville Road
Lakeland TN 38002-3923

Contact: **Mr. Spencer Smalley**
Fax:
Copy to:
Your inquiry: **EMAIL**

Our quote no: **21053903**

Supplier: **Andritz Separation Inc.**
Contact: **Vanessa Becerra**
Phone: **-**
Fax:
E-mail:
Date: **01/16/2024**

Sales Responsible: **MR. CHRISTOPHER PAYNE**

Dear Mr. Spencer Smalley,

We thank you for your inquiry and are pleased to quote as follows:

1. Scope of supply

For 400195274 Heavy Duty Belt Press
Model: Heavy Duty Belt Press SMX 2,0
Serial number: 0648
Should you choose to place an order, please provide the following information:

1. Shipping Address for Delivery
2. Billing Address for Invoice
3. Shipping Terms: If a specific carrier is preferred, please list as FCA, Origin Collect with preferred carrier. Otherwise, list as FCA, Origin Prepaid & Add.
4. Reference this quote number.

Freight is excluded.

Delivery of product(s) to be determined from receipt of approved purchase order and any clarifications.

Please note currency is in US Dollars
Andritz Inc Standard Terms & Conditions apply
Returned goods require pre approval and are subject to restocking and inspection fees.

Item	Product	ID No.	S/W*	Quantity	Unit	Unit Price	Amount

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Account: 8879433001
ABA: 026010786

Our quote no: **21053903**

Item	Product	ID No.	S/W*	Quantity	Unit	Unit Price	Amount
10	NEW ROLLERS	100031960		1	EA	248,865.00	248,865.00
Total Amount						USD	248,865.00

* S = Spare Parts, W = Wear Parts

Technical contact: Larry Conley /**Phone:** +1 817 239 5688 / larry.conley@andritz.com

Terms and Conditions

2 . **Delivery Time:**
after receipt of order and any clarifications.

3 . **Terms of delivery:**
Our terms of delivery are FCA ORIGIN PREPAID & ADD, according to INCOTERMS 2020.

4 . **Terms of Payment:**
Within 30 days Due net
(1% default interest per month for delayed payment).

5 . **Validity of quotation:**
This quotation is valid to 02/16/2024.

Other Terms:

6 . **********
COVID-19 pandemic delays, disrupts, or prevents Andritz's performance, or increases shipping or freight costs, Andritz shall be entitled to change order containing an appropriate adjustment in the contract price and/or delivery schedule. Furthermore, in the event that developments related to the pandemic, whether initiated prior to or after the date of this proposal, quotation, or order, including but not limited to travel advisories, steps taken to protect the health and safety of employees, Government orders, and temporary facility shutdowns, increase the cost or time for delivery, Andritz shall be entitled to adjust the price and delivery dates herein to reflect these impacts. Andritz's delivery date and prices (including freight) are estimates only based on Andritz's standard delivery dates and prices and do not account for the present and future schedule impacts of the COVID-19 pandemic. Nothing in this proposal, quotation, or order, or any contract based hereon, shall be construed as a waiver of these rights.

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****

The crisis in Russia/Ukraine is impacting the complete global supply chain, including but not limited to, raw material shortages, extended delivery times, unavailability/restricted availability of transport as well as unforeseeable price increases. The Parties therefore agree that the price and delivery times in this order confirmation are indicative only. In case the crisis leads to any impacts on the delivery time or to a price increase of more than 5% of the order value after the date of the order confirmation, we reserve our right to adapt the prices and/or the delivery times accordingly. Nothing in this order confirmation can be construed as a waiver of such right. Of course, we will stay in close contact with you, being stipulated that we are doing our best effort to overcome this significant cost pressure and hurdles in the supply chain.

****

TERMS APPLICABLE

This quotation or acknowledgement and Seller's sale of Products and /or provision of Services described in Buyer's purchase order issued in whole or in part in response to this quotation or in response to which this acknowledgement is issued are expressly limited to and expressly made conditional on, Buyer's acceptance of the Terms and Conditions of Sale and/or Service listed below, which are the exclusive terms and conditions upon which Andritz Separation Inc. or the applicable Andritz entity supplying the same ("Seller") will accept a purchase order for the sale of new, used and refurbished products, equipment, parts and/or the provision of services ("Products" and "Services"). These Terms and Conditions of Sale and/or Service control, supersede and replace any and all other additional and/or different terms and conditions of Buyer, and Seller hereby objects to and rejects all such terms and conditions of Buyer without further notification, except to the extent Seller expressly agrees to such conditions in writing. Seller's commencement of work under the Purchase Order or Buyer's acceptance of delivery of or payment for any Products or Services covered by this Agreement, in whole or in part, shall be deemed Buyer's agreement to the foregoing. The term "this Agreement" as used herein means this quotation or acknowledgment or Buyer's purchase order, together with any attachment thereto, any documents expressly incorporated by reference (but excluding any Buyer terms and conditions attached thereto or incorporated therein by reference), and these Terms and Conditions of Sale and/or Service.

7 . DELIVERY OR PERFORMANCE

Delivery or performance dates are good faith estimates and do not mean that "time is of the essence." Buyer's failure to promptly make advance or interim payments, supply technical information, drawings and approvals will result in a commensurate delay in delivery or performance. Installation of any Product shall not be Seller's responsibility unless specifically provided for in this Agreement. Upon and after delivery, risk of loss or damage to the Products shall be Buyer's. Delivery of the Products hereunder will be made on the terms agreed to by the parties as set forth in this Agreement, according to INCOTERMS 2010.

8 . WARRANTY

(a) Products Warranty.

(i) New Equipment Warranty. In the case of the purchase of new equipment the Seller warrants to Buyer that the new equipment manufactured by it will be delivered free from defects in material and workmanship. This warranty shall commence upon delivery of the new equipment to Buyer and shall expire on the earlier to occur of 12 months from initial operation of the new equipment and 18 months from delivery thereof (the "Warranty Period").

(ii) Parts and Used or Reconditioned Machinery or Equipment Warranty. In the case of parts or used or reconditioned machinery or equipment, and unless otherwise indicated, Seller warrants to Buyer that the parts or the used or reconditioned machinery or equipment manufactured by it will be delivered free from defects in material and workmanship. This warranty shall commence upon delivery of the parts or the used or reconditioned machinery or equipment to the buyer and shall expire 6 months from delivery thereof (the "Warranty Period").

(iii) If during the Warranty Period Buyer discovers a defect in material or workmanship of a Product and gives Seller written notice thereof within 10 days of such discovery, Seller will, at its option, either deliver to Buyer, on the same terms as the original delivery was made, according to INCOTERMS 2010, a replacement part or repair the defect in place. Any repair or replacement part furnished pursuant to this warranty are warranted against defects in material and workmanship for one period of 12 months from completion of such repair or replacement, with no further extension. Seller will have no warranty obligations for the Products under this Paragraph 3(a): (i) if the Products have not been stored, installed, operated and maintained in accordance with generally approved industry practice and with Seller's specific written instructions; (ii) if the Products are used in connection with any mixture or substance or operating condition other than that for which they were designed; (iii) if Buyer fails to give Seller such written 10 day notice; (iv) if the Products are repaired by someone other than Seller or have been intentionally or accidentally damaged; (v) for corrosion, erosion, ordinary wear and tear or in respect of any parts which by their nature are exposed to severe wear and tear or are considered expendable; or (vi) for expenses incurred for work in connection with the removal of the defective articles and reinstallation following repair or replacement.

(b) Services Warranty. Seller warrants to Buyer that the Services performed will be free from defects in workmanship and will conform to any mutually agreed upon specifications. If any failure to meet this warranty appears within 12 months from the date of completion of the Services, on the condition that Seller be promptly notified in writing thereof, Seller as its sole obligation for breach of this warranty will correct the failure by re-performing any defective portion of the Services furnished. Seller does not warrant the accuracy of, or performance results of, any conclusions or recommendations provided, nor that any desired objective will result from the Service provided and Seller shall not be liable for any loss of use or any production losses whatsoever.

c) Seller further warrants to Buyer that at delivery, the Products manufactured by it will be free of any liens or encumbrances. If there are any such liens or encumbrances, Seller will cause them to be discharged promptly after notification from Buyer of their existence.

(d) THE EXPRESS WARRANTIES SELLER MAKES IN THIS PARAGRAPH 3 ARE THE ONLY WARRANTIES IT WILL MAKE. THERE ARE NO OTHER WARRANTIES, WHETHER STATUTORY, ORAL, EXPRESS OR IMPLIED. IN PARTICULAR, THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(e) The remedies provided in Paragraphs 3(a), 3(b) and 3(c) are Buyer's exclusive remedy for breach of warranty.

(f) With respect to any Product or part thereof not manufactured by Seller, Seller shall pass on to Buyer only those warranties made to Seller by the manufacturer of such Product or part which are capable of being so passed on.

9 . LIMITATION OF LIABILITY

Notwithstanding any other provision in this Agreement, the following limitations of liability shall apply:

(a) In no event, whether based on contract, tort (including negligence), strict liability or otherwise, shall Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies be liable for loss of profits, revenue or business opportunity, loss by reason of shutdown of facilities or inability to operate any facility at full capacity, or cost of obtaining other means for performing the functions performed by the Products, loss of future contracts, claims of customers, cost of money or loss of use of capital, in each case whether or not foreseeable, or for any indirect, special, incidental or consequential damages of any nature resulting from, arising out of or connected with the Products, Services, or this Agreement or from the performance or breach hereof.

(b) The aggregate liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies, for all claims of any kind for any loss, damage, or expense resulting from, arising out of or connected with the Products, Services or this Agreement or from the performance or breach hereof, together with the cost of performing make good obligations to pass performance tests, if applicable, shall in no event exceed the contract price.

(c) The limitations and exclusions of liability set forth in this Paragraph 4 shall take precedence over any other provision of this Agreement and shall apply whether the claim of liability is based on contract, warranty, tort (including negligence), strict liability, indemnity, or otherwise. The remedies provided in this Agreement are Buyer's exclusive remedies.

(d) All liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies, resulting from, arising out of or connected with the Products, Services or this Agreement or from the performance or breach hereof shall terminate on the third anniversary of the date of this Agreement.

(e) In no event shall Seller be liable for any loss or damage whatsoever arising from its failure to discover or repair latent defects or defects inherent in the design of goods serviced (unless such discovery or repair is normally discoverable by tests expressly specified in the scope of work under this Agreement) or caused by the use of goods by the Buyer against the advice of Seller. If Seller furnishes Buyer with advice or assistance concerning any products or systems that is not required pursuant to this Agreement, the furnishing of such advice or assistance will not subject Seller to any liability whether in contract, indemnity, warranty, tort (including negligence), strict liability or otherwise.

10 . CHANGES, DELETIONS AND EXTRA WORK

Seller will not make changes in the Products unless Buyer and Seller have executed a written Change Order for such change. Buyer, without invalidating this Agreement, may make changes by altering, adding to or deducting from the general scope of the

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Services by written Change Order. Any such Change Order will include an appropriate adjustment to the contract price and delivery schedule. If the change impairs Seller's ability to satisfy any of its obligations to Buyer, the Change Order will include appropriate modifications to this Agreement. Seller shall be entitled to a Change Order adjusting the contract price, delivery schedule and/or any affected obligations of Seller if after the date of this Agreement a change in applicable law should require a change in the Products or Services or in the event and to the extent that an act or omission of Buyer, or any error or change in Buyer-provided information, affects the Seller's performance hereunder.

11. TAXES

Seller's prices do not include any sales, use, excise or other taxes. In addition to the price specified herein, the amount of any present or future sales, use, excise or other tax applicable to the sale or use of the Products or Services shall be billed to and paid by Buyer unless Buyer provides to Seller a tax-exemption certificate acceptable to the relevant taxing authorities.

12. SECURITY INTEREST

Seller shall retain a purchase money security interest and Buyer hereby grants Seller a lien upon and security interest in the Products until all payments hereunder have been made in full. Buyer acknowledges that Seller may file a financing statement or comparable document as required by applicable law and may take all other action it deems reasonably necessary to perfect and maintain such security interest in Seller and to protect Seller's interest in the Products.

13. SET OFF

Neither Buyer nor any of its affiliates shall have any right to set off claims against Seller or any of its affiliates for amounts owed under this Agreement or otherwise.

14. PATENTS

Unless the Products or any part thereof are designed to Buyer's specifications and provided the Product or any part thereof is not used in any manner other than as specified or approved by Seller in writing, (i) Seller shall defend against claims made in a suit or proceeding brought against Buyer by an unaffiliated third party that any Product infringes a device claim of a United States or Canadian patent issued as of the effective date of this Agreement and limited to the field of the specific Products provided under this Agreement; provided Seller is notified promptly in writing and given the necessary authority, information and assistance for the defense of such claims; (ii) Seller shall satisfy any judgment (after all appeals) for damages entered against Buyer on such claims so long as such damages are not attributable to willful conduct or sanctioned litigation conduct; and (iii) if such judgment enjoins Buyer from using any Product or a part thereof, then Seller will, at its option: (a) obtain for Buyer the right to continue using such Product or part; (b) eliminate the infringement by replacing or modifying all or part of the Products; or (c) take back such Product or part and refund to Buyer all payments on the purchase price that Seller has received for such Product or part. The foregoing states Seller's entire liability for patent infringement by any Product or part thereof.

15. SOFTWARE LICENSE, WARRANTY, FEES

The following Software Terms and Conditions apply to any embedded or separately packaged software produced by Seller and furnished by Seller hereunder:

(a) Seller hereby grants to Buyer a non-exclusive, non-transferable, non-sub-licensable license to the Software, and any modifications made by Seller thereto only in connection with configuration of the Products and operating system for which the Software is ordered hereunder, and for the end-use purpose stated in the related Seller operating documentation. Buyer agrees that neither it nor any third party shall modify, reverse engineer, decompile or reproduce the Software, except Buyer may create a single copy for backup or archival purposes in accordance with the related Seller operating documentation (the "Copy"). Buyer's license to use the Software and the Copy of such Software shall terminate upon any breach of this Agreement by Buyer. All copies of the Software, including the Copy, are the property of Seller, and all copies for which the license is terminated shall be returned to Seller with written confirmation after termination.

(b) Seller warrants that, on the date of shipment of the Software or the Products containing the Software to Buyer: (1) the Software media contain a true and correct copy of the Software and are free from material defects; (2) Seller has the right to grant the license hereunder; and (3) the Software will function substantially in accordance with the related Seller operating documentation.

(c) If within 12 months from the date of delivery of the Software or Products containing the Software, Buyer discovers that the Software is not as warranted above and notifies Seller in writing prior to the end of such 12 month period, and if Seller determines that it cannot or will not correct the nonconformity, Buyer's and Buyer's Seller-authorized transferee's exclusive remedies, at Seller's option, are: (1) replacement of the nonconforming Software; or (2) termination of this license and a refund of a pro rata share of the contract price or license fee paid.

(d) If any infringement claims are made against Buyer arising out of Buyer's use of the Software in a manner specified by Seller, Seller shall: (i) defend against any claim in a suit or proceeding brought by an unaffiliated third party against Buyer that the Software violates a registered copyright or a confidentiality agreement to which Seller was a party, provided that Seller is notified promptly in writing and given the necessary authority, information and assistance for the defense and settlement of such claims (including the sole authority to select counsel and remove the Software or stop accused infringing usage); (ii) Seller shall satisfy a final judgment (after all appeals) for damages entered against Buyer for such claims, so long as such damages are not attributable to willful conduct or sanctioned litigation conduct; and (iii) if such judgment enjoins Buyer from using the Software, Seller may at its option: (a) obtain for Buyer the right to continue using such Software; (b) eliminate the infringement by replacing or modifying the Software, or (c) take back such Software and refund to Buyer all payments on the purchase price that Seller has received. However, Seller's obligations under this Paragraph shall not apply to the extent that the claim or adverse final judgment relates to: (1) Buyer's running of the Software after being notified to discontinue; (2) non-Seller software, products, data or processes; (3) Buyer's alteration of the Software; (4) Buyer's distribution of the Software to, or its use for the benefit of, any third party; or (5) Buyer's acquisition of confidential information (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a third party who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the confidential information. Buyer will reimburse Seller for any costs or damages that result from actions 1 to 5. In Seller's discretion and at Seller's own expense, with regard to any actual or perceived infringement claim related to the Software, Seller may: (i) procure the right to use the Software, (ii) replace the Software with a functional equivalent, an/or (iii) modify the Software. Under (ii) and (iii) above, Buyer shall immediately stop use of the allegedly infringing Software.

(e) This warranty set forth in subparagraph (c) above shall only apply when: (1) the Software is not modified by anyone other than Seller or its agents authorized in writing; (2) there is no modification in the Products in which the Software is installed by anyone other than Seller or its agents authorized in writing; (3) the Products are in good operating order and installed in a suitable operating environment; (4) the nonconformity is not caused by Buyer or a third party; (5) Buyer promptly notifies Seller in writing, within the period of time set forth in subparagraph (c) above, of the nonconformity; and (6) all fees for the Software due to Seller have been timely paid. SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THE SOFTWARE, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.

(f) Buyer and its successors are limited to the remedies specified in this Paragraph.

(g) Any subsequent modifications or enhancements to the Software made by Seller are, at Seller's option, subject to a fee.

16. SITE RISKS

(a) Concealed Conditions. The parties acknowledge and agree that increased costs or schedule extensions due to any concealed conditions at the job site shall be to Buyer's account. Buyer shall hold Seller harmless for increased costs and grant any necessary schedule extensions if any concealed or hazardous conditions are found.

(b) Environmental Remediation. Buyer acknowledges that Seller is not an expert in environmental remediation and shall not be directed by change order or otherwise to perform any environmental remediation as part of the Services, including but not limited to asbestos and lead paint removal. If any environmental remediation becomes necessary, Buyer will contract directly with a qualified third party to perform such work.

17. TERMINATION

(a) Buyer may terminate this Agreement upon breach by Seller of a material obligation hereunder and Seller's failure to cure, or to commence a cure of, such breach within a reasonable period of time (but not less than 30 days) following written receipt of notice of the same from Buyer.

(b) Buyer may only terminate this Agreement for Buyer's convenience upon written notice to Seller and upon payment to Seller of Seller's termination charges, which shall be specified to Buyer and shall take into account among other things expenses (direct and indirect) incurred and commitments already made by Seller and an appropriate profit; provided, that in no event shall Seller's termination charges be less than 25% of the contract price.

(c) Seller shall have the right to suspend and/or terminate its obligations under this Agreement if payment is not received within 30 days of due date. In the event of the bankruptcy or insolvency of Buyer or in the event of any bankruptcy or insolvency proceeding brought by or against Buyer, Seller shall be entitled to terminate any order outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its cancellation charges.

18. CONFIDENTIALITY

Buyer acknowledges that the information that Seller submits to Buyer in connection with this Agreement and the performance hereof includes Seller's confidential and proprietary information, both of a technical and commercial nature. Buyer agrees not to disclose such information to third parties without Seller's prior written consent. Seller grants to Buyer a non- exclusive, royalty-free, perpetual, non-transferrable license to use Seller's confidential and proprietary information for the purpose of the installation, operation, maintenance and repair of the Products that are the subject hereof only. Buyer further agrees not to, and not to permit any third party to, analyze, measure the properties of, or otherwise reverse engineer the Products, fabricate the Products or any parts thereof from Seller's drawings or to use the drawings other than in connection with this Agreement. Buyer will defend and indemnify Seller from any claim, suit or liability based on personal injury (including death) or property damage related to any Product or part thereof which is fabricated by a third party without Seller's prior written consent and from and against related costs, charges and expenses (including attorneys' fees). All copies of Seller's confidential and proprietary information shall remain Seller's property and may be reclaimed by Seller at any time in the event Buyer is in breach of its obligations under this Paragraph.

19. END USER

If Buyer is not the end user of the Products sold hereunder (the "End User"), then Buyer will use its best efforts to obtain the End User's written consent to be bound to Seller by the provisions hereof. If Buyer does not obtain such End User's consent, Buyer shall defend and indemnify Seller and Seller's agents, employees, subcontractors and suppliers from any action, liability, cost, loss, or expense for which Seller would not have been liable or from which Seller would have been indemnified if Buyer had obtained such End User's consent.

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New York Branch
SWIFT: NDEAUS3N
Account: 8879433001
ABA: 026010786

20 . FORCE MAJEURE

(a) Force Majeure Defined. For the purpose of this Agreement "Force Majeure" will mean all events, whether or not foreseeable, beyond the reasonable control of either party which affect the performance of this Agreement, including, without limitation, acts of God, acts or advisories of governmental or quasi-governmental authorities, laws or regulations, strikes, lockouts or other industrial disturbances, acts of public enemy, wars, insurrections, riots, epidemics, pandemics, outbreaks of infectious disease or other threats to public health, lightning, earthquakes, fires, storms, severe weather, floods, sabotage, delays in transportation, rejection of main forgings and castings, lack of available shipping by land, sea or air, lack of dock lighterage or loading or unloading facilities, inability to obtain labor or materials from usual sources, serious accidents involving the work of suppliers or sub-suppliers, thefts and explosions.

(b) Suspension of Obligations. If either Buyer or Seller is unable to carry out its obligations under this Agreement due to Force Majeure, other than the obligation to make payments due hereunder, and the party affected promptly notifies the other of such delay, then all obligations that are affected by Force Majeure will be suspended or reduced for the period of Force Majeure and for such additional time as is required to resume the performance of its obligations, and the delivery schedule will be adjusted to account for the delay.

(c) Option to Terminate. If the period of suspension or reduction of operations will extend for more than four (4) consecutive months or periods of suspension or reduction total more than 6 months in any 12 month period, then either Buyer or Seller may terminate this Agreement.

(d) Strikes On-Site. Notwithstanding anything herein to the contrary, in the event a strike, lockout, labor, union or other industrial disturbance at Buyer's site affects, delays, disrupts or prevents Seller's performance of this Agreement, Seller shall be entitled to a Change Order containing an appropriate adjustment in the contract price and delivery schedule.

21 . INDEMNIFICATION AND INSURANCE

(a) Indemnification. Seller agrees to defend and indemnify Buyer from and against any third-party claim for bodily injury or damage to tangible property ("Loss") arising in connection with the Products or the Services provided by Seller hereunder, but only to the extent such Loss has been caused by the negligence, willful misconduct or other legal fault ("Fault") of Seller. Buyer shall promptly tender the defense of any such third-party claim to Seller. Seller shall be entitled to control the defense and resolution of such claim, provided that Buyer shall be entitled to be represented in the matter by counsel of its choosing at Buyer's sole expense. Where such Loss results from the Fault of both Seller and Buyer or a third party, then Seller's defense and indemnity obligation shall be limited to the proportion of the Loss that Seller's Fault bears to the total Fault.

(b) Insurance. Seller shall maintain commercial general liability insurance with limits of $2,000,000 per occurrence and in the aggregate covering claims for bodily injury (including death) and physical property damage arising out of the Products or Services. Seller shall also provide workers' compensation insurance or the like as required by the laws of the jurisdiction where the Services will be performed, and owned and non-owned auto liability insurance with limits of $1,000,000 combined single limit. Seller will provide a Certificate of Insurance certifying the existence of such coverages upon request.

22 . GENERAL

(a) Seller represents that any Products or parts thereof manufactured by Seller will be produced in compliance with all applicable federal, state, and local laws applicable to their manufacture and in accordance with Seller's engineering standards. Seller shall not be liable for failure of the Products to comply with any other specifications, standards, laws or regulations.

(b) This Agreement shall inure only to the benefit of Buyer and Seller and their respective successors and assigns. Any assignment of this Agreement or any of the rights or obligations hereunder, by either party without the written consent of the other party shall be void.

(c) This Agreement contains the entire and only agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written understandings between Buyer and Seller concerning the Products, Services and any prior course of dealings or usage of the trade not expressly incorporated herein.

(d) This Agreement may be modified, supplemented,or amended onlyby a writing signed by an authorized representative of Seller. Seller's waiver of any breach by Buyer of any terms of this Agreement must also be in writing and any waiver by Seller or failure by Seller to enforce any of the terms and conditions of this Agreement at any time, shall not affect, limit, or waive Seller's right thereafter to enforce and compel strict compliance with every term and condition hereof.

(e) All terms of this Agreement which by their nature should apply after the cancellation, completion or termination of this Agreement shall survive and remain fully enforceable after any cancellation, completion, or termination hereof.

(f) (i) If Seller's office is located in the United States, this Agreement and the performance hereof will be governed by and construed according to the laws of the State of Georgia. (ii) If Seller's office is located in Canada, this Agreement and the performance hereof will be governed by and construed according to the laws of the Province of New Brunswick.

(g) (i) In the circumstances of f(i) above, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, or to the Products or the Services provided pursuant hereto, shall be definitively settled by arbitration, to the exclusion of courts of law, administered by the American Arbitration Association ("AAA") in accordance with its Construction Industry Arbitration Rules in force at the time this Agreement is signed and to which the parties declare they will adhere (the "AAA Rules"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the party against whom enforcement is sought or having jurisdiction over any of such party's assets. The arbitration shall be conducted in Atlanta, Georgia by a panel of three members, one of whom will be appointed by each of Buyer and Seller and the third of whom will be the chairman of the panel and will be appointed by mutual agreement of the two party appointed arbitrators. All arbitrators must be persons who are not employees, agents, or former employees or agents of either party. In the event of failure of the two party appointed arbitrators to agree within 45 days after submission of the dispute to arbitration upon the appointment of the third arbitrator, the third arbitrator will be appointed by the AAA in accordance with the AAA Rules. In the event that either of Buyer or Seller fails to appoint an arbitrator within 30 days after submission of the dispute to arbitration, such arbitrator, as well as the third arbitrator, will be appointed by the AAA in accordance with the AAA Rules. (ii) In the circumstances of f(ii) above, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, or to the Products or the Services provided pursuant hereto, shall be definitively settled under the auspices of the Canadian Commercial Arbitration Centre ("CCAC"), by means of arbitration and to the exclusion of courts of law, in accordance with its General Commercial Arbitration Rules in force at the time the Agreement is signed and to which the parties declare they will adhere (the "CCAC Rules"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the party against whom enforcement is sought or having jurisdiction over any of such party's assets. The arbitration shall be conducted in Saint John, New Brunswick by a panel of three arbitrators, one of whom will be appointed by each of Buyer and Seller and the third of whom will be the chairman of the arbitral tribunal and will be appointed by mutual agreement of the two party-appointed arbitrators. All arbitrators must be persons who are not employees, agents, or former employees or agents of either party. In the event of failure of the two party-appointed arbitrators to agree within 45 days after submission of the dispute to arbitration upon the appointment of the third arbitrator, the third arbitrator will be appointed by the CCAC in accordance with the CCAC Rules. In the event that either of Buyer or Seller fails to appoint an arbitrator within 30 days after submission of the dispute to arbitration, such arbitrator, as well as the third arbitrator, will be appointed by the CCAC in accordance with the CCAC Rules.

(h) In the event this Agreement pertains to the sale of any goods outside the United States or Canada, the parties agree that the United Nations Convention for the International Sale of Goods shall not apply to this Agreement.

(i)The parties hereto have required that this Agreement be drawn up in English. Les parties aux présentes ont exigé que la présente convention soit rédigée en anglais.

Please do not hesitate to contact us if you require further information.

Yours sincerely

Andritz Separation Inc.
This document is issued electronically and valid without signature.

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Account: 8879433001
ABA: 026010786

CITY OF LAKELAND TENNESSEE

Board of Commissioners

Meeting Cycle: Thursday, April 4, 2024

Subject: **Discussion and Possible Action** - Update on Contract Patching request by the Board of Commissioners.

Staff Contact: Luis Camarillo Hernandez, Staff Engineer

STAFF RECOMMENDATION

BUDGET IMPACT

This expenditure was not appropriated in the Fiscal Year 2024 State Aid Funds and would require a subsequent budget amendment.

DISCUSSION

The Board of Commissioners requested staff to explore the option of doing contact patching within the Herons Ridge Subdivision Phases A & B and on Canada Road south of I-40 by either adding it as a Change Order to the FY24 Street Paving Project or by bidding out the contract patching as a new project. As a result of this request, the Board of Commissions have the following options to move forward with contact patching this Fiscal Year:

Option 1:
Approving the Change Order presented in R-38-2024 which would have Standard Construction Company, Inc add the patching work to the current FY24 Street Paving contract. In doing so, they would patch the Herons Ridge Phases A & B Subdivision and Canada Road south of 1-40 for a cost estimate listed below.

LOCATION	AMOUNT
Herons Ridge Subdivision Phases A & B	$552,408.50
Canada Road south of I-40	$160,935.50

Option 2:
Approving an alternate Change Order with Standard Construction Company, Inc under the FY24 Street Paving contract. This alternate Change Order would consist of not exceeding the 25% quantity limit that would lead to an increase in bid price. This would limit the patching work to approximately 14,000 Sq. Ft. in Herons Ridge Phases A & B Subdivision. The cost

estimate for this is listed below.

Location	AMOUNT
Herons Ridge Subdivision Phases A & B	$72,700.00

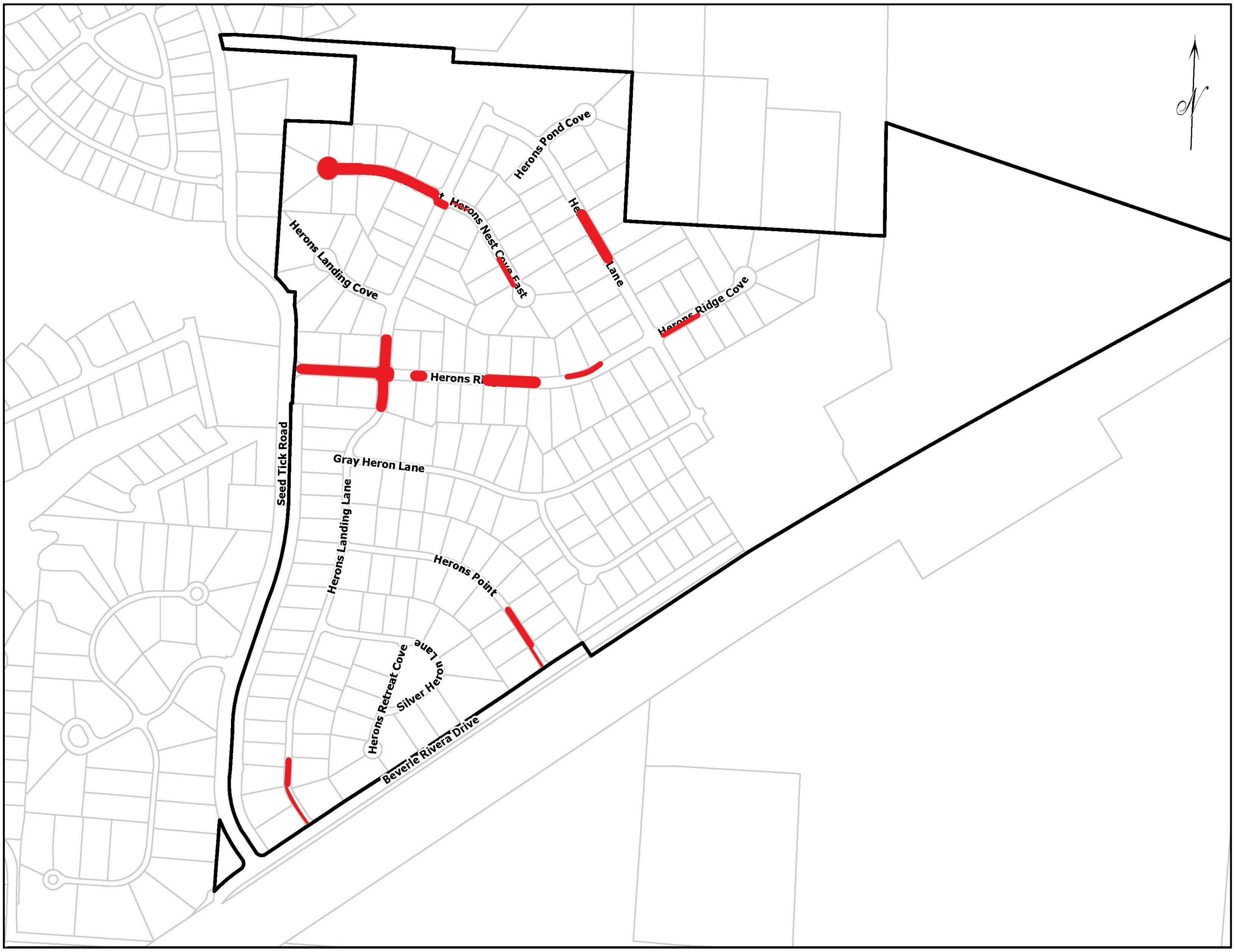
Option 3:
The City put out to Bid the FY24 Street Patching Project, which would include contact patching work within the Herons Ridge Subdivision Phases A & B. Patching on Canada Road south of I-40 was included as add alternate work. The City received one (1) sealed bid on April 2, 2024. The bid received is listed in the table below.

BIDDER	BASE BID AMOUNT	ALTERNATE BID AMOUNT
Lehman-Roberts Company	$947,450.00	$283,175.00

Canada Road Map

Canada Road Map

Herons Ridge Map for Option 1 & 3



Herons Ridge Map for Option 2