



Board of Commissioners
Regular Meeting Agenda
Thursday, January 13, 2022, 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:
 1. Treasurer's Report - December 31, 2021
- VII. REPORTS FROM COMMITTEES, MEMBERS OF THE BOARD OF COMMISSIONERS & OTHER OFFICERS:
 - Sheriff's Report
 - City Manager's Report
 - Commissioners' Report
- VIII. PUBLIC COMMENTS:
- IX. SEWERAGE COMMISSION BUSINESS:
- X. CONSENT AGENDA:
 1. Approval of Meeting Minutes from Previous Meetings:
 - a. December 09, 2021
 2. **Ordinance - First Reading** - adopting the 2021 edition of the International Code Council International Fire Code. *Sponsored By Shane Horn*
 3. **Ordinance - First Reading** - to amend Chapter 20 of the Lakeland Air Pollution Control Code. *Sponsored by Shane Horn*

4. **Ordinance - First Reading** - to amend the bylaws of the Municipal Parks and Recreation Advisory Board of Lakeland, Tennessee, to increase membership to nine (9) and other adjustments. *Sponsored by Vice-Mayor Dial*
5. **Resolution** - authorizing the City Manager to execute a renewal agreement for DebtBook. *Sponsored by Michael Walker*
6. **Resolution** - authorizing the City Manager to approve an updated TOSHA safety plan. *Sponsored by Daniel Lovett*
7. **Resolution** - authorizing an appointment to the Parks and Recreation/Natural Resources Board. *Sponsored by Vice-Mayor Dial*
8. **Resolution** - approving the purchase of a 2022 Ford Ranger 4x4 SuperCrew XL from Ford of Murfreesboro through State of Tennessee statewide contract #73320 *Sponsored by Patrick O'Mara*

XI. REGULAR AGENDA:

1. **Resolution** - approving a residential subdivision development contract with Lake District, LLC for a 9-lot subdivision to be known as The Willows at the Lake Phase 2. *Sponsored by Emily Harrell*
2. **Resolution** - approving an Inter-Jurisdictional Agreement between the City of Memphis and the City of Lakeland and a Bill of Sale for Sanitary Sewer Assets in Stonebridge Subdivision. *Sponsored by Emily Harrell*
3. **Resolution** - authorizing the City Manager to approve a Notice of Intent to participate in the FY2022-FY2025 ReGIS Imagery Project. *Sponsored by Josh Thompson*
4. **Resolution** - to recognize and honor Kembree Darakshani for her exemplary work within the Lakeland community. *Sponsored by Commissioner Wright*
5. **Resolution** - authorizing a professional services agreement with Kimley Horn and Associates, Inc. for the Heathfield at Scotts Creek Traffic Impact Study Amendment - Seed Tick Road Extension. *Sponsored by Emily Harrell*

6. Discussion and possible action on the mapping and locations for additional Flock Safety cameras in Lakeland. *Sponsored by Commissioner Wright*

XII. ANNOUNCEMENTS:

XIII. ADJOURNMENT:

CITY OF
LAKE LAND
TENNESSEE



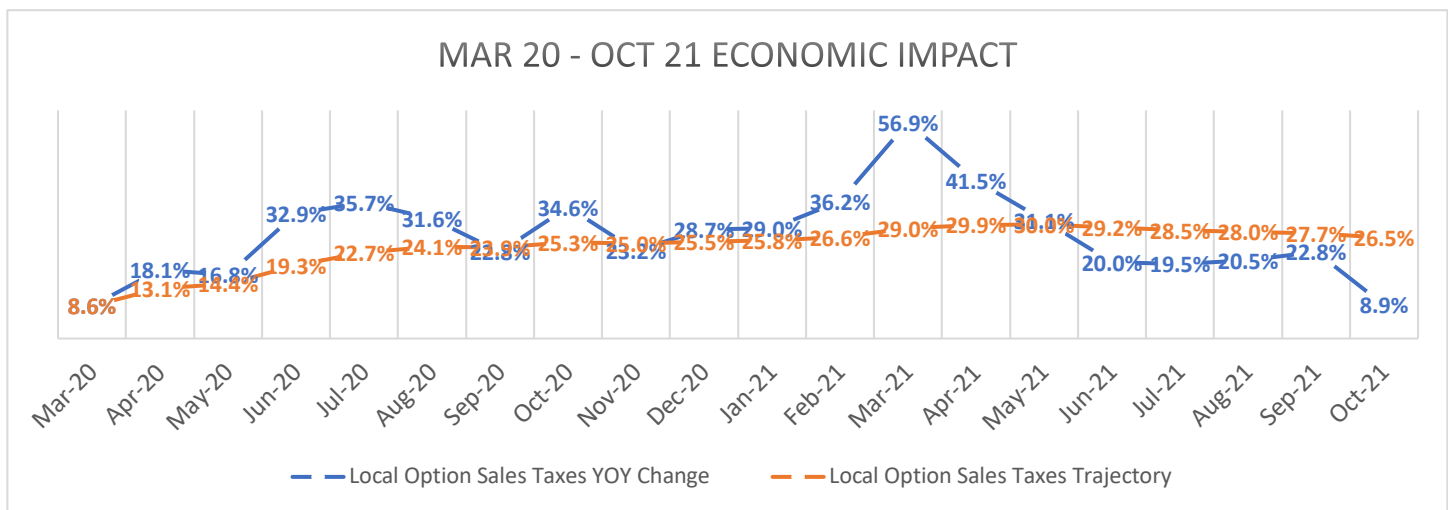
DECEMBER 2021
TREASURER'S REPORT

BOARD SUMMARY

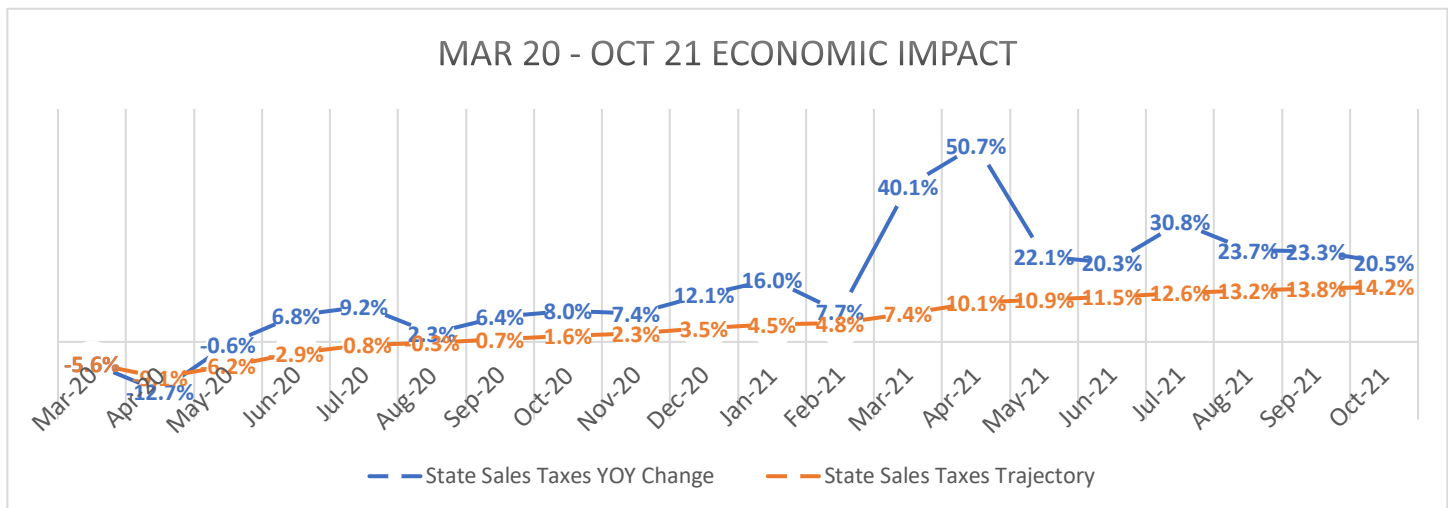
The following Board Summary is provided to assist in the review of the detailed monthly Treasurer's Report on the following pages. The Treasurer's Report provides monthly fiscal-year-to-date operating results for the General Fund, the State Street Aid Fund, the Debt Service Fund, the Sewer Fund, the Storm Water Fund, and the Solid Waste Fund. This report **excludes** the funds of Lakeland School System ("LSS"), either individually or in the aggregate.

Short Take:

- General Fund:
 - Other than grants, revenues are comparable to levels from the same time frame in the prior fiscal year
 - **Economic Trends:** Local Option Sales Tax increase for amounts received in December (October transactions) was less than the trend thus far this fiscal year, at 8.9%, which may indicate a slowdown of year-over-year growth

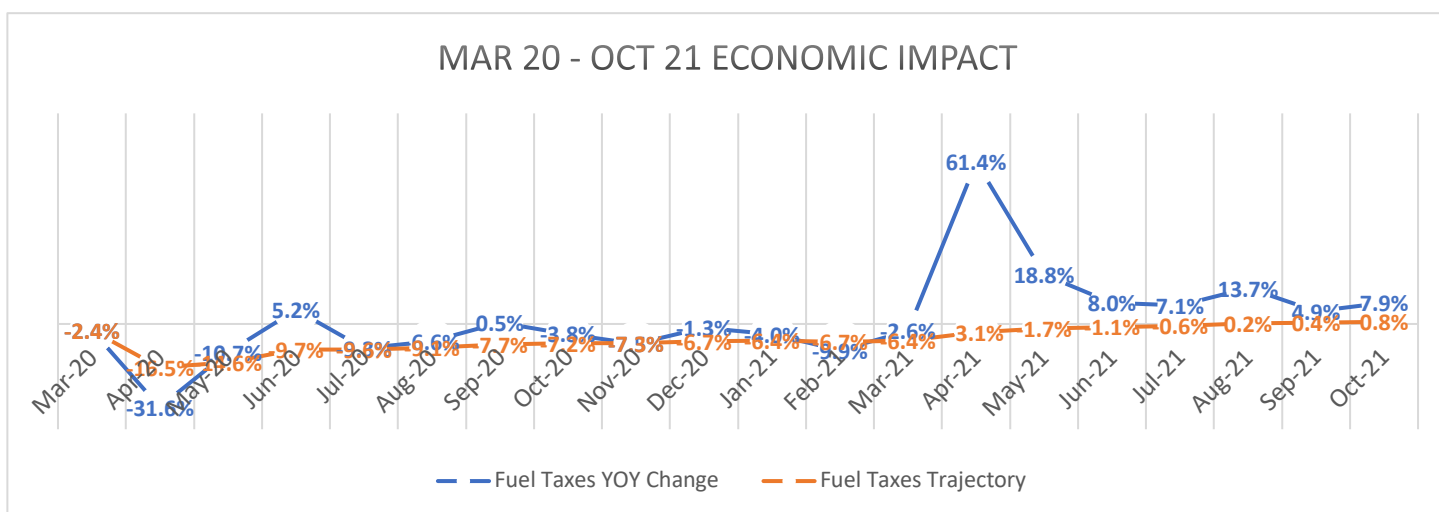


- **Economic Trends:** State Sales Tax were 20.5% higher than for the same period in FY21



BOARD SUMMARY (CONTINUED)

- General Fund (continued)
 - Until the New Canada Road capital outlays planned for FY22 are incurred, expenditures compared to budget target percentage will continue to appear low, for both capital outlays and grant revenues
- State Street Aid Fund:
 - Revenues exceed FYTD target due to Governor's appropriation grant received
 - Economic Trends: Fuel taxes continue to return to pre-pandemic levels, with the year-over-year average currently reaching 0.8%

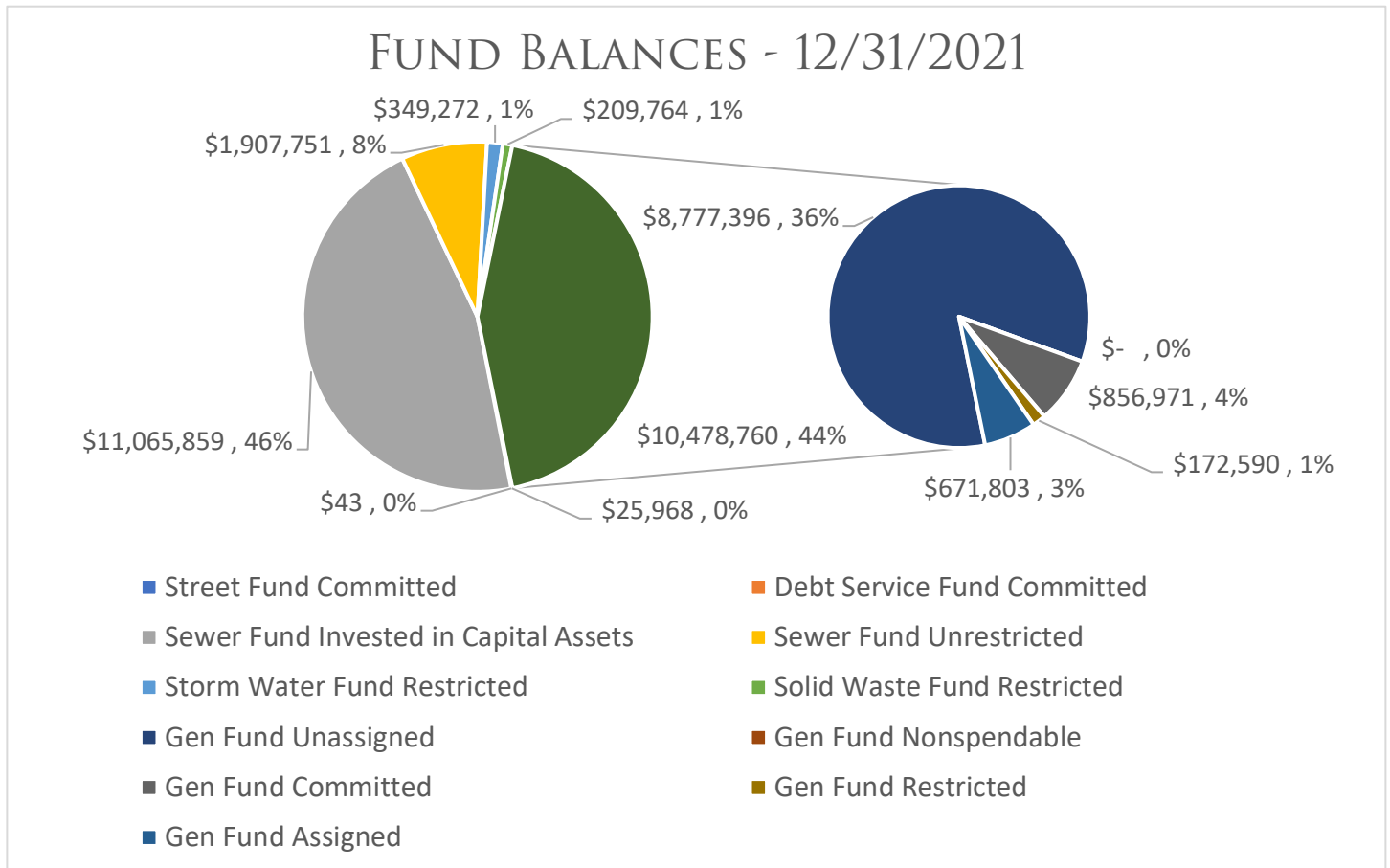


- Although the fund is operating at a “loss” due to paving projects and the timing of transfers from the General Fund, expenditures overall are lower than FYTD target due to timing of the paving projects that will occur over the summer of 2022

BOARD SUMMARY (CONTINUED)

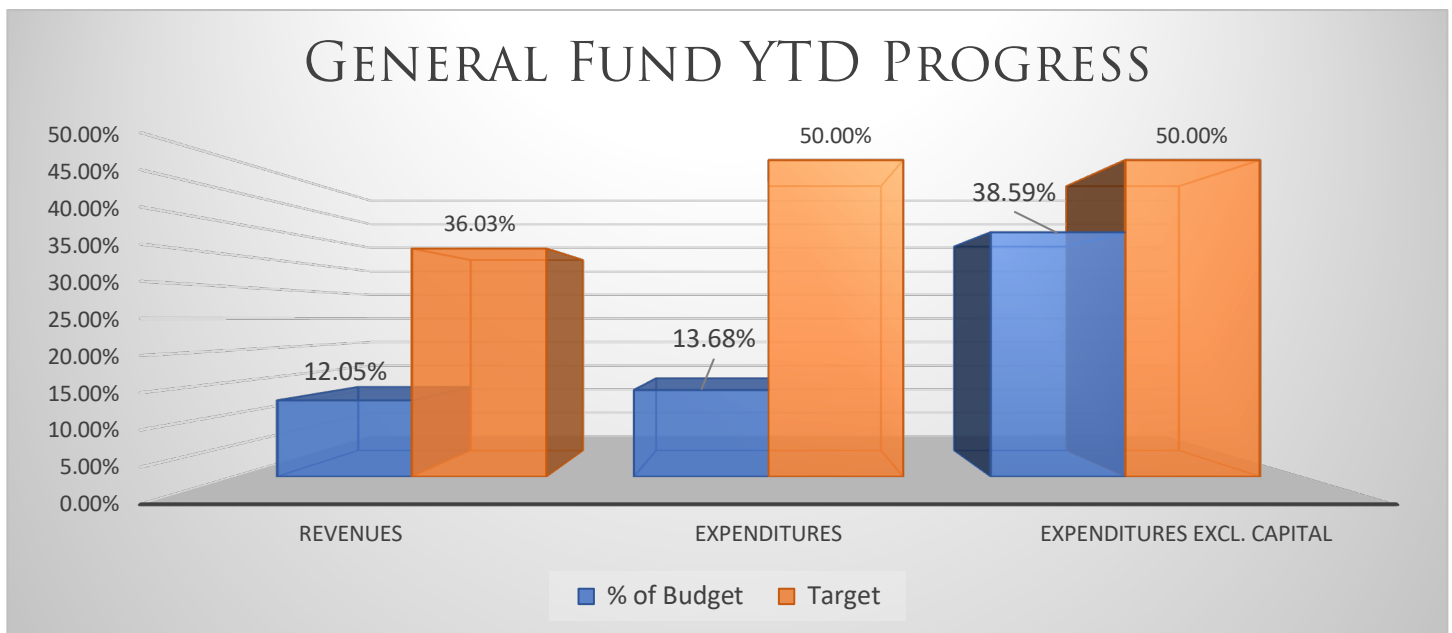
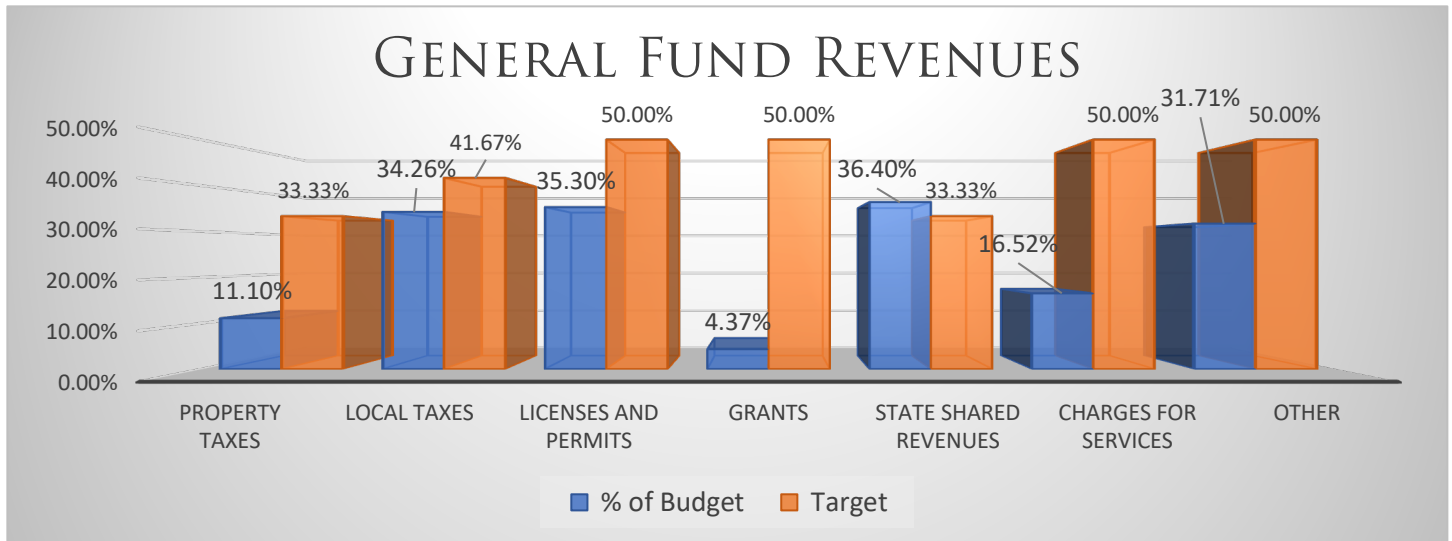
Fund Balance and Net Position - Across all funds (of the City), fund balance (and net position) decreased during the month from \$24,171,765 to \$24,037,417 - or by \$0.13 million.

This decrease is due in large part to the timing (as to be expected) of payments on the paving projects and costs in the State Street Aid Fund.



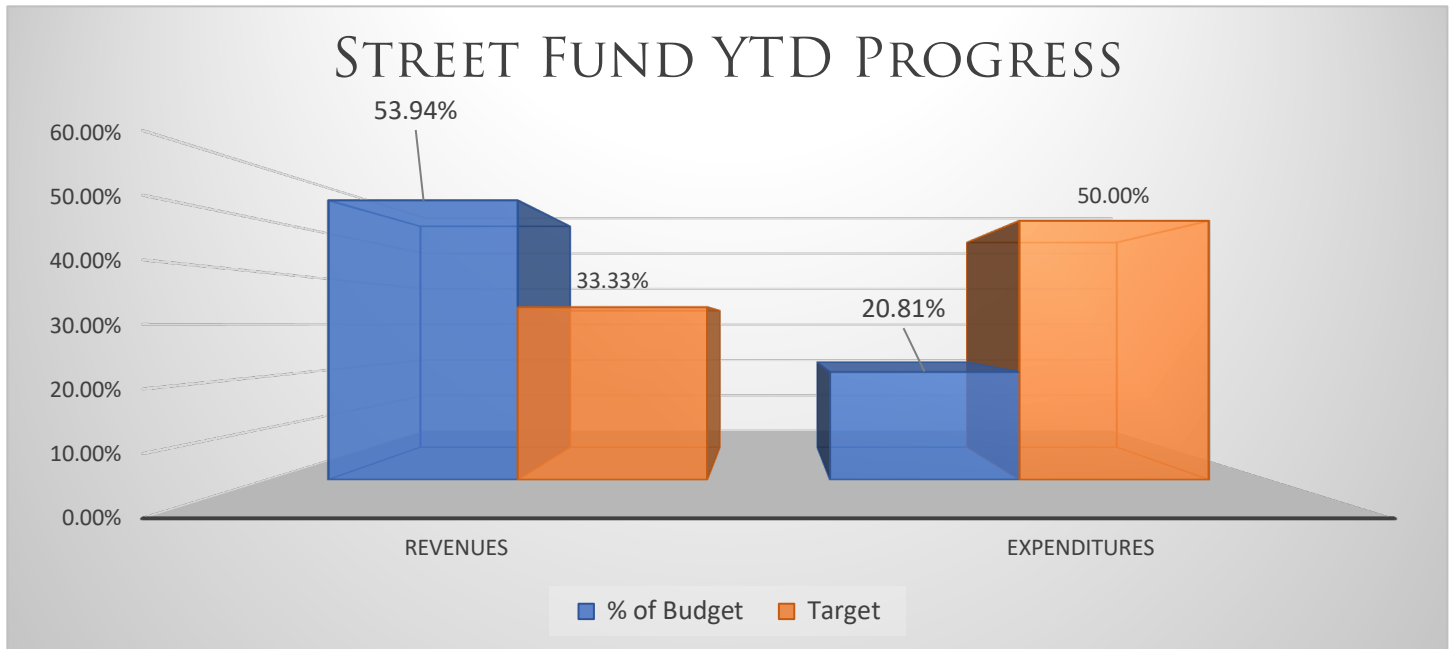
BOARD SUMMARY (CONTINUED)

General Fund Summary

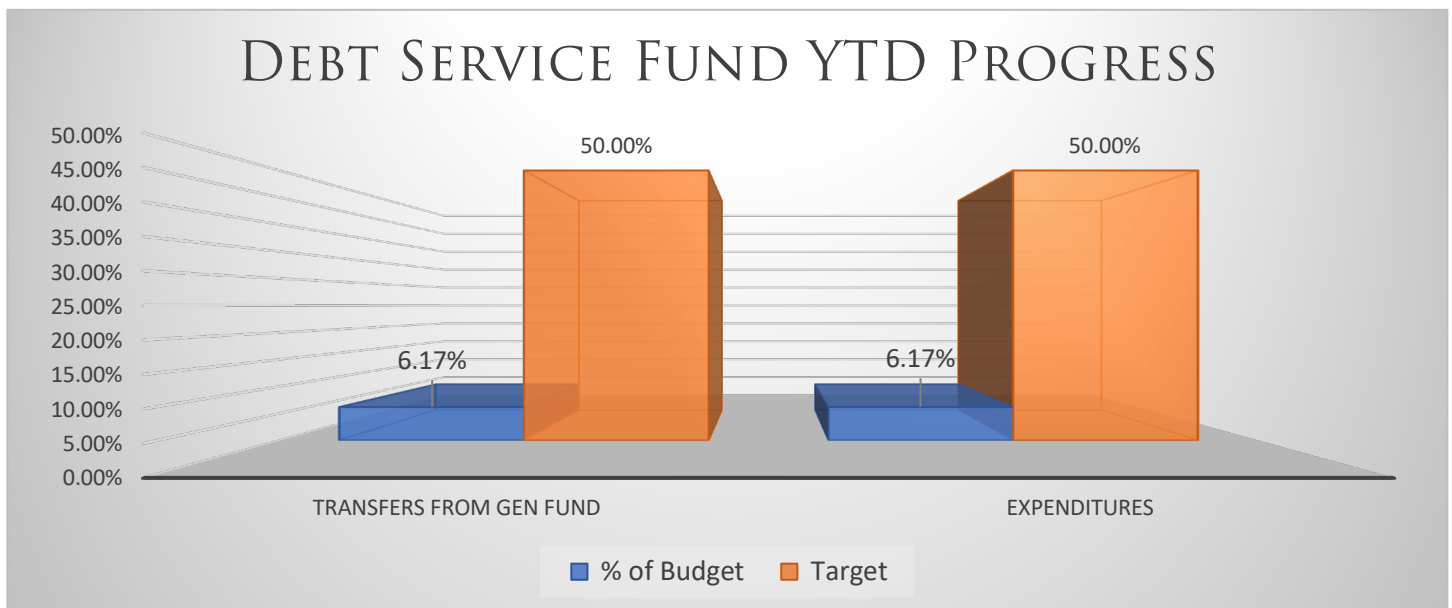


BOARD SUMMARY (CONTINUED)

State Street Aid Fund Summary

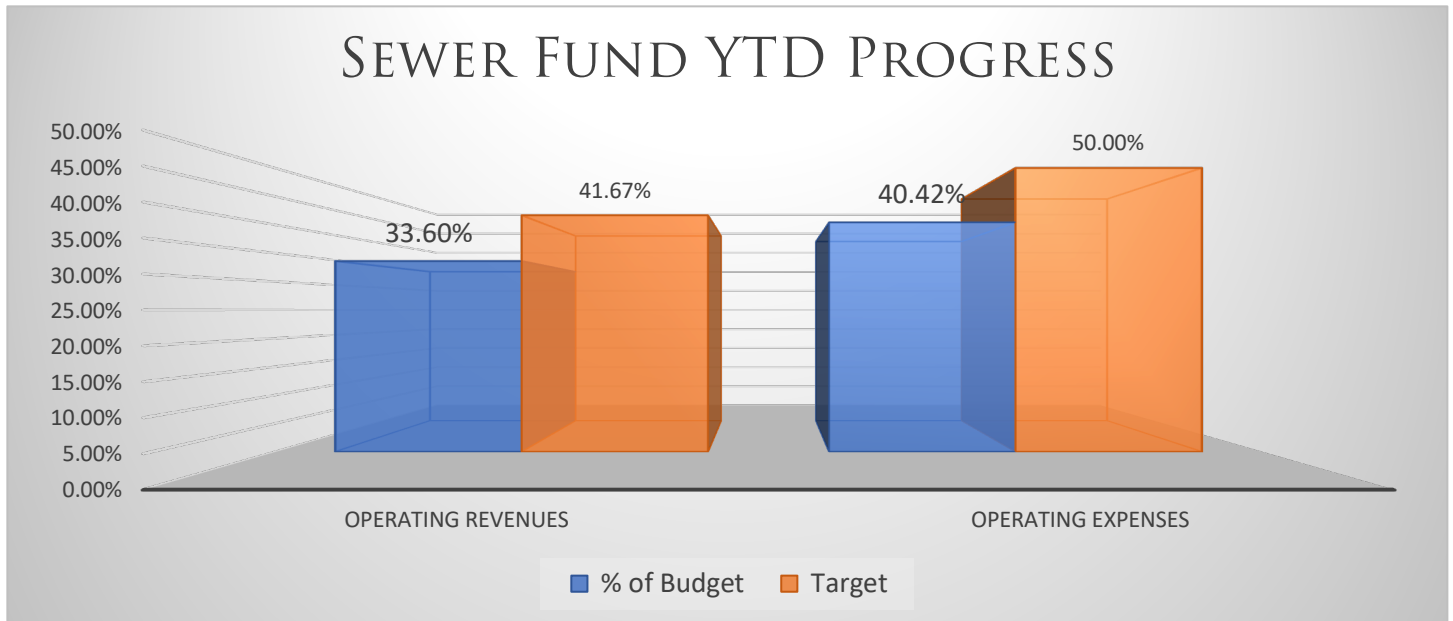


Debt Service Fund Summary

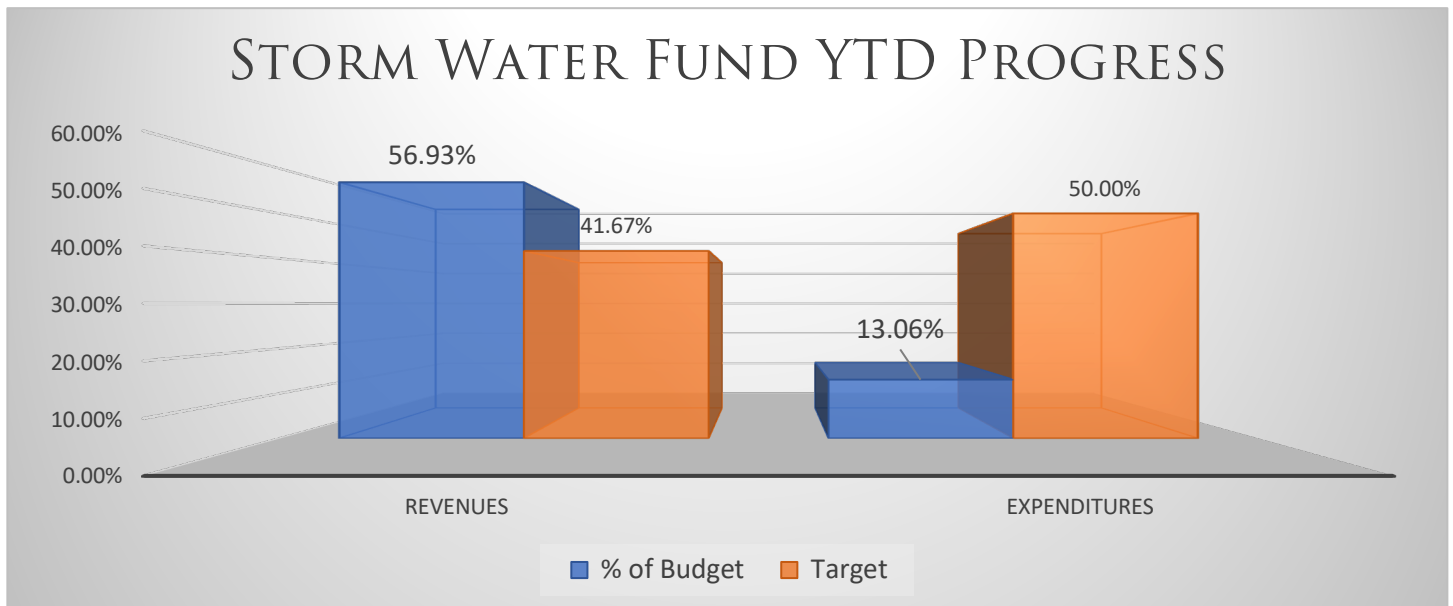


BOARD SUMMARY (CONTINUED)

Sewer Fund Summary

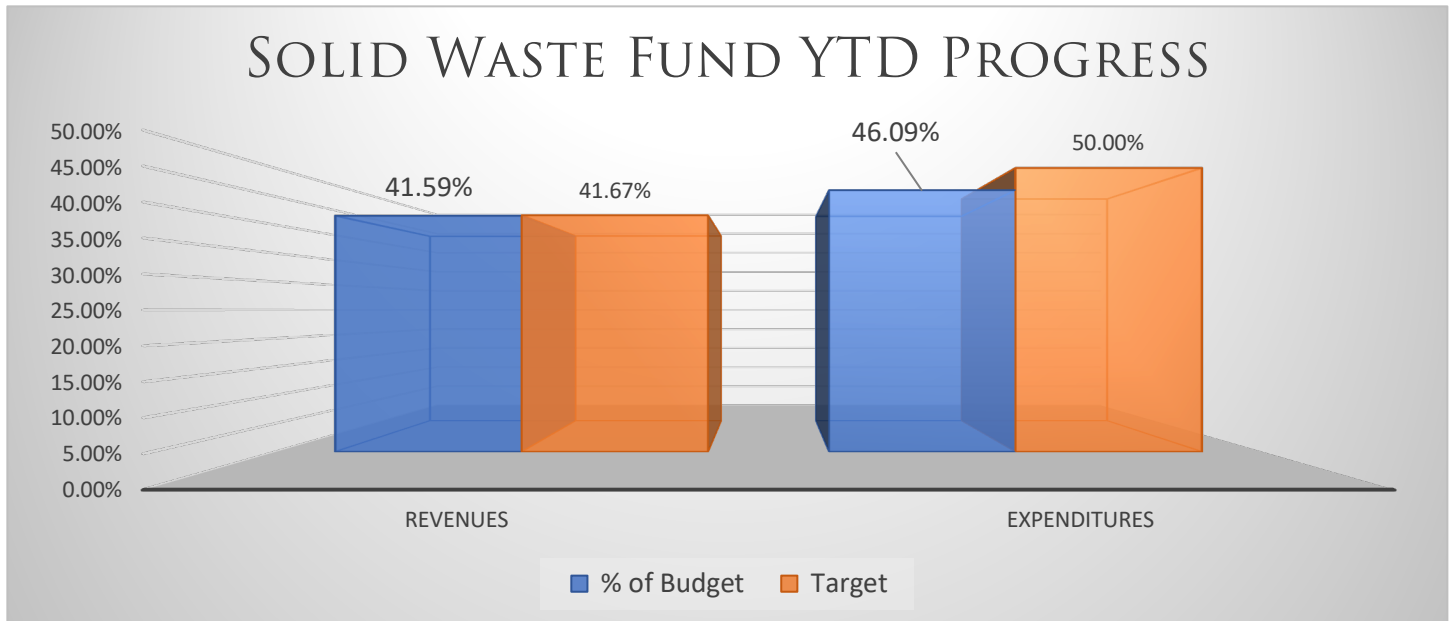


Storm Water Fund Summary



BOARD SUMMARY (CONTINUED)

Solid Waste Fund Summary



Budget Transfers

As noted in Ordinance O-5-2021, funds “may be transferred from one appropriation to another in the same fund by the Finance Director” and “shall be reported to the governing body at its next regular meeting.”

Budgetary transfers for fiscal year 2022 are as noted in Appendix A at the back of this Treasurer’s Report.

BOARD SUMMARY (CONTINUED)

Outstanding Debt Update – by Purpose of Debt

Profile as of

12/31/2021



[Export Data](#)

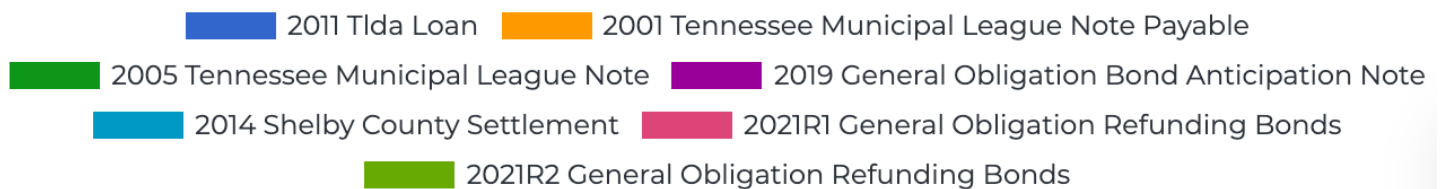
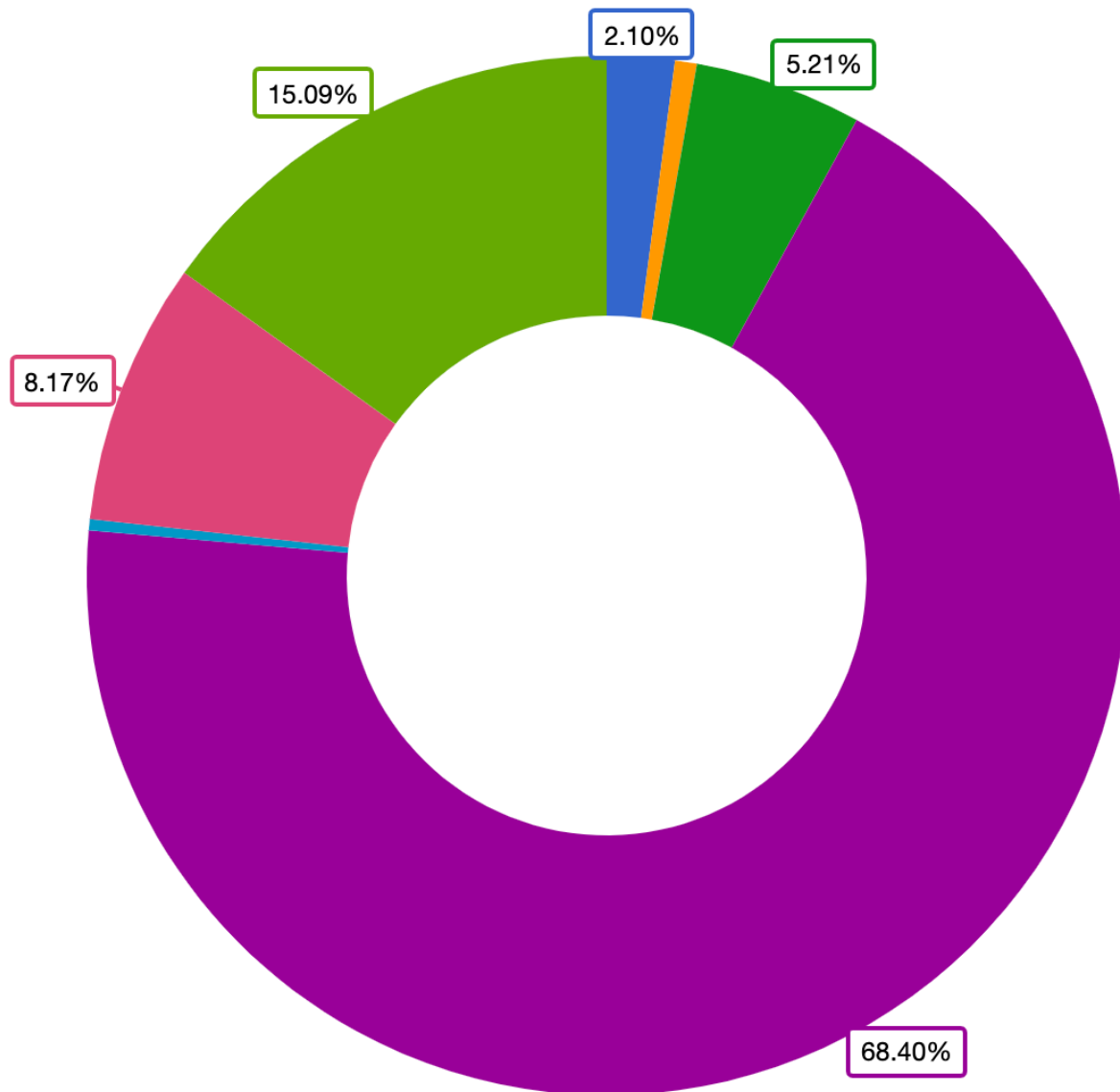
Viewing 6 Purposes with 7 total issues [View All Issues](#)

Total Outstanding Par Amount: **63,598,030**

☐	Title	Outstanding Par Amount
☐	BEVERLE RIVERA ROADWAY EXTENSION (1 Issue)	1,338,610
☐	LSS HIGH SCHOOL CONSTRUCTION (1 Issue)	43,500,000
☐	LSS MIDDLE SCHOOL CONSTRUCTION (2 Issues)	14,794,500
☐	LSS SETTLEMENT (1 Issue)	222,825
☐	PUBLIC WORKS PROJECTS (INCL FIRE STATION) (1 Issue)	429,095
☐	PUBLIC WORKS PROJECTS (INCL TREATMENT PLANT) (1 Issue)	3,313,000

BOARD SUMMARY (CONTINUED)

Debt Mix – by Purpose of Debt



DECEMBER FISCAL YEAR-TO-DATE RESULTS



CITY OF LAKELAND
BALANCE SHEET - ALL CITY GOVERNMENTAL FUNDS - UNAUDITED
December 31, 2021

	GOVERNMENTAL FUNDS - MODIFIED ACCRUAL					TOTAL GOVERNMENTAL FUNDS
	GENERAL FUND	DEBT SERVICE FUND	STATE STREET AID FUND	STORM WATER FUND	SOLID WASTE FUND	
ASSETS						
Cash and cash equivalents	\$ 10,309,477	\$ 43	\$ 76,035	\$ 319,272	\$ 217,952	\$ 10,922,779
Receivables						
Property taxes, net of allowance	4,742,729	-	-	-	-	4,742,729
Grants	108,023	-	-	-	-	108,023
Other	172,510	-	-	30,000	-	202,510
Due from other governments	-	-	-	-	-	-
Due from other funds	-	-	-	-	-	-
Prepaid items	-	-	-	-	-	-
Inventory	3,213	-	-	-	-	3,213
Restricted cash	2,048,115	-	-	-	-	2,048,115
Total assets	<u>\$ 17,384,067</u>	<u>\$ 43</u>	<u>\$ 76,035</u>	<u>\$ 349,272</u>	<u>\$ 217,952</u>	<u>\$ 18,027,369</u>
LIABILITIES						
Accounts payable and accrued liabilities	\$ 30,105	\$ -	\$ 50,067	\$ -	\$ 8,188	\$ 88,360
Deposits	2,012,976	-	-	-	-	2,012,976
Due to other funds	335	-	-	-	-	335
Unearned revenue	-	-	-	-	-	-
Total liabilities	<u>2,043,416</u>	<u>-</u>	<u>50,067</u>	<u>-</u>	<u>8,188</u>	<u>2,101,671</u>
DEFERRED INFLOWS OF RESOURCES						
Unavailable revenue						
Property taxes	4,734,124	-	-	-	-	4,734,124
Grants	114,468	-	-	-	-	114,468
Other	13,299	-	-	-	-	13,299
Total deferred inflows of resources	<u>4,861,891</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>4,861,891</u>
FUND BALANCES						
Restricted	172,590	-	-	349,272	209,764	731,626
Committed	856,971	43	25,968	-	-	882,982
Assigned	671,803	-	-	-	-	671,803
Unassigned	8,777,396	-	-	-	-	8,777,396
Total fund balances	<u>10,478,760</u>	<u>43</u>	<u>25,968</u>	<u>349,272</u>	<u>209,764</u>	<u>11,063,807</u>
Total liabilities, deferred inflows of resources, and fund balances	<u>\$ 17,384,067</u>	<u>\$ 43</u>	<u>\$ 76,035</u>	<u>\$ 349,272</u>	<u>\$ 217,952</u>	<u>\$ 18,027,369</u>

CITY OF LAKELAND

STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES ALL CITY GOVERNMENTAL FUNDS - UNAUDITED - FOR THE FYTD PERIOD ENDED December 31, 2021

	GOVERNMENTAL FUNDS - MODIFIED ACCRUAL					TOTAL GOVERNMENTAL FUNDS
	GENERAL FUND	DEBT SERVICE FUND	STATE STREET AID FUND	STORM WATER FUND	SOLID WASTE FUND	
REVENUES						
Property taxes	\$ 521,732	\$ -	\$ -	\$ -	\$ -	\$ 521,732
Local taxes	903,249	-	-	-	-	903,249
Intergovernmental	535,175	-	164,708	-	-	699,883
Licenses and permits	89,916	-	-	-	-	89,916
Charges for services	55,190	-	-	113,048	548,655	716,893
Federal, state, and local grants	556,893	-	153,314	-	-	710,207
Interest income	4,094	-	-	-	-	4,094
Other	3,777	-	-	-	1,090	4,867
Total revenues	<u>2,670,026</u>	<u>-</u>	<u>318,022</u>	<u>113,048</u>	<u>549,745</u>	<u>3,650,841</u>
EXPENDITURES						
Current						
General government	923,632	-	-	-	-	923,632
Community development	309,057	-	-	-	-	309,057
Public works	245,003	-	725,233	29,750	568,033	1,568,019
Parks and recreation	328,204	-	-	-	-	328,204
Capital Outlay	1,246,013	-	122,396	492	53,833	1,422,734
Debt Service						
Principal	-	87,040	-	-	-	87,040
Interest and fiscal charges	-	357,932	-	-	-	357,932
Total expenditures	<u>3,051,909</u>	<u>444,972</u>	<u>847,629</u>	<u>30,242</u>	<u>621,866</u>	<u>4,996,618</u>
Excess of revenues over expenditures	(381,883)	(444,972)	(529,607)	82,806	(72,121)	(1,345,777)
OTHER FINANCING SOURCES (USES)						
Issuance of debt	-	-	-	-	-	-
Transfers in	700,000	444,973	-	-	-	1,144,973
Transfers out	(1,127,188)	-	-	-	-	(1,127,188)
Total other financing sources (uses)	<u>(427,188)</u>	<u>444,973</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>17,785</u>
Net change in fund balances	(809,071)	1	(529,607)	82,806	(72,121)	(1,327,992)
Fund balances - beginning	<u>11,287,831</u>	<u>42</u>	<u>555,575</u>	<u>266,466</u>	<u>281,885</u>	<u>12,391,799</u>
Fund balances - ending	<u>\$ 10,478,760</u>	<u>\$ 43</u>	<u>\$ 25,968</u>	<u>\$ 349,272</u>	<u>\$ 209,764</u>	<u>\$ 11,063,807</u>

CITY OF LAKELAND, TN

SEWER FUND

STATEMENT OF NET POSITION

DECEMBER 31, 2021

ASSETS

Current assets:

Cash and cash equivalents	\$ 2,072,498
Receivables	
Accounts	-
Interest	1,721
Due from other governments	-
Total current assets	<u>2,074,219</u>

Capital assets:

Capital assets, not being depreciated	1,033,753
Capital assets, being depreciated - net	<u>13,345,106</u>
Total capital assets	14,378,859

Net pension asset

	-
Total assets	<u>16,453,078</u>

DEFERRED OUTFLOWS OF RESOURCES

Deferred Outflows Related to Pensions	18,704
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LIABILITIES

Current liabilities:

Accounts payable and accrued expenses	173,366
Current portion of notes payable	<u>588,000</u>
Total current liabilities	761,366

Noncurrent liabilities:

Net pension liability	3,576
Notes payable, net of current portion	<u>2,725,000</u>
Total liabilities	3,489,942

DEFERRED INFLOWS OF RESOURCES

Deferred Inflows Related to Pensions	<u>8,230</u>
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NET POSITION

Net investment in capital assets	11,065,859
Unrestricted	<u>1,907,751</u>
Total net position	<u>\$ 12,973,610</u>

CITY OF LAKELAND, TENNESSEE

SEWER FUND

STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION DECEMBER 31, 2021

	Prior YTD 12/31/20	Current YTD 12/31/21	Plan FY 2022
Operating revenues:			
Sewer service fee	\$ 681,206	\$ 693,763	\$ 1,742,376
Service connection fees	293,850	47,700	464,680
Operating grants	-	-	-
Total operating revenues	<u>975,056</u>	<u>741,463</u>	<u>2,207,056</u>
Operating expenses:			
Personnel expenses	(163,923)	(151,097)	(528,451)
General and administrative	(179,051)	(188,345)	(432,100)
Depreciation	(256,513)	(255,000)	(510,000)
Total operating expenses	<u>(599,487)</u>	<u>(594,442)</u>	<u>(1,470,551)</u>
Operating Income (Loss)	375,569	147,021	736,505
Nonoperating revenues (expenses):			
Interest income	1,719	1,332	5,110
Interest and agent Fee expense	(17,104)	(13,477)	(160,000)
Total non-operating expenses	<u>(15,385)</u>	<u>(12,145)</u>	<u>(154,890)</u>
Change in net position	360,184	134,876	581,615
Capital Contributions	-	-	560,069
Net position - beginning of year	<u>12,316,614</u>	<u>12,838,734</u>	<u>12,838,734</u>
Net position - Dec-31	<u>\$ 12,676,798</u>	<u>\$ 12,973,610</u>	<u>\$ 13,980,418</u>

CITY OF LAKELAND, TENNESSEE
SEWER FUND
STATEMENT OF CASH FLOWS
DECEMBER 31, 2021

	<u>Current YTD</u> <u>12/31/21</u>
Cash flows from operating activities:	
Receipts from customers and users	\$ 876,966
Payments to suppliers/operating costs	(451,505)
Net cash provided by operating activities	<u>425,461</u>
Cash flows from capital and related financing activities:	
Principal payments on capital debt	-
Acquisition and construction of capital assets	(217,438)
Interest paid on capital debt	(13,477)
Net cash used by capital and related financing activities	<u>(230,915)</u>
Cash flows from investing activities:	
Interest income received	<u>1,332</u>
Net increase (decrease) in cash and cash equivalents	195,878
Cash and cash equivalents - beginning of year	<u>1,876,620</u>
Cash and cash equivalents - Dec-31	<u><u>\$ 2,072,498</u></u>

CITY OF LAKELAND

STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE

GENERAL FUND

DECEMBER 31, 2021

	Prior YTD 12/31/20	Current YTD 12/31/21	Budget FY 2022	% Earned/Used Year-to-Date
REVENUES				
Property Taxes	\$ 544,439	\$ 521,732	\$ 4,700,922	11.10%
Local Taxes	676,270	903,249	2,636,377	34.26%
Intergovernmental	442,682	535,175	1,470,458	36.40%
Licenses and permits	245,920	89,916	254,720	35.30%
Charges for services	151,831	55,190	334,000	16.52%
Federal, State, and Local Grants	977,680	556,893	12,734,400	4.37%
Other	9,759	7,871	24,824	31.71%
Total Revenues	<u>3,048,581</u>	<u>2,670,026</u>	<u>22,155,701</u>	<u>12.05%</u>
EXPENDITURES				
Current				
General government	(882,335)	(923,632)	(2,111,403)	43.74%
Community Development	(261,570)	(309,057)	(999,378)	30.92%
Public Works	(184,992)	(245,003)	(682,897)	35.88%
Parks and Recreation	(191,717)	(328,204)	(885,810)	37.05%
Capital Projects	<u>(1,322,238)</u>	<u>(1,246,013)</u>	<u>(17,623,125)</u>	<u>7.07%</u>
Total Expenditures	<u>(2,842,852)</u>	<u>(3,051,909)</u>	<u>(22,302,613)</u>	<u>13.68%</u>
Excess (deficiency) of revenues over (under) expenditures	205,729	(381,883)	(146,912)	
OTHER FINANCING SOURCES (USES)				
Issuance of Debt	-	-	13,500,000	
Transfers in	700,000	700,000	707,100	
Transfers out	<u>(1,525,432)</u>	<u>(1,127,188)</u>	<u>(10,823,982)</u>	
Total Other Financing Sources	<u>(825,432)</u>	<u>(427,188)</u>	<u>3,383,118</u>	
Net Change in Fund Balance	<u>\$ (619,703)</u>	<u>\$ (809,071)</u>	<u>\$ 3,236,206</u>	
Allocation of Net Change in Fund Balance:				
Committed Fund Balance		\$ (1,098,197)		
Restricted Fund Balance		43		
Assigned Fund Balance		(755,167)		
Nonspendable Fund Balance		-		
Unassigned Fund Balance		1,044,250		
Net Change in Fund Balance		<u>\$ (809,071)</u>		

CITY OF LAKELAND

DEBT SERVICE FUND

STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE

DECEMBER 31, 2021

	YTD	12/31/21	Budget FY 2022
Revenues:			
Interest	\$	-	\$ -
Total Revenues		-	-
Expenditures:			
Principal		(87,040)	(5,980,621)
Interest		(355,350)	(1,166,880)
Dues and Fees		(2,582)	(66,400)
Total Expenditures		(444,972)	(7,213,901)
Net excess (deficiency) of revenues over expenditures		(444,972)	(7,213,901)
Other Financing Sources (Uses):			
Transfers In		444,973	7,213,901
Transfers Out		-	-
Total Other Financing Sources (Uses)		444,973	7,213,901
Net Change in Fund Balance	\$	1	\$ -

STATE STREET AID
STATEMENT OF REVENUES AND EXPENSES
DECEMBER 31, 2021

	Prior YTD 12/31/20	Current YTD 12/31/21	Budget FY 2022
REVENUES:			
State shared revenue	\$ 151,979	\$ 164,708	\$ 436,320
Local Revenue	-	-	-
Grant Revenue	-	153,314	153,314
Other revenue	-	-	-
Total revenues	<u>151,979</u>	<u>318,022</u>	<u>589,634</u>
EXPENDITURES:			
Personnel expenses	(100,794)	(80,287)	(257,713)
Public works	(156,931)	(644,946)	(3,133,363)
Capital projects	(180,817)	(122,396)	(681,997)
Total expenditures	<u>(438,542)</u>	<u>(847,629)</u>	<u>(4,073,073)</u>
Net excess (deficiency) of revenues over expenditures	(286,563)	(529,607)	(3,483,439)
OTHER FINANCING SOURCES (USES):			
Transfers in	-	-	2,927,866
Transfers out	-	-	-
Total other financing sources (uses):	<u>-</u>	<u>-</u>	<u>2,927,866</u>
Net change in fund balance	(286,563)	(529,607)	(555,573)
Fund balance - beginning of year	<u>294,322</u>	<u>555,575</u>	<u>555,575</u>
Fund balance - Dec 31	<u>\$ 7,759</u>	<u>\$ 25,968</u>	<u>\$ 2</u>

SOLID WASTE FUND
STATEMENT OF REVENUES AND EXPENDITURES
DECEMBER 31, 2021

	Prior YTD 12/31/20	Current YTD 12/31/21	Budget FY 2022
REVENUES:			
Solid waste collection fees	\$ 534,604	\$ 548,655	\$ 1,320,444
Interest income	-	-	-
Grant revenues	138,760	-	-
Other	1,150	1,090	1,500
Total revenues	<u>674,514</u>	<u>549,745</u>	<u>1,321,944</u>
EXPENDITURES:			
Personnel expenditures	(86,927)	(71,609)	(151,834)
General and administrative	(31,813)	(28,946)	(88,700)
Contracted services	(494,413)	(467,478)	(1,055,000)
Capital	(91,895)	(53,833)	(53,833)
Total expenditures	<u>(705,048)</u>	<u>(621,866)</u>	<u>(1,349,367)</u>
Net change in fund balance	(30,534)	(72,121)	(27,423)
Fund balance - beginning of year	<u>547,021</u>	<u>281,885</u>	<u>281,885</u>
Fund balance - Dec 31	<u>\$ 516,487</u>	<u>\$ 209,764</u>	<u>\$ 254,462</u>

STORM WATER FUND
STATEMENT OF REVENUES AND EXPENDITURES
DECEMBER 31, 2021

	Prior YTD 12/31/20	Current YTD 12/31/21	Budget FY 2022
REVENUES:			
Storm Water Fees	\$ 80,244	\$ 83,048	\$ 198,566
Other	23,400	30,000	-
Total revenues	<u>103,644</u>	<u>113,048</u>	<u>198,566</u>
EXPENDITURES:			
Personnel expenses	(19,333)	(26,512)	(54,307)
General and administrative	(5,801)	(3,238)	(27,310)
Capital	(17,923)	(492)	(150,000)
Total expenditures	<u>(43,057)</u>	<u>(30,242)</u>	<u>(231,617)</u>
OTHER FINANCING SOURCES/USES			
Transfers in from General Fund	<u>-</u>	<u>-</u>	<u>-</u>
Net change in fund balance	60,587	82,806	(33,051)
Fund balance - beginning of year	<u>168,394</u>	<u>266,466</u>	<u>266,466</u>
Fund balance - Dec 31	<u>\$ 228,981</u>	<u>\$ 349,272</u>	<u>\$ 233,415</u>

APPENDIX A – BUDGETARY TRANSFERS



CITY OF LAKELAND - FY22 BUDGET TRANSFERS

Fnd T Acct Obj Prj Loc Prg	Account Level Description	2021-22 Original Budget	2021-22 Budget Carry Fwd	2021-22 Budget Revisions	2021-22 Budget Transfers	2021-22 Revised Budget
110 E 41000 212 000 00000 000	GOV - Employee Engagement	0.00	0.00	0.00	300.00	300.00
110 E 41000 252 000 00000 000	GOV - Legal Services	100,000.00	0.00	0.00	-10,000.00	90,000.00
110 E 41000 252 000 00000 800	GOV Legal Services - COVID-19	0.00	0.00	0.00	10,000.00	10,000.00
110 E 41000 259 000 00000 000	GOV - Other Professional Servi	23,000.00	0.00	0.00	10,000.00	33,000.00
110 E 41000 290 000 00000 000	GOV - Contracted Service	105,000.00	0.00	0.00	-10,000.00	95,000.00
110 E 41000 299 000 00000 000	GOV - Contingency	2,000.00	0.00	0.00	-300.00	1,700.00
110 E 41500 220 000 00000 000	FIN - Printing	1,500.00	0.00	0.00	600.00	2,100.00
110 E 41500 299 000 00000 000	FIN - Contingency	1,000.00	0.00	0.00	-600.00	400.00
110 E 41670 148 000 00000 000	ENG - Education/Training	2,000.00	0.00	0.00	1,000.00	3,000.00
110 E 41670 259 000 00000 000	ENG - Other Professional Servi	15,000.00	0.00	0.00	-3,075.00	11,925.00
110 E 41670 280 000 00000 000	ENG - Travel	2,500.00	0.00	0.00	600.00	3,100.00
110 E 41670 299 000 00000 000	ENG - Contingency	2,500.00	0.00	0.00	-1,745.00	755.00
110 E 41670 781 000 00000 000	ENG - Transp Plan Update	0.00	0.00	349,855.00	3,220.00	353,075.00
110 E 41672 148 000 00000 000	INS - Education/Training	1,000.00	0.00	0.00	1,000.00	2,000.00
110 E 43000 122 000 00000 000	PW - Temporary Employee Wages	40,000.00	0.00	0.00	-40,000.00	0.00
110 E 43000 148 000 00000 000	PW - Education/Training	3,000.00	0.00	0.00	-1,000.00	2,000.00
110 E 43000 290 000 00000 000	PW - Contracted Service	10,000.00	0.00	0.00	40,000.00	50,000.00
110 E 43000 331 000 00000 000	PW - Gas, Oil, Diesel	10,000.00	0.00	0.00	-1,000.00	9,000.00
110 E 44400 462 000 00000 000	REC - Youth Soccer	53,305.00	0.00	0.00	-21,500.00	31,805.00
110 E 44400 465 000 00000 000	REC - Youth Cheerleading	26,000.00	0.00	4,016.61	-15,000.00	15,016.61
110 E 44400 475 000 00000 000	REC - Youth Football	25,000.00	0.00	525.00	15,000.00	40,525.00
110 E 44400 476 000 00000 000	REC - Recreation Camps	10,000.00	0.00	0.00	-5,000.00	5,000.00
110 E 44400 480 000 00000 000	REC - Health & Fitness	0.00	0.00	0.00	5,000.00	5,000.00
110 E 44710 122 000 00000 000	PRK -Temporary Employee Wages	0.00	0.00	0.00	8,000.00	8,000.00
110 E 44710 242 000 00000 000	PRK - Water	0.00	0.00	0.00	10,000.00	10,000.00
110 E 44710 290 000 00000 000	PRK - Contracted Service	24,840.00	0.00	0.00	-8,000.00	16,840.00
110 E 44710 331 000 00000 000	PRK - Gas, Oil, Diesel	0.00	0.00	7,000.00	1,000.00	8,000.00
110 E 44710 341 000 00000 000	PRK - Tools	2,500.00	0.00	0.00	11,500.00	14,000.00

Shelby County Sheriff's Office



Crime Report

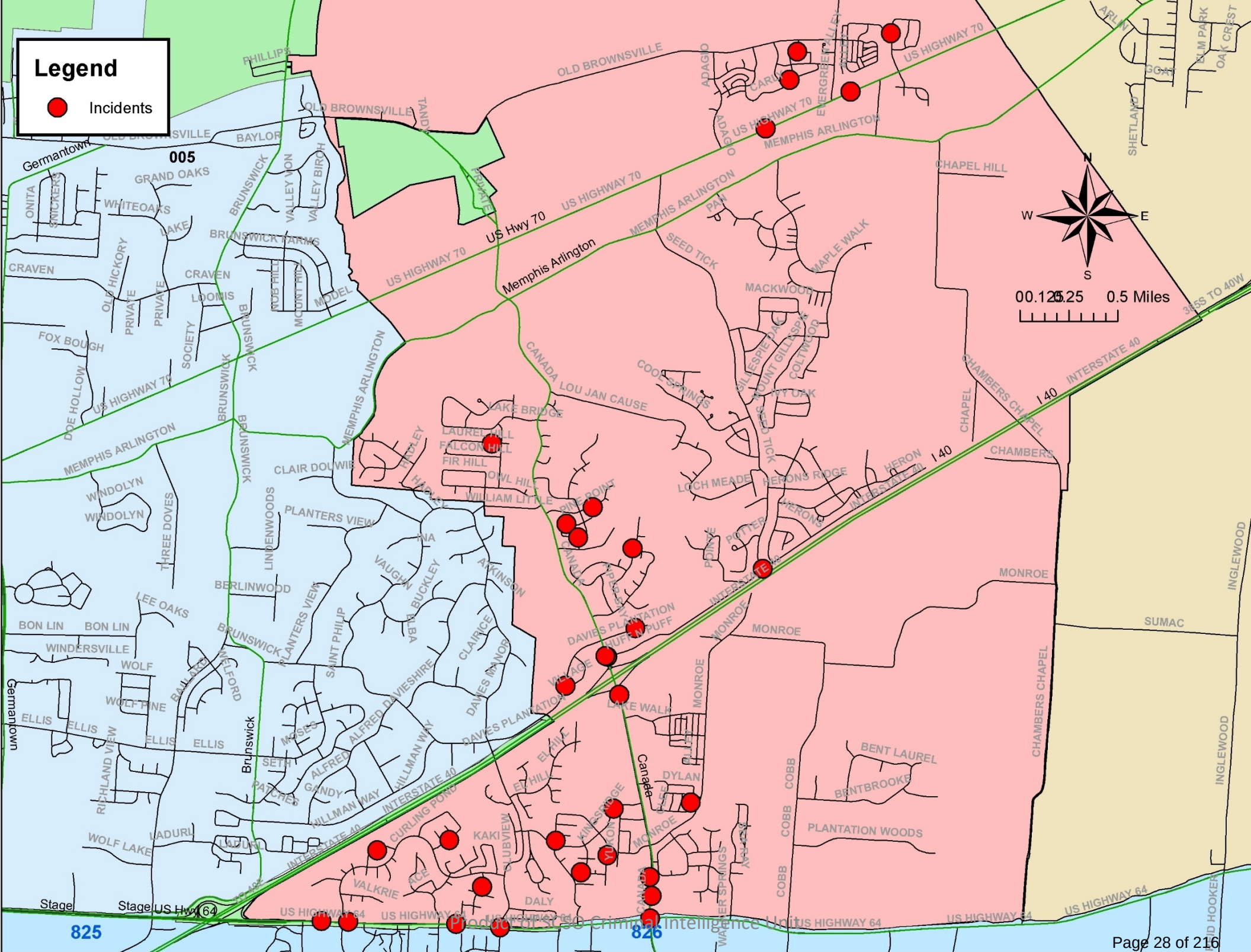
Lakeland, TN 38002

December 2021

Legend

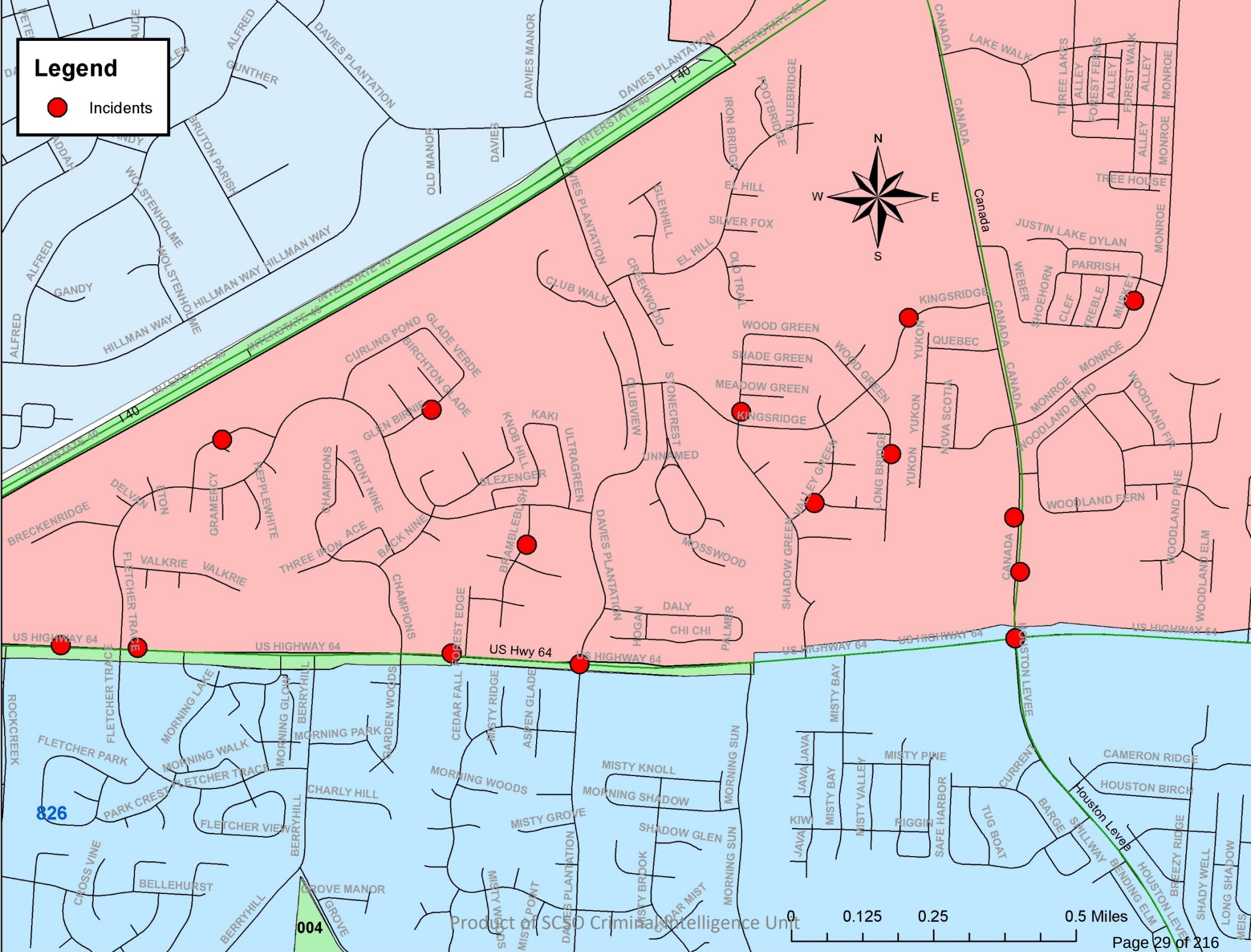


Incidents



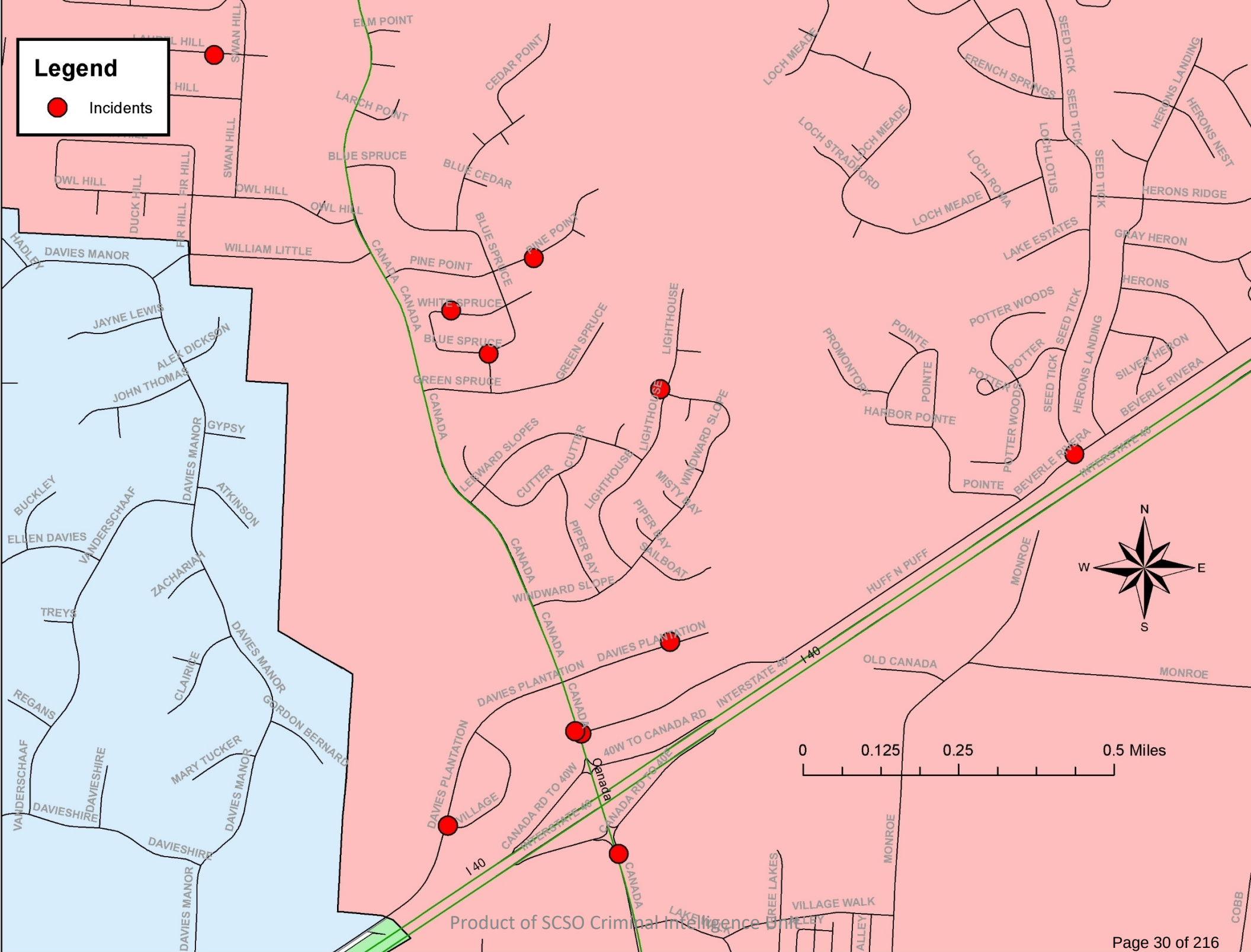
Legend

● Incidents



Legend

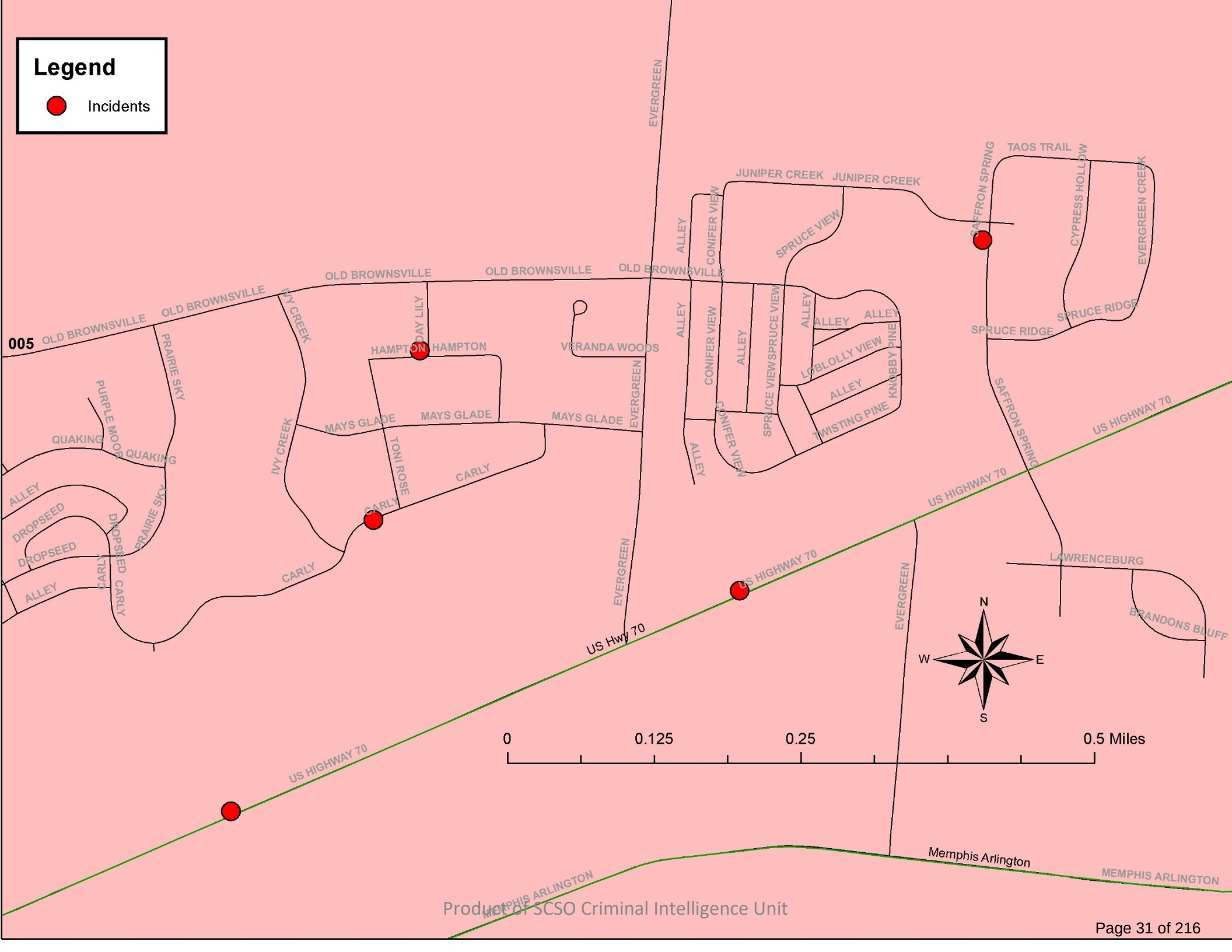
Incidents



Legend



Incidents



Incident Table

CASE NUMBER	DEPT DESC CODE	DATE OF REPORT	METHOD OF ENTRY
2111001804SH	Theft from Motor Vehicle	12/01/2021 7:27:00 AM	SIDE WINDOW
2112000140SH	Intimidation	12/01/2021 7:07:00 PM	
2112000142SH	Shoplifting/Misdemeanor	12/01/2021 7:46:00 PM	LAWFUL FRONT DOOR
2112000164SH	Theft of Vehicle Parts/Accessories	12/02/2021 10:06:00 AM	TOOK APART FRONT WINDOW
2112000183SH	Theft from Building/Access Device	12/02/2021 5:04:00 PM	FRONT DOOR
2112000219SH	Simple Assault	12/03/2021 2:22:00 PM	
2112000228SH	Theft from Motor Vehicle	12/03/2021 4:26:00 PM	THROUGH UNLOCKED DOOR FRONT DOOR
2112000233SH	Shoplifting/Misdemeanor	12/03/2021 6:47:00 PM	LAWFUL SIDE DOOR
2112000252SH	Theft from Motor Vehicle	12/04/2021 4:12:00 AM	THROUGH UNLOCKED DOOR
2112000354SH	Burglary/Residential	12/06/2021 4:57:00 PM	KICKED REAR DOOR
2112000421SH	Burglary/Non-residential	12/07/2021 5:08:00 PM	THROUGH UNLOCKED DOOR FRONT DOOR
2112000555SH	Aggravated Assault/DV	12/09/2021 5:42:00 PM	
2112000555SH	Simple Assault/DV	12/09/2021 5:42:00 PM	
2112000603SH	Theft from Building	12/10/2021 7:16:00 PM	LAWFUL FRONT DOOR
2112000631SH	Shoplifting/Felony	12/11/2021 7:14:00 PM	LAWFUL FRONT DOOR
2112000682SH	MVT/Passenger Vehicle	12/13/2021 9:37:00 AM	THROUGH UNLOCKED DOOR
2112000687SH	Burglary/Residential	12/13/2021 11:02:00 AM	PRIED FRONT WINDOW
2112000695SH	Burglary/Construction	12/13/2021 2:28:00 PM	THROUGH UNLOCKED DOOR FRONT DOOR
2112000774SH	Simple Assault/DV	12/14/2021 7:18:00 PM	
2112000824SH	Theft from Motor Vehicle	12/15/2021 8:56:00 PM	THROUGH UNLOCKED DOOR FRONT DOOR
2112000830SH	Other Theft/Non-Specific	12/16/2021 2:32:00 AM	
2112000830SH	Simple Assault/DV	12/16/2021 2:32:00 AM	

Incident Table

CASE NUMBER	DEPT DESC CODE	DATE OF REPORT	METHOD OF ENTRY
2112000865SH	Burglary/Residential	12/16/2021 4:59:00 PM	BROKE SIDE WINDOW
2112000919SH	Drug Equipment Violation	12/18/2021 12:52:00 AM	
2112000919SH	Drugs/Narcotics Violation/Misdemeanor	12/18/2021 12:52:00 AM	
2112000919SH	Weapon Law Violations/Misdemeanor	12/18/2021 12:52:00 AM	
2112000936SH	Vandalism/Misdemeanor	12/18/2021 8:35:00 PM	
2112000939SH	Aggravated Assault	12/18/2021 10:16:00 PM	
2112000941SH	Aggravated Assault	12/18/2021 10:27:00 PM	
2112000940SH	MVT/Passenger Vehicle	12/18/2021 10:29:00 PM	THROUGH UNLOCKED DOOR
2112000938SH	Simple Assault/DV	12/18/2021 11:55:00 PM	
2112000949SH	Theft from Motor Vehicle	12/19/2021 8:07:00 AM	THROUGH UNLOCKED DOOR FRONT DOOR
2112000998SH	Burglary/Construction	12/20/2021 12:20:00 PM	THROUGH UNLOCKED DOOR FRONT DOOR
2112001082SH	Burglary/Construction	12/22/2021 10:15:00 AM	THROUGH UNLOCKED DOOR FRONT DOOR
2112001104SH	MVT/Passenger Vehicle	12/22/2021 9:44:00 PM	
2112001201SH	Simple Assault/DV	12/26/2021 1:00:00 AM	
2112001255SH	Theft of Vehicle Parts/Accessories	12/27/2021 2:34:00 PM	
2112001279SH	Vandalism/Misdemeanor	12/27/2021 9:45:00 PM	
2112001285SH	Intimidation	12/28/2021 3:51:00 AM	
2112001295SH	Theft of Vehicle Parts/Accessories	12/28/2021 11:02:00 AM	BROKE WALL
2112001295SH	Vandalism/Misdemeanor	12/28/2021 11:02:00 AM	BROKE
2112001329SH	Stalking/DV	12/29/2021 1:01:00 PM	
2112001330SH	Threatening Phone Call	12/29/2021 1:22:00 PM	
2112001426SH	Simple Assault	12/31/2021 11:28:00 PM	
2112001426SH	Vandalism/Misdemeanor	12/31/2021 11:28:00 PM	

Incident Count

Incidents	Total
Simple Assault/DV	5
Theft from Motor Vehicle	5
Vandalism/Misdemeanor	4
Burglary/Construction	3
Burglary/Residential	3
MVT/Passenger Vehicle	3
Theft of Vehicle Parts/Accessories	3
Aggravated Assault	2
Intimidation	2
Shoplifting/Misdemeanor	2
Simple Assault	2
Aggravated Assault/DV	1
Burglary/Non-residential	1
Drug Equipment Violation	1
Drugs/Narcotics Violation/Misdemeanor	1
Other Theft/Non-Specific	1
Shoplifting/Felony	1
Stalking/DV	1
Theft from Building	1
Theft from Building/Access Device	1
Threatening Phone Call	1
Weapon Law Violations/Misdemeanor	1
Grand Total	45

END OF PRESENTATION



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, DECEMBER 09, 2021, 5:30 P.M.
CITY HALL. LAKE LAND. TENNESSEE 38002**

DRAFT

- I. **CALL TO ORDER BY MAYOR:** The meeting was called to order by Mayor Mike Cunningham 5:34 p.m. on Thursday, December 09, 2021.
- II. **INVOCATION:** Offered by Commissioner Wright.
- III. **PLEDGE:** Mayor Cunningham led the pledge to the flag.
- IV. **ROLL CALL BY RECORDER:** Mayor Mike Cunningham, Vice Mayor Michele Dial, Commissioner Jim Atkinson, Commissioner Richard Gonzales and Commissioner Wesley Wright were present.

Staff personnel in attendance were City Manager Shane Horn, Finance Director Michael Walker, Planning Director Richard Donovan, City Planner Jordan McKenzie, Staff Engineer Alejandra Arriaga, Parks and Recreation Director Pat O'Mara, GIS Director Josh Thompson, City Recorder Debra Murrell and City Attorney Will Patterson.

V. **PUBLIC HEARING:**

1. **Ordinance - Final Reading** – to amend the Land Development Regulations of Lakeland, Tennessee to add requirements for Sketch Plan notification, neighborhood meetings, time limits, and to allow Board of Commissioner feedback.
2. **Ordinance - Final Reading** – to amend the Land Development Regulations of Lakeland, Tennessee to add requirements for a School Impact Study.

For the record: No comments were heard.

VI. **TREASURER'S REPORT:**

Financial Director Michael Walker offered the Treasurer's Report for the month of November.

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

- City Manager's Report: Offered by City Manager Shane Horn.
- Commissioners' Report:
 - Vice Mayor Dial offered a report on PRB activities.
 - Commissioner Atkinson offered a report on MPC/DRC activities.
 - Commissioner Wright offered a report on EDC/IDB activities.

VIII. **PUBLIC COMMENTS:** *No comments were heard.*

IX. **SEWERAGE COMMISSION BUSINESS:**



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, DECEMBER 09, 2021, 5:30 P.M.
CITY HALL. LAKELAND. TENNESSEE 38002**

DRAFT

X. CONSENT AGENDA:

1. Approval of Meeting Minutes from Previous Meetings:

- a. November 4, 2021 – Beer Board
- b. November 4, 2021 – Regular Meeting

2. Resolution – approving the FY 2023 budget preparation calendar.

Sponsored by Michael Walker

3. Resolution – adopting a City of Lakeland compensation policy.

Sponsored by Michael Walker

4. Resolution – adopting a revised City of Lakeland travel policy.

Sponsored by Michael Walker

5. Resolution – adopting a revised City of Lakeland vehicle use policy.

Sponsored by Michael Walker

6. Resolution – approving Task Order # 4 of the Master Services Agreement with True North Geographic Technologies for Cityworks Storeroom implementation. *Sponsored by Josh Thompson*

7. Resolution – accepting dedication of public improvements and authorizing the reduction of Security for Public and Common Improvements in Oakwood Grove Subdivision Phase 5. *Sponsored by Emily Harrell*

Commissioner Gonzales moved to approve the consent agenda as presented, seconded by Vice Mayor Dial.

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

Vice Mayor Dial	Yea
Commissioner Atkinson	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

XI. REGULAR AGENDA:

1. Ordinance - Final Reading – to amend the Land Development Regulations of Lakeland, Tennessee to add requirements for Sketch Plan notification, neighborhood meetings, time limits, and to allow Board of Commissioner feedback. *Sponsored by Richard Donovan*

Commissioner Gonzales moved to bring this item to the floor, seconded by Commissioner Wright.



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, DECEMBER 09, 2021, 5:30 P.M.
CITY HALL, LAKELAND, TENNESSEE 38002**

DRAFT

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

2. **Ordinance - Final Reading** – to amend the Land Development Regulations of Lakeland, Tennessee to add requirements for a School Impact Study. *Sponsored by Richard Donovan Walker*

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

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

3. **Resolution** – to approve the submittal of applications to the Memphis Urban Area Metropolitan Planning Organization (MPO) for funding through the 2023-2026 Transportation Improvement Program. *Sponsored by Emily Harrell*

Commissioner Gonzales moved to bring this item to the floor, seconded by Commissioner Wright.

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

4. **Resolution** – to approve the 2022 Meeting Calendar. *Sponsored by Shane Horn*

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



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, DECEMBER 09, 2021, 5:30 P.M.
CITY HALL, LAKE LAND, TENNESSEE 38002**

DRAFT

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

For the record: The Meeting Calendar was revised by unanimous consent to eliminate the BOC Work Session for the month of June.

5. Resolution – authorizing one-time employee recognition bonuses for part-time and full-time City of Lakeland employees. Sponsored by Mayor Cunningham

Commissioner Gonzales moved to bring this item to the floor, seconded by Commissioner Wright.

Discussion ensued.

After the discussion, Mayor Cunningham moved to amend the resolution to include the City Manager to receive a one-time employee recognition bonus of \$2,500.00, seconded by Commissioner Atkinson.

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

6. Resolution – authorizing appointments to the Economic Development Commission/Industrial Development Board. Sponsored by Commissioner Wright

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



**BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, DECEMBER 09, 2021, 5:30 P.M.
CITY HALL. LAKE LAND. TENNESSEE 38002**

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

7. Resolution – authorizing appointments to the Parks and Recreation Board/Natural Resources Board. *Sponsored by Pat O'Mara*

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

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

8. Resolution – appointing a commissioner to serve as a liaison on the Transportation Plan update committee. *Sponsored by Emily Harrell*

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

Discussion ensued.

After the discussion, Mayor Cunningham moved to amend the resolution to appoint Commissioner Gonzales as the liaison, seconded by Commissioner Atkinson.

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea



BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
THURSDAY, DECEMBER 09, 2021, 5:30 P.M.
CITY HALL. LAKE LAND. TENNESSEE 38002

DRAFT

9. Resolution – approving Change Order # 5 with Grinder Taber & Grinder, Inc. for the Fiscal Year 2018 LPRF Project – Lakeland Athletic Complex & Recreation Park, Phase 1 Construction. *Sponsored by Pat O'Mara*
Commissioner Gonzales moved to bring this item to the floor, seconded by Vice Mayor Dial.

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

Commissioner Atkinson	Yea
Vice Mayor Dial	Yea
Commissioner Gonzales	Yea
Commissioner Wright	Yea
Mayor Cunningham	Yea

10. Resolution – to approve the Strategic Communications Plan. *Sponsored by Shane Horn.*
Commissioner Gonzales moved to bring this item to the floor, seconded by Commissioner Atkinson.

Discussion ensued.

After discussion, it was agreed by unanimous consent to defer this item to the January Work Session.

XII. ANNOUNCEMENTS:

- XIII. ADJOURNMENT:** There being no other business on which to take action, Commissioner Atkinson moved to adjourn the meeting, seconded by Commissioner Gonzales. ***Motion carried, voice vote, all in favor (5-0).***

The meeting was adjourned at 6:28 p.m. on Thursday, December 09, 2021.

These minutes were approved on January 13, 2022.

Mike Cunningham, Mayor

ATTEST:

Debra Murrell
City Recorder

ORDINANCE O-1-2022

AN ORDINANCE ADOPTING THE 2021 EDITION OF THE *INTERNATIONAL CODE COUNCIL INTERNATIONAL FIRE CODE* INCLUDING CERTAIN APPENDICES IN THAT CODE, AND OTHER LOCAL AMENDMENTS, AND AMENDING TITLE 7 CHAPTER 3, SECTION 7-301 FIRE PREVENTION CODE OF THE CODE OF ORDINANCES OF THE CITY OF LAKELAND, TENNESSEE

WHEREAS, the City of Lakeland Board of Commissioners seek to adopt and maintain a comprehensive set of coordinated Technical Codes and to update those Codes to assure the safe and effective fire protection measures in the construction of commercial and residential buildings and structures in the Community; and

WHEREAS, it has been determined that it is necessary and prudent to adopt newer code editions covering these important public safety requirements related to fire prevention and control which had previously been covered by regulations in the 2015 edition of *ICC International Fire Code*, which is outdated and;

WHEREAS, the certain provisions of the 2021 Edition of the *ICC International Fire Code*, when adopted by the Board, will provide a modern and internally consistent Code for such fire prevention efforts and is within the family of codes already adopted in the City of Lakeland.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF LAKELAND, TENNESSEE:

(a) That the 2021 Edition of the *ICC International Fire Code* is hereby adopted by reference, a copy of said code being on file in the Office of the Shelby County Fire Department, 1075 Mullins Station Road Bldg. C 2nd Floor Memphis TN 38134 and Lakeland City Hall, 10001 US Highway 70, Lakeland, TN 38002.

(b) **BE IT FURTHER ORDAINED**, That the following Appendices of the 2021 Edition of the *ICC International Fire Code*, or as locally drafted, are also adopted, but that any appendix not listed in this ordinance is specifically not adopted: **Appendix A** – Permit, Plans and Inspection Fees, **Appendix B** - Fire Flow Requirements for Buildings, **Appendix C** – Fire Hydrant Locations and Distribution, **Appendix D** – Fire Apparatus Access Roads, **Appendix E** – Hazard Categories, **Appendix F** – Hazard Ranking, and **Appendix G** -Cryogenic Fluids – Weight and Volume Equivalents, **Appendix H** – Hazardous Materials Management Plans and Hazardous Materials Inventory Statement Instructions, **Appendix I**- Fire Protection Systems – Noncompliant Conditions, **Appendix J**- Building Information Signs, **Appendix K**- Construction Requirements for Existing Ambulatory Care Facilities, **Appendix L**- Requirements for Firefighting Air Replenishing Systems.

(c) BE IT FURTHER ORDAINED, that the 2021 Edition of the *International Fire Code* is amended by this adoption to include the local amendments attached to this Ordinance as Exhibit A;

(d) BE IT FURTHER ORDAINED, that Title 7 Chapter 3, Section 7-301 of the City of Lakeland Code of Ordinances is amended to make such changes as necessary to implement the update of this code, in accordance with the changes shown in Exhibit B, which is attached hereto and incorporated herein by reference;

(e) BE IT FURTHER ORDAINED, That the provisions of this ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void by a court of competent jurisdiction the remainder of this ordinance shall continue in full force and effect.

First Reading: January 13, 2022

Public Hearing: _____

Final Reading: _____

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell, *City Recorder*

EXHIBIT A

Shelby County

2021 Fire Code Amendments

County Fire Prevention Code Amendments to the 2021 Edition of the ICC International Fire Code

103.2 Appointment is amended to delete the entire section without substitution

103.3 Deputies is amended to delete the entire section without substitution

104.6 Official records is amended to delete the entire section and subsections **104.6.1 Approvals**, **104.6.2 Inspections**, **104.6.3 Fire Records**, and **104.6.4 Administration** without substitution.

105.5.29 LP gas is amended to add the following sentence at the end of section 1 after the word “gas”:

It shall be the responsibility of the owner of the LP container to obtain the permit.

105.6.49 Temporary membrane structure and tents is amended to delete the second section and substitute in lieu thereof the following:

2. Funeral Tents and curtains or extensions attached thereto when used for funeral services.

105.4.49 Temporary membrane structures and tents. is further amended by adding the following new sub-section:

105.5.49.1 Responsibly It shall be the responsible of the owner of the tent to obtain the permit

105.6.24 Temporary membrane structures and tents is amended to delete the third exception without replacement.

105.6.24 Temporary membrane structures and tents is further amended by adding the following new sub-section:

105.6.24.1 Responsibility. It shall be the responsibility of the owner of the tent to obtain the permit.

106.4. Retention of construction documents is amended to delete the first sentence “one set of construction documents shall be retained by the fire official for a period of 180 days from the date of completion of the permitted work, or as required by state or local laws,” without substitution.

110.1 Authority to disconnect service utilities is amended to delete the last sentence, “If not notified prior to disconnection, then the owner, the owner’s authorized agent or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter,” without substitution.

111 Means of Appeals is amended by adding the following new sub-section:

111.5 Notice of appeal. Notice of appeal shall be in writing and filed with the Building Official within 15 days of a decision that is rendered by the fire code official.

112.4 Violation penalties is amended to delete the words “guilty of a [SPECIFY OFFENSE] punishable by a fine of not more than [AMOUNT} dollars or by imprisonment not exceeding [NUMBER OF DAYS}

or both such fine and imprisonment” and replacing with the words “subject to a citation and or fines as determined by a court of law”

113.4 Failure to comply is amended to delete the words “subject to fines established by the authority having jurisdiction” and replace with the words “guilty of a civil offense subject to a citation and/or fines as determined by a court of law.”

CHAPTER 2

Definitions

Section 202 General definition is amended by adding the following definitions in their appropriate alphabetic location

Automated external defibrillator (AED): A medical device heart monitor and defibrillator that:

- (1) Has received approval of its premarket notification, filed pursuant to 21 U.S.C. §360(R), from the United States Food and Drug Administration.
- (2) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid tachycardia, and can determine, without intervention by an operator, whether defibrillation should be performed; and
- (3) Upon determining that defibrillation should be performed, it automatically charges and requests delivery of an electrical impulse to an individual’s heart.

Fenced compounds: Properties such as, but not limited to, car lots, storage lots, warehouses, retail or wholesale businesses, night watchmen staffed facilities, or the facility is open during business hours and uninhabited when closed, etc.

Light wood truss Manufactured from the natural wood fiber in trees, cut and dried to nominal dimensions such as 2x4, 2x6, 2x8, 2x10, 2x12, etc., which is used in floor and ceiling systems. These wooden structures are composed of a combination of members such as chords, diagonals and web members, usually in some triangular arrangements to constitute a rigid framework.

Chord: A principal member of a truss which extends from one end to the other, primarily to resist bending; usually one of a pair of such members.

Diagonal: In a framed structure, an inclined member is running across a panel as in a truss.

Web: The portion of a truss or girder between the chords or flanges, whose principal function is to resist shear on the span.

Mobile food preparation vehicle: A mobile food preparation vehicle is any motorized vehicle that includes a self-contained or attached trailer kitchen in which food is prepared, processed or stored and used to sell and dispense food to the ultimate consumer. Mobile units must be mobile at all times during operation. The unit must be on wheels (excluding boats) at all times. Any mobile food unit that removes such wheels or becomes stationary must meet Tennessee Department of Health Regulations Chapter 1200-23-1 et seq. in its entirety. This definition does not include pushcarts as regulated by city codes and prohibited from selling potentially hazardous foods by the state department of health, nor vehicles from which only ice cream and other frozen non-hazardous food products are sold, nor vehicles operating under special event permit.

Residential communities: A community shall be defined as a location at which a group resides and/or dwells, including but not limited to, apartments, hotels, modular home communities, private subdivision, etc.

Chapter 3

General Requirements

308.1.4 Open-flame cooking devices is amended to delete the second and third exceptions and substitute in lieu thereof the following:

2. Electric grills not employing open flames for the cooking medium are permitted.

311.5 Placards is amended to delete the words “as required by Sections 311.5.1 through 311.5.5” after the word “marked”.

311.5.1 Placard location is deleted without substitution

311.5.2 Placard size and color is deleted without substitution

311.5.3 Placard date is deleted without substitution

311.5.4 Placard symbols is deleted without substitution

311.5.5 Informational use is deleted without substitution

319.1 General is amended to add the following sentence after the section following the word “section”:

“Mobile units must remain mobile at all times during operation. The unit must be on wheels (excluding boats) at all times. Any mobile food unit that removes such wheels or becomes stationary must meet Tennessee Department of Health Regulations Chapter 1200-23-1 et seq. in its entirety. Mobile food preparation vehicles do not include pushcarts as regulated by city codes and prohibited from selling potentially hazardous foods by the state department of health, nor vehicles from which only ice cream and other frozen non-hazardous food products are sold, nor vehicles operating under special event permit.”

319.8.2 General is amended to add the words “in accordance with NFPA 96” at the end of the section following the word “movement”.

Chapter 4

Emergency Planning and Preparedness

401.1 Scope is amended to delete the exception without replacement

402.1 Definitions is amended to add the following definition term:
“AUTOMATED EXTERNAL DEFIBRILLATOR (AED).”

408.1 Where required. An Automated External Defibrillator shall be installed and maintained in newly constructed or newly classified Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies with an occupant load of 300 or more.

408.2 Location. Automated External Defibrillators shall be located in conspicuous locations where they will be readily accessible and immediately available for use. AED devices, where required, shall be installed in sufficient numbers and in locations so that an AED device shall be accessible within three (3) minutes in the event of an emergency, in accordance with American Heart Association recommendations.

408.2.1 Unobstructed and unobscured. Automated External Defibrillators shall not be obstructed or obscured from view. Means shall be provided within occupancies and at outdoor public assemblages and events to indicate the location of AEDs.

408.2.2 Cabinets. Cabinets used to house Automated External Defibrillators shall not be locked.

Exceptions:

1. Where Automated External Defibrillators subject to malicious use or damage are provided with a means of ready access.
2. In Group I-3 occupancies and in mental health areas in Group I-2 occupancies, access to Automated External Defibrillators shall be permitted to be locked or to be located in staff locations provided the staff has keys.

408.3 General requirements. Automated External Defibrillators and the programs for their use shall comply with the requirements set forth in the Tennessee Code Annotated and the rules adopted by the Tennessee Department of Health.

408.3.1 Required Maintenance. Automated External Defibrillators shall be maintained and tested in accordance with the manufacturer's operational guidelines. Written records of all maintenance and testing performed on AEDs shall be maintained.

408.3.2 Registration. Automated External Defibrillators shall be registered with the primary provider of emergency medical services where the defibrillator is located. A copy of the required AED program and plan for each installation shall be included with the registration.

Chapter 5

Fire Service Features

502.1 Definitions is amended to add the following definitions in their appropriate alphabetic location:

Residential communities A community shall be defined as a location at which a group resides and/or dwells, including but not limited to apartments, hotels, modular home communities, private subdivisions, etc.

Fenced compounds. Properties such as, but not limited to, car lots, storage lots, warehouses, retail or wholesale businesses, night watchman staffed facilities, or the facility is open during business hours and uninhabited when closed, etc.

503.2.5 Dead ends is amended to add the following words after the end of the last sentence following the word "apparatus":

Turnarounds required by this section shall comply with Table D103.4, "Requirements for dead end fire apparatus access road" in Appendix D of this code.

503.6 Security gates is amended to delete the entire section and substituting in lieu thereof the following:

503.6 Security gates. Any gated and/or fenced community shall have at least ~~on~~ a 20 foot opening gate which shall be designated as the Fire Department primary access. This gate shall conform to Sections 503.6.1.1 through 503.6.1.6 and, if automated shall be siren activated and equipped with both primary and secondary overrides.

Exception: Group R-3 occupancies are exempt from the requirements of this section when the fenced area is for a single occupancy.

503.6.1 Automatic gates. All automatic gates on required fire department access roadways, as determine by the fire official, shall provide approved override and power-off equipment. This override system shall provide controls to open and override time functions for emergency access and power off equipment for manual operation.

503.6.1.1 Emergency override. Emergency override of all automated gate systems shall operate with power on or off. The emergency override system shall consist of a fire access housing designated as follows: The access box shall be red in color and display “Fire Dept” or “Fire Access” in white letters on the face plate. The face plate shall be hinged and designed to accept a Medeco padlock keyed to the Shelby County access key. The Fire Access housing shall be equipped with an internal switch so that when the padlock is removed and the face plate is opened, it will signal the automated gate to open. The automated gate shall remain open if the face plate remains open. Upon closing of the face plate and reinserting the Medeco padlock, the automated gate shall return to normal operation. The Fire Access housing shall be installed in a manner so as to be plainly visible from the cab of the approach emergency vehicle.

503.6.1.2 Manual Disconnects. All automated entry gates shall be equipped with MEDECO padlocked disconnects for the use if the power supply to the automated gate fails or the Fire Access housing device fails to open the gate.

503.6.1.2.1 For a sliding gate, the rear chain attachment point, at which the chain connects to the physical gate, shall be padlocked, and secured with a Shelby County keyed MEDECO lock. If the disconnect is not accessible from the public side or the secured side of the gate, a walk gate padlocked with a Shelby County keyed MEDECO lock shall be installed to allow access to the disconnect.

503.6.1.2.2 For a swing gate, the attachment point of the swing gate to the opening point gate shall be equipped with a disconnect pin that shall be padlocked. As with the slide style gate, this pin shall be accessible from both the public and secured sided of the gate.

503.6.1.3 Additional gates. If a community design prevents emergency equipment from accessing any area of the property from the primary access gate, it may be deemed necessary by the Fire Official that more than one Fire Department access gate is required. Additional emergency access gates shall conform to the same standards as the primary gate, unless the Fire Marshal declares these gates to be secondary and allows them to be padlock secured with a Shelby County keyed Medeco lock, interlocked with the owner’s lock.

503.6.1.4 Locking access gates. If locked, gates in fenced compounds shall be padlock secured with a Shelby County keyed Medeco padlock, interlocked with the owner’s lock.

503.6.2 Access to hydrants. The Fire Marshal shall require all fences that impede access to hydrants, whether from the street or to the structure, to have 48" walk gates installed at or near those hydrants. To allow proper access to the hydrant for fire fighting purposes these fences shall not be located within a 10' radius of the centerline of the hydrant. Additionally, long runs of fencing that block access to buildings shall require the installation of walk gates at intervals not exceeding 300 linear feet. Gates installed at hydrants may be included to meet this requirement. If locked, required walk gates shall be equipped with a MEDECO lock properly keyed for Shelby County Fire Department use.

505 Premises identification is amended to add the following new sub-section

505.3 Identifying emblems for structures with light wood truss construction

505.3.1 Emblems permanently affixed. An identifying emblem shall be permanently affixed as prescribed by this code at all building having light wood truss construction. This section shall not apply to one- and two family dwellings.

505.3.2 Emblems description. The identifying emblem shall be in the shape of an isosceles triangle with the vertical height of six (6) inches and a horizontal length of twelve (12) inches. The background of the emblem shall be made of a white reflective material and all lettering thereon shall be made of a red reflective material, said lettering having a minimum height of at least four (4) inches with a one-half (1/2) inch stroke.

The emblem shall contain the following designations to identify the presence of wood trusses in the structure

- (1) "F" shall designate a floor with truss construction.
- (2) "R" shall designate a roof with truss construction
- (3) "R/F" shall designate both a floor and roof truss construction.

505.3.3 Location of emblem. The emblem shall be permanently affixed at one of the following locations:

- (1) Where a building or group of buildings has an approved Fire Department access drive meeting the requirements of Section 503 of the International Fire Code, 2015 edition, emblems shall be placed at each entrance on the left side of each drive at a height of 3 to 5 feet above ground, no more than 3 feet from the curb line; or,
- (2) Where a building or group of buildings do not have approved Fire Department access drive(s) immediately adjacent to the building, the emblem shall be affixed to each building on the address side of the building visible to approaching fire companies; or,
- (3) At such other locations(s) approved by the Fire Official

If a building exceeds 12 tenant spaces or 12,000 square feet, additional emblems shall be provided on the building at locations designated by the Fire Official. These emblems shall be installed and maintained by the owner of the structure(s).

507.3 Fire flow is amended to add the following words after the end of the last sentence following the word "method"

Fire flows required by this section shall comply with Appendix B Fire-Flow Requirements for Buildings as amended in this code.

507.3 is further amended by adding the following new sub-section:

507.3.1 Hydrant systems. All hydrant systems shall be designed such that each individual hydrant on the system shall be capable of flowing a minimum of 1,500 gallons per minute (gpm) at 20 pounds per square inch (PSI)(138kPa) residual pressure.

507.5.2 Inspection, testing and maintenance is amended to add the following new sections:

507.5.2.1 Private hydrants periodic inspection, testing and maintenance. Hydrants shall be inspected monthly to make sure they are not obstructed by storage, weeds, etc., and conveniently accessible, visible and with outlet caps in place. At least once a year they shall be opened and closed to ensure proper operation and drainage in compliance with this Fire Prevention Code as amended and shall be properly lubricated. All such inspection, testing and maintenance shall be performed by a fire protection company licensed by the State of Tennessee. Records of all such inspections, tests and maintenance activities shall be submitted to the County Fire Official who shall maintain a current inventory of such information. Such records shall also be kept on the premises and shall be available for the fire official.

507.5.2.2 Notice to inspect private fire hydrants. Upon failure of any private fire hydrant owner within the unincorporated area of Shelby County to properly inspect, test and maintain such private fire hydrants in accordance with the law, it shall be the duty of the County Fire Department to serve a notice on such owner to inspect their fire hydrant within twenty (20) days of the service of such notice. Such notice may be served personally on the owner by mailing same by registered or certified mail to the owner's last known address or may be posted on the property on which such fire hydrant is located. Service of notice by any of the above methods shall be due notice to such owner. Should the owner or its responsible agent fail to inspect all private fire hydrants on said property following notice as set out above, then the County Fire Department may enter such property or premises directly or through their designated contractor for the purpose of inspection, testing and maintenance of such fire hydrants.

Chapter 5 shall be amended by adding the following new section:

Section 511 Electric security fence installation

511.1 Electric security fence installations. All new and existing electric security fence installations shall be equipped with following features:

- (1) An approved manual disconnect shall be provided that will interrupt the power supply to the fence. The manual disconnect means shall be located at an approved and accessible location. It shall be secured with an approved locking device that is keyed to the Shelby County Fire Department's specifications.
- (2) The manual disconnect means shall clearly indicate the fence's power status; and
- (3) Signage shall be provided at the manual disconnect that indicates "Fence Power Emergency Bypass" in red letters at least 1" high on a white background. Based on the

installation, additional signs may be required at additional points to clearly indicate the location of the manual disconnect means.

Chapter 6
Building Services and Systems
No Amendments

Chapter 7
Fire Resistance-Rated Construction
No Amendments

Chapter 8
Interior Finish, Decorative Materials and Furnishings

806.1.1 Restricted occupancies is amended to add the letter “B” following the letter “A”. This section is further amended to delete the first exception and substitute in lieu thereof the following:

1. Where protected in a manner approved by the fire code official.

Section 806 Decorative vegetation in new and existing buildings is amended to add the following new sub-section:

806.5 Restricted occupancies. Combustible decorative materials such as, but not limited to , cotton batting, vegetation, moss, straw, hay, vines, split bamboo leaves and similar material shall not be used in Group A, B,E, I-1, I-2, I-3, I-4, M, R-1, R-2, or R-4 occupancies.

Chapter 9
Fire Protection Systems

901.2 Construction document is amended to add the following new sub-sections:

901.2.2 Fire sprinkler plans submittals. Plans for the installation of sprinkler system shall be submitted to the fire department and approved prior to installation of any new system and on all existing systems where 10 or more sprinkler heads are added or when calculation for the system must be revised.

901.2.3 Fire alarm plans submittal. Plans for the installation of fire alarm systems shall be submitted to the fire department and approved prior to installation of any new system and for any alterations to exiting systems where devices are added or removed.

901.2.4 All other fire protection system plans. Any plans for the installation of fire protection systems shall be submitted to the fire department and approved prior to installation.

903.2 Where required is amended to add the following words at the end of the last sentence following the number “903.2.12”:

Approved automatic sprinkler systems shall be provided in all new or altered Group A, B, E, F, M, R1, 2, 3, 4, S and U Occupancies that exceed 5,000 square feet (464 m²) of gross

floor space and/or have floor surfaces used for human occupation located more than 20 feet (9.2m) above the lowest level of Fire Department vehicle access. “Altered” for the purpose of this shall mean:

1. The addition to any existing commercial building by twenty (20%) percent
2. Any change in occupancy to a retirement or board and care residency.

903.2.1.1 Group A-1 is amended to delete the first condition and substitute in lieu thereof the following

1. The Building exceeds 5,000 square feet (464 m²)

903.2.1.3 Group A-3 is amended to delete the first condition and substitute in lieu thereof the following

1. The Building exceeds 5,000 square feet (464 m²)

903.2.1.4 Group A-4 is amended to delete the first condition and substitute in lieu thereof the following

1. The Building exceeds 5,000 square feet (464 m²)

903.2.2 Group B ambulatory health care facilities is amended to delete the word “either” in the first sentence and replace it with the word “any” and add “or”. This section is further amended to add the following third condition:

1. The Building exceeds 5,000 square feet (464 m²)

903.2.3 Group E is amended to delete the first condition and substitute in lieu thereof the following

1. Throughout all Group E occupancies greater than 5,000 square feet (464 m²) in area.

903.2.4 Group F-1 is amended to delete the first condition and substitute in lieu thereof the following

1. The Building exceeds 5,000 square feet (464 m²)

Section 903.2.4 is further amended to delete the first condition and substitute in lieu thereof the following

1. The combined area of all Group F-1 Square Footage exceeds 5,000 square feet (464 m²)

903.2.7 Group M is amended to delete the first condition and substitute in lieu thereof the following

1. A Group M occupancy exceeds 5,000 square feet (464 m²)

Section 903.2.7 is further amended to delete the third condition and substitute in lieu thereof the following

3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 12,000 square feet (1,115 m²)

903.2.9 Group S-1 is amended to delete the first condition and substitute in lieu thereof the following:

1. A Group S occupancy exceeds 5,000 square feet (464 m²)

Section 903.2.9 is further amended to delete the third condition and substitute in lieu thereof the following

3. The combined area of all Group S-1 square footage on all floors, including any mezzanines, exceeds 5,000 square feet (1,115 m²)

903.2.9.1 Repair Garages is amended to delete the first condition and substitute in lieu thereof the following:

1. Buildings have two or more stories above ground plane, including basements, with a square footage containing a repair garage exceeding 5,000 square feet (464 m²)

903.2.9.1 is further amended to delete the second condition and substitute in lieu thereof the following:

2. Buildings no more than one story above grade plane, with a square footage containing a repair garage exceeding 5,000 square feet (464 m²)

903.2.10 Group S-2 enclosed parking garages is amended to delete the first condition and substitute in lieu thereof the following:

1. Where the square footage of the enclosed parking garage exceeds 5,000 square feet (464 m²)

903.3.5 Water supplies is amended to add the following words at the end of the second sentence following the word “Code”:

and Memphis Light Gas and Water requirements

903.4 Sprinkler system supervision and alarm is amended to add the following sentence at the end of the section following the “unit.”:

The valves shall also be locked in the normal position.

Section 903.4 is further amended to add exception 9 and 10 at the end of the section:

9. Existing systems that have not been extended, modified or previously electrically supervised may be locked in the normal position.

10. In private fire service mains, underground control or section valves with roadway boxes accessible with a special wrench shall not be required to be electrically supervised or locked in the normal position.

903.4.1 Monitoring is amended to add the following new sub-section:

903.4.1.1 Where monitoring of a sprinkler system is required in this jurisdiction, it shall be by an approved central station and shall be in accordance with the requirements of Fire Alarm Systems for Central Station Service as described in NFPA 72. The method of retransmission of signals shall be approved by the Fire Marshal.

903.4.3 Floor control valves is amended to delete the words “high rise buildings” at the end of the section and replace it with the following words: “all buildings two (2) or more stories in height”. This section is further amended to add the following exceptions at the end of the section:

Exceptions:

1. Buildings equipped with an approved 13 R sprinkler system that are not equipped with a standpipe system.
2. Buildings equipped with an approved 13D sprinkler system.

904.13 Commercial cooking systems is amended to insert the following sentences before the first sentence of this section following the word “systems”:

“Commercial cooking systems shall include all cooking operations except those conducted in one-and two family dwelling units. One-and two family dwellings being used as group homes shall be required to install a suppression system unless otherwise approved by the fire official. Domestic cooking equipment and related exhaust systems/hoods regulated by this section may be protected by an automatic fire extinguishing system of a type recognized for their protection.”

904.13.5.3 Fusible link and sprinkler head replacement is amended to insert the following words in the first sentence following the words “Fusible links”:

“shall be replaced semi-annually”

905.2 Installation standard is amended to add the following sentence at the end of the section following the words “Section 912”:

“Where required, standpipe systems shall be of the wet, automatic dry, or semiautomatic dry types, unless specifically allowed elsewhere in this code.”

905.3 Required installations is amended to delete the numbers “905.3.8” in the first sentence and substitute in lieu thereof the number “905.3.9”

905.3.2 Group A is amended to delete the second exception in its entirety without substitution.

Section 905.3 is further amended to add the following new sub-section:

905.3.9 Other buildings. Buildings 50 feet or more in height, except those with a roof slope greater than 4:12 that do not require a wet standpipe shall be provided with a dry standpipe. The standpipe shall provide coverage of all areas of the building including the roof. The standpipe need not have an automatic water supply and shall be located so that hose lays do not exceed 250 feet. Access to the roof and the standpipe shall be provided. Each standpipe shall be capable of providing 500 gallons per minute at the top most outlet when supplied by fire department equipment. Signage shall be provided on each standpipe indicating that it is a dry standpipe with no automatic water supply.

905.3.1 Height is amended to add the following sentence after the words “parking garages” in Exception 3:

“Class I manual standpipes are allowed in open parking garages that are subject to freezing temperatures, provided that the hose connections are located as required for Class II standpipes in accordance with Section 905.5.”

905.3.2 Group A is amended to delete the second exception in its entirety without substitution.

905.3.5 Underground buildings is amended to delete the words “or manual wet” in the first sentence without substitution.

907.2.5 Group H is amended to delete the letter and number “H-5” in the first sentence and replace it with the letter “H”.

907.5.2.3 Visible alarms is amended to delete the first exception in its entirety without substitution.

907.6.6 Monitoring is amended to add the following new sub-sections:

907.6.6.3 Monitoring requirements. Where monitoring of a fire alarm system is required in this jurisdiction, it shall be by an approved central station and shall be in accordance with the requirements of Fire Alarm Systems for Central Station Service as described in NFPA 72. The method of retransmission of signals shall be approved by the Fire Marshal.

907.6.6.4 Runner service. A runner or technician, as defined by NFPA 72, must be dispatched to the protected premises to arrive within 1 hour after receipt of a signal when required to respond.

910.4 Mechanical smoke removal systems is amended to delete the number “910.4.7” in the first sentence and substitute in lieu thereof the number “910.4.8.”

910.4 Mechanical smoke removal systems is further amended to add the following new sub-section:

910.4.8 Mechanical smoke exhaust system plans submittal. Plans for the installation of all mechanical smoke exhaust systems shall be submitted to the Fire Marshal and approved prior to installation of any new system and for any alterations to existing system where components are added or removed.

910.4.3 System design criteria is amended to add the following sentence at the end of the section following the word, “minute”

The exhaust fans shall be uniformly spaced within the building and the maximum distance between the fans shall be no greater than 100 feet, unless approved by the fire official.

910.4.3.1 Makeup air is amended to add the following sentence at the end of the section following the word, “exhaust”

“Overhead doors shall not be used as required makeup air inlets.”

910.4.5 Manual control location is amended to add the following sentences at the end of the section following the word, “both”:

“The mechanical smoke removal system fire department control panel shall be in an approved location. The control panel may be located at an exterior location approved by the Fire Official. The location and the control panel shall be clearly identified. Automatic sprinkler protection shall be provided in the control panel room.”

910.4.7 Controls is amended to add the following sentence at the end of the section following the word, “system.”

“Controls shall be designed for selective control of no more than 3 smoke removal units. Fans grouped on a single switch shall be in the same fire area.”

Section 912.2 Location is amended to add the following new sub-section:

912.2.3 Proximity to fire hydrants. Fire department connections shall be located not more than 100 feet from an approved fire hydrant.

913.4 Valve supervision is amended to delete the entire section and substitute in lieu thereof the following:

913.4 Valve supervision. All valves which effect the proper operation of the fire pump shall be supervised electrically by an approved central station and be locked in the normal position.

Exception: In private fire service mains, underground control, and section valves with roadway boxes assessable with a special wrench shall not be required to be electrically supervised or locked in the normal position.

914.3.2 Secondary water supplies is amended to add the following words to the end of the last sentence following “NFPA 13”:

“; however, this supply need not exceed 10,000 gallons in capacity unless required by the fire official.”

Chapter 10 Means of Egress

1001.1 General is amended to add the following new sub-section:

1001.3 Other standard. When this code does not contain requirements on a particular aspect of a means of egress system, NFPA 101 may be used as an accepted engineering practice standard.

1008.2 Illumination required is amended to add the flowing at the end of Exception # 2 following the letter “A”:

and Group S (Sprinklered)

1032 Maintenance of the means of egress is amended to add the following new subsections:

1032.11 Overcrowding The number of occupants of any building or portion thereof shall not be permitted to exceed the allowed or posted capacity determined in accordance with the building code.

Chapter 11

**Construction Requirements for Existing Buildings
No Amendments**

**Chapter 12-19
Reserved
No Amendments**

**Chapter 20
Aviation Facilities**

Section 2004 Aircraft Maintenance is amended to add the following new sub-section

2004.8 Drip pans. Every aircraft hangar shall be equipped and maintained with metal drip pans under the engines of all aircraft stored or parked therein.

**Chapter 21
Dry Cleaning
No Amendments**

**Chapter 22
Combustible Dust- Producing Operations
No Amendments**

**Chapter 23
Motor Fuel-Dispensing Facilities and Repair Garages
No Amendments**

**Chapter 24
Flammable Finishes
No Amendments**

**Chapter 25
Fruit and Crop Ripening
No Amendments**

**Chapter 26
Fumigation and Thermal Insecticidal Fogging
No Amendments**

**Chapter 27
Semiconductor Fabrication Facilities
No Amendments**

**Chapter 28
Lumber Yard and Woodworking Facilities
No Amendments**

Chapter 29

Manufacture of Organic Coatings

2909.4.2 Spills is amended by deleting the words “or by burning in the open at an approved detached location” without substitution.

Chapter 30 Industrial Ovens No Amendments

Chapter 31 Tents and Other Membrane Structures

3103.2 Approval required is amended to delete the entire section and substitute in lieu thereof the following:

Exception

2. Funeral Tents and curtains or extensions attached thereto when used for funeral services.

3104.2 Flame propagation performance treatment is amended to add the following sentence at the end of the section following the word, “permit”:

“The flame propagation performance treatment requirements shall also apply to tents or air-supported structures that do not require permits and are used for public gatherings.”

3107.12.5 Cooking tents is amended to add the words “unless approved by the Fire Official” at the end of the section following the numbers and letters “20 feet (6096mm)”

3107.12.6 Outdoor cooking is amended to add the words “unless approved by the Fire Official” at the end of the section following the word “structure.”

Chapter 32 High-Piled Combustible Storage

3206.1.2 Door size and type is amended to add the following exception:

Exception: Roll up doors shall be allowed to be considered for use as fire fighter access doors provided provisions are made for the doors to unlock upon activation of the water flow alarm.

Chapter 33 Fire Safety During Construction and Demolition

3314.4 Detailed requirements is amended to add the flowing sentence at the end of the exception following the word “materials”;

The type of standpipe permitted shall be approved by the Fire Official.

Chapter 34 Tire Rebuilding and Tire Storage No Amendments

Chapter 35
Welding and Other Hot Work
No Amendments

Chapter 36
Marinas
No Amendments

Chapter 37
Combustible Fibers
No Amendments

Chapters 38 through 49
Reserved

No Amendments

Chapter 50
Hazardous Materials – General Requirements
No Amendments

Chapter 51
Aerosols
No Amendments

Chapter 52
Reserved
No Amendments

Chapter 53
Compressed Gas
No Amendments

Chapter 54
Corrosive Materials
No Amendments

Chapter 55
Cryogenic Fluids
No Amendments

Chapter 56
Explosives and Fireworks
No Amendments

Chapter 57
Flammable and Combustible Liquids

5703 General Requirements is amended to add the following new sub-section:

5703.1.4 Unauthorized storage. It shall be illegal to store or keep gasoline powered equipment such as motorcycles, lawn equipment etc. in any building unless the room or space is approved for such use.

5703.5. Labeling and signage is amended to add the word “or combustible” following the word “flammable” in the first sentence:

5704.2.9.6.1 Locations where above-ground tanks are prohibited is amended to delete the words “limits established by law as the limits of districts in which such storage is prohibited (see Section 3 of the Sample Legislation for Adoption of the *International Fire Code* on page xxi)” in the first sentence and substitute in lieu thereof the words “fire district”.

5704.3.3 Indoor storage is amended to add the following Exception # 3:

3. The storage of flammable and combustible liquids in plastic containers shall comply with this chapter as well as applicable sections of NFPA 30. Compliance with Factory Mutual 7-29 shall be considered an acceptable alternative to NFPA 30 or may be used when storage arrangements are outside of the scope of NFPA 30.

5706.2.4.4 Locations where above-ground tanks are prohibited is amended to delete the words “limits established by law as the limits of districts in which such storage is prohibited (see Section 3 of the Sample Legislation for Adoption of the *International Fire Code* on page xxi)” in the first sentence and substitute in lieu thereof the words “fire district”.

Chapter 58
Flammable Gases and Flammable Cryogenic Fluids
No Amendments

Chapter 59
Flammable Solids
No Amendments

Chapter 60
Highly Toxic and Toxic Materials
No Amendments

Chapter 61
Liquefied Petroleum Gases

6103.2.1 Portable containers is amended by adding the following new sub-section:

6103.2.1.8 Flame effects before a proximate audience. The use of LP gas as part of a flame effect before a proximate audience shall comply with this chapter and NFPA 160 and shall be approved by the fire official.

6107 Safety Precautions and Devices is amended to add the following new sub-section:

6107.5 Storage and Transport. Portable LP-gas containers shall be maintained in the upright position relative to the relief valve during storage or transport.

Chapter 62
Organic Peroxides
No Amendments

Chapter 63
Oxidizers, Oxidizing Gases and Oxidizing Cryogenic Fluids
No Amendments

Chapter 64
Pyrophoric Materials
No Amendments

Chapter 65
Proxylin (Cellulose Nitrate) Plastics
No Amendments

Chapter 66
Unstable (Reactive) Materials
No Amendments

Chapter 67
Water-Reactive Solids and Liquids
No Amendments

Chapters 68 through 79
Reserved
No Amendments

Chapter 80
Referenced Standards

Chapter 80 Referenced Standards is amended by deleting and adding the following standards and publications:

DELETE

NFPA Standards

02—19 Hydrogen Technologies Code 1206.3, 1206.4, 2309.1, 2309.3.1.1, 2309.3.1.2, 2309.4, 2309.6, 2311.8, 2311.8.2, 2311.8.10, 2311.8.11, 5301.1, 5801.1

10—21 Portable Fire Extinguishers Table 901.6.1, 906.2, Table 906.3(1), Table 906.3(2), 906.3.2, 906.3.4, 3006.3

11—16 Low-, Medium- and High-expansion Foam 904.7, 5704.2.9.2.2

17—20 Dry Chemical Extinguishing Systems Table 901.6.1, 904.6, 904.13

17A—20 Wet Chemical Extinguishing Systems Table 901.6.1, 904.5, 904.13

32—16 Drycleaning Facilities.....2107.1, 2107.3

33—18 Spray Application Using Flammable or Combustible Material.....2403.3.3

34—18 Dipping, Coating and Printing Processes Using Flammable or Combustible Liquids.....2405.3, 2405.4.1.1

35—16 Manufacture of Organic Coatings.....2901.3, 2905.4

55—19 Compressed Gases and Cryogenic Fluids Code.....3508.1, 5301.1, 5307.4.2, 5501.1, 5801.1, 6301.1

68—13 Explosion Protection by Deflagration Vent.....911.1, 911.4, Table 2205.1

76—16 Fire Protection of Telecommunications Facilities..... 1207.1.2.1, 1207.2.1, 1207.3.1, 1207.3.7.1, 1207.4.1, 1207.5.1, 1207.5.2, 1207.5.3, 1207.5.5, Table 1207.6, 1207.6.2.3, Table 1207.7

77—14 Static Electricity..... Table 2205.1

92—18 Smoke Control Systems.....909.7, 909.8

96—20 Ventilation Control and Fire Protection of Commercial Cooking Operations...606.2, 904.13

170—18 Standard for Fire Safety and Emergency Symbols	1025.2.6.1
204—18 Smoke and Heat Venting.....	Table 901.6.1, 910.5.1, 910.5.2
704—17 Standard System for Identification of the Hazards of Materials for Emergency Response 202, 608.8, 5003.2.2.2, 5003.5, 5003.10.2, 5005.1.10, 5005.1.12, 5005.2.1.1, 5005.4.4, 5503.4.1, 5704.2.3.2	
780—17 Installation of Lightning Protection Systems.....	4003.4

ADD

NFPA Standards

02—20 Hydrogen Technologies Code	1206.3, 1206.4, 2309.1, 2309.3.1.1, 2309.3.1.2, 2309.4, 2309.6, 2311.8, 2311.8.2, 2311.8.10, 2311.8.11, 5301.1, 5801.1
10—18 Portable Fire Extinguishers	Table 901.6.1, 906.2, Table 906.3(1), Table 906.3(2), 906.3.2, 906.3.4, 3006.3
11—21 Low-, Medium- and High-expansion Foam	904.7, 5704.2.9.2.2
17—21 Dry Chemical Extinguishing Systems	Table 901.6.1, 904.6, 904.13
17A—21 Wet Chemical Extinguishing Systems ..	Table 901.6.1, 904.5, 904.13
32—21 Drycleaning Facilities.....	2107.1, 2107.3
33—21 Spray Application Using Flammable or Combustible Materials.....	2403.3.3
34—21 Dipping, Coating and Printing Processes Using Flammable or Combustible Liquids.....	2405.3, 2405.4.1.1
35—21 Manufacture of Organic Coatings.....	2901.3, 2905.4
55—20 Compressed Gases and Cryogenic Fluids Code.....	3508.1, 5301.1, 5307.4.2, 5501.1, 5801.1, 6301.1
68—18 Explosion Protection by Deflagration Venting.....	911.1, 911.4, Table 2205.1
76—20 Fire Protection of Telecommunications Facilities.....	1207.1.2.1, 1207.2.1, 1207.3.1, 1207.3.7.1, 1207.4.1, 1207.5.1, 1207.5.2, 1207.5.3, 1207.5.5, Table 1207.6, 1207.6.2.3, Table 1207.7
77—19 Static Electricity.....	Table 2205.1
92—21 Smoke Control Systems.....	909.7, 909.8
96—21 Ventilation Control and Fire Protection of Commercial Cooking Operations...606.2, 904.13	
170—21 Standard for Fire Safety and Emergency Symbols	1025.2.6.1
204—21 Smoke and Heat Venting.....	Table 901.6.1, 910.5.1, 910.5.2
704—22 Standard System for Identification of the Hazards of Materials for Emergency Response 202, 608.8, 5003.2.2.2, 5003.5, 5003.10.2, 5005.1.10, 5005.1.12, 5005.2.1.1, 5005.4.4, 5503.4.1, 5704.2.3.2	
780—20 Installation of Lightning Protection Systems.....	4003.4

FM Global Data Sheets

7-29 Ignitable Liquid Storage in Portable Containers, (current edition) – Sections that relate to requirements for flammable and combustible liquids in plastic containers only.

American Petroleum Institute

API Recommended Practice 2201, Safe Hot Tapping Practices in the Petroleum and Petrochemical Industries (current edition)

EXHIBIT B

AMENDMENTS TO SHELBY COUNTY CODE OF ORDINANCES CHAPTER 22, ARTICLE II

ARTICLE II. - SHELBY COUNTY FIRE PREVENTION CODE

Section 22-19 –Adopted

The Shelby County Fire Prevention Code is hereby amended by adopting the 2021 edition of the International Code Council (ICC) Fire Code including:

Appendix A – Permits, Plans and Inspection Fees
Appendix B – Fire Flow Requirements for Buildings
Appendix C - Fire Hydrant Location and Distribution
Appendix D – Fire Apparatus Access Roads
Appendix E – Hazardous Categories
Appendix F – Hazard Rankings
Appendix G – Cryogenic Fluids –Weight and Volume Equivalents
Appendix H – Hazardous Materials Management Plans and Hazardous Materials
Inventory Statement Instructions
Appendix I- Fire Protection Systems – Noncompliant Conditions
Appendix J- Building Information Signs
Appendix K- Construction Requirements for Existing Ambulatory Care Facilities
Appendix L- Requirements for Firefighting Air Replenishing Systems.

(Code 1992, § 22-26, Ord. No. 70, § 2, 4-30-1990; Ord. No. 193 § 1, 1- 20-1997; Ord. 251, § 1, 9-10-2001; Ord. No. 372, § 1, 6-1-2009)

Note – A copy of the 2021 edition of the International Code Council Fire Code and all local amendments are available for inspection at the Shelby County Fire Department located at 1075 Mullins Station, Building C, Second Floor in Memphis, Tennessee and at the Office of the Shelby County Board of Commissioners, 160 N. Main, Suite 600, Memphis Tennessee.

Section 22-20. – Local amendments.

The 2021 edition of the International Code Council (ICC) Fire Code as adopted in this article is hereby amended by the adoption of the local amendments, attached to Ordinance No. - _____ and incorporated herein by reference.

(Code 1992, § 22-27, Ord. No. 70, § 3, 4-30-1990; Ord. No. 110 § 1, 8-24-1992, Ord. No. 193 § 2, 1-20-1997; Ord. 229 § 1, 10-9-2000; Ord. 251, § 2, 9-10-2001; Ord. No. 372, § 2, 6-1-2009)

Appendix A

Permits, Plans and Inspection Fees

Applications for a new permit required by this code in the unincorporated areas or Shelby County shall be made to the fire code official in such form and detail as prescribed by the Fire Code Official and submitted to the Shelby County Fire Department, 1075 Mullins Station Road, Building C, 2nd floor, Memphis TN. 38134. Fee shall be in accordance with the schedule provided below in Tables 1 through Table 5. The issuance of a permit shall not be held to constitute approval to violate provisions of any code or other ordinance approved by the Shelby County Board of Commissioners. Applications for permits shall be accompanied by such plans as required by the Fire Code Official.

Table 1 - **ORIGINAL INSPECTIONS:** Fee for original inspection for occupancies, which require Fire Department Approval for state licensing, including, but not limited to:

Inspection Location	Fee Amount
Day Care Centers	\$75.00
Adult Day Care Centers	\$75.00
Residential Board and Care Homes	\$75.00
Day Treatment Centers	\$75.00
Institutional Occupancies	\$100.00
Alcohol and Drug Care Centers	\$75.00

Table 2 - **YEARLY INSPECTIONS:** Fee for annual re-inspection for occupancies, which require Fire Department Approval for state licensing, including, but not limited to:

Inspection Location	Fee Amount
Day Care Centers	\$50.00
Adult Day Care- Centers	\$50.00
Residential Board and Care Homes	\$50.00
Day Treatment Centers	\$50.00
Institutional Occupancies - More than 10,000 SQ. Ft.	\$100.00
Institutional Occupancies - Less than 10,000 SQ. Ft.	\$50.00
Alcohol and Drug Care Centers	\$75.00

Table 3- Plans Review for New Installations: The following fees include plans review and two approval inspections for new installations: (See note 1 below additional information on inspections.)

Type of Review	Fee Amount:
Fire Pump Installation	\$100.00
Fire Suppression System (Hood)	\$100.00
Smoke and Heat Detection Systems	\$100.00
Standpipe System	\$100.00
Sprinkler Svstems (each system)	\$100.00
Halon System	\$100.00
Dry/wet Chemical Systems	\$100.00
Carbon Dioxide System	\$100.00
Foam Svstems	\$100.00
Foam Water Systems	\$100.00
Fire Alarm Systems	
A. 1-5 S tories	\$100.00
B. 6 -+- Stories	\$150.0 0
C. If Buildin has atrium added	\$50.00
Transmitter Installation for purpose of supervising a fire protection system	\$50.00
Point of connection to fire alarm by central station monitoring system	\$50.00
Private Fire Hydrant Installation	\$50.00
Each additional hydrant	\$25.00
Flammable Liquid Storage Room	\$75.00
Flammable Liquid Storage Building	\$100.00
Hazardous Chemical Storage Room	\$75.00
Hazardous Chemical Storage Building	\$100.00
Paint Spray Booth	\$50.00
Paint Spray Room/area	\$100.00
Installation of inside/outside above ground flammable/combustible liquid storage tanks	\$100.00
Installation of inside/outside above ground Hazardous Chemical storage tanks	\$100.00
Liquid Petroleum storage tank <120 Gal.-+-)	\$100.00
Cryogenic storage tank	\$100.00

Note 1: Additional inspection required in connection with the permit approval after the fire two (2) inspections, shall be assessed at a rate of \$25.00 per man hour.

Table 4- Plans Review for Alterations: The following fees include plans review and two approval inspections for new installations: (See note 1 below additional information on inspections.)

Type of Permit	Fee Amount:
Fire Works Display Only (Stand-by Fireman requires additional cost)	\$25.00
Tent Inspection (120 Sq. Ft. to 1,000 Sq. Ft.)	\$10.00
Tent Inspection (over 1,000 Sq. Ft.)	\$25.00
Cutting and Welding	\$25.00
Flammable and Combustible Liquid Underground Tank Test	\$50.00
Flammable and Combustible Liquid Line Test	\$50.00
Flammable and Combustible Liquid Tank Removal	\$50.00
Use, Handle or Store Explosives	\$50.00
Fire Inspection Report	
1. First page	\$10.00
2. Each Additional Page	\$1.00
Fire Inspection Required by Alcohol Commission	\$50.00
Fire Inspection Photos (Per Photo)	\$10.00
Permit for Approved, Controlled, open burning	\$50.00
Inspection request for insurance or similar purpose (charged per hour)	\$25.00
High Piled Combustible storage exceeding, 2,500 Sq.Ft	\$100.00

Note 1: Additional inspection required in connection with the permit approval after the fire two (2) inspections, shall be assessed at a rate of \$25.00 per man hour.

Table5 - Miscellaneous Fees and Permits

Type of Permit	Fee Amount:
Fire Works Display Only (Stand-by Fireman requires additional cost)	\$25.00
Tent Inspection (120 Sq. Ft. to 1,000 Sq. Ft.)	\$10.00
Tent Inspection (over 1,000 Sq. Ft.)	\$25.00
Cutting and Welding	\$25.00
Flammable and Combustible Liquid Underground Tank Test	\$50.00
Flammable and Combustible Liquid Line Test	\$50.00
Flammable and Combustible Liquid Tank Removal	\$50.00
Use, Handle or Store Explosives	\$50.00
Fire Inspection Report	
1. First page	\$10.00
2. Each Additional Page	\$1.00
Fire Inspection Required by Alcohol Commission	\$50.00
Fire Inspection Photos (Per Photo)	\$10.00
Permit for Approved, Controlled, open burning	\$50.00
Inspection request for insurance or similar purpose (charged per hour)	\$25.00
High Piled Combustible storage exceeding, 2,500 Sq.Ft	\$100.00
Mobile food truck Inspection	\$50.00

ORDINANCE O-2-2022

ORDINANCE BY THE BOARD OF COMMISSIONERS OF LAKELAND, TENNESSEE, TO AMEND TITLE 20 CHAPTER 1, SECTION 20-101, AIR POLLUTION CONTROL CODE OF THE CODE OF ORDINANCES OF THE CITY OF LAKLAND, TENNESSEE

WHEREAS, the operation of a local air pollution control program by the Shelby County Health Department, which was established in the Shelby County Air Code ("County Air Code"), adopted on June 30, 1969, by the then Shelby County Quarterly Court, and as amended, has served to protect the air quality in Shelby County and efficiently meet the needs of those regulated by air pollution control laws to the present; and

WHEREAS, in order to maintain the Certificate of Exemption from State of Tennessee ("State") supervision granted by the Tennessee Air Pollution Control Board, it is necessary to adopt regulations no less stringent than State standards; and

WHEREAS, Tennessee Code Annotated, Section 68-201-115(a) provides that any municipality or county may adopt an ordinance or resolution which incorporates by reference any federal or state regulations when such regulations are properly identified as to date and source, and when at least three (3) copies of such regulations are filed in the office of the county clerk for public use, inspection and examination for a period of thirty (30) days before adoption of the ordinance or resolution incorporating regulations by reference; and

WHEREAS, Shelby County Health Department has caused to be published on October 24, 2018, in a newspaper having general circulation in Shelby County, Tennessee, notice of the availability for public use, inspection, and examination at the office of the Clerk of the Shelby County Commission three (3) copies of State regulations to be incorporated by reference, as well as the date and time of public hearing regarding the adoption of such ordinance; and

WHEREAS, it is the intent of the City of Lakeland to qualify for receipt of federal funds available for air pollution control programs and to that end, this ordinance shall be construed to give the authority to so qualify and maintain such qualification; and

WHEREAS, maintaining up-to-date technical standards promulgated by the Tennessee Department of Environment and Conservation for the control of air pollution prevents the need for State control of Shelby County air pollution sources subject to these controls, specifically certain provisions found in the State Rules and Regulations Chapter 1200-03, as effective on December 5, 2018; and

WHEREAS, the Board of Commissioners for the City of Lakeland, Tennessee wishes to amend Title 20, Chapter 1, Section 20-101 of the Code of Ordinances of the City of Lakeland, to incorporate therein by reference specific sections of the State Rules and Regulations, as effective on December 5, 2018.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF LAKE LAND, TENNESSEE that the following sections of the State Rules and Regulations, as effective on December 5, 2018, are incorporated herein by reference and shall be adopted and approved as requirements of this jurisdiction: Chapter 1200-03-02 titled Definitions, Chapter 1200-03-03 titled Ambient Air Quality Standards, Chapter 1200-03-05 titled Visible Emission Regulations, Chapter 1200-03-06 titled Non-Process Emission Standards, Chapter 1200-03-07 titled Process Emission Standards, Chapter 1200-03-09 titled Construction and Operating Permits, Chapter 1200-03-10 titled Required Sampling, Recording and Reporting, Chapter 1200-03-11 titled Hazardous Air Contaminants, Chapter 1200-3-12 titled Methods of Sampling and Analysis, Chapter 1200-03-14 titled Control of Sulfur Dioxide Emissions, Chapter 1200-03-15 titled Emergency Episode Plan, Chapter 1200-03-16 titled New Source Performance Standards, Chapter 1200-03-18 titled Volatile Organic Compounds, Chapter 1200-03-20 titled Limits on Emissions Malfunctions, Startups and Shutdowns, Chapter, 1200-03-21 titled General Alternate Emission Standards, Chapter 1200-03-22 titled Lead Emission Standards, Chapter 1200-03-24 titled Good Engineering Practices Stack Height Regulations, Chapter 1200-03-25 titled Standards for Infectious Waste Incinerators, Chapter 1200-03-30 titled Acid Precipitation Control, Chapter 1200-03-31 titled Case by Case Determinations of Hazardous Air Pollutant Control Requirements, Chapter 1200-03-32 titled Prevention of Accidental Releases, and Chapter 1200-03-34 titled Conformity.

BE IT FURTHER ORDAINED, That the State Rules and Regulations that had been previously adopted by reference into the County Air Code and are referenced in the second column of this table are deleted and substituted instead with the State Rules and Regulations, effective as of December 5, 2018, that are adopted by this Ordinance and also described in this table:

County Air Code Section	Previously Adopted State Rules and Regulations to Be Deleted in County Air Code	State Rules and Regulations, Effective as of December 5, 2018, to Be Adopted and Substituted into Corresponding County Air Code Section	
3-1A	1200-3-2	Definitions	1200-03-02
3-6	1200-3-3	Ambient Air Quality Standards	1200-03-03
3-17	1200-3-5	Visible Emission Regulations	1200-03-05
3-21	1200-3-6	Non-Process Emission Standards	1200-03-06
3-20	1200-3-7	Process Emission Standards	1200-03-07
3-5	1200-3-9	Construction and Operating Permits	1200-03-09
3-7	1200-3-10	Required Sampling, Recording and Reporting	1200-03-10
3-25	1200-3-11	Hazardous Air Contaminants	1200-03-11
3-8	1200-3-12	Methods of Sampling and Analysis	1200-03-12
3-24	1200-3-14	Control of Sulfur Dioxide Emissions	1200-03-14
3-14	1200-3-15	Emergency Episode Plan	1200-03-15
3-15	1200-3-16	New Source Performance Standards	1200-03-16
3-22	1200-3-18	Volatile Organic Compounds	1200-03-18
3-9	1200-3-20	Limits on Emissions Malfunctions, Startups & Shutdowns	1200-03-20
3-28	1200-3-21	General Alternate Emission Standards	1200-03-21
3-29	1200-3-22	Lead Emissions Standards	1200-03-22
3-40	1200-3-24	Good Engineering Practice Stack Height Regulations	1200-03-24
3-39	1200-3-25	Standards for Infectious Waste Incinerators	1200-03-25
3-36	1200-3-30	Acid Precipitation Control	1200-03-30
3-37	1200-3-31	Case by Case Determinations of Hazardous Air Pollutant Control Requirements	1200-03-31
3-38	1200-3-32	Prevention of Accidental Releases	1200-03-32
3-26	1200-3-34	Conformity	1200-03-34

BE IT FURTHER ORDAINED, the provisions of this Ordinance are hereby declared to be severable. Should any of these sections, provisions, sentences, clauses, phrases, words, or parts be held unconstitutional or void, the remaining portions shall continue in full force and effect.

First Reading: January 13, 2022

Public Hearing: _____

Final Reading: _____

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell, *City Recorder*

Meeting Cycle: Thursday, January 13, 2022

Subject: **Ordinance - First Reading** - to amend the bylaws of the Municipal Parks and Recreation Advisory Board of Lakeland, Tennessee, to increase membership to nine (9) and other adjustments. *Sponsored by Vice-Mayor Dial*

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

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments.

BUDGET IMPACT

DISCUSSION

BACKGROUND:

Staff has formulated a few changes to the Parks and Recreation/Natural Resources Board Bylaws.

1. Membership
 - a. Increases the board size from seven (7) to nine (9) members.
 - b. Addition of an attendance requirement
2. Board Officers
 - a. Clarifies the language to remove an officer of the board from his/her office.
3. Meetings
 - a. Updates the regular schedule for the board meetings.

Below is a draft of these amendments. The yellow-highlighted items are where the changes are added or changed.

Staff will further discuss the rationale behind these amendments at the meeting.

PROPOSED AMENDMENTS:

ARTICLE 3. MEMBERSHIP.

Section 1. Number and classes of members.

- a. This body shall be composed of ~~seven (7)~~ nine (9) members, one of which shall be a member of the Lakeland Board of Commissioners ("BOC Liaison") appointed by that body. The remaining ~~six (6)~~ eight (8) members shall be referred to as "Citizen Members".

Section 4. Membership requirements

a. Requirements for maintaining membership

2. Attendance (Not Applicable) - No member shall miss more than two (2) consecutive meetings without prior notice. No member shall miss more than (four) 4 regularly scheduled meetings in a calendar year.

ARTICLE 4. OFFICERS.

Section 5. Removal from office

a. Upon the two-thirds (2/3) affirmative vote of the entire membership of this Board, an Officer may be removed from his or her Officer position. This Board shall not have authority to remove any member from the Board.

ARTICLE 5. MEETINGS.

Section 1. Meeting Days

a. There will be regular meetings of this body at Lakeland City Hall on the second Monday-Tuesday of each month at 5:30 p.m. At regular meetings, members meet to conduct the business of this body.

b. There will be an annual meeting of this body at Lakeland City Hall at 5:30 p.m. on the second Monday-Tuesday of January each year. At the annual meeting, members meet to conduct the business of this body and to elect officers.

BYLAWS OF THE LAKELAND MUNICIPAL PARKS & RECREATION/NATURAL RESOURCES ADVISORY BOARD

ARTICLE 1. NAME.

Section 1. The name of this Board is the Lakeland Municipal Parks & Recreation/Natural Resources Advisory Board (PRB).

ARTICLE 2. OBJECT, PURPOSE AND SCOPE OF AUTHORITY.

Section 1. This Board is organized to plan, advise and promote the development of a comprehensive, community-endorsed parks and recreation program that provides public recreation opportunities for all ages and interests; clear guidelines for the acquisition and development of parklands and greenways throughout the City to provide for an interconnected system of quality parks and greenways; and to improve the quality of life for all residents by providing the highest possible level of access to community green space.

Section 2. This Board operates under the authority of Lakeland Ordinance 00-07, as amended by Lakeland Ordinance 02-08, as further amended by Lakeland Ordinance 14-203.

ARTICLE 3. MEMBERSHIP.

Section 1. Number and classes of members.

a. This body shall be composed of nine (9) members, one of which shall be a member of the Lakeland Board of Commissioners ("BOC Liaison") appointed by that body. The remaining eight (8) members shall be referred to as "Citizen Members".

Section 2. Eligibility and appointment of members.

a. Special Qualifications.

1. There are no special qualifications beyond those set forth in these Bylaws for membership in this body.

b. Application process.

1. All persons interested in becoming members of this body shall submit a written application upon the application form provided by the City of Lakeland.

c. All members shall be appointed by the Lakeland Board of Commissioners.

d. All members shall be citizens of the City of Lakeland.

Section 3. The term of membership for all Citizen Members shall be three (3) years and the terms of the Citizen Members shall be staggered, with two (2) or three (3) members appointed each year. The term of membership for the BOC Liaison shall be one (1) year. All members are eligible for multiple and/or consecutive terms of appointment.

Section 4. Membership requirements.

a. Requirements for maintaining membership

1. Continuing education (Not Applicable)

2. Attendance - No member shall miss more than two (2) consecutive meetings without prior notice. No member shall miss more than (four) 4 regularly scheduled meetings in a calendar year.

Section 5. Resignation.

a. A Citizen Member may resign at any time by providing written notice of their intent to do so to the chairperson of this body and the City Manager.

Section 6. Vacancies

a. The Lakeland Board of Commissioners shall have the authority to remove any member of this Board, with or without cause.

b. The Lakeland Board of Commissioners shall appoint new members to fill any vacancy on this Board and such appointee shall serve the remaining term of the member whose position has been vacated.

ARTICLE 4. OFFICERS.

Section 1. The officers of this body are a Chairman, Vice-Chairman and Secretary.

a. Chairman

1. The Chairman shall preside at all meetings of this body. The Chairman shall represent this body at public affairs and shall maintain the dignity and efficiency of this body in all possible ways. The Chairman shall also prepare, or cause to be prepared, any information helpful in acquainting new members with the procedures and/or operations of this body. The Chairman shall also perform such other duties applicable to the office as prescribed by the parliamentary authority set forth in these bylaws.

b. Vice-Chairman

1. The Vice-Chairman shall perform all duties of the Chairman in the absence of the Chairman and such other duties applicable to the office as prescribed by the parliamentary authority set forth in these bylaws.

c. Secretary

1. The Secretary shall, with the assistance of City staff, keep and sign the minutes and records of this body and also perform the duties of the Chairman in the absence of the Chairman and Vice-Chairman and such other duties applicable to the office as prescribed by the parliamentary authority set forth in these bylaws.

Section 2. Nominations and election of officers

- a. Officers shall be elected by a majority vote.
- b. Election of officers shall take place at the annual meeting of this Board in January of each calendar year.

Section 3. Eligibility requirements for each office (Not Applicable)

Section 4. Term of office

- a. The term of office for each officer shall be one (1) year and shall begin at the first meeting of this body occurring after January 1 of each year, and each officer shall hold office for a term of one year or until their successors are elected.

Section 5. Removal from office

- a. Upon the two-thirds (2/3) affirmative vote of the entire membership of this Board, an Officer may be removed from his or her Officer position. This Board shall not have authority to remove any member from the Board.

ARTICLE 5. MEETINGS.

Section 1. Meeting days.

- a. There will be regular meetings of this body at Lakeland City Hall on the second Tuesday of each month at 5:30 p.m. At regular meetings, members meet to conduct the business of this body.
- b. There will be an annual meeting of this body at Lakeland City Hall at 5:30 p.m. on the second Tuesday of January each year. At the annual meeting, members meet to conduct the business of this body and to elect officers.
- c. Notice requirements.
 1. Twenty-four (24) hours prior written notice shall be provided of any meeting. Such notice shall also include a written agenda for said meeting. Said notice shall be published at Lakeland City Hall and provided to the membership of this Board by electronic or other means as necessary.

Section 2. Order of business at regular meetings.

- a. The order of business at regular meetings of this body shall be:
 1. Call to order,
 2. Roll call,

3. Consent Agenda (including approval of minutes of previous meeting(s)),
4. Consideration and possible action on items removed from the Consent Agenda,
5. Public discussion,
6. Reports from Officers and Staff,
7. Old business,
8. New business,
9. Announcements, and
10. Adjournment.

Section 3. Order of business at annual meetings.

- a. The order of business at annual meetings of this body shall be:
 1. Call to order,
 2. Roll call,
 3. Election of Officers,
 4. Consent Agenda (including approval of minutes of previous meeting(s)),
 5. Consideration and possible action on items removed from the Consent Agenda,
 6. Public discussion,
 7. Reports from Officers and Staff,
 8. Old business,
 9. New business,
 10. Announcements, and
 11. Adjournment.

Section 4. Quorum.

- a. A majority of the members of this body constitute a quorum to conduct business at all meetings.
- b. In the event that a member is unable to attend a meeting of this body, the absent member may participate by electronic or other means of communication.

Section 5. Special meetings.

- a. Special meetings of this body may be called by the Chairman or any two members of this body or by the City Manager. No other business may be transacted at a special meeting except that for which the special meeting is called.
- b. Members shall be provided at least twenty-four (24) hours prior written notice of any special called meeting. Such notice shall also include a written agenda for said meeting. Said notice shall be published at Lakeland City Hall and provided to the membership of this Board by electronic or other means as necessary.

Section 6. Cancellation of a regularly scheduled meeting.

- a. A regularly scheduled meeting of this body may be cancelled for good cause by the City Manager. Any business scheduled

to take place at such cancelled meeting shall be continued until the next regularly scheduled meeting of this body unless a special meeting is called pursuant to these bylaws to consider any such business prior to the next regularly scheduled meeting of this body.

ARTICLE 6. COMMITTEES / SUB-COMMITTEES.

Section 1. This body shall not have the authority to establish committees or sub-committees of the body as a whole.

ARTICLE 7. PARLIAMENTARY AUTHORITY.

Section 1. The rules contained in Robert's Rules of Order Newly Revised, 10th Edition, shall govern meetings where they are not in conflict with the bylaws, rules of order, or other rules of this body.

ARTICLE 8. AMENDMENTS AND/OR REPEAL.

Section 1. Amendments to, and/or repeal of, these Bylaws shall only be made by the Lakeland Board of Commissioners.

ORDINANCE O-3-2022

AN ORDINANCE TO AMEND THE BYLAWS OF THE MUNICIPAL PARKS AND RECREATION ADVISORY BOARD OF LAKE LAND, TENNESSEE, TO INCREASE MEMBERSHIP TO NINE (9) AND OTHER ADJUSTMENTS.

WHEREAS, the City of Lakeland seeks to increase the membership of the Parks and Recreation Advisory Board from seven (7) to nine (9) members; and

WHEREAS, the City seeks to add an attendance requirement to the bylaws of the Parks and Recreation Advisory Board; and

WHEREAS, the City seeks to clarify the language involved for removing an officer from his or her position on the board; and

WHEREAS, the City seeks to update the meeting days on which the board gathers; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF LAKE LAND, TENNESSEE, as follows:

Section 1. To amend ARTICLE 3. MEMBERSHIP, Section 1. Number and classes of members by removing the stricken through and adding the highlighted text as follows:

- a. This body shall be composed of ~~seven (7)~~ **nine (9)** members, one of which shall be a member of the Lakeland Board of Commissioners ("BOC Liaison") appointed by that body. The remaining ~~six (6)~~ **eight (8)** members shall be referred to as "Citizen Members".

Section 2. To amend Article 3. Membership, Section 4. Membership requirements by removing the stricken through and adding the highlighted text, as follows:

2. Attendance (~~Not Applicable~~) - **No member shall miss more than two (2) consecutive meetings without prior notice. No member shall miss more than (four) 4 regularly scheduled meetings in a calendar year.**

Section 3. To amend ARTICLE 4. OFFICERS. Section 5. Removal from office by re-wording the text as follows:

- a. **Upon the two-thirds (2/3) affirmative vote of the entire membership of this Board, an Officer may be removed from his or her Officer position. This Board shall not have authority to remove any member from the Board.**

Section 4. To amend ARTICLE 5. MEETINGS, Section 1. Meeting Days by removing the stricken through and adding the highlighted text, as follows:

- a. There will be regular meetings of this body at Lakeland City Hall on the second ~~Monday~~ **Tuesday** of each month at 5:30 p.m. At regular meetings, members meet to conduct the business of this body.
- b. There will be an annual meeting of this body at Lakeland City Hall at 5:30 p.m. on the second ~~Monday~~ **Tuesday** of January each year. At the annual meeting, members meet to conduct the business of this body and to elect officers.

First Reading: January 6, 2022
Public Hearing:

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell, *City Recorder*

Meeting Cycle: Thursday, January 13, 2022

Subject: **Resolution** - authorizing the City Manager to execute a renewal agreement for DebtBook. *Sponsored by Michael Walker*

Staff Contact: Michael Walker, Finance & HR Director

STAFF RECOMMENDATION

City Staff recommends that Resolution R-1-2022 be approved by the Board of Commissioners.

BUDGET IMPACT

The cost of renewal for fiscal year 2022 is included in the Annual Budget, and would be \$7,875 as noted on the attached price quote from DebtBook. Renewal costs will require annual appropriation as part of the Annual Budget process. The total three-year cost for renewal of DebtBook is \$24,826. This price locks in a 5% annual increase, compared to the 10% annual increase of a single-year agreement.

DISCUSSION

DebtBook was implemented in fiscal year 2021 and has quickly become a valuable resource for the Finance Department and the Board of Commissioners. In addition to providing real-time updates, charts, and information included monthly in the Treasurer's Report, DebtBook manages the schedules and disclosures related to both debt and leasing activities needed for the City's annual audit, saving time and effort of both internal staff and external auditors.

RESOLUTION R-1-2022
AUTHORIZING THE CITY MANAGER TO EXECUTE
A RENEWAL AGREEMENT FOR DEBTBOOK

WHEREAS, the City of Lakeland implemented DebtBook in fiscal year 2021 on an initial one-year term; and,

WHEREAS, the City of Lakeland has seen value from the software solutions provided in managing debt and lease financing activities; and,

Whereas, the Board of Commissions desires to mitigate future price increases by entering a long-term agreement to be funded annually by budgetary appropriation:

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAKELAND, TENNESSEE:

SECTION 1: that the City Manager is authorized to execute the enclosed three-year renewal agreement order form with Fifth Asset, Inc., d/b/a DebtBook with a three-year cumulative cost of \$24,826.

APPROVED AND ADOPTED by the Board of Commissioners of Lakeland, Tennessee this 13th day of January 2022, the public welfare requiring it.

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell
City Recorder



DebtBook Quote

Lakeland, TN

10001 Highway 70
Lakeland, TN 38002

Michael Walker

Finance & Human Resources Director
mwalker@lakelandtn.org
(901) 867-2719

Prepared By:

DebtBook
Adam Fekini
Regional Sales Manager
adam.fekini@debtbook.com

Notice Address:

300 W. Summit Ave STE 110
Charlotte, NC 28203

Products & Services

Description	Qty	Unit Price	Annual Escalator	Total
Subscription Charge: Tier 3 This represents the annual subscription charge your organization pays for access to the DebtBook platform. There are no additional charges - this covers unlimited users, external sharing, support and training.	1	\$7,500 Year 1	5%	\$7,875 Year 1 Cost
Subscription Charge: Tier 3 This represents the annual subscription charge your organization pays for access to the DebtBook platform. There are no additional charges - this covers unlimited users, external sharing, support and training.	1	\$7,875 Year 2	5%	\$8,269 Year 2 Cost
Subscription Charge: Tier 3 This represents the annual subscription charge your organization pays for access to the DebtBook platform. There are no additional charges - this covers unlimited users, external sharing, support and training.	1	\$8,269 Year 3	5%	\$8,682 Year 3 Cost
Total 3 Year Renewal Cost:				\$24,826

ORDER FORM

Fifth Asset, Inc., d/b/a DebtBook ("**DebtBook**") is pleased to provide Lakeland, TN ("**Customer**") with the Services subject to the terms established in this Order Form. This Order Form may be modified or replaced from time to time by a subsequent Order Form duly executed and delivered by each party in connection with any Renewal Term.

The Services are subject to DebtBook's General Terms & Conditions (the "**Terms & Conditions**"), which have been provided to Customer, and the Incorporated Documents referenced in the Terms & Conditions. Each capitalized term used but not defined in this Order Form has the meaning given in the Terms & Conditions.

Order Details

Effective Date: 01/22/22

Initial Term End Date: 01/22/25

Initial Pricing Tier: Tier 2

Billing Frequency: Annually

Payment Terms: Net 30

Services. Subject to the terms described in this Order Form, DebtBook will grant Customer access to the Application Services during the Initial Term described above and, if applicable, each subsequent Renewal Term. As part of the initial implementation and onboarding process, DebtBook will provide Customer with the Implementation Services. DebtBook will also provide Customer with the Support Services throughout the Term.

Fees. DebtBook will charge Customer (1) a one-time Implementation Fee for its initial Implementation Services and (2) a recurring Subscription Fee for Customer's ongoing access to the Application Services and Support Services.

Generally, DebtBook sets Fees using its standard pricing schedule for the Services based on the Customer's applicable Pricing Tier, which is based on the total number and amount of debt and lease obligations outstanding at the time of determination. The Initial Pricing Tier indicated above is based on Customer's good faith estimate of its total number and amount of debt and lease obligations currently outstanding and will not change during the Initial Term, regardless of (1) the actual number or amount of the Customer's debt and lease obligations implemented as part of the Implementation Services or (2) any changes during the Initial Term to Customer's debt and lease obligations.

Billing. Unless otherwise provided in the Customer Documents, all Fees will be due and payable in advance on the terms indicated above, and each invoice will be emailed to the Customer's billing contact indicated below.

Renewal Term. The Initial Term is subject to renewal on the terms set forth in the Terms & Conditions. The pricing tier applicable for each Renewal Term will be determined based on the aggregate number and amount of the Customer's debt and lease obligations outstanding at the time of renewal.

Termination. The Agreement is subject to early termination on the terms set forth in the Terms & Conditions.

Entire Agreement. By executing this Order Form, each party agrees to be bound by (1) this Order Form, (2) the Terms & Conditions, (3) the Incorporated Documents, and (4) any Customer Terms.

This Order Form, the Customer Documents, the Terms & Conditions, and the Incorporated Documents constitute the complete "Agreement" between the parties and supersede any prior discussion or representations regarding the Customer's purchase and use of the Services.

Intellectual Property. Except for the limited rights and licenses expressly granted to Customer under this Order Form and the Terms & Conditions, nothing in the Agreement grants to Customer or any third party any intellectual property rights or other right, title, or interest in or to the DebtBook IP.

Important Disclaimers & Limitations. EXCEPT FOR THE WARRANTIES SET FORTH IN THE TERMS & CONDITIONS, DEBTBOOK IP IS PROVIDED "AS IS," AND DEBTBOOK DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. IN ADDITION, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES' LIABILITIES UNDER THE AGREEMENT ARE LIMITED AS SET FORTH IN THE TERMS & CONDITIONS.

Notices. Any Notice delivered under the Agreement will be delivered to the address below each party's signature below.

Authority; Execution. Each of the undersigned represents that they are authorized to (1) execute and deliver this Order Form on behalf of their respective party and (2) bind their respective party to the terms of the Agreement. This Order Form and any other documents executed and delivered in connection with the Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. To the extent permitted by applicable law, electronic signatures may be used for the purpose of executing the Order Form by email or other electronic means. Any document delivered electronically and accepted is deemed to be "in writing" to the same extent and with the same effect as if the document had been signed manually.

FIFTH ASSET, INC., D/B/A DEBTBOOK

LAKELAND, TN

By: _____
Name: Tyler Traudt
Title: CEO

By: _____
Name: _____
Title: _____

Notice Address

300 W. Summit Avenue, Suite 110
Charlotte, NC 28203
Attention: Chief Executive Officer
tyler.traudt@debtbook.com

Notice Address

10001 Highway 70
Lakeland, TN 38002
Attention: Michael Walker
mwalker@lakelandtn.org

Billing Contact

10001 Highway 70
Lakeland, TN 38002
Attention: Michael Walker
mwalker@lakelandtn.org

DEBTBOOK'S GENERAL TERMS & CONDITIONS

Please carefully read these General Terms and Conditions (these “**Terms & Conditions**”) which govern the Customer's access and use of the Services described in the Order Form.

By executing the Order Form and using any of the Services, the Customer agrees to be bound by these Terms.

1. Definitions.

“**Aggregated Statistics**” means data and information related to Customer's use of the Services that is used by DebtBook in an aggregate and anonymized manner, including statistical and performance information related to the Services.

“**Agreement**” means, collectively and to the extent applicable, the Order Form, any Customer Terms, these Terms & Conditions, and the Incorporated Documents, in each case as may be amended from time to time in accordance with their terms.

“**Application Services**” means DebtBook's debt and lease management software-as-a-service application.

“**Appropriate Security Measures**” means, collectively, commercially reasonable technical and physical controls and safeguards intended to protect Customer Data against destruction, loss, unauthorized disclosure, or unauthorized access by employees or contractors employed by DebtBook.

“**Authorized User**” means any of Customer's employees, consultants, contractors, or agents who are authorized by Customer to access and use any of the Services.

“**Customer**” means the person or entity purchasing the Services as identified in the Order Form.

“**Customer Data**” means, other than Aggregated Statistics, information, data, and other content, in any form or medium, that is transmitted by or on behalf of Customer or an Authorized User through the Services.

“**Customer Terms**” means any terms or agreements provided by Customer and applicable to the Services but only to the extent such terms or agreements are expressly referenced and incorporated into the Order Form. For the avoidance of doubt, “Customer Terms” does not include any purchase order or similar document generated by Customer unless such document is expressly referenced and incorporated into the Order Form.

“**DebtBook**” means Fifth Asset, Inc., d/b/a DebtBook, a Delaware corporation, and its permitted successor and assigns.

“**DebtBook IP**” means (1) the Services, Documentation, and Feedback, including all ideas, concepts, discoveries, strategies, analyses, research, developments, improvements, data, materials, products, documents, works of authorship, processes, procedures, designs, techniques, inventions, and other intellectual property, whether or not patentable or copyrightable, and all embodiments and derivative works of each of the foregoing in any form and media, that are developed, generated or produced by DebtBook arising from or related to the Services, Documentation, or Feedback; and (2) any intellectual property provided to Customer or any Authorized User in connection with the foregoing other than Customer Data.

“**Documentation**” means DebtBook's end user documentation and content, regardless of media, relating to the Services made available from time to time on DebtBook's website at <https://support.debtbook.com>.

“**Feedback**” means any comments, questions, suggestions, or similar feedback transmitted in any manner to DebtBook, including suggestions for new features, functionality, or changes to the DebtBook IP.

“**Governing State**” means, if Customer is a governmental entity, the state in which Customer is located. Otherwise, “Governing State” means the State of North Carolina.

“**Implementation Services**” means onboarding and implementation services, including entry of relevant data, as necessary to make the Application Services available to the Customer during the Initial Term.

“**Incorporated Documents**” means, collectively, the Privacy Policy, the Documentation, the SLA, and the Usage Policy, as each may be updated from time to time in accordance with their terms. The Incorporated

Documents, as amended, are incorporated into these Terms & Conditions by this reference. Current versions of the Incorporated Documents are available at <https://www.debtbook.com/legal>.

“Initial Term” means the Initial Term of the Services beginning on the Effective Date and ending on the Initial Term End Date, as established in the Order Form.

“Order Form” means (1) the order document executed and delivered by DebtBook and Customer for the Initial Term or (2) to the extent applicable, any subsequent order document executed and delivered by DebtBook and Customer for any Renewal Term, including, in each case, any applicable Order Form Supplement.

“Order Form Supplement” means any Order Form Supplement expressly referenced and incorporated by reference into any Order Form.

“Privacy Policy” means, collectively, DebtBook’s privacy policy and any similar data policies generally applicable to all users of the Application Services, in each case as posted to DebtBook’s website and as updated from time to time in accordance with their terms.

“Renewal Term” means any renewal term established in accordance with the terms of the Agreement.

“Services” means, collectively, the Application Services, the Implementation Services, and the Support Services.

“SLA” means the Service Level Addendum generally applicable to all users of the Application Services, as posted to DebtBook’s website and as updated from time to time in accordance with its terms.

“Support Services” means the general maintenance services and technical support provided in connection with the Application, as more particularly described in the SLA.

“Term” means, collectively, the Initial Term and, if applicable, each successive Renewal Term.

“Usage Policy” means, collectively, DebtBook’s acceptable usage policy, any end user licensing agreement, or any similar policy generally applicable to all end users accessing the Application Services, in each case as posted to DebtBook’s website and as updated from time to time in accordance with its terms.

Each capitalized term used but not otherwise defined in these Terms & Conditions has the meaning given to such term in the applicable Order Form.

2. Access and Use.

(a) **Provision of Access.** Subject to the terms and conditions of the Agreement, DebtBook grants Customer and Customer’s Authorized Users a non-exclusive, non-transferable (except as permitted by these Terms) right to access and use the Application Services during the Term, solely for Customer’s internal use and for the Authorized Users’ use in accordance with the Agreement. DebtBook will provide to Customer the necessary passwords and network links or connections to allow Customer to access the Application Services.

(b) **Documentation License.** Subject to the terms and conditions of the Agreement, DebtBook grants to Customer and Customer’s Authorized Users a non-exclusive, non-sublicensable, non-transferable (except as permitted by these Terms) license to use the Documentation during the Term solely for Customer’s and its Authorized User’s internal business purposes in connection with its use of the Services.

(c) **Customer Responsibilities.** Customer is responsible and liable for its Authorized Users’ access and use of the Services and Documentation, regardless of whether such use is permitted by the Agreement. Customer must use reasonable efforts to make all Authorized Users aware of the provisions applicable to their use of the Services, including the Incorporated Documents.

(d) **Use Restrictions.** Customer may not at any time, directly or indirectly through any Authorized User, access or use the Services in violation of the Usage Policies, including any attempt to (1) copy, modify, or create derivative works of the Services or Documentation, in whole or in part; (2) sell, license, or otherwise transfer or make available the Services or Documentation except as expressly permitted by the Agreement; or (3) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part. Customer will not knowingly transmit any personally identifiable information to DebtBook or any other third-party through the Services.

(e) **Suspension.** Notwithstanding anything to the contrary in the Agreement, DebtBook may temporarily suspend Customer's and any Authorized User's access to any or all of the Services if: (1) Customer is more than 45 days late in making any payment due under, and in accordance with, the terms of the Agreement; (2) DebtBook reasonably determines that (A) there is a threat or attack on any of the DebtBook IP; (B) Customer's or any Authorized User's use of the DebtBook IP disrupts or poses a security risk to the DebtBook IP or to any other customer or vendor of DebtBook; (C) Customer, or any Authorized User, is using the DebtBook IP for fraudulent or other illegal activities; or (D) DebtBook's provision of the Services to Customer or any Authorized User is prohibited by applicable law; or (3) any vendor of DebtBook has suspended or terminated DebtBook's access to or use of any third-party services or products required to enable Customer to access the Services (any such suspension, a "**Service Suspension**"). DebtBook will use commercially reasonable efforts to (i) provide written notice of any Service Suspension to Customer, (ii) provide updates regarding resumption of access to the Services, and (iii) resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Suspension is cured. DebtBook is not liable for any damage, losses, or any other consequences that Customer or any Authorized User may incur as a result of a Service Suspension.

(f) **Aggregated Statistics.** Notwithstanding anything to the contrary in the Agreement, DebtBook may monitor Customer's use of the Services and collect and compile Aggregated Statistics. As between DebtBook and Customer, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by DebtBook. DebtBook may compile Aggregated Statistics based on Customer Data input into the Services. DebtBook may (1) make Aggregated Statistics publicly available in compliance with applicable law, and (2) use Aggregated Statistics as permitted under applicable law so long as, in each case, DebtBook's use of any Aggregated Statistics does not identify the Customer or disclose Customer's Confidential Information.

3. **Service Levels and Support.** Subject to the terms and conditions of the Agreement, DebtBook will use commercially reasonable efforts to make the Application Services and Support Services available in accordance with the SLA.

4. **Fees and Payment.**

(a) **Fees.** Customer will pay DebtBook the fees ("**Fees**") set forth in the Order Form. DebtBook will invoice Customer for all Fees in accordance with the invoicing schedule and requirements set forth in the Order Form. Customer must pay all Fees in US dollars, and all Fees are fully earned once paid. To the extent permitted by applicable law, if Customer fails to make any payment when due, DebtBook may, without limiting any of its other rights, charge interest on the past due amount at the lowest of (1) the rate of 1.5% per month, (2) the rate established in any Customer Term, or (3) the maximum rate permitted under applicable law.

(b) **Taxes.** All Fees and other amounts payable by Customer under the Agreement are exclusive of taxes and similar assessments. Unless Customer is exempt from making any such payment under applicable law or regulation, Customer is responsible for all applicable sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer under the Agreement, other than any taxes imposed on DebtBook's income.

5. **Confidential Information.**

(a) From time to time during the Term, either party (the "**Disclosing Party**") may disclose or make available to the other party (the "**Receiving Party**") information about the Disclosing Party's business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether in written, electronic, or other form or media, that is marked, designated, or otherwise identified as "confidential", or which a reasonable person would understand to be confidential or proprietary under the circumstances (collectively, "**Confidential Information**"). For the avoidance of doubt, DebtBook's Confidential information includes the DebtBook IP and the Application Services source code and specifications. As used in the Agreement, "Confidential Information" expressly excludes any information that, at the time of disclosure is (1) in the public domain; (2) known to the receiving party at the time of disclosure; (3) rightfully obtained by the Receiving Party on a non-confidential basis from a third party; or (4) independently developed by the Receiving Party.

(b) To the extent permitted by applicable law, the Receiving Party will hold the Disclosing Party's Confidential Information in strict confidence and may not disclose the Disclosing Party's Confidential

Information to any person or entity, except to the Receiving Party's employees, officers, directors, agents, subcontractors, financial advisors, and attorneys who have a need to know the Confidential Information for the Receiving Party to exercise its rights or perform its obligations under the Agreement or otherwise in connection with the Services. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required (1) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order must first give written notice to the other party and make a reasonable effort to obtain a protective order; or (2) to establish a party's rights under the Agreement, including to make required court filings.

(c) On the expiration or termination of the Agreement, the Receiving Party must promptly return to the Disclosing Party all copies of the Disclosing Party's Confidential Information, or destroy all such copies and, on the Disclosing Party's request, certify in writing to the Disclosing Party that such Confidential Information has been destroyed.

(d) Each party's obligations under this Section are effective as of the Effective Date and will expire three years from the termination of the Agreement; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of the Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

6. Intellectual Property.

(a) DebtBook IP. As between Customer and DebtBook, DebtBook owns all right, title, and interest, including all intellectual property rights, in and to the DebtBook IP.

(b) Customer Data. As between Customer and DebtBook, Customer owns all right, title, and interest, including all intellectual property rights, in and to the Customer Data. Customer hereby grants to DebtBook a non-exclusive, royalty-free, worldwide license to reproduce, distribute, sublicense, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary or appropriate for DebtBook to provide the Services to Customer.

(c) Effect of Termination. Without limiting either party's obligations under Section 5, on written request by Customer made within 30 days after the effective date of termination of the Agreement, DebtBook, at no further charge to Customer, will (1) provide Customer with temporary access to the Application Services to permit Customer to retrieve its Customer Data in a commercially transferrable format and (2) use commercially reasonable efforts to assist Customer, at Customer's request, with such retrieval.

7. Limited Warranties.

(a) Functionality & Service Levels. During the Term, the Application Services will operate in a manner consistent with general industry standards reasonably applicable to the provision of the Application Services and will conform in all material respects to the Documentation and service levels set forth in the SLA when accessed and used in accordance with the Documentation. Except as expressly stated in the SLA, DebtBook does not make any representation, warranty, or guarantee regarding availability of the Application Services, and the remedies set forth in the SLA are Customer's sole remedies and DebtBook's sole liability under the limited warranty set forth in this paragraph.

(b) Security. DebtBook has implemented Appropriate Security Measures and has made commercially reasonable efforts to ensure its licensors and hosting providers, as the case may be, have implemented Appropriate Security Measures intended to protect Customer Data.

(c) EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION, DEBTBOOK IP IS PROVIDED "AS IS," AND DEBTBOOK HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. DEBTBOOK SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN THIS SECTION, DEBTBOOK MAKES NO WARRANTY OF ANY KIND THAT THE DEBTBOOK IP, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

(d) DebtBook exercises no control over the flow of information to or from the Application Service, DebtBook's network, or other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt connections to the Internet. Although DebtBook will use commercially reasonable efforts to take all actions DebtBook deems appropriate to remedy and avoid such events, DebtBook cannot guarantee that such events will not occur. ACCORDINGLY, DEBTBOOK DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATING TO ALL SUCH EVENTS, AND EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE AGREEMENT, ANY OTHER ACTIONS OR INACTIONS CAUSED BY OR UNDER THE CONTROL OF A THIRD PARTY.

8. Indemnification.

(a) DebtBook Indemnification.

(i) DebtBook will indemnify, defend, and hold harmless Customer from and against any and all losses, damages, liabilities, costs (including reasonable attorneys' fees) (collectively, "**Losses**") incurred by Customer resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") that the Application Services, or any use of the Application Services in accordance with the Agreement, infringes or misappropriates such third party's US patents, copyrights, or trade secrets, provided that Customer promptly notifies DebtBook in writing of the Third-Party Claim, reasonably cooperates with DebtBook in the defense of the Third-Party Claim, and allows DebtBook sole authority to control the defense and settlement of the Third-Party Claim.

(ii) If such a claim is made or appears possible, Customer agrees to permit DebtBook, at DebtBook's sole expense and discretion, to (A) modify or replace the DebtBook IP, or component or part of the DebtBook IP, to make it non-infringing, or (B) obtain the right for Customer to continue use. If DebtBook determines that neither alternative is reasonably available, DebtBook may terminate the Agreement in its entirety or with respect to the affected component or part, effective immediately on written notice to Customer, so long as, in each case, DebtBook promptly refunds or credits to Customer all amounts Customer paid with respect to the DebtBook IP that Customer cannot reasonably use as intended under the Agreement.

(iii) DebtBook's indemnification obligation under this Section will not apply to the extent that the alleged infringement arises from Customer's use of the Application Services in combination with data, software, hardware, equipment, or technology not provided or authorized in writing by DebtBook or modifications to the Application Services not made by DebtBook.

(b) Sole Remedy. SECTION 8(a) SETS FORTH CUSTOMER'S SOLE REMEDIES AND DEBTBOOK'S SOLE LIABILITY FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS. IN NO EVENT WILL DEBTBOOK'S LIABILITY UNDER SECTION 8(a) EXCEED \$1,000,000.

(c) Customer Indemnification. To the extent permitted by applicable law, Customer will indemnify, hold harmless, and, at DebtBook's option, defend DebtBook from and against any Losses resulting from any Third-Party Claim that the Customer Data, or any use of the Customer Data in accordance with the Agreement, infringes or misappropriates such third party's intellectual property rights and any Third-Party Claims based on Customer's or any Authorized User's negligence or willful misconduct or use of the Services in a manner not authorized by the Agreement.

9. Limitations of Liability. EXCEPT AS EXPRESSLY OTHERWISE PROVIDED IN THIS SECTION, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THE AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER EITHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. EXCEPT AS EXPRESSLY OTHERWISE PROVIDED IN THIS SECTION, IN NO EVENT WILL THE AGGREGATE LIABILITY OF DEBTBOOK ARISING OUT OF OR RELATED TO THE AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO DEBTBOOK UNDER THE AGREEMENT IN THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE EXCLUSIONS AND LIMITATIONS IN THIS SECTION DO NOT APPLY TO CLAIMS PURSUANT TO SECTION 8.

10. Term and Termination.

(a) **Term.** Except as the parties may otherwise agree in the Order Form, or unless terminated earlier in accordance with the Agreement:

(i) the Initial Term of the Agreement will begin on the Effective Date and end on the Initial Term End Date;

(ii) the Agreement will automatically renew for successive 12-month Renewal Terms unless either party gives the other party written notice of non-renewal at least 30 days before the expiration of the then-current term; and

(iii) each Renewal Term will be subject to the same terms and conditions established under the Agreement, with any Fees determined in accordance with DebtBook's then-current pricing schedule published on DebtBook's website and generally applicable to all users of the Services, as provided to Customer at least 60 days before the expiration of the then-current term.

(b) **Termination.** In addition to any other express termination right set forth in the Agreement:

(i) DebtBook may terminate the Agreement immediately if Customer breaches any of its obligations under Section 2 or Section 5;

(ii) Customer may terminate the Agreement in accordance with the SLA;

(iii) either party may terminate the Agreement, effective on written notice to the other party, if the other party materially breaches the Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured 30 days after the non-breaching party provides the breaching party with written notice of such breach;

(iv) if (1) Customer is a governmental entity and (2) sufficient funds are not appropriated to pay for the Application Services, then Customer may terminate the Agreement at any time without penalty following 30 days prior written notice to DebtBook; or

(v) either party may, to the extent permitted by law, terminate the Agreement, effective immediately on written notice to the other party, if the other party becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law.

(c) **Survival.** Only this Section and Section 1 (Definitions), Sections 4 through 6 (Fees; Confidential Information; Intellectual Property), Section 7(c) (Disclaimer of Warranties), and Sections 8, 9 and 12 (Indemnification; Limitations of Liability; Miscellaneous) will survive any termination or expiration of the Agreement.

11. Independent Contractor. The parties to the Agreement are independent contractors. The Agreement does not create a joint venture or partnership between the parties, and neither party is, by virtue of the Agreement, authorized as an agent, employee, or representative of the other party.

12. Miscellaneous.

(a) **Governing Law; Submission to Jurisdiction.** The Agreement will be governed by and construed in accordance with the laws of the Governing State, without regard to any choice or conflict of law provisions, and any claim arising out of the Agreement may be brought in the state or federal courts located in the Governing State. Each party irrevocably submits to the jurisdiction of such courts in any such suit, action, or proceeding.

(b) **Entire Agreement; Order of Precedence.** The Order Form, any Customer Terms, the Terms & Conditions, and the Incorporated Documents constitute the complete Agreement between the parties and supersede any prior discussion or representations regarding the Customer's purchase and use of the Services.

To the extent any conflict exists between the terms of the Agreement, the documents will govern in the following order or precedence: (1) the Order Form (2) the Customer Terms, (3) the Terms & Conditions, and (4) the Incorporated Documents. No other purchasing order or similar instrument issued by either party in connection with the Services will have any effect on the Agreement or bind the other party in any way.

(c) **Amendment; Waiver.** No amendment to the Order Form, the Terms & Conditions, or the Customer Terms will be effective unless it is in writing and signed by an authorized representative of each party. DebtBook may update the Incorporated Documents from time-to-time following notice to Customer so long as such updates are generally applicable to all users of the Services. No waiver by any party of any of the provisions of the Agreement will be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in the Agreement, no failure to exercise, delay in exercising, or any partial exercise of any rights, remedy, power, or privilege arising from the Agreement will in any way waive or otherwise limit the future exercise of any right, remedy, power, or privilege available under the Agreement.

(d) **Notices.** All notices, requests, consents, claims, demands, and waivers under the Agreement (each, a “Notice”) must be in writing and addressed, if to Customer, to the recipients and addresses set forth on the Order Form (or to such other address as Customer may designate from time to time in accordance with this Section). All Notices to DebtBook must be addressed to the recipients and addresses set forth at <https://www.debtbook.com/legal>. All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage pre-paid).

(e) **Force Majeure.** In no event will either party be liable to the other party, or be deemed to have breached the Agreement, for any failure or delay in performing its obligations under the Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond such party’s reasonable control, including acts of God, flood, fire, earthquake, pandemic, epidemic, problems with the Internet, shortages in materials, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

(f) **Severability.** If any provision of the Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(g) **Assignment.** Either party may assign its rights or delegate its obligations, in whole or in part, on 30 days prior written notice to the other party, to an affiliate or an entity that acquires all or substantially all of the business or assets of such party, whether by merger, reorganization, acquisition, sale, or otherwise. Except as stated in this paragraph, neither party may assign any of its rights or delegate any of its obligations under the Agreement without the prior written consent of the other party, which consent may not be unreasonably withheld, conditioned, or delayed. The Agreement is binding on and inures to the benefit of the parties and their permitted successors and assigns.

(h) **Marketing.** Neither party may issue press releases related to the Agreement without the other party’s prior written consent. Either party may include the name and logo of the other party in lists of customers or vendors.

(i) **State-Specific Certifications & Agreements.** To the extent required under the laws of the Governing State, DebtBook hereby certifies and agrees as follows:

(i) DebtBook has not been designated by any applicable government authority or body as a company engaged in the boycott of Israel under the laws of the Governing State;

(ii) DebtBook is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Agreement by any governmental department or agency of the Governing State;

(iii) DebtBook will not discriminate against any employee or applicant for employment because of race, ethnicity, gender, gender identity, sexual orientation, age, religion, national origin, disability, color, ancestry, citizenship, genetic information, political affiliation or military/veteran status, or any other status protected by federal, state, or local law; and

(iv) DebtBook will verify the work authorization of its employees using the federal E-Verify program and standards as promulgated and operated by the United States Department of Homeland Security and, if applicable, will require its subcontractors to do the same.

(j) **Execution.** Any document executed and delivered in connection with the Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. To the extent permitted by applicable law, electronic signatures may be used for the purpose of executing the Order Form by email or other electronic means. Any document delivered electronically and accepted is deemed to be "in writing" to the same extent and with the same effect as if the document had been signed manually.



Board of Commissioners

Meeting Cycle: Thursday, January 13, 2022

Subject: **Resolution** - authorizing the City Manager to approve an updated TOSHA safety plan. *Sponsored by Daniel Lovett*

Staff Contact: Daniel Lovett, Public Works Director

STAFF RECOMMENDATION

Staff recommends approval.

BUDGET IMPACT

DISCUSSION

This is an update of the City's existing safety plan. TOSHA requires an updated plan. The only changes are adding Daniel Lovett as the safety manager and updating the staff directory.

RESOLUTION R-7-2022

A RESOLUTION TO ESTABLISH AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN, DEVISE RULES AND REGULATIONS, AND TO PROGRAM FOR A SAFETY DIRECTOR AND THE IMPLEMENTATION OF SUCH PROGRAM

WHEREAS, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of Lakeland hereby updates the Occupational Safety and Health Program Plan for our employees.

WHEREAS, due to various changes in subsequent years, it has become necessary to amend the program plan to comply with more recent state requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE Board of Commissioners, that there be and is hereby amended as follows:

TITLE:

This section shall be known as “The Occupational Safety and Health Program Plan” for the employees of The City of Lakeland.

PURPOSE:

The City of Lakeland in electing to update the established Program Plan will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees and shall:

- 1) Provide a safe and healthful place and condition of employment that includes:
 - a) Top Management Commitment and Employee Involvement.
 - b) Continually analyze the worksite to identify all hazards and potential hazards.
 - c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
 - d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- 2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- 3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- 4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

RESOLUTION R-7-2022

A RESOLUTION TO ESTABLISH AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN, DEVISE RULES AND REGULATIONS, AND TO PROGRAM FOR A SAFETY DIRECTOR AND THE IMPLEMENTATION OF SUCH PROGRAM

5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the State.

6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards and provide for education and notification of all employees of the existence of this Program Plan.

COVERAGE:

The provisions of the Occupational Safety and Health Program Plan for the employees of City of Lakeland shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent.

STANDARDS AUTHORIZED:

The Occupational Safety and Health standards adopted by the City of Lakeland are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 3).

VARIANCES FROM STANDARDS AUTHORIZED:

Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by T.C.A., Title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees.

RESOLUTION R-7-2022

A RESOLUTION TO ESTABLISH AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN, DEVISE RULES AND REGULATIONS, AND TO PROGRAM FOR A SAFETY DIRECTOR AND THE IMPLEMENTATION OF SUCH PROGRAM

ADMINISTRATION:

For the purposes of this resolution, Daniel Lovett is designated as the Safety Director of Occupational Safety and Health to perform duties and to exercise powers assigned to plan, develop, and administer this Program Plan. The Safety Director shall develop a plan of operation for the Program Plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by T.C.A., Title 50.

FUNDING THE PROGRAM PLAN:

Sufficient funds for administering and staffing the Program Plan pursuant to this resolution shall be made available as authorized by the City of Lakeland.

SEVERABILITY:

SECTION 2. BE IT FURTHER RESOLVED that if any section, sub-section, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

BE IT FURTHER RESOLVED that this resolution shall take effect from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the City of Lakeland requiring it.

PASSED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 13th day of January, 2022, the public welfare requiring it.

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell, *City Recorder*

RESOLUTION TO ESTABLISH AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN,
DEVISE RULES AND REGULATIONS, AND TO PROVIDE FOR A SAFETY DIRECTOR AND THE
IMPLEMENTATION OF SUCH PROGRAM PLAN

WHEREAS, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of Lakeland hereby updates the Occupational Safety and Health Program Plan for our employees.

WHEREAS, due to various changes in subsequent years, it has become necessary to amend the program plan to comply with more recent state requirements.

NOW, THEREFORE,

SECTION 1. BE IT RESOLVED BY THE Board of Commissioners, that there be and is hereby amended as follows:

TITLE:

This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of The City of Lakeland.

PURPOSE:

The City of Lakeland in electing to update the established Program Plan will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees and shall:

- 1) Provide a safe and healthful place and condition of employment that includes:
 - a) Top Management Commitment and Employee Involvement.
 - b) Continually analyze the worksite to identify all hazards and potential hazards.
 - c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
 - d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- 2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- 3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- 4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.
- 5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the State.
- 6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.
- 7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards and provide for education and notification of all employees of the existence of this Program Plan.

COVERAGE:

The provisions of the Occupational Safety and Health Program Plan for the employees of City of Lakeland shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent.

STANDARDS AUTHORIZED:

The Occupational Safety and Health standards adopted by the City of Lakeland are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 3).

VARIANCES FROM STANDARDS AUTHORIZED:

Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by T.C.A., Title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees.

ADMINISTRATION:

For the purposes of this resolution, Daniel Lovett is designated as the Safety Director of Occupational Safety and Health to perform duties and to exercise powers assigned to plan, develop, and administer this Program Plan. The Safety Director shall develop a plan of operation for the Program Plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by T.C.A., Title 50.

FUNDING THE PROGRAM PLAN:

Sufficient funds for administering and staffing the Program Plan pursuant to this resolution shall be made available as authorized by the City of Lakeland.

SEVERABILITY:

SECTION 2. BE IT FURTHER RESOLVED that if any section, sub-section, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

AMENDMENTS, ETC:

SECTION 3. BE IT FURTHER RESOLVED that this resolution shall take effect from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the City of Lakeland requiring it.

Shane Horn, City Manager

(Date)

Debra Murrell, City Recorder

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH
PROGRAM PLAN FOR THE EMPLOYEES OF (City/County/etc) _____

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of City of Lakeland.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Lakeland in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- a. COMMISSIONER OF LABOR and Workforce Development means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. EMPLOYER means the City of Lakeland and includes each administrative department, board, commission, division, or other agency of the City of Lakeland.
- c. SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or SAFETY SAFETY DIRECTOR means the person designated by the establishing resolution, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of City of Lakeland.
- d. INSPECTOR(S) means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission,

division, or other agency of this employer.

- f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- l. ACT or TOSH Act shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYERS RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from an unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on

- a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
 - f. Employer is entitled to protection of its legally privileged communication.
 - g. Employer shall inspect all worksites to insure the provisions of this Program Plan are complied with and carried out.
 - h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
 - i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEES RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
 1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. **The Safety Director shall, in the eventuality that there is a fatality, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours. All work-related inpatient hospitalizations, amputations, and loss of an eye must be reported to TOSHA within 24 hours.**
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
 1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.
 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred

eighty (180) days.

- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and type Recordkeeping Forms in the search box.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available

to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

a. Safety Director and/or Compliance Inspector(s):

1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids or gases, explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress; and Drowning.
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health

Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Resolution, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date

of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 1. The Safety Director shall immediately be informed of the alleged imminent danger situation, and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
 1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
 1. Issue an abatement order to the head of the worksite.
 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

b. Abatement orders shall contain the following information:

1. The standard, rule, or regulation which was found to violated.
2. A description of the nature and location of the violation.
3. A description of what is required to abate or correct the violation.
4. A reasonable period of time during which the violation must be abated or corrected.

c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (resolution, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

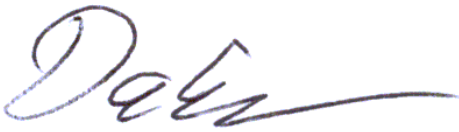
XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a

violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, resolution, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, resolution, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, resolution, or executive order, as applicable, is specifically repealed.

A handwritten signature in blue ink, appearing to read "D. Lovett", with a long horizontal flourish extending to the right.

Signature: Daniel Lovett, Safety Director

APPENDIX - I WORK LOCATIONS
(ORGANIZATIONAL CHART)

{For this section make a list of each work location wherein (City/County/etc) your employees work, such as Street Department, Fire Hall, City Hall, Courthouse, Jail, Sheriff Department, Each School, etc. covered under this Program Plan. Include, the address for the workplace, phone number at that workplace, and number of employees who work there.}

City Hall – 22 employees
10001 Hwy 70
Lakeland, TN. 38002
901-867-2717

Public Works – 11
10001 Hwy 70
Lakeland, TN. 38002
901-867-2717

Parks Department – 5
4523 Canada Road
Lakeland, TN. 38002
901-867-2717

Wastewater – 3
9708 Old Brownsville Road
Lakeland, TN, 38002
901-867-9122

TOTAL NUMBER OF EMPLOYEES: 41

APPENDIX – II NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF THE CITY OF LAKELAND

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or,

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the Safety Director for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of the City of Lakeland is available for inspection by any employee at City of Lakeland during regular office hours.

Signature: MAYOR AND DATE

APPENDIX - III PROGRAM PLAN BUDGET

(Either answer questions 1-11 **or** fill in the statement below)

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities)
7. Protective clothing and equipment (personnel)
8. Safety and health instruments
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the Program Plan.
11. Contingencies and miscellaneous,

TOTAL ESTIMATED PROGRAM PLAN FUNDING,
ESTIMATE OF TOTAL BUDGET FOR:

OR Use This Statement:

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the City of Lakeland has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX – IV ACCIDENT REPORTING PROCEDURES

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or record keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves a fatality, inpatient hospitalization, amputation, loss of an eye, loss of consciousness, broken bones, or third degree burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to

the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

RESOLUTION R-3-2022

**APPOINTMENTS TO THE PARKS AND RECREATION BOARD/NATURAL
RESOURCES BOARD**

RESOLVED; that the Board of Commissioners of the City of Lakeland, Tennessee has evaluated and considered the reappointment of the following members to the Parks and Recreation Board/Natural Resources Board to serve the terms indicated:

Stacy Bond

December 31, 2024

PASSED AND ADOPTED by the Board of Commissioners of Lakeland, Tennessee this 13th day of January, 2022, public welfare requiring it.

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell
City Recorder



City of Lakeland
Application for Boards & Commissions

Name: Bond Stacy Lynn
Last First Middle

Address: 4165 Cedar Point Road Lakeland, TN 38002

E-mail: 007.stacylynn@gmail.com Phone: 301-401-1055

How long have you lived within Lakeland City Limits? <1 month

What is your present job description or profession? Aquatics Manager

Present Employer: City of Memphis

Employer Address: 2599 Avery Avenue Memphis, TN 38112

How long have you been employed at your present job? 1 year

☒ Resume is attached.

Education: (please list the levels of education, any type of degree(s), etc.)

Master of Science Frostburg State U. Recreation & Parks Management

Bachelor of Interdisciplinary Studies Arizona State Urban Planning & Justics Studies

Graduate Certificate University of Maryland UC Environmental Management

Unique Skills: Certified Parks & Recreation Professional, Aquatic Management Professional

Aquatic Facility Operator Instructor, Professional Rescuer (CPR/AED/First Aid) Instructor

What are your interests? Rowing, spending time outdoors, scuba diving,

Skiing, bicycling, rock climbing, reading, and travel.



City of Lakeland

Application for Boards & Commissions

COMPLETE A SEPARATE SHEET FOR EACH BOARD/COMMISSION APPLYING FOR AND INDICATE YOUR FIRST CHOICE (AND SECOND/THIRD CHOICE, IF APPLICABLE)

Board or Commission applying for: Natural Resources Advisory Board

Check if applicable: ☒ First choice ☐ Second choice ☐ Third choice

List related experience and/or training including volunteer activities: _____

Graduate certificate in Environmental Management, degree in Urban Planning.

Former Chesapeake Conservation Corp member. 18 years in Recreation and Parks Management.

List special skills, qualifications, or interests: Former riparian buffer research assistant.

Certified facilitator (to teach Teachers) of Project WET, WILD, and Learning Tree Environmental Curriculums

Certified Park & Recreation Professional. American Red Cross Instructor.

Reason you chose to volunteer on this Board/Commission: _____

I am new to Lakeland and want to help preserve such a wonderful community.

I have a passion for conservation, specifically waterways and believe

I would be an asset to the Board in this position.

To be completed by the City of Lakeland

Appointed To: _____

Date of Appointment: _____

Meeting Cycle: Thursday, January 13, 2022

Subject: **Resolution** - approving the purchase of a 2022 Ford Ranger 4x4 SuperCrew XL from Ford of Murfreesboro through State of Tennessee statewide contract #73320 *Sponsored by Patrick O'Mara*

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

STAFF RECOMMENDATION

Staff recommends approving this resolution.

BUDGET IMPACT

This vehicle will be purchased from the State of Tennessee Statewide Contract #64470. Funds are budgeted in the FY22 Park Development Fund.

DISCUSSION

The purchase of a 2021 Ford Ranger 4x4 SuperCrew XL was approved on July 8, 2021. Due to the shortages and the manufacturing processes in the automotive industry, the 2021 vehicle was canceled and not manufactured. This vehicle replaces the order from July 2021 with a 2022 vehicle with an anticipated delivery of early Spring 2022.

This vehicle will be utilized by recreation staff with the expansion of athletic facilities, plans for additional programming, and the corresponding equipment. This vehicle will enable the two Recreation Supervisors to transport equipment and supplies between locations for these programs.

RESOLUTION R-6-2022

RESOLUTION APPROVING THE PURCHASE OF A 2022 FORD RANGER 4X4
SUPERCREW XL FROM FORD OF MURFREESBORO THROUGH STATE OF
TENNESSEE STATEWIDE CONTRACT #73320

WHEREAS, the City desires to purchase a new pick-up truck to be used for recreation programming in the Parks and Recreation Department; and,

WHEREAS, the truck is available for order and purchase from Ford of Murfreesboro through State of Tennessee Statewide Contract #73320; and,

WHEREAS, Funding for this purchase will be from Fiscal Year 2022 Park Development Funds

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAKELAND, TENNESSEE: That the City Manager is hereby authorized to purchase a new 2022 Ford Ranger 4x4 SuperCrew Cab XL in the amount of Twenty-Eight Thousand, One Hundred Twenty Dollars (\$28,120.00).

PASSED AND ADOPTED by the Board of Commissioners of Lakeland, Tennessee on this 13th day of January 2022.

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell
City Recorder

Ford of Murfreesboro

John Hamby
1550 NW Broad St.
Murfreesboro, TN 37129

SALES QUOTATION

STATE CONTRACT- 000073320

TO:

CITY OF LAKE LAND

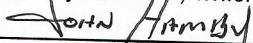
2022 FORD RANGER CREW CAB 4WD
OXFORD WHITE 5FT BED

F.O.B.
TERMS
DELIVERY
NUMBER

Thank you for your inquiry dated: October 8, 2021
We are pleased to quote you the following:

ITEM	QUANTITY		UNIT PRICE	DELIVERY DATE
1		2022 FORD RANGER CREW 4WD PICKUP		
2		2.3 LITER ECO BOOST W/ 10SPEED TRANSMISSION	\$28,120.00	
3		EXTERIOR---OXFORD WHITE		
4		Interior--- EBONY VINYL		
5		options listed on window sticker		
6				
7		101 EQUIPMENT GRP, REVERSE SENSING, POWER DOORS/WINDOWS		
8		PERIMETER ALERT, TOW PACKAGE		
9				
10				
11				
12				
		TOTAL X 1	\$28,120.00	TBD

We will be happy to supply any further information you may need and trust that you call on us to fill your order, which will receive our prompt and careful attention.


PER

October 8, 2021
DATE

Prepared by: JOHN HAMBY
10/08/2021



Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2022 Ranger 4x4 SuperCrew 5' box 126.8" WB XL (R4F)

Price Level: 215

Major Equipment

(Based on selected options, shown at right)	
EcoBoost 2.3L I-4 DOHC w/gasoline direct injection 270hp	Exterior: Oxford White
10 speed automatic w/OD	Interior: Ebony
* Auto stop-start feature	* 4-wheel ABS
* Brake assistance	* Traction control
* P 255/70R16 BSW AS S-rated tires	* Battery with run down protection
* Advance Trac w/Roll Stability Control	* Air conditioning
* Tinted glass	* AM/FM stereo with seek-scan, external memory control
* Bluetooth streaming audio	* Daytime running
* Rear child safety locks	* Dual power remote mirrors
* Variable intermittent wipers	* 16 x 7 steel wheels
* Dual front airbags	* Driver and front passenger seat mounted side airbags
* Airbag occupancy sensor	* SecuriLock immobilizer
* Message Center	* Underseat ducts
* Reclining front bucket seats	* Full folding rear bench
* Audio control on steering wheel	* Class IV hitch
* Front axle capacity: 3108 lbs.	* Rear axle capacity: 3370 lbs.
* Front spring rating: 3130 lbs.	* Rear spring rating: 3370 lbs.

Fuel Economy

As Configured Vehicle	MSRP
STANDARD VEHICLE PRICE	\$31,540.00
Engine: 2.3L EcoBoost	Included
Transmission: Electronic 10-Speed SelectShift Auto	Included
3.73 Axle Ratio	Included
GVWR: 6,050 lbs	Included
Tires: P255/70R16 AS BSW	Included
Wheels: 16" Silver Steel	Included
126.8" Wheelbase	STD
Monotone Paint Application	STD
Radio: AM/FM Stereo	Included
50-State Emissions System	STD
Equipment Group 101A High	\$1,135.00
Oxford White	N/C
Front Vinyl Bucket Seats	N/C
Ebony	N/C
Cruise Control	Included
Day/Night Rearview Mirror	Included
Perimeter Anti-Theft Alarm	Included
Power Glass Sideview Mirrors	Included

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared by: JOHN HAMBY
10/08/2021



Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2022 Ranger 4x4 SuperCrew 5' box 126.8" WB XL (R4F)
Price Level: 215

Major Equipment

City
20 mpg



Hwy
24 mpg

As Configured Vehicle	MSRP
Remote Key Fob w/Tailgate Lock	Included
6 Speakers	Included
SYNC	Included
Trailer Tow Package	\$495.00
Class IV Trailer Hitch Receiver	Included
SUBTOTAL	\$33,170.00
Destination Charge	\$1,295.00
TOTAL	\$34,465.00

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Meeting Cycle: Thursday, January 13, 2022

Subject: **Resolution** - approving a residential subdivision development contract with Lake District, LLC for a 9-lot subdivision to be known as The Willows at the Lake Phase 2. *Sponsored by Emily Harrell*

Staff Contact: Emily Harrell, City Engineer

STAFF RECOMMENDATION

Staff recommends the Board of Commissioners approve, by resolution, a residential subdivision development contract with Lake District, LLC for a 9-lot subdivision to be known as The Willows at the Lake Phase 2.

BUDGET IMPACT

The development fees related to Phase 2 of The Willows of the Lake are as follows:

Sewer Development Fees	\$27,900.00
General Fund Development Fees	<u>\$14,145.40</u>
Total	\$42,045.40

Additionally, a Security for Public and Private Improvements will be collected in the amount of

DISCUSSION

The Willows at the Lake is Phase 9 of the Lake District Planned Development. The Willows consists of a total of 109 single family attached residential townhomes. Phase 1 consists of 26 lots and is currently under construction. Phase 2 includes an additional 9 lots adjacent to Phase 1. This phase includes the construction of public connector roads, construction of private alleys, installation of sanitary and storm sewer facilities, all utilities associated with the lots, and landscaping and amenities in common areas. A copy of the Development Contract is attached.

RESOLUTION R 4-2022

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RESIDENTIAL SUBDIVISION DEVELOPMENT CONTRACT WITH LAKE DISTRICT, LLC FOR A 9-LOT SUBDIVISION TO BE KNOWN AS THE WILLOWS AT THE LAKE PHASE 2

- WHEREAS,** Developer is the owner of record of tracts of land zoned C-2 (General Business) with PD Overlay which contains approximately 161 acres, also identified by Parcel ID # L0159 00443, L0159 00472, L0159 00471, L0159 00138, L0159 00139, L0159 00444, and L0159 00445 in the official records of the Shelby County Recorder's Office ("Subdivision Site") and desires to improve and develop a portion of the Subdivision Site into a 9-lot subdivision to be known as THE WILLOWS AT THE LAKE PHASE 2 ("Subdivision"); and
- WHEREAS,** the City's Municipal Planning Commission ("MPC"), has approved the preliminary development plan and amendment to the planned development submitted by Developer with respect to the Subdivision ("Preliminary Development Plan"); and
- WHEREAS,** Developer is required to install, at its expense, public improvements, including, but not limited to, water lines, fire hydrants, sanitary sewer, underground electrical power and gas utilities, grading, storm water drainage system, streets, curbs, gutters, sidewalks, street name signs, traffic control devices and streetlights in connection with development of the Subdivision at its own cost; and
- WHEREAS,** Developer may be required, pursuant to its application and MPC and/or the City's Design Review Commission ("DRC") approval, to install, at its expense, private improvements and amenities, including, but not limited to, private streets and alleys, fences, entrance treatments and signage, walls, lakes, playgrounds, swimming pools, tennis courts and other recreational facilities, common open space, walking trails, storm water retention and/or detention basins, landscaping and related irrigation systems, relative to said Subdivision, none of which shall be accepted for maintenance by the City; and
- WHEREAS,** the City is willing to provide services to the Subdivision in accordance with the City's standard policies and applicable rates; and
- WHEREAS,** the City and Developer, by the terms of this Contract, desire to specify those detailed costs, division of responsibilities and maintenance and other conditions in addition to the Land Development Regulations and the Construction Plat/Plan, heretofore approved, according to State Statute by the MPC and/or the Board of Commissioners ("BOC"), said additional terms not to be considered as a variance from or modification to Regulations, plans or plat, as approved on the date of execution; and
- WHEREAS,** this Contract is entered into by the City at the insistence of Developer upon the understanding that Developer shall remain fully responsible for specific compliance with the requirement of the Land Development

RESOLUTION R 4-2022

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RESIDENTIAL
SUBDIVISION DEVELOPMENT CONTRACT WITH LAKE DISTRICT, LLC FOR A 9-
LOT SUBDIVISION TO BE KNOWN AS THE WILLOWS AT THE LAKE PHASE 2

Regulations, the Technical Specifications of the City and the Construction Plat/Plan, duly prepared by Developer subject to review and recommendation of the City Engineer and the Planning Director or person(s) designated by the City Manager; and

WHEREAS, the City is willing to approve the Subdivision, and all property and/or all street dedications, subject to Developer's compliance with any and all applicable Federal and State of Tennessee laws and local statutes, ordinances, codes, rules and/or regulations in addition to the specific conditions hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the City of Lakeland, Tennessee: That the Mayor is hereby authorized to execute a development contract with **LAKE DISTRICT LLC** for a 9-lot subdivision to be known as **THE WILLOWS AT THE LAKE PHASE 2**

PASSED AND ADOPTED on this 13th day of January 2022, the public welfare requiring it.

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell
City Recorder

RESIDENTIAL SUBDIVISION DEVELOPMENT CONTRACT

INTRODUCTION

THIS RESIDENTIAL SUBDIVISION DEVELOPMENT CONTRACT (“Contract”) is made and entered into this the _____ day of _____, **2021**, by and between **LAKE DISTRICT, LLC**, a limited liability company organized and existing under the laws of the State of Delaware (“Developer”), and **THE CITY OF LAKELAND TENNESSEE**, a municipality organized and existing under the laws of the State of Tennessee (“City”).

W I T N E S S E T H:

WHEREAS, Developer is the owner of record of a tract¹ of land zoned C-2 (General Business) with PD Overlay which contains approximately 161 acres, also identified by Parcel ID # LO159 00443, L0159 00472, L0159 00471, L0159 00138, L0159 00139, L0159 00444, and L0159 00445 in the official records of the Shelby County Recorder’s Office (“Subdivision Site”) and desires to improve and develop the Subdivision Site into a 9-lot subdivision to be known as **THE WILLOWS AT THE LAKE PHASE 2** (“Subdivision”); and

WHEREAS, the City’s Municipal Planning Commission (“MPC”), has approved the subdivision plan submitted by Developer with respect to the Subdivision (“Preliminary Development Plan”); and

WHEREAS, Developer is required to install, at its expense, public improvements, including, but not limited to, water lines, fire hydrants, sanitary sewer, underground electrical power and gas utilities, grading, storm water drainage system, streets, curbs, gutters, sidewalks, street name signs, traffic control devices and street lights in connection with development of the Subdivision at its own cost; and

WHEREAS, Developer may be required, pursuant to its application and MPC and/or the City’s Design Review Commission (“DRC”) approval, to install, at its expense, private improvements and amenities, including, but not limited to, private streets and alleys, fences, entrance treatments and signage, walls, lakes, playgrounds, swimming pools, tennis courts and other recreational facilities, common open space, walking trails, storm water retention and/or detention basins, landscaping and related irrigation systems, relative to said Subdivision, none of which shall be accepted for maintenance by the City; and

WHEREAS, the City is willing to provide services to the Subdivision in accordance with the City’s standard policies and applicable rates; and

WHEREAS, the City and Developer, by the terms of this Contract, desire to specify those detailed costs, division of responsibilities and maintenance and other conditions in addition to the

¹ If Developer is not the owner of record of the Subdivision Site but has permission from the actual owner of record to develop same, the owner will be required to join Developer herein and all obligations imposed upon Developer hereunder shall be jointly and severally imposed on Developer and Owner.

Land Development Regulations and the Construction Plat/Plan, heretofore approved, according to State Statute by the MPC and/or the Board of Commissioners (“BOC”), said additional terms not to be considered as a variance from or modification to Regulations, plans or plat, as approved on the date of execution; and

WHEREAS, this Contract is entered into by the City at the insistence of Developer upon the understanding that Developer shall remain fully responsible for specific compliance with the requirement of the Land Development Regulations, the Technical Specifications of the City and the Construction Plat/Plan, duly prepared by Developer subject to review and recommendation of the City Engineer and the City Planner or person(s) designated by the City Manager; and

WHEREAS, the City is willing to approve the Subdivision, and all property and/or all street dedications, subject to Developer’s compliance with any and all applicable Federal and State of Tennessee laws and local statutes, ordinances, codes, rules and/or regulations in addition to the specific conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the promises and mutual covenants of the parties herein contained and all other consideration herein recited, it is understood and agreed as follows:

GENERAL PROVISIONS

1. Construction Standards. Developer shall construct the Subdivision in accordance with the Outline Plan dated April 21, 2016, approved by the MPC on May 19, 2016, approved by the BOC on June 9, 2016, Preliminary Development Plan (PDP) dated October 10, 2018, approved by the MPC on October 18, 2018, approved by the BOC on November 8, 2018, PDP Amendment dated November 21, 2019, approved by the MPC on November 21, 2019, approved by the BOC on December 12, 2019, and Construction plans as may hereafter be submitted by Developer and approved by City, and if applicable, the requirements of the DRC, and in accordance with the requirements of (a) City Land Development Regulations; (b) City Zoning Ordinance and any other applicable Ordinances of the City; (c) City Design Guidelines; (d) the applicable building and fire safety regulations of Shelby County Tennessee. Items (a) through (d) are hereby made a part of this Contract by reference as if fully set forth herein, and are hereinafter referred to collectively as “Codes”. References herein to said Codes are to those in effect on the date this Contract is approved.

Developer shall also construct the Project in accordance with the following standards and specifications, all of which are incorporated herein by reference as if fully set forth:

- (a) The standards of the American Society of Testing Materials (ASTM);
- (b) The requirements of the Office of Safety and Health Administration (OSHA);
- (c) The requirements of the Federal Americans with Disabilities Act (ADA);
- (d) The Standard Specifications for Road and Bridge Construction of the Tennessee Department of Transportation; and
- (e) The Standards of the American National Standards Institute (ANSI).

- (f) The requirements of the Tennessee Department of Environment and Conservation.

All standards and specifications set forth above are those that are in effect on the date this Contract is approved.

2. Inspection and Testing – Costs. That Developer shall pay, on a monthly basis, the reasonable expenses of engineering inspection by the City Engineer or his designee, along with any laboratory testing expenses reasonably deemed necessary by the City Engineer and incurred for material testing and soil density and moisture content test, provided, however, that Developer shall remain fully responsible for construction to the approved design and quality control, and that the City Engineer is vested with the right of periodic inspections, final approval and stop work order as a measure of secondary or subsequent enforcement.

3. Approval of Subdivision Plans. In addition to the approval of MPC, Developer shall, within three (3) years of receiving approval of the Preliminary Development Plan, also obtain the approval of the City Engineer for the initial phase Subdivision Construction Plans. All construction relating to the Subdivision shall be subject to inspection and approval by the City until the end of the warranty period and release of Security.

OWNERSHIP

4. Developer agrees it shall have no claim, direct or implied, in the title or ownership of the public improvements, except sidewalks, specified in this contract that are to be dedicated to the City by virtue of the official recording of the Final Plat for the Subdivision and accepted (except for sidewalks) for perpetual maintenance by the City (the “Public Improvements”). The City, upon Initial Acceptance [hereinafter defined] and Final Plat recording, will take full title to the Public Improvements. Maintenance and or warranty responsibilities of the Developer prior to the end of the warranty period and release of Security are provided for hereinafter.

5. Developer agrees that it will not transfer ownership of the Subdivision Site without first providing the City with notice of when the transfer is to occur and the identity, current address and telephone number of the proposed Transferee. If it is Transferee’s intention to develop the Subdivision in accordance with this Contract, Developer agrees to provide the City an Assumption Agreement by which Transferee agrees to perform the obligations required under this Contract and to provide the security needed to assure such performance. Said Assumption Agreement will be subject to the approval of the BOC and City Attorney. Unless the Assumption Agreement specifically so provides, Developer shall not be released from its obligations hereunder. The City will not unreasonably withhold its consent with respect to the foregoing.

6. Developer understands that if it transfers the Subdivision site without first providing the notice of transfer and Assumption Agreement as required herein and receiving the approval of the BOC and City Attorney, it will be in breach of this Contract and the City may require that all work be stopped relative to the Subdivision and subject Developer to a declaration of fault.

7. Developer agrees to furnish, on demand, satisfactory evidence that it has the lawful right to enter into this Contract for the purposes herein contained. Any security for Developer's obligations hereunder is subject to the approval of the City Attorney.

8. Duration of Obligations. The obligations of Developer hereunder shall run with the Subdivision Site until Developer's obligations have been fully met. Any party taking title to the Subdivision Site, or any part thereof, shall take said real property subject to such obligations.

SECURITY

9. (a) Developer will furnish to the City, not later than the execution of this Contract by Developer, an estimate as to quantity and cost of all public and private improvements, on or off site (i.e., specific Design Review Commission requirements: brick walls and entrance treatments, landscaping, fencing, lighting, etc.) required by the City pursuant to MPC and/or DPC approval, with the exception of electrical power, water and gas utilities.

(b) Developer shall provide an Irrevocable Letter of Credit capable of presentation to the issuer in Shelby County, Tennessee, issued from a bank doing business, subject to service of process, and subject to both subject matter and personal jurisdiction in Shelby County, Tennessee, with no fixed expiration date, or other adequate security acceptable to the City ("Security") in the amount of _____ **Dollars (\$ _____)** for all public and/or private internal improvements, plus a sum equal to the cost, as estimated by Developer and approved by the City Engineer, of improvements public or private required by the City pursuant to MPC and/or DRC approval but to be constructed or installed off of the Project Site. It is the policy of the City to only accept as Security an Irrevocable Letter of Credit, cash or its equivalent. The form and substance of any Irrevocable Letter of Credit is subject to the approval of the City Attorney.

(c) The Final Plat of the Subdivision site shall not be recorded with the Shelby County Register's Office until the Subdivision has reached the level of Substantial Completion, as hereinafter defined. At that time, upon application of Developer and approval of the BOC, the amount of Security may be reduced to the cost, as estimated by the City, of uncompleted requirements relative to the Subdivision plus a reasonable sum to cover Developer's warranty obligations hereunder.

(d) Although the amount of the Security may be less than the total cost of completion by Developer of all of Developer's obligations hereunder, it is understood and agreed that the Security, subject to its limit, is to furnish security for the performance of all of Developer's obligations hereunder but that such obligations are not limited by the amount of such Security. The Security shall remain in force through the end of the warranty period, although Security may be reduced from time to time as provided herein. All collection expenses, court costs and reasonable attorney's fees incurred by the City in connection with collection under the Security shall be paid by Developer and such obligation shall be secured by the Security. The City shall be entitled to recover the cost thereof, reasonable administrative fees, reasonable attorney's fees and interest calculated on any unpaid balance at the rate of ten percent (10%) per annum until the unpaid balance is fully paid.

(e) Developer agrees that if the Security furnished to secure the obligations of Developer under this Contract, due to inflation and/or rising costs, previous errors in estimation, or otherwise, is inadequate to secure such obligations at the time an extension of time is sought, it will provide additional security to bring the Security amount in line with current cost projections made by the City Engineer.

INSURANCE

10. (a) Developer, upon affixing its signature to this agreement, shall provide at no cost to the City, a policy or policies of insurance to the City from insurance companies acceptable to the City and licensed by the Tennessee State Insurance Commissioner to conduct business in the State of Tennessee with coverage limits as set forth below. Said insurance policy or policies shall be evidenced by current original certificates and/or policies attached to this Contract and kept in full force and effect throughout the life of this Contract as required by the City. Each certificate or policy shall require and state in writing that “thirty (30) days prior to cancellation or material changes in the policies, notice thereof shall be given to the City of Lakeland Tennessee by registered mail, return receipt requested.”

(b) Developer shall purchase and maintain commercial general liability insurance and umbrella liability insurance with minimum limits of \$1,500,000.00 per occurrence and other insurance that shall insure against claims arising out of Developer’s performance under this Contract, whether such claims arise out of the actions of Developer, any subcontractor of the Developer, their employees, agents or independent contractors or anyone for whose acts any of them may be liable, including, without limitation:

(1) Claims brought under worker’s compensation in accordance with the Statutory Requirements and limits of the State of Tennessee. “All States Endorsement” is required or a Certificate of the State Worker’s Compensation Board showing proof of ability to pay compensation directly; provided, however, if Developer has no employees who are eligible to be covered under worker’s compensation insurance, Developer shall not be required to furnish insurance against worker’s compensation but shall require the party(s) contracting with Developer to perform work on the Project Site to furnish evidence of such insurance for the employees of same as required above;

(2) Claims for the personal injury, occupational illness or death of Developer’s employees, if any;

(3) Claims for the personal injury, illness or death of any person other than Developer’s employees or agents;

(4) Claims for injury to or destruction of tangible property, including loss of use resulting there from;

(5) Claims for property damage or personal injury or death of any person arising out of the ownership, maintenance or use of any motor vehicle;

(6) Claims by third parties for personal injury and property damage arising out of Developer's failure to comply with Developer's obligations under this contract;

(7) Premises and Operations;

(8) Independent Contractors;

(9) Products and Completed Operations;

(10) Blanket Contractual or its current equivalent policy language;

(11) XCU (Explosion, Collapse and Underground) Coverage or its current equivalent policy language;

(12) Broad Form Property Damage or its current equivalent policy language;

(13) Commercial automobile liability insurance covering owned, hired and non-owned vehicles.

(c) The insurance coverage required by this paragraph shall include the coverage specified above with policy limits of not less than \$1,500,000.00 Combined Single Limit general liability and \$1,500,000.00 Combined Single Limit automobile liability (including, but not limited to, bodily injury (including death) and property damage) per occurrence. These minimum limits may be met through a combination of primary and umbrella insurance policies. The commercial general liability insurance coverage shall include completed "incident" as opposed to "claims made" insurance coverage and liability insurance applicable to Developer's obligations under this Contract. All such insurance shall remain in effect until the City issues its written notice of the release of Security of the completed Project. In addition, Developer shall maintain "incident" as opposed to "claims made" insurance for at least one (1) year after the City issues its written notice of release of Security. Developer shall furnish the City with evidence of the continuation of all such insurance at the time of issuance of the notice of release of Security.

(d) Prior to commencing any work on the Project, Developer will furnish to the City a certificate of insurance evidencing the required coverage.

(e) The furnishing of the aforesaid insurance shall not relieve Developer of its obligation to indemnify the City in accordance with the provisions of this Contract.

TIME SCHEDULE

11. (a) It is agreed by Developer and the City that this Contract shall become void and Developer will be in material breach of this Contract unless the following items are accomplished within one (1) year from the date of approval of this Contract by the BOC. Items (1), (2), (3), and (4) below must be completed prior to starting Construction below.

- (1) Signatures of Developer, and, if applicable, of Owner of the Subdivision Site, on two original copies of this Contract.
- (2) Signatures of Developer, and, if applicable, of Owner of the Subdivision Site, on two original copies of the Inspection and Maintenance Agreement for Private Stormwater Facilities.
- (3) All fees paid to the City as specified herein.
- (4) Security is received by the City as specified herein.
- (5) Insurance certificate is received by the City as specified herein.

If items (1-5) above are completed within one year from the date of this Contract, Developer shall have one additional year to commence Construction.

“Construction” as used in this subsection is defined as the placing of construction materials in a permanent position and fastened permanently or extensive grading, including demolishing or removal of existing structures necessary for the development of the Subdivision.

(b) The failure of Developer to comply with the provisions of this paragraph shall, at the discretion of the City Manager, result in the approval of the City of Lakeland being withdrawn and the approvals of the MPC and, as applicable, the DRC similarly being withdrawn and of no further force and effect.

12. Developer shall substantially complete the Subdivision on a timely schedule and in an expeditious manner, with the date of Substantial Completion to be not later than four (4) years from the date the BOC approves this Contract. The term “Substantial Completion” as used herein shall be when Developer has completed all required Public and Private Improvements to the Subdivision Site, specifically including but not limited to sanitary sewer (unless served by septic system), water, natural gas and electricity service to each lot, and all required off-site Public Improvements relative to the Subdivision as verified by the City Engineer and approved by the MPC.

(a) Developer agrees that if due to unforeseen circumstances it is unable to complete all work included in this Contract within the time specified herein, it will submit a written request for extension of the Contract period to the City at least sixty (60) days prior to the expiration of the existing Contract period, specifying the reason for its failure to complete the work as agreed, and a prospective date for such completion.

(b) The City will not unreasonably withhold approval of extensions of time where Developer has complied with the requirements of notice to the City and provided the required additional Security, if any is needed.

13. Developer agrees that its failure to follow the extension of time procedure provided herein shall constitute a breach of this Contract. Developer agrees that should it fail to complete any part of the work outlined in this Contract in a good and workmanlike manner, as approved by the City Engineer, the City shall reserve the right to withhold and/or withdraw all building permits and/or sewer service within the Subdivision until all items of this Contract have been fulfilled by Developer.

14. (a) It is agreed that after the date of Substantial Completion, as recommended by the City Engineer and approved by the BOC, the City will record the Final Plat (Mylar) of the Subdivision in the Register's Office of Shelby County, Tennessee after Developer has submitted a Final Plat suitable for recording, provided the Security being held by the City to guarantee Developer's obligations under this Contract is sufficient to cover the cost of the remaining required Public Improvements and the private improvements as estimated by Developer's Engineer and approved by the City Engineer. If the Security being held by the City is not sufficient, Developer shall increase same accordingly prior to the City recording the Final Plat. The original Final Plat shall be retained by the City as a permanent record. Developer shall be responsible for paying all recording costs. Final Plat recording shall signify Initial Acceptance of the project.

(b) Developer shall provide the City with a copy of the Final Plat using State Plane Coordinate System with NAD – 83 datum on disk or CD in DXF format (AutoCAD Release 14 or more current) prior to recording of the Final Plat of the Project. All MTEXT must be exploded.

(c) Developer shall furnish as-built plans to the City on reproducible, stable mylar media. Said plans shall show the sanitary sewer, storm drainage system, grading, water main and service lines and streets within the Subdivision before the City shall record the Final Plat of the Subdivision. Departure from the original plans and specifications shall not be permitted without the approval of the City Engineer, the MPC, DRC, and BOC as necessary. In addition to the plans furnished on reproducible mylar media, Developer shall provide a scanned copy of the as-built plans as a TIF image on CD and a DXF copy (AutoCAD Release 14 or more current) of the as-built plans on CD.

(d) Developer shall also furnish, in writing, the itemized as-built construction cost of all public improvements.

15. (a) Sidewalks. Notwithstanding any provision to the contrary herein, Developer shall ultimately be responsible for the installation of all required sidewalks, at its expense, and will include in the Security an amount sufficient to insure installation of all required sidewalks. All required sidewalks shall be completed, without defect and on a lot-by-lot basis, prior to the issuance of a Certificate of Occupancy ("C. O.") to the owner of each lot. Developer shall be responsible for repairing any latent defects in the sidewalks prior to the issuance of a Certificate of Occupancy ("C. O.") to the owner of each lot. (All references to sidewalks herein include required handicap ramps.)

(b) Curb and Gutter. All required curb and gutter must be completed and without defect prior to the issuance of a Certificate of Occupancy ("C. O.") for the Subdivision.

Developer shall also be responsible for repairing any latent defects and/or failures in the curb and gutter that occur, or first appear, after the issuance of the relevant C.O. and prior to the end of the warranty period and release of Security for the Subdivision.

(c) Final Surface Asphalt. Developer shall furnish and install asphalt base and a final asphalt surface course (wearing surface) on all streets, public and private, as required hereunder in accordance with City specifications.

- (1) The final surface (1.5") shall not be installed until Seventy-Five Percent (75%) of the lots in the Subdivision are built upon or within four years after the issuance of the first building permit, whichever comes first, or as otherwise specified by the City.
- (2) Developer shall maintain all streets in accordance with the warranty provisions provided for herein.
- (2) Developer shall make all necessary adjustments to manholes and valve boxes to meet finished surface grade and to repair subsurface or base repair, as required, in areas designated by the City prior to the application of the final asphalt surface.

WARRANTY

16. Developer and City agree that neither the final certificate of payment nor any provision of this Contract or its incorporated documents nor partial or entire occupancy of the Subdivision shall constitute an approval or acceptance of any work not performed in accordance with the Contract and its incorporated documents, nor relieve Developer of liability with respect to any express warranty or responsibility for faulty materials or workmanship.

17. (a) Developer is required to complete the Public Improvements, which are ultimately to be accepted by the City for perpetual maintenance, and all other improvements required by the City relative to the Subdivision, in accordance with the terms of this Contract. Further, Developer is to correct any defects or failures in all of such improvements that occur within one (1) year of the Final Plat recording. Any defect first appearing within the applicable one (1) year period shall be required to be corrected by Developer; and thereafter Developer shall be required to correct any defect again occurring in or relating to what was previously corrected within a one (1) year period commencing from the date of approval by the City Engineer of such correction. If the defect recurs within any one (1) year of its repair, Developer shall remain obligated to correct it until the condition is satisfactory to the City after one (1) year from the date of its last repair. This Warranty does not diminish, but is in addition to, all other rights and liabilities assessed herein.

(b) No sooner than ten (10) months nor later than eleven (11) months after the Final Plat recording, Developer shall so notify the City Engineer and the City Engineer, or his/her designee, shall inspect the streets, curbs and gutters, sidewalks, storm drain system, detention basin, landscaping, irrigation, fencing and all other required improvements to determine any

defects or failures of the same. If no defects or failures are found, the City Engineer shall report the same to the BOC at a regular or special meeting within thirty (30) days of the date of said inspection. The BOC, provided it agrees with the City Engineer, shall approve the final release of the Security, which shall constitute the end of the warranty period for the Subdivision. If defects or failures are found upon the aforesaid inspection, written notification outlining deficiencies to be corrected shall be provided to Developer along with the time period for corrections, not to exceed sixty (60) days. Within seven (7) days of notification by Developer that such corrections have been made or the expiration of the time period, whichever occurs first, the City Engineer shall re-inspect for correction of defects and failures. If all deficiencies have not been corrected, the City Engineer shall provide an updated written notification of deficiencies and Developer shall have thirty (30) days to make the remaining corrections. If all corrections are not made at this time, the City may demand payment on the Security, and, upon collection, shall proceed to make the corrections. If and when Developer or the City, as the case may be, has corrected all failures and defects, and a period of one (1) year has expired from the date of such corrections without defects again appearing in the corrected work, the City Engineer shall report the same to the BOC at a regular or special meeting within thirty (30) days of the date of said re-inspection. The BOC, provided it agrees with the City Engineer, shall approve the final release of the Security, which shall constitute the end of the warranty period for the Subdivision.

(c) It is the intention of the parties hereto that any Public Improvement required of Developer relative to the Subdivision which was found to be satisfactory by the City Engineer upon inspection as provided in Section 17 (b) shall thereafter be the obligation of the City to maintain. However, any such improvement found to be unsatisfactory by the City Engineer upon the initial inspection as provided in Section 17 (b) or any later inspection made pursuant to Section 17 (b) shall not be the obligation of the City to maintain until same remains satisfactory to the City for a period of one (1) year from the date it was inspected and found to be satisfactory by the City Engineer.

(d) At any time during the one (1) year warranty period beginning from the date of the Subdivision Final Plat recording, the City Engineer may recommend to the BOC that a portion of the Security be released based upon the City Engineer's estimation of the needed Security to ensure that funds will be available to correct any then outstanding defects in the improvements or to correct any defects which have been corrected but may reoccur.

REQUIRED IMPROVEMENT AND RELATED FEES

WATER

18. Developer shall install, at its expense, all water mains, hydrants, valves and appurtenances to serve all lots within the Subdivision from the existing Memphis Light Gas & Water (MLGW) water system and to install, at its expense, water service lines and appurtenances from the water main to the meter center at the front property line of each lot. Further, Developer shall pay all engineering, testing and laboratory costs incident to the water service in and to the Subdivision. Additionally, Developer shall extend all water mains to within two feet of the property line of any roadways connecting to adjacent properties that may be served by said main(s).

19. Developer shall install at its expense fire hydrants throughout said Subdivision in accordance with the Shelby County Fire Code, and if not specified in said Code, the type and location of said hydrants is to be approved by the City Engineer.

SANITARY SEWER

20. Developer shall pay to the City, the sum of **Twenty-Seven Thousand Nine Hundred Dollars (\$27,900)**, which reflects the sewer development fee as required by Ordinance 07-105 and as amended in Ordinance 08-119.

21. Developer shall install at its expense a State Board of Health and City approved sewerage system complete with pumping stations (as necessary), force main, sewer mains, manholes and appurtenances, within and without the limits of the Project and sewer laterals to the front of each lot within said Project. Developer shall pay the cost of engineering, inspection, testing and laboratory costs incident to the sewer service in or to the Project. Developer shall provide and install, at its expense, a State and City approved outfall sewage system complete with necessary sewer mains, manholes, and service laterals in the Project and pump stations and force mains as approved by the City Engineer upon approval of the plans and specifications for the Project. Pump stations will not be allowed without specific approval from the City Engineer and the City Board of Sewerage Commissioners. Said service lateral connections shall be extended to the surface inside of the property line and capped six (6) inches below the surface of the ground with a protective cap pipe placed over it and extending thirty (30) inches into the air. Additionally, Developer shall extend all sewer mains to within two feet of the property line of all adjacent properties that may be served by said main(s).

22. Developer shall install at its expense a cellular based telemetry system as approved by the City of Lakeland, in accordance with specifications provided by City, on any and all sewer lift stations servicing said Project. Additionally, Developer shall install and maintain, at its expense, a sight proof fence in conformance with a design plan approved by the DRC around the perimeter of any and all sewer lift stations on said Project.

STREETS

23. Developer agrees to dedicate and improve and/or construct, at no cost to the City, all public and/or private streets located within or required by this Subdivision and to comply with the road standards of the City to the satisfaction and approval of the City Engineer.

24. Developer shall bear the cost of all engineering, inspection and laboratory costs incurred by Developer and/or the City, incidental to the construction of street(s) to be constructed or improved pursuant to this Contract, including, but not limited to, material and density testing; and, if the City deems it necessary to have additional work of such nature performed, the Developer shall bear such costs also.

25. It is agreed and understood that if it is not necessary to change the existing grade, alignment or disturb the pavement of an existing street or road, Developer shall only be required to construct drainage, grade, gravel and pavement to match the existing pavement and construct

sidewalks, curb and gutter as required. If the existing grade and/or alignment are changed, Developer shall be required to grade, gravel and pave the full width of said street or road.

26. Developer shall complete all grading within the street right-of-way before the public utilities are installed.

27. Developer shall design and construct all private streets and roadways authorized within the Subdivision to standards equal to or greater than required by the Land Development Regulations and Technical Specifications of the City.

28. Developer and the City agree that easements for sanitary sewers, drainage and other required services may be located and utilized within private streets and shall be so noted on the Final Plat of said Subdivision.

29. Developer agrees that the City is not responsible for street repairs within private streets. The responsibility for repairing private streets will be that of the property owners and/or property owner's association and such responsibility shall be so noted on the Final Plat of said Subdivision.

SIDEWALKS

30. Developer shall furnish all labor and materials to construct and install all sidewalks and handicap ramps, at its expense, in accordance with the Land Development Regulations, Technical Specifications and the approved Development Plan.

STREET SIGNS, TRAFFIC CONTROL DEVICES, ETC.

31. Developer agrees to install, at its expense, permanent street signposts and markers at all street intersections in the Subdivision and to install, at its expense, traffic control devices, signage and striping relative to the Subdivision. The location of street signs to be installed shall be approved by the City Engineer. Variance from standard street sign type must be approved by the City. All traffic control devices, signage and striping shall be installed as per City Subdivision Regulations, the Manual on Uniform Traffic Control Devices and approved by the City Engineer.

EROSION, SEDIMENT AND DEBRIS

32. Developer agrees that all drainage and related facilities, including, without limitation, ditch paving, bank protection and fencing adjacent to open ditches, made necessary by the development of the Subdivision are to be constructed by Developer according to plans and specifications approved by the City Engineer.

33. Developer agrees that it will provide necessary erosion control, including, but not limited to, seeding for gentle slopes (4 to 1 or less) and grass sod for steeper slopes, with special grading and terracing, to the specifications of the City Engineer. All freshly excavated and embankment areas not covered with satisfactory vegetation shall be fertilized, mulched and seeded and/or sodded as required by the City Engineer to prevent erosion. In the event the City Engineer

determines that Developer is not providing necessary erosion control, the City Engineer shall officially notify Developer of the problem. If Developer has not corrected the problem within 7 days after notice, the City Engineer may make arrangements for the necessary materials, labor and associated costs to eliminate the erosion problem, documenting all expenses, specifically including reasonable administrative expenses, incurred in performing the work. Alternatively, the City reserves the right to issue a Stop Work Order on all work in progress within the bounds of the Subdivision until such time as Developer has corrected any erosion control deficiencies. Prior to releasing any Security hereunder, all expenses incurred by the City relative to the foregoing shall be paid in full by Developer plus interest on any unpaid balance accruing at the rate of ten percent (10%) per annum.

34. Any and all unenclosed watercourses lying partially or wholly within the boundary of the Subdivision Site shall be constructed to an adequate cross section to provide design flow without threat of erosion or flooding of any property within the Subdivision Site or any off-site property. Such watercourses shall be lined in a manner satisfactory to the City Engineer and any other agencies that may have jurisdiction.

35. All drainage structures necessary for the road plans affecting any watercourse lying partially or wholly within the Subdivision Site are to be provided by Developer.

DRAINAGE DESIGN AND RESPONSIBILITY

36. Developer shall pay to the City, the sum of **Four Thousand Five Hundred Dollars (\$4,500)**, which reflects the drainage control fee with detention as required by Ordinance 07-105.

37. Developer shall construct and install, at its expense, all storm water drainage channels, ditches and structures. All drainage control fees shall be paid to the City, and a retention/detention storage basin, as required, with sufficient hydrologic capacity to control all surface and ground water originating within and upstream of the Subdivision shall be constructed as required by the City. Said drainage system shall be designed such that the amount and rate of water from all sources leaving the Subdivision after full development shall not be significantly different after than before initiation of development unless approved by the City Engineer upon certification of a Professional Engineer registered in the State of Tennessee that the drainage system design and improvements upon full development of upstream and downstream properties, in accordance with the City's Land Use Plan, are sufficient to accept surface and ground water reasonably expected to flow on the Subdivision and discharge all waters reasonably expected to flow from the Subdivision so as not to damage or flood properties nor to increase the established base flood elevation of the upstream or downstream portion of Flood Plain within or without the Subdivision. Further, the adequacy of the drainage plan and construction thereof shall in all cases be certified by Developer's engineer as indicated by his signature and seal affixed upon the Final Plat of said Subdivision prior to the Initial Acceptance by the City and recording of said Final Plat.

38. Developer shall provide to the City, and to each lot purchaser or builder, a coordinated grading and drainage plan designed to ensure proper drainage of all lots and building sites within the Subdivision. Said plan shall be compatible with the overall drainage plan for the Subdivision and shall comply with the Subdivision Regulations. Further, the Final Plat shall

contain a notation stating that compliance with the Drainage Plan by individual lot owners and builders shall be a condition of the Building Permit issued by the City.

39. That in any development that alters or revises the Flood Plain shown on the Flood Hazard Boundary Map issued by the Federal Emergency Management Region Office, Developer shall provide to the City a Development Permit issued by the Federal Insurance Administration Regional Office accepting said alteration or revision of the Flood Plain. Further, until said Development Permit is provided, Developer shall not proceed with any work affecting the Flood Plain nor will the Final Plat of the Project be approved by the MPC.

40. Developer understands and agrees that the City, in its proprietary function, does not purport to specify the development layout nor the choice of available land uses; nor does the City design, construct, supervise nor certify the adequacy of the drainage improvements.

41. Developer understands and agrees that the City Engineer is not vested with any responsibility for the design of drainage improvements nor is he required to determine drainage capacities, survey elevation, cross check adequacy nor specify the type and locations of drainage improvements; and in providing technical assistance, planning and review, the City does not commit itself to the construction, improvements or modification of the drainage system within or without the Subdivision.

42. Developer understands and agrees that it is the responsibility of Developer to properly anticipate, survey, design and construct all drainage improvements so that the Subdivision will not increase, alter or affect the flow of surface or channelized waters from or onto any property as to damage or flood any property or contribute to the same.

43. Developer understands and agrees that in providing technical assistance, planning and review, the City seeks to enforce its minimal governmental standards and does not relieve or accept any of Developer's liability and responsibility to properly design and construct the Subdivision.

44. Developer further agrees to indemnify and hold harmless the City and the City Engineer from any loss or damage from any claim, cause of action or liability resulting in whole or part from the design, construction and/or installation of the Subdivision. The aforesaid indemnity and hold harmless agreement includes, without limitation, the reasonable expenses of the City incurred in defending itself against any matter covered by such indemnity agreement, including attorney fees and expenses of litigation.

45. As long as the City holds Security it reserves the right to use said Security for completion and/or repair of any drainage structure during the warranty period of the Subdivision served by said structure.

46. The Final Plat which is to be recorded shall contain provisions substantially similar to the following if the Subdivision is to be subject to covenants and restrictions imposed by the Developer and/or if any area of the Subdivision is to be maintained at the expense of a property owners association:

“The Covenants and Restrictions set out herein are private in nature and are not subject to enforcement by the City of Lakeland.

The Developer will establish a not-for-profit property owners association (“POA”), which will have total responsibility for maintenance and repair of the common area(s) in the Subdivision after the present owner ceases such function. In the event the present Owner of the property shown hereon fails to organize the POA, or, if, after its organization, it ceases to function or exist, then, in the event the City of Lakeland, in accordance with applicable law and/or ordinances, expends funds to maintain or repair the common area, the expenses thereof plus an administrative fee shall become a lien, on a pro rata basis and severally, on each lot shown hereon and may be enforced in accordance with law. All owners of lots will be required to become members of the POA.”

ADMINISTRATIVE FEES

Engineering Review Fee

47. Developer agrees to pay to the City the sum of **Two Thousand Seven Hundred Dollars (\$2,700)**, (\$300 per lot), which represents the engineering review fee as required by Ordinance 07-105, prior to the execution of this Contract.

Construction Inspection Fee

48. Developer agrees to pay to the City the sum of **Three Thousand Two Hundred Dollars (\$3,200)**, (\$500 base fee plus \$300 per lot), which sum represents the construction inspection fee required by Ordinance 07-105, which shall be paid prior to the execution of this Contract. Neither observations by the City Engineer and Construction Inspectors, nor inspections, tests or approvals by others shall relieve the Developer from its obligation to perform work in accordance with the terms of this Contract. Developer further agrees to pay a \$50 re-inspection fee for each inspection after a Notice of Violation has issued, payable within ten (10) days of receipt of invoice.

Administrative Review Fee

49. Developer agrees to pay to the City the sum of **One Thousand Dollars (\$1,000)**, (\$200 1st lot and \$100 per lot thereafter), which represents the administrative review fee as required by Ordinance 07-105, prior to the execution of this Contract.

Geographical Information System (GIS) Fee

50. Developer agrees to pay to the City the sum of **Six Hundred Dollars (\$600)**, (\$200 plus \$50 per lot thereafter), which represents the Geographical Information System (GIS) Fee as required by Ordinance 07-105.

Natural Resources Inventory/Analysis Fee (per acre)

51. Developer agrees to pay to the City the sum of **Two Hundred Thirteen Dollars (\$213)**, (\$200 plus \$25 per acre thereafter), which represents the Natural Resources Inventory/Analysis Fee as required by Ordinance 07-105. Developer paid fee for total acreage in Phase 1.

Parkland Improvement Fee (per lot)

52. Developer agrees to pay to the City the sum of **Nine Hundred Dollars (\$900)**, (\$100 per lot), which represents the Parkland Improvement Fee as required by Ordinance 07-105.

Tree Removal Fee (per acre)

53. Developer agrees to pay to the City the sum of **One Hundred Fifty-Two Dollars (\$152)**, (\$100 per acre or portion thereof, maximum \$10,000), which represents the tree removal fee as required by Ordinance 07-105, prior to the execution of this Contract. Developer paid fee for total acreage in Phase 1.

Warning Siren Fee (per lot)

54. Developer agrees to pay to the City the sum of **Four Hundred Fifty Dollars (\$450)**, (\$50 per lot), which represents the Warning Siren Fee as required by Ordinance 07-105.

Parkland Review Fee (per acre)

55. Developer agrees to pay to the City the sum of **Four Hundred Thirty Dollars and Forty Cents (\$430.40)**, (\$400 plus \$20 per acre) which represents the Parkland Review/Development Fee as required by Ordinance 07-105.

MISCELLANEOUS CONDITIONS

56. Easements. Developer agrees that it will grant any and all necessary easements and rights-of-way across its property to effectuate the requirements of this Contract. Any off-site easements and/or right-of-way required for the Subdivision must be obtained and furnished by Developer to the City and recorded prior to Contract approval. Said easements and rights-of-way shall be in form, type, size and character acceptable to the City. Developer shall grant and/or obtain and furnish said easements without expense to the City of Lakeland and will waive any claim for damages arising from the granting or obtaining thereof.

57. It is understood and agreed that the City is not and could not be expected to oversee, supervise and/or direct the construction of all construction and improvements contemplated hereunder. Neither is the City Engineer vested with the original design responsibility nor the means to formally survey elevations, capacity, structural integrity, type, adequacy or the locations of improvements at every stage of the construction process. The City Engineer is vested with the right of periodic inspections, final approval and stop work order as a measure of secondary or

subsequent enforcement. Developer now has and shall retain the responsibility to properly anticipate, survey, design and construct the development improvements and give full assurance that same shall not adversely affect the flow of surface water from or upon any property. In providing technical assistance, plan and design review, the City does not and shall not relieve Developer from or accept any liability from Developer. Developer will provide his own Project Engineer whose duties and responsibilities are explained in the General Conditions of the City of Lakeland Construction Specifications.

58. In situations which may affect the safety or protection of persons, the work, or property at the Subdivision Site or adjacent thereto, Developer, without special instruction or authorization from the City, is obligated to act to prevent any and all threatened damage, injury or loss. If the City has to use its resources to respond to situations which may affect the safety or protection of persons, the work, or property at the Subdivision Site or adjacent thereto, it is agreed that the City will keep a record of costs associated therewith, including without reservation reasonable administrative fees and expenses, and will be reimbursed by Developer.

59. Developer agrees that the City shall have the right to enter the Subdivision Site and make emergency repairs to any improvements when the health and safety of the general public requires it. Developer will reimburse the City for reasonable cost, including without reservation reasonable administrative fees and expenses, incurred by it in making such repairs.

60. Developer agrees to secure all required permits for the demolition of structures on the subject property. Developer further agrees that it will haul all scrap, buildings, materials, trees, debris, rubbish and other degradable materials to a permitted landfill on a timely basis and not bury, burn or cause to be burned, such materials or allow them to accumulate within the Subdivision Site or within the corporate limits of the City.

61. Developer agrees that should it default in performing any of its obligations under this Contract and it becomes necessary to engage an attorney to file necessary legal action to enforce provisions of this Contract or sue for any sums of money due and owing or liability arising incidental to the Contract, Developer will pay to the City reasonable attorney's fees and expenses of litigation.

62. Prior to the release of Security for the Subdivision by the City, Developer shall deliver to the City an affidavit certifying that all subcontractors and material suppliers furnishing labor and/or material for the improvements required under this Contract have been paid in full. The Developer shall also provide a release of all liens, and of the right to claim liens, from all subcontractors and material suppliers furnishing labor or materials for the development.

63. Developer shall be responsible for the cost of any and all relocation, adjustment, modification, installation and/or removal of utilities, streets, curbs, gutters, sidewalks, drainage and all other improvements made necessary by the development of the Subdivision, both on and off site. All electrical utilities shall be installed underground unless expressly waived by the BOC upon written request to the DRC and after a recommendation by the DRC is submitted to the BOC.

64. Developer agrees to dedicate **0.521 acres** of Parkland to the City as per Article II Neighborhood Development Regulations, Section D, 4.b. of the Lakeland Land Development Regulations.

65. Gas and Electric Service. Developer shall install underground electric and natural gas service to the Subdivision in accordance with the electric and natural gas service policy specified by the agreement between the City and the Memphis Light, Gas and Water Division of the City of Memphis and City ordinances and/or policies in effect at the time of such installation.

66. Indemnity. Developer will indemnify and hold the City harmless against all claims that may arise out of or result from Developer's performance under this Contract, whether such claims arise out of the actions of Developer, any subcontractor of Developer, or anyone directly or indirectly employed or directed by either of them. This indemnity agreement includes, without limitation, all tort claims, both intentional and otherwise, and all claims based upon any right of recovery for property damage, personal injuries, death, damages caused by downstream deposits, sediment or debris from drainage, damages resulting from Developer changing the volume or velocity of water leaving Developer's property and entering upon the property of others, and claims under any statutes, Federal or state, relative to water, drainage and/or wetlands, and reasonable attorney's fees and costs incurred by the City in defending itself as a result of the aforesaid and/or enforcing this Contract.

67. Safety. Developer shall maintain barricades, fences, guards and flagmen as reasonably necessary to ensure the safety of all persons at or near the Subdivision Site during construction. All construction material, including, without limitation, mud, silt, dirt and gravel, shall be kept off existing streets at all times. In the event such mud, silt, dirt, gravel or other construction material is washed, blown or carried into an existing street, Developer shall take immediate steps to remove such materials. If Developer does not remove such materials after notification by the City, and the City deems it necessary to clean the affected streets, the Developer agrees to reimburse the City for all such cleaning expenses.

68. Construction Activity. (a) Developer will not carry on or permit construction activity under this Contract earlier than 6:00 a.m. nor later than 7:00 p.m., Monday through Saturday, and no construction activity, other than emergency repairs, shall be carried out on Sundays.

(b) Developer agrees to include the language "all streets shall be kept clear and free of dirt and debris" in all contracts between Developer and the contractors, subcontractors, builders, etc., unless otherwise authorized in writing by the City Engineer.

(c) Developer shall provide the City with the name, address and phone number of person(s) to be contacted and responsible for correcting any of the requirements set forth above should the occasion arise to do so.

69. The use of any gender herein shall apply to all genders, the singular shall include the plural, and the plural shall include the singular, as the content and context may require.

70. If litigation ensues with respect to this Contract and the City prevails therein, the City shall be entitled to recover from Developer its reasonable attorney's fees and the costs and expenses of such litigation, including reasonable attorney's fees and the costs and expenses of such litigation related to any appeal. The court(s) before which such litigation is pending shall determine whether the City prevailed and the amount of such fees, costs, and expenses to be recovered by the City as a result of prevailing; and, if the City prevails in part, but not in whole, an equitable award of its attorney's fees and expenses shall be made by the court(s). The same provision as immediately aforesaid shall be applicable to any litigation necessary to establish the City's right to recover under the Security. The Security shall cover all Developer's obligations under this Contract, including, without limitation, the obligation of Developer to pay the fees, costs and expenses of the City as provided for in this Section of the Contract.

71. Interpretation and Severability. If any provision of this Contract is held to be unlawful, invalid or unenforceable under present or future laws effective during the terms hereof, such provisions shall be fully severable and this Contract shall be construed and enforced as if such unlawful, invalid or unenforceable provision was not a part of this contract. Furthermore, if any provision of this Contract is capable of two constructions, one of which would render the provision void and the other which would render the provision valid, then the provision shall have the meaning that renders it valid.

72. Construction of Contract. Each party has received and had the opportunity to review this Contract, and each party has had the opportunity, whether exercised or not, to have each respective party's attorney review this Contract, and, accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract.

73. No Waiver. The failure of the City to insist upon prompt and strict performance of any of the terms, conditions or undertakings of this Contract, or to exercise any right herein conferred, in any one or more instances, shall not be construed as a waiver of the same or any other term, condition, undertaking or right.

74. Amendments and Modification. This Contract shall not be modified in any manner, except by an instrument in writing executed by or on behalf of all parties.

75. Authority to Execute. City and Developer each warrant and represent that the party signing this Contract on behalf of each has authority to enter into this Contract and to bind the City and Developer, respectively, to the terms, covenants and conditions contained herein. Each party shall deliver to the other, upon request, all documents reasonably requested by the other evidencing such authority, including a copy of all resolutions, consents or minutes reflecting the authority of persons or parties to enter into agreements on behalf of such party.

76. Notices. All notices, demands and requests required or permitted by this Contract shall be in writing (including telecopy communications) and shall be sent by facsimile transmission, air or other courier, or hand delivery, as follows:

(i) CITY

CITY OF LAKELAND
ATTN: CITY MANAGER
10001 HIGHWAY 70
LAKELAND, TN 38002
Telephone: **(901) 867-2717**
Facsimile: **(901) 867-2063**

With Required Copies To:
City Engineer; and
City Attorney
At same address as above.

(ii) DEVELOPER
LAKE DISTRICT, LLC
ATTN: YEHUDA NETANEL

Telephone: (____) _____
Facsimile: (____) _____

77. Any party to this Contract may change such party's address for the purpose of notices, demands and requests required or permitted under this Contract by providing written notice of such change of address to the other party, which change of address shall only be effective when notice of the change is actually received by the party who thereafter sends any notice, demand or request.

78. Choice of Law. This Contract is being execute and delivered and is intended to be performed in the State of Tennessee, and the laws (without regard to principles of conflicts of law) of the State of Tennessee shall govern the rights and duties of the parties hereto in the validity, construction, enforcement and interpretation hereof.

OVERALL FEE/COST SUMMARY

(as more specifically set forth in Exhibit A hereto)

(1)	Sewer Development Fee	\$27,900
(2)	Sewer Lift Station Maintenance Fee	N/A
(3)	Sewer Connection Fee	N/A
(4)	Street Light Fee	N/A
(5)	Road Cut Fee	N/A
(6)	Drainage Control Fee (w/ Basin)	\$4,500.00
(7)	Drainage Control Fee (w/o Basin)	N/A
(8)	Engineering Review Fee	\$2,700.00
(9)	Construction Inspection Fee	\$3,200.00
(10)	Administrative Review Fee	\$1,000.00
(11)	Geographical Information Systems Fee	\$600.00
(12)	Natural Resources Inventory & Analysis Fee	\$213.00
(13)	Parkland Improvement Fee	\$900.00
(14)	Tree Removal Fee	\$152.00
(15)	Warning Siren Fee	\$450.00
(16)	Parkland Review Fee	\$430.40

Total Due	\$42,045.40
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IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals at Lakeland, Tennessee, this _____ day of _____, **2021**.

DEVELOPER:
LAKE DISTRICT, LLC

CITY OF LAKE LAND:

By: _____

Date: _____

ATTEST:_____

APPROVED AS TO FORM:

By:_____

DATE APPROVED BY BOARD OF COMMISSIONERS:_____

DATE APPROVED BY BOARD OF SEWERAGE COMMISSIONERS:_____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a notary of public of the state and county mentioned, personally appeared _____, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be _____, the within named bargainer, a corporation, and that such officer, as such _____, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the corporation as managing partner, by himself as _____.

Witness my hand and seal at office; this is the ____ day of ____, 20__.

Notary Public

My Commission Expires:_____

EXHIBIT "A"

Subdivision Development Fees Worksheet The Willows at the Lake

9 Lots 1.52 Acres

	Per Lot Fee	
Sewer Development Fee (Dev Charge see Ord 08-119)	\$3,100.00	\$27,900.00
Sewer Lift Station Maintenance Fee (per lift station)	\$110,000.00	N/A
Sewer Connection Fee (per connection)		N/A
Drainage Control Fee w/basin (per lot)	\$500.00	\$4,500.00
Drainage Control Fee wo/basin (per lot)	\$1,000.00	N/A
Engineering Review Fee (per lot)	\$300.00	\$2,700.00
Construction Inspection Fee (\$500 plus \$300 per lot)	\$300.00	\$3,200.00
Administrative Fee (\$200 for 1st Lot and \$100 per lot thereafter)	Varies	\$1,000.00
Natural Resources Inventory Fee (\$200 plus \$25 per acre thereafter)	Varies	\$213.00
Street Light Fee	100% of Cost	N/A
Road Cut Fees	\$35.00	\$0.00
Warning Siren (per lot)	\$50.00	\$450.00
Tree Removal Fee (per acre or fraction of disturbed area - maximum \$10,000)	\$100.00	\$152.00
GIS Fee (per lot) \$200 plus \$50 per lot thereafter	Varies	\$600.00
Parkland Improvement Fee (per lot)	\$100.00	\$900.00
Parkland Review Fee (\$400 + \$20 per acre)	Varies	\$430.40
	Total =	\$42,045.40

Acres/Lot = 0.16888889

Park Land Formula (D=LxAxPxM)

L=Number of Lots (D.U.)

L = 9

A=Avg. Family Size - use 2.94

A = 2.94

P=Parkland Ratio use 0.010 (10 acres per 1000)

P = 0.010

M=Density Multiplier from Table 2 of Sub. Regs

M = 1.97

D=Dedication in acres

D = 0.52126 Acres

Total Due Sewer \$27,900.00

Total Due General Fund \$14,145.40

TOTAL DEVELOPMENT FEES \$42,045.40

Meeting Cycle: Thursday, January 13, 2022

Subject: **Resolution** - approving an Inter-Jurisdictional Agreement between the City of Memphis and the City of Lakeland and a Bill of Sale for Sanitary Sewer Assets in Stonebridge Subdivision. *Sponsored by Emily Harrell*

Staff Contact: Emily Harrell, City Engineer

STAFF RECOMMENDATION

Staff recommends the Board of Commissioners approve, by resolution, an Inter-Jurisdictional Agreement between the City of Memphis and the City of Lakeland and a Bill of Sale for Sanitary Sewer Assets in Stonebridge Subdivision.

BUDGET IMPACT

The City of Lakeland will be acquiring all sewer assets within the Stonebridge subdivision that are currently owned and maintained by the City of Memphis. Both parties agree the value of the assets is \$609,874.49, which will be paid by Lakeland to Memphis in two installments.

Prior to flow meter installation, the sewer fee will be split 70/30 (70% Memphis / 30% Lakeland) as is the current arrangement in Fairway Meadows Subdivision. After flow meter installation, Memphis will bill Lakeland the current volumetric rate based on flow meter reading.

Lakeland will be responsible for setting the sewer rate for its residents to cover the cost of Memphis treating the wastewater. Additionally, Lakeland will bill Bartlett for their portion of the flow that is transported through Stonebridge. Once the City is disconnected from the Memphis system, the agreement will expire.

DISCUSSION

At the time Stonebridge Subdivision was annexed by Lakeland, the City entered into an agreement with City of Memphis to own, maintain and treat the wastewater generated within this area. The agreement was for a 25-year term and expired in 2014. Near the expiration of the contract, Lakeland Staff contacted Memphis to amend the contract but were unsuccessful.

As part of their consent degree, Memphis was required to create new Inter-Jurisdictional Agreements (IJA) containing approved language from EPA. The new agreement required municipalities to install storage tanks to release flow into the Fletcher Creek Interceptor during off-peak hours due to capacity issues in the system.

Rather than install storage tanks, The City of Lakeland chose to reroute the flow from Stonebridge to its Scotts Creek Wastewater plant. Lakeland has been working with Memphis over the last

year to revise the IJA for a shorter term and fewer requirements since Lakeland will be disconnecting from the Memphis system. Also included in the IJA is the transfer of assets owned by Memphis located within the city limits of Lakeland. Lakeland and Memphis have performed analysis on the system and have agreed to the value of \$609,874.49. The payment will be made in two installments, upon execution of the agreement and by June 30, 2023. Both parties have agreed to the language in the attached IJA.

RESOLUTION R-5-2022

A RESOLUTION APPROVING AN INTER-JURISDICTIONAL AGREEMENT
BETWEEN CITY OF MEMPHIS AND CITY OF LAKELAND AND A BILL OF SALE FOR
SANITARY SEWER ASSETS IN STONEBRIDGE SUBDIVISION

WHEREAS, the agreement between the City of Lakeland and City of Memphis for conveyance and treatment of wastewater has expired; and,

WHEREAS, the City desires to disconnect from the Memphis wastewater system due to capacity issues in the Fletcher Creek Interceptor; and,

WHEREAS, the existing sewer assets in the Stonebridge subdivision are owned, maintained and treated by Memphis; and,

WHEREAS, the proposed Inter-jurisdictional Agreement will provide conveyance and treatment of wastewater generated in Lakeland until 2025: and,

WHEREAS, all sewer assets currently owned by the City of Memphis within the City of Lakeland will be transferred to City of Lakeland through this agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAKELAND, TENNESSEE: That the Mayor and Board of Commissioners authorize the Mayor to execute an Inter-jurisdictional Agreement with City of Memphis for conveyance and treatment of wastewater and transfer of assets.

PASSED AND ADOPTED by the Board of Commissioners of Lakeland, Tennessee on this 13th day of January 2022, public welfare requiring it.

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell
City Recorder

**INTER-JURISDICTIONAL AGREEMENT
BETWEEN THE CITY OF MEMPHIS AND CITY OF LAKELAND**

THIS INTER-JURISDICTIONAL AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 20____ between the City of Memphis, a municipal corporation duly organized and existing under the laws of the State of Tennessee (hereinafter referred to as "Memphis" or the "City") and the City of Lakeland, located in Shelby County, Tennessee (hereinafter referred to as "Lakeland"). Memphis and Lakeland are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties."

WHEREAS, Memphis owns and operates a wastewater collection and transmission system ("WCTS") which collects and transports wastewater to its two publicly owned wastewater treatment plants ("WWTPs"), M.C. Stiles WWTP and T.E. Maxson WWTP.

WHEREAS, Lakeland currently utilizes Memphis' WCTS for the collection and conveyance of sewage wastewater and pollutants generated in the municipal limits of Lakeland for treatment at the Memphis WWTP.

WHEREAS, Lakeland owns and maintains, at its expense, certain sewer lines located within the municipal limits of Lakeland for the transfer of the sewage wastewater and pollutants generated within such area into the facilities owned and operated by Memphis for the treatment and disposal thereof.

WHEREAS, Memphis also owns and maintains, at its expense, certain sewer lines and related facilities located within the municipal limits of Lakeland, and used by Lakeland in furtherance of the sewer treatment and disposal services provided by Memphis.

WHEREAS, the sewer lines and related facilities owned and maintained by Lakeland and Memphis are more particularly described and depicted on Exhibit A attached hereto, along with a mapping of the areas within Lakeland that are served by each municipality.

WHEREAS, Lakeland intends to disconnect from the Memphis WCTS by December 31, 2025.

WHEREAS, Lakeland desires to take ownership of and maintain the sewer lines owned by Memphis as depicted on Exhibit B attached hereto and proposes that Memphis continue to provide such sewer treatment and disposal services within Lakeland's municipal limits.

WHEREAS, the Parties desire to set forth herein the terms and conditions which shall govern the collection, conveyance, treatment, and disposal of sewage generated within the municipal limits of Lakeland by Memphis for the duration of the Term as defined herein, and state the terms and conditions that shall govern the transfer of the sewer lines and related apparatus owned by Memphis to Lakeland.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein Memphis and Lakeland agree as follows:

I. Definitions

Terms used in this Agreement that are defined in the Clean Water Act ("CWA") or in regulations promulgated pursuant to the CWA shall have the meaning assigned to them in the CWA, 33 U.S.C. §§ 1251 *et seq.*, and regulations promulgated under the CWA, unless otherwise provided in this Agreement. Whenever the terms set forth below are used in this Agreement, the following definitions shall apply:

a. "Wastewater Collection and Transmission System" or "WCTS" shall mean the municipal wastewater collection, retention and transmission system, including all pipes, force mains, gravity sewer lines, lift stations, pumps, manholes, and appurtenances thereto, which are owned or operated by Memphis and service Memphis and which flow to the M.C. Stiles and T.E. Maxson WWTPs.

b. "Sanitary Sewer Overflow" or "SSO" shall mean an overflow, spill, or release of wastewater from Memphis's WCTS or WWTPs including: (a) unpermitted discharges; (b) overflows, spills or releases of wastewater that may not have reached waters of the United States or the State; and (c) building backups.

c. "Industrial users" shall include all non-domestic sources, including all commercial or light commercial establishments that have non-domestic discharges.

II. Sewer Service and Charges

2.01. Interconnection Authority

Lakeland is hereby authorized, subject to the terms and conditions of this Agreement, to discharge wastewater generated within the municipal limits of Lakeland into Memphis' WCTS for treatment and disposal during the Term hereof. Memphis hereby agrees to accept such wastewater, subject to the terms herein, and shall be responsible for the conveyance of such wastewater from Lakeland's sewer system to Memphis' WCTS and the appropriate treatment and disposal of such wastewater.

2.02. Rejection of Wastewater

Notwithstanding any provision to the contrary, Memphis reserves the right to reject any wastewater from Lakeland which does not meet its standards set forth in this Agreement, applicable provisions of the City of Memphis Sewer Use Ordinance, and subject to availability of sufficient capacity. Unless there shall be a threat of imminent danger to human health or the environment, Memphis shall notify Lakeland in writing at least two (2) years prior to rejecting any wastewater flow, or within such shorter time period as Memphis reasonably determines should apply based on the applicable circumstances and state the basis for such rejection. Lakeland may then attempt to obtain conveyance, treatment, and disposal from another source or provide necessary pretreatment to bring the rejected wastewater into compliance. This provision does not apply to discharge by a specific user which fails to meet discharge limits or is otherwise in noncompliance with City of Memphis pretreatment requirements.

2.03. Participation in Memphis WCTS and WWTP Improvements and Operational Reserves

In the event Lakeland fails to disconnect from Memphis' system in accordance with this Agreement and the Term is extended by the Parties, Lakeland agrees to participate, on a proportional basis, in any project determined necessary by Memphis to rehabilitate, enlarge, or upgrade that portion of Memphis' WCTS and WWTP used to convey and treat wastewater generated from Lakeland as allowed hereunder. Such participation may include the construction of new or replacement outfall sewers, pumps, lift stations, and other related facilities and shall consist of payment to Memphis for the cost of the improvements attributed to Lakeland based on the ratio of Lakeland's peak hourly flow to the capacity of the pipe utilized by Lakeland. By way of example and for purposes of this Agreement only, if a project costs \$100,000 and Lakeland's peak hourly flow is 1MGD and the pipe used as the outfall for such flow can handle 2MGD, Lakeland would pay 50% of the \$100,000.

2.04. New Construction and Infrastructure Replacement

In the event the Parties determine, and agree in writing, that it is necessary to construct new or replace the existing sewer infrastructure and other related facilities owned, maintained and operated by Lakeland which shall be used to transport sewage, wastewater, and pollutants in Lakeland's WCTS through Memphis' WCTS, all construction of such new or replacement sewer infrastructure shall be agreed upon by the Parties and at Lakeland's sole cost and expense. To the extent the Parties fail to agree as contemplated herein, Memphis hereby reserves the right to perform or caused to be performed such construction or replacement of sewer infrastructure and to recoup all resulting cost and expenses from Lakeland. The cost of any new or replacement sewer infrastructure shall be excluded in the Fair Market Value referred to in Section 3.01(b).

2.05. Sewer Service Charge

(a) In consideration of the service and benefits provided by Memphis to Lakeland pursuant to the terms of this Agreement, Lakeland agrees that Memphis shall be allowed to collect from Lakeland or Lakeland customers located within the sewer service area connected to the Memphis WCTS a sewer service charge ("Sewer Service Charge") throughout the term of this Agreement

(b) Prior to installation of the flow meters required in accordance with Section 4.04 included herein, the Sewer Service Charge shall be equal to seventy percent (70%) of Memphis' current volumetric rate. Following the installation of the flow meters, the Sewer Service Charge shall be equal to one-hundred percent (100%) of Memphis' current volumetric rate.

(i) The applicable rate to be applied for the calculation of the Sewer Service Charge shall be established by Memphis and shall be subject to adjustment upon one hundred and twenty (120) calendar days notice to Lakeland and as determined by Memphis within its sole discretion. An adjustment made by Memphis pursuant this Section 2.05 shall not create a reopener for the negotiation of any provision under this Agreement. Additionally, nothing herein shall preclude Lakeland from charging users of the Lakeland sewer system who are serviced by the Memphis WCTS sums in excess of the Memphis monthly volumetric sewer charge, as additional charges

may be necessary to defray the expense to be incurred by Lakeland in maintaining and constructing its sewer system. Lakeland shall be responsible for determining the amount of such excess sums to be charged to users of its sewer system during the term of this Agreement.

(c) The Parties hereby acknowledge and recognize that Memphis, Light, Gas & Water ("MLG&W") shall be responsible for reading each entity or resident's water meter located within the municipal limits of Lakeland and billing the customer for sewer usage at the applicable volumetric rate established by Memphis. Prior to installation of flow meters by Lakeland, Memphis shall receive 100% of the sewer fees collected by MLG&W and remit monthly payment equivalent to 30% of such fees to Lakeland. Following installation of the flow meters, Lakeland shall receive 100% of the sewer fees collected by MLG&W and shall pay Memphis in accordance with subsection 2.07 below. Additionally, Lakeland shall have the obligation to notify MLG&W about the change of applicable billing codes from Memphis to Lakeland. Specifically, Lakeland shall notify Memphis regarding the effective date of installation of the flow meters which shall be used as the date upon which Lakeland shall begin to collect sewer fees directly from MLG&W.

(d) Lakeland shall be responsible for reading the flow meters installed by Lakeland in accordance with Section 4.04 and shall report to Memphis on a monthly basis the total volume recorded by such meters to enable Memphis to directly bill Lakeland monthly for the sewer services provided to residents of Lakeland in accordance with Section 2.05(a). Notwithstanding the foregoing, Lakeland agrees to provide Memphis access to its electronic records system used to maintain the flow data that reflects the total volume recorded by each flow meter installed by Lakeland.

2.06. Sewer Development Fees

(a) Lakeland will collect sewer development fees on behalf of Memphis for any new developments within the Lakeland area serviced by Memphis to recover Memphis' cost for transporting and treating wastewater from the areas. Such fees shall be solely established by Memphis and shall not be subject to modification by Lakeland. Lakeland shall provide Memphis relevant information regarding each development which shall include, but not be limited to, parcel identification numbers, maps, development information, and development fee calculation.

(b) Each new development shall be evaluated by Memphis to determine the need for a temporary on-site storage tank due to potential capacity limits.

2.07. Payments

Prior to the installation of the flow meters provided in Section 4.04, Memphis shall continue to receive the applicable Sewer Service Charge collected from each entity or resident based on the applicable monthly MLG&W bill. Following installation of the flow meters provided in Section 4.04, Lakeland shall pay the applicable Sewer Service Charge to Memphis within thirty (30) calendar days, but in any case no more than sixty (60) calendar days, from Lakeland's receipt of an invoice and shall be remitted as follows:

City of Memphis, Division of Public Works
Environmental Administrator
125 North Main, Room 620
Memphis, TN 38103
Attn: Scott Morgan or Gary Vaden

Lakeland shall furnish with such payment relevant itemized monthly reports of all sewer service charges. All payments and collections tendered by Lakeland shall be subject to audit as provided for in Section 2.08 and annual true-up following reconciliation of such payments and collections by Memphis. Payments remitted after sixty (60) calendar days shall be subject to interest accruing daily at the maximum amount allowable by law.

2.08. Audit

Within one hundred twenty (120) calendar days after the close of each fiscal year of Lakeland, Memphis shall have the right, at its sole expense, to audit the books and records of Lakeland that are relevant to this Agreement, and if such audit discloses a cumulative misstatement of at least five percent (5%) in any accounting records or other reports upon which any amount due hereunder is based, then Lakeland shall pay to Memphis the cost of the audit and any payment adjustments between the Parties deemed necessary as a result of an audit shall be made promptly. Notwithstanding the foregoing, in the event of a dispute or questionable circumstances related to this Agreement, both parties reserve the right to audit the books of the other upon reasonable notice.

2.09. Easements

To the extent Memphis requires easements and/or rights of way for sewer lines or related apparatus on or across properties owned by Lakeland, Lakeland will grant any and all such necessary sewer easements and rights of way, without expense to Memphis, and will waive any claim for compensation or damages related to easement acquisition(s). Lakeland does not waive any claim for compensation or damages arising from any subsequent action or inaction by Memphis or its employees in any way related to the sewer easements.

2.10. Abandonment

Lakeland shall notify Memphis prior to plugging or physically disconnecting any sewer line or related apparatus owned and/or maintained by Lakeland from the Memphis WCTS. Any such disconnection or plugging by Lakeland shall be performed in accordance with Memphis' applicable design standard for sewer abandonment as such standard is reflected on Exhibit C attached hereto, unless otherwise agreed to by the parties in writing. Lakeland shall also provide a Notice of Completion which shall set forth the effective date of physical disconnection from the Memphis WCTS and be used by Memphis as the date upon which Lakeland shall no longer be subject to payment of volumetric charges and any other payments to Memphis. Notwithstanding the foregoing, Lakeland shall remain obligated for any outstanding payments due to Memphis as required pursuant to Section 7.03(B) herein.

2.11. Failure to Disconnect from Memphis WCTS

Memphis hereby acknowledges that Lakeland intends to disconnect from the Memphis WCTS by December 31, 2025 with regard to the sewer services contemplated herein. In the event Lakeland changes its plans and desires to maintain its connection to the Memphis WCTS beyond the period set forth in Section 6.01, Lakeland shall provide written notice at least twelve (12) months prior to December 31, 2025 and request approval from Memphis to maintain such connection. In the event Lakeland's request is approved, the parties shall execute an Amendment and Extension to this Agreement or enter into a new agreement, subject to any additional or modified terms determined necessary by Memphis. In addition to compliance with Section 2.03, Lakeland shall be obligated to comply with the applicable Master Plan adopted by Memphis with regard to its sanitary sewer system improvements.

III. Ownership and Maintenance of Sewer Lines and Easements

3.01. Transfer of Sewer Assets

(a) Conveyance. Memphis shall transfer, convey, assign and deliver all of its rights, title, and interest in the sewer lines located within Lakeland which are owned and maintained by Memphis (hereafter "Sewer Assets"), as such Sewer Assets are more particularly described and depicted on Exhibit D. Likewise, Memphis shall transfer the existing easements associated with such Sewer Assets as such easements are described on the Easement Transfer List attached hereto as Exhibit E. Lakeland shall maintain the Sewer Assets up to the point of the identified asset numbers reflected on such exhibits at its own expense. In addition to the foregoing, Lakeland agrees to provide and maintain, at its own expense, all components of Lakeland's sewer system.

(b) Consideration. As consideration for the conveyance of the Sewer Assets, the Parties agree that Lakeland shall pay Memphis the total sum of six hundred nine thousand eight hundred seventy-four dollars and forty-nine cents (\$609,874.49) which shall be hereinafter referred to as the Purchase Price in two annual payments. Upon execution of this Agreement, Lakeland shall pay Memphis one half the sum of the Purchase Price and the parties shall execute the Bill of Sale attached hereto for the transfer of those items or facilities listed on Exhibits D and E, conveying one hundred percent (100%) of Memphis' ownership interest in such respective items to Lakeland. The remaining half of the Purchase Price shall be paid by Lakeland during Fiscal Year 2023 on or before June 30, 2023. Notwithstanding the foregoing, Memphis shall have no liability whatsoever for the operation and maintenance of the Sewer Assets upon transfer via Bill of Sale to Lakeland. For avoidance of doubt, this disclaimer of liability shall survive in the event of Lakeland's failure to pay the full Purchase Price as contemplated herein.

(c) Warranty Disclaimer. Except as otherwise set forth in this Agreement, Lakeland acknowledges and agrees that Memphis is conveying the Sewer Assets to Lakeland in an "as-is, where-is" condition. Except as otherwise stated herein, neither Memphis nor anyone acting on behalf of Memphis has made any representation or warranty, express or implied, to Lakeland with respect to the Sewer Assets.

(d) Authority. Memphis warrants and represents that it is the lawful owner of the Sewer Assets and has the authority to dispose of the property in the manner aforesaid.

IV. Proper Management, Operation and Maintenance of Sewage Collection and Conveyance System

4.01. Proper Management, Operation and Maintenance

During the term of this Agreement, Lakeland shall properly manage, operate and maintain its own sewer collection and conveyance system so as to minimize peak flows into Memphis' WCTS by excluding, to the maximum reasonable extent, the intrusion of surface and ground water and other extraneous flows. This includes, taking actions to preclude, to the maximum reasonable extent, the discharge of storm water, roof or surface drainage into Lakeland's sewer system connected to the Memphis WCTS. Management, operation and maintenance of Lakeland's sewer collection and conveyance system shall be performed in accordance with standards recognized as appropriate by the United States Environmental Protection Agency ("EPA"), Tennessee Department of Environment and Conservation ("TDEC") and Memphis.

4.02. Flow Limits

Lakeland agrees to properly manage, operate, and maintain its sewage collection and conveyance system so as to minimize peak flows into Memphis' WCTS by excluding, to the maximum reasonable extent, the intrusion of surface and ground water and other extraneous flows or otherwise cause or contribute to a condition resulting in flows exceeding the pumping capacity of a City of Memphis pump station, and/or a violation of a Memphis National Pollutant Discharge Elimination System ("NPDES") permit.

4.03. Limitation on Excessive Flows

In an attempt to minimize excessive flows, the Parties agree that no new users shall be added to the Lakeland sewer system without Memphis' prior written approval during the term of this Agreement. Where Memphis reasonably determines that flows originating or transmitted through Lakeland's sewers to the Memphis WCTS are or can reasonably be expected to cause or contribute to (1) a sanitary sewer overflow in Memphis, (2) a condition resulting in flows exceeding the pumping capacity of a City of Memphis pump station, (3) a violation of a Memphis NPDES permit or (4) impact capacity solely reserved for Memphis, Memphis may impose flow limitations (i.e. peak flow limits and/or total flow limits) upon Lakeland and take any other action Memphis determines reasonably necessary to avoid or eliminate such situation. Lakeland agrees to be liable (including the payment of stipulated penalties in accordance with Section VII included herein) for any overflows from the Memphis WCTS occurring downstream of the Lakeland service area.

4.04. Flow Metering

(a). Lakeland shall implement and install at its sole expense, flow metering devices satisfactory to Memphis to assure reliable measurement of flows originating or transmitted through Lakeland sewers to the Memphis WCTS, within 365 calendar days of the effective date of this Agreement (or such other time as Memphis may agree to). Subject to Memphis' discretion, the flow meters shall be capable of reporting flow volume on a monthly basis using five (5) minute intervals for depth and velocity measurements to calculate such volume. Lakeland shall store and maintain the data for five (5) years and shall provide such data to Memphis upon request.

(b). At least once every six (6) months, the flow metering devices as provided for in section 4.04(a) above, shall be calibrated both hydraulically and electronically by a qualified commercial entity approved by Lakeland and Memphis at the expense of Lakeland. Lakeland shall submit each calibration report to Memphis within thirty (30) calendar days upon completion. In the event a meter fails to accurately measure flow to reasonable engineering standards for three out of twelve consecutive months, Lakeland shall replace it promptly, at its own expense, upon written notice from Memphis. Lakeland agrees to make all flow metering data available to Memphis every thirty (30) calendar days during the term of this Agreement. Lakeland further agrees that the meters shall be available to Memphis for inspection at all reasonable times.

4.05. Control of Fats, Oils and Greases

For all Lakeland sewer assets, Lakeland agrees to take reasonable precautions to prevent discharge of fats, oils, and greases (FOG) in accordance with its approved FOG Control Program. The Parties acknowledge that Lakeland's FOG Control Program has been reviewed and approved by Memphis, and the objective of the Program is to identify and eliminate excessive FOG. Lakeland shall implement the FOG Control Program within thirty (30) calendar days of Memphis' approval and agrees to maintain such Program which shall be no less stringent than the FOG ordinance contained in Chapter 33 of the City of Memphis Code of Ordinances.

4.06. Compliance

Within thirty (30) calendar days of a request from Memphis, Lakeland shall provide Memphis with such information as Memphis may reasonably request identifying the actions taken by Lakeland to comply with the conditions of Part IV of this Agreement.

4.07. Approval of Operating Procedures

Within 180 calendar days of the effective date of this Agreement Lakeland shall develop and submit for Memphis' review and approval the operating procedures that will be undertaken during the term of this Agreement to implement the provisions as required by Section 4.01 above. To the extent Memphis and Lakeland cannot agree on appropriate operating procedures, Memphis may commence termination procedures under Section 6.03 as it deems appropriate.

V. Pretreatment

5.01. Pretreatment Compliance

Lakeland understands and acknowledges that Memphis is required to implement and enforce a pretreatment program to control discharges from industrial users to its WCTS pursuant to requirements set out in the Federal Clean Water Act, 42 U.S.C. § 1251 *et seq.*, and the rules and regulations promulgated thereunder, including 40 C.F.R. Part 403, and Tennessee Code Annotated 68-3-101, all as now stated and as may hereafter be amended. Lakeland represents that no City of Memphis permitted industrial users are currently located within Lakeland's jurisdiction and/or discharge into Lakeland's sewer system that would be connected to the Memphis WCTS. Lakeland further understands and agrees that no permitted

industrial users shall be allowed to operate and discharge to Lakeland's sewer system which transports waste to the Memphis WCTS unless prior notification is provided by Lakeland to Memphis, and a new or modified agreement is entered into addressing implementation and enforcement of the pretreatment program. Notwithstanding the foregoing, the Parties recognize that there are non-domestic users (i.e., commercial users) located in Lakeland that currently discharge to the Memphis WCTS.

5.02. Industrial Dischargers

Lakeland hereby agrees to adopt a sewer use ordinance that subjects the industrial users to necessary pretreatment controls. Memphis shall be designated as the agent of Lakeland for the purposes of implementation and enforcement of that section of Lakeland's sewer use ordinance pertaining to the pretreatment program for industrial dischargers and may take any action under Lakeland's sewer use ordinance that could have been taken by Lakeland, including the enforcement of the ordinance in courts of law. In accordance with the foregoing, it is further agreed as follows:

(a). Lakeland will, to the extent allowed by law, adopt a local sewer use ordinance within 180 calendar days of the date of this Agreement which is no less stringent and is as broad in scope as the pretreatment sewer use ordinance contained in Chapter 33 of the City of Memphis Code of Ordinances. Lakeland shall provide a draft of its proposed sewer use ordinance for review and approval by Memphis and TDEC that meets the requirements of this paragraph within 90 calendar days prior to the adoption of the ordinance.

(b). Lakeland will adopt pollutant specific local limits, which address at least the same pollutant parameters and are at least as stringent as the local limits enacted by Memphis within 180 calendar days of the date of this Agreement. If Memphis makes any revisions or additions to its local limits, Memphis will forward to Lakeland a copy of such revisions or additions within 90 calendar days of enactment thereof. Lakeland will adopt any such revisions or additions within 180 calendar days of receipt thereof. If Memphis adopts local limit(s) based upon mass of pollutant(s) (rather than concentration), Memphis reserves the right to allocate loadings. In addition, Lakeland's ordinance shall adopt or incorporate by reference general and specific prohibitions as set forth in 40 C.F.R. Part 403 and categorical pretreatment standards as set forth in 40 C.F.R. Chapter I, Subchapter N.

(c). Whenever Memphis revises its pretreatment sewer use ordinance, it will forward a copy of the revisions to Lakeland. To the extent allowed by law, Lakeland will adopt revisions to its sewer use ordinance that are at least as stringent and as broad in scope as those adopted by Memphis. Lakeland will forward to Memphis for review its proposed revisions within ninety (90) calendar days of receipt of Memphis' revisions. Lakeland will adopt its revisions within one hundred eighty (180) calendar days of receiving approval from Memphis of the content thereof.

(d). Unless otherwise agreed to by the parties, Memphis and/or its authorized contractors, on behalf of and as agent for Lakeland will perform technical and administrative duties necessary to implement and enforce pretreatment provisions in Lakeland's sewer use ordinance within Lakeland's jurisdiction associated with industrial user discharges through the Lakeland sewer system to the Memphis WCTS. This includes the right to, among other things, update the industrial waste survey;

issue permits to industrial users; conduct inspections, sampling and analysis; take appropriate enforcement action provided for by State law and/or in Lakeland's sewer use ordinance; and perform other technical or administrative duties the parties deem appropriate. In addition, Memphis may, as agent of Lakeland, take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination.

(e). Lakeland will reimburse Memphis for all costs and expenses incurred in implementing and/or enforcing Lakeland's sewer use ordinance including reasonable attorney's fees. Memphis will provide Lakeland with a detailed accounting of all such costs.

(f). If the authority of Memphis to act as agent for Lakeland under this Agreement is questioned by any industrial user, court of law, or otherwise, Lakeland will take whatever action is necessary to ensure the implementation and enforcement of its sewer use ordinance against its industrial users, including, but not limited to, implementing and enforcing its sewer use ordinance on its own behalf and/or amending this Agreement to clarify Memphis' authority.

(g). Memphis shall have the authority to require reports from any industrial user located in the area serviced by Memphis' WCTS. Such reports shall include information reasonably requested by Memphis and in accordance with applicable law.

(h). Lakeland shall identify and report to Memphis all dental facilities currently located within the area serviced by Memphis' WCTS and shall further identify any dental facilities located in such areas in the future during the term of this Agreement.

5.03. Industrial User Outside Town Limits

An industrial user located outside the jurisdictional boundaries of Lakeland may be allowed to discharge into Lakeland's sewer system or the sewer facilities located within Lakeland only by agreement of the Parties, and Lakeland and Memphis will also enter into an agreement, substantially equivalent to the relevant provisions of this Agreement, with the jurisdiction in which such industrial user is located, if other than Memphis.

5.04. Industrial User Surcharge

Industrial dischargers subject to surcharges for higher strength wastewater will pay surcharge fees directly to Memphis as required by Memphis.

VI. Term, Modification and Termination of Agreement

6.01. Term of Agreement

(a) This Agreement shall become effective on the date signed by both Parties ("Effective Date"), and shall remain in effect until December 31, 2025 (hereafter the "Term") unless terminated sooner by either party in accordance with Section 6.03 below. Notwithstanding the foregoing, the Parties agree this Agreement

may be automatically extended for a period of up to one (1) year or less, upon three (3) months prior written notice to Memphis, in the event such additional time is needed by Lakeland to complete the construction of its facilities necessary to disconnect from Memphis. In the event Lakeland needs the additional period to finalize its disconnection from Memphis' sewer system, Lakeland shall not be required to participate in Memphis WCTS and WWTP Improvements and Operational Revenues as set forth in Section 2.03 herein or comply with the Master Plan as contemplated in Section 2.11.

(b) In the event Memphis exercises its right to terminate this agreement, it shall provide written notice to Lakeland two (2) years prior to the date upon which it shall stop accepting wastewater pursuant to this Agreement unless Memphis reasonably determines a shorter time period for notice is warranted based on the applicable circumstances. This provision shall not apply to individual users in Lakeland that are in noncompliance with effluent limitations, fail to meet federal or state pretreatment requirements or are otherwise in noncompliance with permit requirements.

6.02. Modification of Agreement

Each and every modification and amendment of this Agreement must be in writing by each of the Parties hereto, unless otherwise specified herein.

6.03. Termination of Agreement

A. Termination for Cause

(1) Notwithstanding Section 6.01 included herein, either party, at its option, may give three (3) months written notice to the other party of the intent to terminate this Agreement whenever one or more of the following conditions occur:

- a. Any order which would make the terms of this Agreement unfeasible is issued by a Court, the United States of America, United States Environmental Protection Agency, State of Tennessee or any other agency having regulatory jurisdiction over said municipalities; but as soon as either party becomes aware of the possibility of the entry of such an order, it shall give the other party notice and permit it to participate in any proceedings to the extent allowed by applicable law relative to the possible entry and/or appeal of such order.
- b. Unresolved violations of any terms of this Agreement or of applicable provisions of Chapter 33, City of Memphis, Code of Ordinances.
- c. Lakeland fails to manage, operate and maintain its sewer collection and conveyance system in accordance with accepted standards required by EPA, TDEC and Memphis.
- d. Lakeland gives notice that it will reroute its sewer flow that is the subject of this Agreement to other treatment facilities. If Lakeland withdraws any portion of the area served or reduces the flow of such sewage, the Agreement shall be modified accordingly.

(2) During the three (3) months' notice period, if the violation is one which can be cured by the payment of money in the opinion of Memphis and is cured then the notice shall be withdrawn. If the violation is one which cannot be cured simply by the payment of money, in the opinion of Memphis, then the party responsible for such violation shall have three (3) months to attempt to cure the violation and upon effectuating such cure, the notice shall be withdrawn. Unless the parties agree that Lakeland will be funding upgrades to the Memphis WCTS to handle increased flows, the following among others will not be considered a violation that can be cured simply by the payment of money: flows originating or transmitted through the Lakeland sewers to the Memphis WCTS that cause or contribute to a sanitary sewer overflow in Memphis, a condition resulting in flows exceeding the pump capacity of a Memphis pump station, and/or a violation of a Memphis NPDES permit. Where necessary and where the party responsible for the violation has proceeded diligently and in good faith to cure such violation, then the cure period shall be extended in writing by the party giving notice of termination, for such time as the party giving notice of termination deems reasonably necessary to effectuate such cure.

(3) In the event that conditions constituting breach(es) of this Agreement continue without cure being timely made as provided above, Memphis may:

- a. Restrict the flow, plug, or otherwise physically disconnect Lakeland's sewer system from the Memphis WCTS;
- b. Provide written notice to Lakeland providing for phasing out the terms of this Agreement at the end of a reasonable time not to exceed two (2) years after the date of the initial three-month notice provided in Section 6.03.(A)(1) above;
- c. Request that Lakeland submit a corrective action plan requiring compliance with this Agreement in an expeditious manner which, if approved by Memphis, is deemed to be a condition of this Agreement; and/or
- d. Take such other action(s) as Memphis deems appropriate.

(4) Notwithstanding the above, Memphis agrees to provide Lakeland at least three (3) years from the notice of termination for Lakeland to construct its own wastewater treatment plant, connect its flows to a WCTS owned by another municipality, or implement another long-term solution. Nothing, herein, shall be deemed to authorize or require Memphis to allow a condition to continue that can reasonably be expected to cause or contribute to a sanitary sewer overflow in Memphis, a condition resulting in flows exceeding the pumping capacity of a City of Memphis pump station, and/or a violation of a Memphis NPDES permit. Memphis may condition such additional time as provided herein upon Lakeland agreeing to such conditions as Memphis deems appropriate (e.g., Lakeland's payment of fines, penalties, stipulated penalties, etc.).

(5) Notwithstanding any provision to the contrary, Memphis may terminate this Agreement immediately if the flows originating from or transmitted through the Lakeland sewers to the Memphis WCTS are deemed by EPA, TDEC and/or Memphis to be an imminent danger to the health or welfare of humans,

which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination.

B. Termination Upon Expiration of the Term of the Agreement

Upon expiration of the term of this Agreement, including any authorized extensions, this Agreement shall be deemed terminated and Lakeland shall pay Memphis all outstanding fees and charges owed to Memphis within ninety (90) calendar days from the effective date of such termination or expiration.

VII. Stipulated Penalties

7.01. Lakeland acknowledges that the City of Memphis has entered into a Consent Decree with the EPA, TDEC and Tennessee Clean Water Network ("TCWN") which subjects Memphis to stipulated penalties for failure to satisfy Consent Decree requirements. Accordingly, to the extent Lakeland violates this Agreement or causes Memphis to violate the Consent Decree or the applicable NPDES Permit issued to Memphis, Lakeland shall be liable to Memphis for stipulated penalties paid by Memphis, in accordance with Section IX of the Consent Decree, unless Memphis is excused under Section X of its Consent Decree with EPA, TDEC and TCWN. A violation includes failing to perform any obligation required by this Agreement, according to all applicable requirements and within the specified time period established by this Agreement. Notwithstanding the foregoing, Memphis shall have the burden of proof to establish that the action or inaction of Lakeland is the proximate cause of the violation resulting in the imposition of stipulated penalties to Memphis under the Consent Decree. Stipulated penalties shall begin to accrue on the day after performance is due or the day the violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Agreement.

7.02. The following stipulated penalties shall apply for violations other than violations for which the City paid stipulated penalties under the Consent Decree. Stipulated penalties under this Section for non-Consent Decree violations may be excused in accordance with Section 8.12 herein.

<u>Period of Noncompliance</u>	<u>Penalty per Violation per Day</u>
One (1) to thirty (30) days	\$500
Thirty (30) to sixty (60) days	\$1000
Sixty (60) days and beyond	\$1500 (minimum subject to the significance of the violation)

7.03. A stipulated penalty under Section 7.01 and/or 7.02 as applicable shall be paid within sixty (60) days of receiving written demand for payment from Memphis. The demand for payment from Memphis shall set forth the particular violation or failure to perform to which the stipulated penalty relates, the amount of the stipulated penalty being demanded, the calculation method underlying the demand, and the grounds on which the demand is based. Payments shall be made to the City of Memphis, Division of Public Works - Office of Environmental Engineering, 125 North Main, Room 620, Memphis, TN 38103.

7.04. Lakeland's failure to pay the stipulated penalties shall subject Lakeland to interest accruing daily on such penalties at the maximum amount allowable by law.

7.05. The stipulated penalties provided for in this Agreement shall be in addition to any other rights or remedies available to Memphis for Lakeland's violation of this Agreement or applicable law.

7.06. Memphis may, in its sole discretion, reduce or waive stipulated penalties otherwise due under this Agreement.

VIII. General Provisions

8.01. Liability. Lakeland shall remain fully responsible for any and all liability related to the discharge of wastewater to Memphis' WCTS from its sewer collection and conveyance system and shall, to the extent permitted by law, indemnify, defend and hold harmless the City of Memphis, and its officers, employees, elected and appointed officials, agents and representatives from and against any and all claims, damages, demands, causes of action, judgments, costs, fees, penalties, expenses or other liability of any kind, including damages for injury or death and damages to persons or property resulting from such discharge. Memphis shall not be responsible for any permit issued to Lakeland or the management or oversight of Lakeland's sewer system.

8.02. Entry and Right to Inspect. Any authorized officer, employee or contractor of Memphis may enter and inspect at any reasonable time any part of Lakeland's sewer system connected to Memphis' WCTS and WWTP upon reasonable notice to Lakeland.

8.03. Records. Upon request, Lakeland shall provide Memphis with a certified copy of its sewer use ordinance and any amendments thereto, other inter-jurisdictional agreements, if any, and any contract entered into for the purposes of regulating industrial waste. Lakeland shall retain copies of any and all records related to Lakeland's performance under this Agreement until five (5) years after the term of this Agreement expires and provide Memphis access and or copies of such documents within no more than ten (10) calendar days following Memphis' request.

8.04. Entire Agreement. This Agreement constitutes the full and final understanding of the parties with respect to the subject matter hereof and supersedes and replaces any and all prior or contemporaneous agreements or understandings, whether written or oral, express or implied, between the parties with respect to the subject matter of the Agreement.

8.05. Governing Law. The terms and conditions of this Agreement shall be construed in accordance with and governed by the laws of the State of Tennessee.

8.06. Venue. The parties agree that any lawsuit between them that asserts a claim or claims arising out of or related to this Agreement shall be filed and litigated in the courts of Shelby County, and each party hereby consents to the jurisdiction and venue of those courts for all such lawsuits.

8.07. Severability. If any terms or provisions of this Agreement are held to be illegal, invalid or unenforceable as a matter of law, such provision shall be fully severable, and the remaining provisions

of this Agreement shall remain in full force and effect and continue to be binding and shall not be affected by such provision or by its severance herefrom. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as may be possible.

8.08. Approval or Consent. Whenever under any provision of this Agreement the approval or consent of either party is required, such approval shall not be unreasonably withheld, delayed or denied.

8.09. Waiver. No term or provision of this Agreement, or of any document executed pursuant hereto, shall be held to be waived, modified or deleted unless in writing and executed by the parties hereto. No delay or failure of either party to enforce any right or provision of this Agreement or in any document executed pursuant hereto shall operate as a waiver or relinquishment of either party's right to subsequently enforce and compel strict compliance with such provision or any other provision herein or in any document related hereto.

8.10. Notices.

Unless otherwise specified herein, whenever notifications, submissions, or communications are required, they shall be made in writing and addressed as follows:

To the City of Memphis:

Director of Public Works
125 North Main Street, Room 608
Memphis, TN 38103

With copy, if requested,
to:

City Attorney
125 North Main Street, Room 336
Memphis, TN 38103

To the City of Lakeland:

City Engineer
10001 Hwy 71
Lakeland, TN 38002

8.11. Dispute Resolution.

a. Exclusive Dispute Resolution Mechanism. It is the intent of the parties that they shall collaborate to resolve any dispute, controversy, or claim arising out of or relating to this Agreement, or

the breach, termination, or invalidity hereof (each, a "**Dispute**"), in a mutually agreeable manner. The procedures set forth in this Section 8.11 shall be the exclusive mechanism for resolving any Dispute that may arise from time to time and shall be an express condition precedent to litigation or binding arbitration of the Dispute. Memphis agrees that it will not reject any flow during the pendency of any dispute.

b. Negotiations. The parties agree that they shall first use their best efforts in an attempt to settle the Dispute informally through negotiations involving themselves or their representatives they each deem appropriate at the lowest possible levels of decision-making. A party shall send written notice to the other party of any Dispute ("**Dispute Notice**"). In the event that such Dispute is not resolved on an informal basis within thirty (30) calendar days after one party delivers the Dispute Notice to the other party, either party may, by written notice to the other party ("**Escalation to Executive Notice**"), refer such Dispute to the executives of each party set out below (or to such other person of equivalent or superior position designated by such party in a written notice to the other party) ("**Executive(s)**").

Executive of City of Memphis:

Robert Knecht, Director-Public Works

125 North Main, Room 608

Memphis, TN 38103

Robert.Knecht@memphistn.gov

Executive of City of Lakeland:

Emily Harrell, City Engineer

10001 Hwy 71

Lakeland, TN 38002

eharrell@lakelandtn.org

For purposes of clarification, the party sending the Dispute Notice and the Escalation to Executive Notice shall send such notices in compliance with this Agreement's notice provisions set forth at Section 8.10 herein, provided that the party sending an Escalation to Executive Notice shall also send a copy of such notice to the executives designated above.

If the Executives cannot resolve the Dispute during the time period ending fifteen (15) calendar days after the date of the Escalation to Executive Notice (the last day of such time period, the "**Escalation to Mediation Date**"), either party may initiate mediation as set forth in Section 8.11(c) below.

c. Mediation. Subject to Section 8.11(b), the parties may, at any time after the Escalation to Mediation Date, submit the Dispute to any mutually agreed to mediation service for mediation by providing to the mediation service a joint, written request for mediation, setting forth the subject of the dispute and the relief requested. The parties shall cooperate with one another in selecting a mediation service, and shall cooperate with the mediation service and with one another in selecting a neutral mediator and in scheduling the mediation proceedings. The parties covenant that they will use commercially reasonable efforts in participating in the mediation. The parties agree that the mediator's fees and expenses and the costs incidental to the mediation will be shared equally between the parties.

The parties further agree that all offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts, and attorneys, and by the mediator and any employees of the mediation service, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any litigation, arbitration, or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

d. Litigation or Arbitration as a Final Resort. If the parties cannot resolve any Dispute for any reason, including, but not limited to, the failure of either party to agree to enter into mediation or agree to any settlement proposed by the mediator, within ninety (90) calendar days after the Escalation to Mediation Date, either Party may file suit in a court of competent jurisdiction in accordance with the provisions of Section 8.06 herein or commence binding arbitration.

8.12. Force Majeure. Memphis shall use reasonable efforts to furnish to Lakeland the services provided for in this Agreement, but it is understood and agreed that Memphis does not guarantee its ability to provide all such services at all times and Memphis will not be liable to Lakeland if service is not provided as contemplated herein due to defects or failures of components of Memphis WCTS or WWTPs. Additionally, neither party shall be deemed in default hereunder, nor shall either party be responsible for any delay, interruption, or cessation in the performance of its obligations under this Agreement where such failure of performance is the result of any force majeure event, including, but not limited to, acts of God, riots, wars, strikes, pandemics, acts of governmental authorities (excluding the parties to this Agreement) or acts of nature or other similar cause. This provision does not apply, however, where Lakeland causes Memphis to be subject to a stipulated penalty under its Consent Decree with EPA, TDEC and TCWN.

8.13. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of each party hereto and their respective heirs, legal representatives, successors and assigns. This Agreement may not be assigned without the prior written consent of the other party.

8.14. No Third Party Benefit. Any provision herein to the contrary notwithstanding, it is agreed that none of the obligations hereunder of either Party shall run to, or be enforceable by, any party other than the other party to this Agreement.

8.15. Other Instruments/Actions. The Parties shall execute and deliver all other appropriate supplemental agreements and other instruments and take any other action necessary to make this Agreement fully and legally effective, binding and enforceable as between the Parties and as against third parties.

8.16. Headings. Titles and headings used herein are for the convenience of reference only and shall be disregarded completely in the interpretation and validity of this Agreement or any of its terms.

8.17. Exhibits. All Exhibits to this Agreement are hereby incorporated herein by reference as if fully copied herein verbatim.

8.18. Counterparts. This Agreement may be signed in counterpart signature pages, each of which shall be deemed an original, and all of which when taken together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile or electronically, and any such signature shall have the same legal effect as an original.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, This Agreement has been duly executed by the authorized representatives of the parties as set forth below.

CITY OF MEMPHIS

By:

Jim Strickland, Mayor

By: _____

Robert Knecht, Director - Public Works

Approved as to form:

Jennifer Sink, Chief Legal Officer/City Attorney

CITY OF LAKE LAND

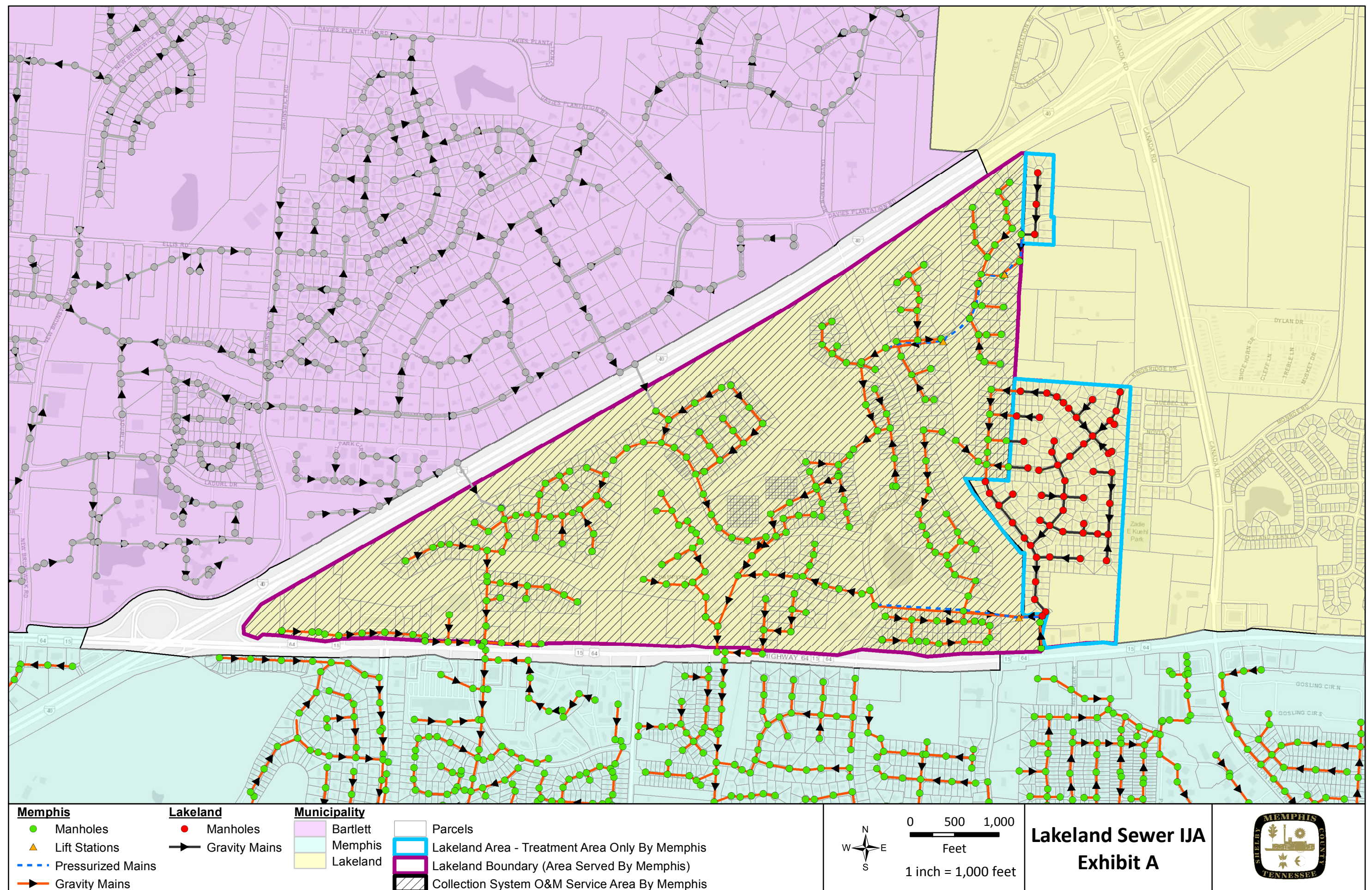
By:

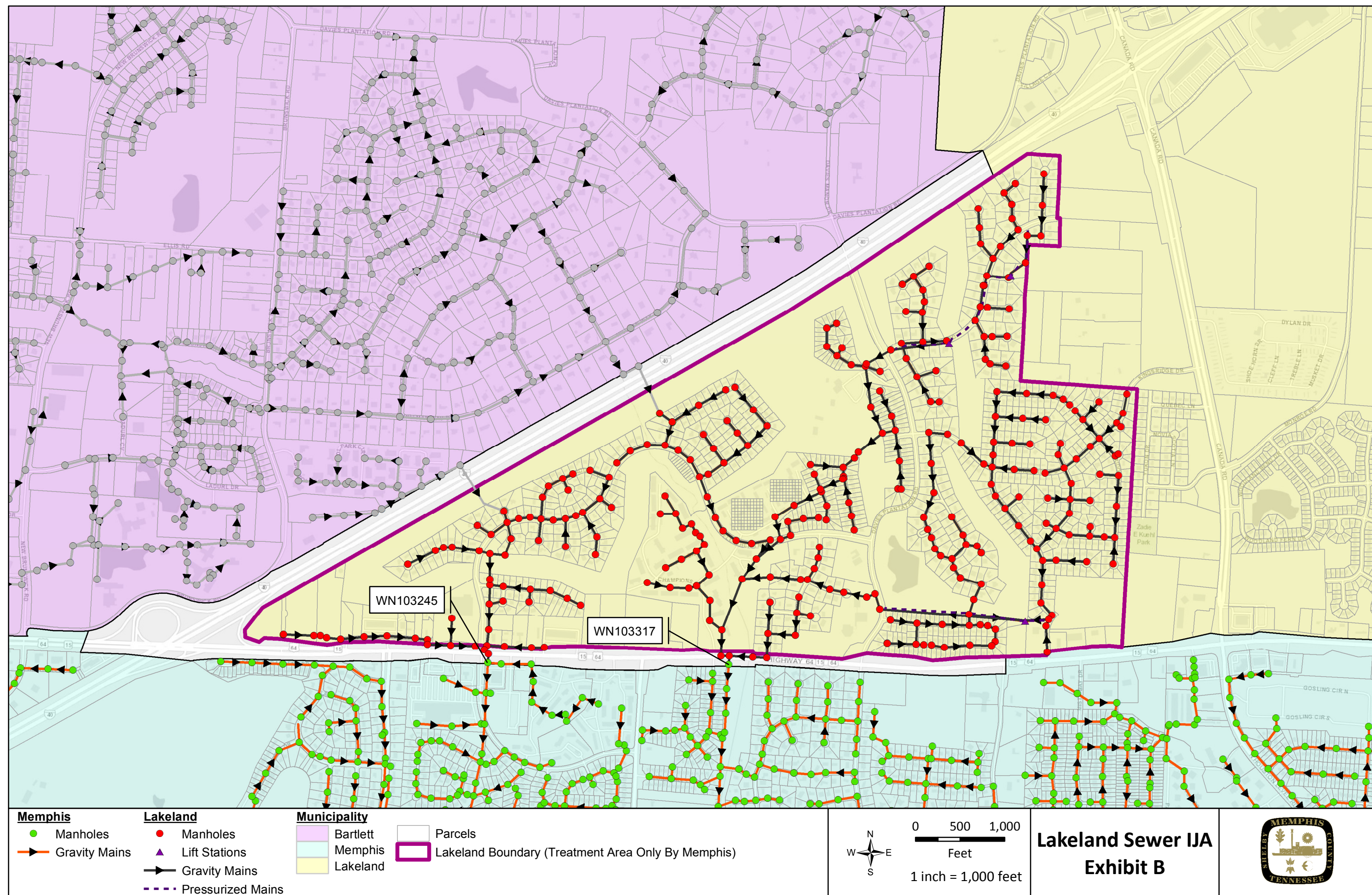
Mike Cunningham, Mayor

Approved as to form:

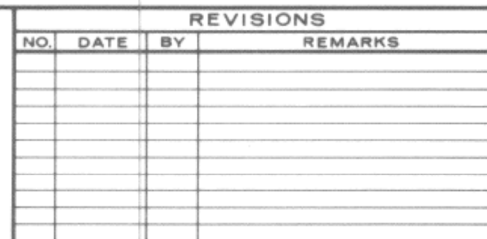
By:

Title:





DIVISION OF PUBLIC WORKS BUREAU, _____ BUREAU ENGINEER _____ DRAFTSMAN, RA DATE 12-3-84 SCALE NTS

[illegible]

DESIGN STANDARD FOR ABANDONED MANHOLES

Bryant Bondurant P.E. 12/6/84
CITY ENGINEER DATE

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EXHIBIT D
SEWER ASSET LIST

<u>Item #</u>	<u>PROJECT NAME</u>	<u>SHEET #</u> ¹	<u>RECORD #</u> ²
1	Bridge - Wood Square C-P (Private)	1 of 1	WN-10_SD_2399
2	Bridge - Wood Square C-P (Private), Ph. 1	1 of 1	WN-10_SD_1611
3	Brunswick 64 Commercial Subdivision lots 1&2	1 of 1	WN-10E_PP_081
4	Brunswick 64 Commercial Subdivision (Private)	1 of 1	WN-10E_PP_081
5	Brunswick Road at I-40 Sewer Extension ^{3,4,5}	1 of 2	WN-10B_PP_029
6	Brunswick Road at I-40 Sewer Extension ^{3,4,5,7}	2 of 2	WN-10B_PP_030
7	Club Walk PD	1 of 1	WN-10_SD_1041
8	Club Walk PD	1 of 1	WN-10_SD_1041A
9	Clubview at Stonebridge	1 of 1	WN-10_SD_911
10	Country Bridge Shopping Center, Ph. 1	1 of 1	WN-10B_PP_093
11	Country Bridge Shopping Center, Ph. 1	1 of 1	WN-10_SD_925
12	Country Bridge Shopping Center, Ph. 1	1 of 1	WN-10B_S/D 925
13	Eagle Creek - Wet Well Mounted Pump Lift Station-9680 Hwy 64 -6 in FM	1 of 1	WN-10C_PP_002
14	Eagle Creek Subdivision	1 of 1	WN-10_SD_1031
15	Eagle Creek Subdivision Lift Station	3 of 3	WN-10C_PP_003
16	Eagle Creek-Davies Plant RD- Lift Station and Pressure Main- 9680 Hwy 64- 6 inch FM	1 of 1	WN-10C_PP_001
17	Fairway Meadows Commercial Center (Private), Ph. 3	1 of 1	WN-10_SD_2267
18	Fairway Meadows Subdivision, 1st Addn.	1 of 1	WN-08_SD_1030
19	Fairway Meadows Subdivision, Sec. B	1 of 1	WN-08_SD_1580
20	Fairway Meadows Subdivision, Sec. C	1 of 12	WN-08_SD_1581
21	Fairway Meadows Subdivision, Sec. D	1 of 8	WN-08_SD_1582
22	Fairway Meadows Subdivision-With Eagle Creek force main- 9680 Hwy 64	1 of 1	WN-10C_PP_004
23	Fletcher Trace Woods Subdivision	1 of 1	WN-10_SD_886
24	Goodwins Highway #64 C-P	1 of 2	WN-10D_SD_1435
25	Goodwins Highway #64 C-P; Off-street Sewer	1 of 1	WN-10D_PP_031
26	Plantation Estates	1 of 2	WN-10A_PP_045
27	Plantation Estates Davieshire Lift Station Details	1 of 1	WN-10A_PP_089
28	Plantation Estates Davieshire Phase VI Section B, C, D Lift Station Details 6inFM	1 of 1	WN-10B_PP_012

29	Plantation Estates ^{3, 6}	2 of 2	WN-10A_PP_046
30	Plantation Fairway Subdivision	1 of 1	WN-10_SD_954
31	Seventh Fairway Subdivision	1 of 1	WN-08_SD_1004
32	Seventh Fairway Subdivision, 1st Addn.	1 of 1	WN-08_SD_1123
33	Stonebridge	1 of 5	WN-10A_PP_039
34	Stonebridge 1st addition Lift Station	1 of 1	WN-10B_PP_070
35	Stonebridge Sewer Extension	1 of 1	WN-10B_PP_071
36	Stonebridge "J" Phase 1	1 of 1	WN-10B_PP_057
37	Stonebridge 2nd Addition	1 of 1	WN-10_SD_998
38	Stonebridge Commercial Subdivision (Private Rd, Public Sewer), Lot 5	1 of 1	WN-10_SD_2256
39	Stonebridge Commercial Subdivision (Private Rd, Public Sewer), Lot 5	1 of 1	WN-10_SD_2256
40	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10E_PP_027
41	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1311
42	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1311A
43	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1311B
44	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1311C
45	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1318
46	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_2163
47	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_2169
48	Stonebridge Commercial Subdivision, Sec. B	1 of 1	WN-10_SD_397
49	Stonebridge Commercial Subdivision, Sec. B	1 of 1	WN-10_SD_419
50	Stonebridge Commercial Subdivision, Sec. C	1 of 1	WN-10_SD_396
51	Stonebridge Commercial Subdivision, Sec. D	1 of 1	WN-10_SD_874
52	Stonebridge J	1 of 1	WN-08_SD_996
53	Stonebridge J Phase 1 Lift Station	1 of 1	WN-10B_PP_058
54	Stonebridge Phase 1 Condominiums	1 of 1	WN-10_SD_180
55	Stonebridge Section B	1 of 1	WN-10C_PP_000.0
56	Stonebridge Section B - Dominion Cove	1 of 1	WN-10C_PP_035
57	Stonebridge Section B Fletcher Trace	1 of 1	WN-10C_PP_033
58	Stonebridge Section B Gains Borough CV.	1 of 1	WN-10C_PP_032
59	Stonebridge Section B Gains Borough Dr.	1 of 1	WN-10C_PP_031
60	Stonebridge Section B Eaton Cv.	1 of 1	WN-10C_PP_000.1
61	Stonebridge Section B Eton Cove	1 of 1	WN-10C_PP_034
62	Stonebridge Section B Fletcher Trace	1 of 1	WN-10C_PP_000.2
63	Stonebridge Section B Gramercy CV	1 of 1	WN-10C_PP_030
64	Stonebridge Section B Harrow Cv.	1 of 1	WN-10C_PP_029
65	Stonebridge Section C - Hepplewhite Cv.	1 of 1	WN-10C_PP_026
66	Stonebridge Section C -Fletcher Trace	1 of 1	WN-10C_PP_028
67	Stonebridge Section C -Havelock Cv.	1 of 1	WN-10C_PP_027
68	Stonebridge Section E	1 of 1	WN-10B_PP_094

69	Stonebridge Section B - Hwy64 to Eaton Cv.	1 of 1	WN-10A_PP_087
70	Stonebridge Sewer Line A-B	5 of 5	WN-10A_PP_042
71	Stonebridge Sewer Line B-E	3 of 5	WN-10A_PP_040
72	Stonebridge Sewer Lines C-D and B-E	4 of 5	WN-10A_PP_041
73	Stonebridge Subdivision	1 of 1	WN-10_SD_1085
74	Stonebridge Subdivision	1 of 1	WN-10_SD_1102
75	Stonebridge Subdivision - El Hill Rd. Force Main	1 of 1	WN-10B_PP_101
76	Stonebridge Subdivision 1st Addition	1 of 1	WN-10B_PP_102
77	Stonebridge Subdivision 1 st Addn.	1 of 1	WN-08_SD_1042
78	Stonebridge Subdivision 1 st Addn.	1 of 1	WN-10_SD_997
79	Stonebridge subdivision 1 st Addn. -Wet Well Mounted Pump	1 of 1	WN-10B_PP_072
80	Stonebridge Subdivision 1st Addn.-Wet Well Mounted Pump	1 of 1	WN-10B_PP_091
81	Stonebridge Subdivision Sec. H-1, H-2, H-3, H-4	1 of 1	WN-10_SD_303
82	Stonebridge Subdivision Section "E"	2 of 7	WN-08_SD_1100
83	Stonebridge Subdivision Section "E" - wet well and lift station	1 of 1	WN-10B_PP_090

Notes:

1. The sheet count as noted is applicable to the sewer plans for the specific project within the limits of Lakeland. The original drawings are being transferred except where noted.
2. The record number represents the applicable file number for the project as maintained by the City of Memphis.
3. The reference project lies within Lakeland and crosses I-40 to the City of Bartlett.
4. A portion of this asset was previously transferred to the City of Bartlett.
5. The City of Memphis asset number for this project is 1000562.
6. The City of Memphis asset number for this project is 1000551.
7. The original mylar for this plan was previously transferred to Bartlett. A copy is being transferred to Lakeland.

EXHIBIT E
SEWER EASEMENT LIST

<u>Item #</u>	<u>Project Name</u>	<u>Plat #</u>¹	<u>Record #</u>²	<u>Instrument</u>
1	Brunswick Road at I-40 Sewer Extension	Key Map	WN-10_Esmnt_399	-----
2	Brunswick Road at I-40 Sewer Extension ³	2A-S1 of 7	WN-10_Esmnt_401	AY-2028
3	Brunswick Road at I-40 Sewer Extension ³	2A-S2 of 7	WN-10_Esmnt_402	AY-2028
4	Brunswick Road at I-40 Sewer Extension ³	2B of 7	WN-10_Esmnt_403	AY-2029
5	Brunswick Road at I-40 Sewer Extension- Stonebridge Sect B-Eaton Cv.	4 of 7	WN-10_Esmnt_404	AV-9122
6	Brunswick Road at I-40 Sewer Extension- Stonebridge Sect B-Eaton Cv.	5 of 7	WN-10_Esmnt_405	AV-6808
7	Brunswick Road at I-40 Sewer Extension- Stonebridge Sect D- Dominion Cv.	6 of 7	WN-10_Esmnt_406	AX-9421
8	Brunswick Road at I-40 Sewer Extension- Stonebridge Sect B - Dominion Cv.	7 of 7	WN-10_Esmnt_407	AX-0528
9	Davies Plantation RD Lift Station and Pressure Main-Fairway Meadows SD	1 of 3	WN-10_Esmnt_311	DE-7597
10	Davies Plantation RD Lift Station and Pressure Main-Fairway Meadows SD	2 of 3	WN-10_Esmnt_312	DE-7598
11	Davies Plantation RD Lift Station and Pressure Main-Fairway Meadows SD	3 of 3	WN-10_Esmnt_313	DE-7599
12	Davies Plantation RD Lift Station and Pressure Main-Fairway Meadows SD- Stonebridge J	1 of 1	WN-10_Esmnt_314	DB-1982
13	Goodwins Highway #64 C-P; Off-street Sewer	Key Map	WN-10_Esmnt_417	-----
14	Goodwins Highway #64 C-P; Off-street Sewer	1 of 1	WN-10_Esmnt_418	GE-5997
15	Goodwins Highway #64 C-P; Off-street Sewer	1 of 1	WN-10_Esmnt_419	GE-5996

16	Goodwins Highway #64 C-P; Off-street Sewer	1 of 1	WN-10_Esmnt_420	GE-5995
17	Goodwins Highway #64 C-P; Off-street Sewer	1 of 1	WN-10_Esmnt_421	GE-5994
18	Plantation Estates	1 of 2	WN-10_Esmnt_212	R3-2182
19	Plantation Estates	2 of 2	WN-10_Esmnt_213	R3-2183
20	Plantation Fairway Section A	1 of 1	WN-10_Esmnt_309	CU-1082
21	Plantation Fairway Section C - Abandonment Plat	1 of 1	WN-10_Esmnt_316	DA-8957
22	Stonebridge "J" Phase 1- Force Main	1 of 1	WN-10_Esmnt_355	EE-8971
23	Stonebridge Section A-Lift Station Location	1 of 1	WN-10_Esmnt_084	J9-3149
24	Stonebridge Sewer Improvements Hwy 64- Davies Plantation	1 of 1	WN-10_Esmnt_085	J7-4094

Notes:

1. The plat count as noted is specific to the referenced sewer project.
2. The record number represents the applicable file number for the project as maintained by the City of Memphis.
3. City of Memphis asset ID number 1000234.

This Instrument Prepared by and
When Recorded Return to:
Carmalita Carletos-Drayton
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
165 Madison Avenue, Suite 2000
Memphis, Tennessee 38103
901.577.2210

BILL OF SALE

This Bill of Sale is made as of _____, 20____, by the City of Memphis, a municipality organized and existing under the laws of the State of Tennessee, ("Memphis"), to and in favor of the City of Lakeland, a municipal corporation organized and existing under the laws of the State of Tennessee, ("Lakeland").

Pursuant to and in compliance with the Interjurisdictional Agreement entered into effective _____, 20____, by and between Memphis and Lakeland, Memphis does hereby transfer and convey to Lakeland, all of its right, title, and interest in and to the sewer lines and related apparatus (collectively, "Sewer Infrastructure") depicted on Exhibits D and E attached hereto.

IN WITNESS WHEREOF, Memphis has caused this instrument to be executed by its duly authorized representative and to be effective as of the date first above written.

Lakeland joins herein evidencing its acceptance of the conveyances made hereby.

CITY OF MEMPHIS

Attest:

By: _____
Jim Strickland, Mayor

Comptroller

Approved:

Jennifer Sink, Chief Legal Officer

CITY OF LAKELAND

Attest:

By: _____
Mike Cunningham, Mayor

City Clerk

Approved:

Will Patterson, City Attorney

STATE OF TENNESSEE
COUNTY OF SHELBY

On this the ____ day of _____, 20__, before me, the undersigned Notary Public within and for said State and County, duly commissioned and qualified, personally appeared Jim Strickland with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Mayor of the City of Memphis, a municipal corporation; and that he as Mayor, being authorized so to do, executed and delivered the foregoing instrument for the purposes therein contained by signing the name of the municipal corporation by himself as such Mayor.

WITNESS my hand and notary seal in the county aforesaid, on the day and year first above written.

Notary Public

My Commission Expires:

STATE OF TENNESSEE
COUNTY OF SHELBY

On this the ____ day of _____, 20__, before me, the undersigned Notary Public within and for said State and County, duly commissioned and qualified, personally appeared Mike Cunningham with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Mayor of the City of Lakeland, a municipal corporation; and that he as Mayor, being authorized so to do, executed and delivered the foregoing instrument for the purposes therein contained by signing the name of the municipal corporation by himself as such Mayor.

WITNESS my hand and notary seal in the county aforesaid, on the day and year first above written.

Notary Public

My Commission Expires:

EXHIBIT D
SEWER ASSET LIST

<u>Item #</u>	<u>PROJECT NAME</u>	<u>SHEET #</u> ¹	<u>RECORD #</u> ²
1	Bridge - Wood Square C-P (Private)	1 of 1	WN-10_SD_2399
2	Bridge - Wood Square C-P (Private), Ph. 1	1 of 1	WN-10_SD_1611
3	Brunswick 64 Commercial Subdivision lots 1&2	1 of 1	WN-10E_PP_081
4	Brunswick 64 Commercial Subdivision (Private)	1 of 1	WN-10E_PP_081
5	Brunswick Road at I-40 Sewer Extension ^{3,4,5}	1 of 2	WN-10B_PP_029
6	Brunswick Road at I-40 Sewer Extension ^{3,4,5,7}	2 of 2	WN-10B_PP_030
7	Club Walk PD	1 of 1	WN-10_SD_1041
8	Club Walk PD	1 of 1	WN-10_SD_1041A
9	Clubview at Stonebridge	1 of 1	WN-10_SD_911
10	Country Bridge Shopping Center, Ph. 1	1 of 1	WN-10B_PP_093
11	Country Bridge Shopping Center, Ph. 1	1 of 1	WN-10_SD_925
12	Country Bridge Shopping Center, Ph. 1	1 of 1	WN-10B_S/D 925
13	Eagle Creek - Wet Well Mounted Pump Lift Station-9680 Hwy 64 -6 in FM	1 of 1	WN-10C_PP_002
14	Eagle Creek Subdivision	1 of 1	WN-10_SD_1031
15	Eagle Creek Subdivision Lift Station	3 of 3	WN-10C_PP_003
16	Eagle Creek-Davies Plant RD- Lift Station and Pressure Main- 9680 Hwy 64- 6 inch FM	1 of 1	WN-10C_PP_001
17	Fairway Meadows Commercial Center (Private), Ph. 3	1 of 1	WN-10_SD_2267
18	Fairway Meadows Subdivision, 1st Addn.	1 of 1	WN-08_SD_1030
19	Fairway Meadows Subdivision, Sec. B	1 of 1	WN-08_SD_1580
20	Fairway Meadows Subdivision, Sec. C	1 of 12	WN-08_SD_1581
21	Fairway Meadows Subdivision, Sec. D	1 of 8	WN-08_SD_1582
22	Fairway Meadows Subdivision-With Eagle Creek force main- 9680 Hwy 64	1 of 1	WN-10C_PP_004
23	Fletcher Trace Woods Subdivision	1 of 1	WN-10_SD_886
24	Goodwins Highway #64 C-P	1 of 2	WN-10D_SD_1435
25	Goodwins Highway #64 C-P; Off-street Sewer	1 of 1	WN-10D_PP_031
26	Plantation Estates	1 of 2	WN-10A_PP_045
27	Plantation Estates Daviesshire Lift Station Details	1 of 1	WN-10A_PP_089

28	Plantation Estates Davieshire Phase VI Section B, C, D Lift Station Details 6inFM	1 of 1	WN-10B_PP_012
29	Plantation Estates ^{3, 6}	2 of 2	WN-10A_PP_046
30	Plantation Fairway Subdivision	1 of 1	WN-10_SD_954
31	Seventh Fairway Subdivision	1 of 1	WN-08_SD_1004
32	Seventh Fairway Subdivision, 1st Addn.	1 of 1	WN-08_SD_1123
33	Stonebridge	1 of 5	WN-10A_PP_039
34	Stonebridge 1st addition Lift Station	1 of 1	WN-10B_PP_070
35	Stonebridge Sewer Extension	1 of 1	WN-10B_PP_071
36	Stonebridge "J" Phase 1	1 of 1	WN-10B_PP_057
37	Stonebridge 2nd Addition	1 of 1	WN-10_SD_998
38	Stonebridge Commercial Subdivision (Private Rd, Public Sewer), Lot 5	1 of 1	WN-10_SD_2256
39	Stonebridge Commercial Subdivision (Private Rd, Public Sewer), Lot 5	1 of 1	WN-10_SD_2256
40	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10E_PP_027
41	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1311
42	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1311A
43	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1311B
44	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1311C
45	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_1318
46	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_2163
47	Stonebridge Commercial Subdivision, Sec. A	1 of 1	WN-10_SD_2169
48	Stonebridge Commercial Subdivision, Sec. B	1 of 1	WN-10_SD_397
49	Stonebridge Commercial Subdivision, Sec. B	1 of 1	WN-10_SD_419
50	Stonebridge Commercial Subdivision, Sec. C	1 of 1	WN-10_SD_396
51	Stonebridge Commercial Subdivision, Sec. D	1 of 1	WN-10_SD_874
52	Stonebridge J	1 of 1	WN-08_SD_996
53	Stonebridge J Phase 1 Lift Station	1 of 1	WN-10B_PP_058
54	Stonebridge Phase 1 Condominiums	1 of 1	WN-10_SD_180
55	Stonebridge Section B	1 of 1	WN-10C_PP_000.0
56	Stonebridge Section B - Dominion Cove	1 of 1	WN-10C_PP_035
57	Stonebridge Section B Fletcher Trace	1 of 1	WN-10C_PP_033
58	Stonebridge Section B Gains Borough CV.	1 of 1	WN-10C_PP_032
59	Stonebridge Section B Gains Borough Dr.	1 of 1	WN-10C_PP_031
60	Stonebridge Section B Eaton Cv.	1 of 1	WN-10C_PP_000.1
61	Stonebridge Section B Eton Cove	1 of 1	WN-10C_PP_034
62	Stonebridge Section B Fletcher Trace	1 of 1	WN-10C_PP_000.2
63	Stonebridge Section B Gramercy CV	1 of 1	WN-10C_PP_030

64	Stonebridge Section B Harrow Cv.	1 of 1	WN-10C_PP_029
65	Stonebridge Section C - Hepplewhite Cv.	1 of 1	WN-10C_PP_026
66	Stonebridge Section C -Fletcher Trace	1 of 1	WN-10C_PP_028
67	Stonebridge Section C -Havelock Cv.	1 of 1	WN-10C_PP_027
68	Stonebridge Section E	1 of 1	WN-10B_PP_094
69	Stonebridge Section B - Hwy64 to Eaton Cv.	1 of 1	WN-10A_PP_087
70	Stonebridge Sewer Line A-B	5 of 5	WN-10A_PP_042
71	Stonebridge Sewer Line B-E	3 of 5	WN-10A_PP_040
72	Stonebridge Sewer Lines C-D and B-E	4 of 5	WN-10A_PP_041
73	Stonebridge Subdivision	1 of 1	WN-10_SD_1085
74	Stonebridge Subdivision	1 of 1	WN-10_SD_1102
75	Stonebridge Subdivision - El Hill Rd. Force Main	1 of 1	WN-10B_PP_101
76	Stonebridge Subdivision 1st Addition	1 of 1	WN-10B_PP_102
77	Stonebridge Subdivision 1 st Addn.	1 of 1	WN-08_SD_1042
78	Stonebridge Subdivision 1 st Addn.	1 of 1	WN-10_SD_997
79	Stonebridge subdivision 1 st Addn. -Wet Well Mounted Pump	1 of 1	WN-10B_PP_072
80	Stonebridge Subdivision 1st Addn.-Wet Well Mounted Pump	1 of 1	WN-10B_PP_091
81	Stonebridge Subdivision Sec. H-1, H-2, H-3, H-4	1 of 1	WN-10_SD_303
82	Stonebridge Subdivision Section "E"	2 of 7	WN-08_SD_1100
83	Stonebridge Subdivision Section "E" - wet well and lift station	1 of 1	WN-10B_PP_090

Notes:

1. The sheet count as noted is applicable to the sewer plans for the specific project within the limits of Lakeland. The original drawings are being transferred except where noted.
2. The record number represents the applicable file number for the project as maintained by the City of Memphis.
3. The reference project lies within Lakeland and crosses I-40 to the City of Bartlett.
4. A portion of this asset was previously transferred to the City of Bartlett.
5. The City of Memphis asset number for this project is 1000562.
6. The City of Memphis asset number for this project is 1000551.
7. The original mylar for this plan was previously transferred to Bartlett. A copy is being transferred to Lakeland.

EXHIBIT E
SEWER EASEMENT LIST

<u>Item #</u>	<u>Project Name</u>	<u>Plat #</u>¹	<u>Record #</u>²	<u>Instrument</u>
1	Brunswick Road at I-40 Sewer Extension	Key Map	WN-10_Esmnt_399	-----
2	Brunswick Road at I-40 Sewer Extension ³	2A-S1 of 7	WN-10_Esmnt_401	AY-2028
3	Brunswick Road at I-40 Sewer Extension ³	2A-S2 of 7	WN-10_Esmnt_402	AY-2028
4	Brunswick Road at I-40 Sewer Extension ³	2B of 7	WN-10_Esmnt_403	AY-2029
5	Brunswick Road at I-40 Sewer Extension-Stonebridge Sect B-Eaton Cv.	4 of 7	WN-10_Esmnt_404	AV-9122
6	Brunswick Road at I-40 Sewer Extension-Stonebridge Sect B-Eaton Cv.	5 of 7	WN-10_Esmnt_405	AV-6808
7	Brunswick Road at I-40 Sewer Extension-Stonebridge Sect D- Dominion Cv.	6 of 7	WN-10_Esmnt_406	AX-9421
8	Brunswick Road at I-40 Sewer Extension-Stonebridge Sect B - Dominion Cv.	7 of 7	WN-10_Esmnt_407	AX-0528
9	Davies Plantation RD Lift Station and Pressure Main-Fairway Meadows SD	1 of 3	WN-10_Esmnt_311	DE-7597
10	Davies Plantation RD Lift Station and Pressure Main-Fairway Meadows SD	2 of 3	WN-10_Esmnt_312	DE-7598
11	Davies Plantation RD Lift Station and Pressure Main-Fairway Meadows SD	3 of 3	WN-10_Esmnt_313	DE-7599
12	Davies Plantation RD Lift Station and Pressure Main-Fairway Meadows SD-Stonebridge J	1 of 1	WN-10_Esmnt_314	DB-1982
13	Goodwins Highway #64 C-P; Off-street Sewer	Key Map	WN-10_Esmnt_417	-----
14	Goodwins Highway #64 C-P; Off-street Sewer	1 of 1	WN-10_Esmnt_418	GE-5997
15	Goodwins Highway #64 C-P; Off-street Sewer	1 of 1	WN-10_Esmnt_419	GE-5996
16	Goodwins Highway #64 C-P;	1 of 1	WN-10_Esmnt_420	GE-5995

Off-street Sewer				
17	Goodwins Highway #64 C-P; Off-street Sewer	1 of 1	WN-10_Esmnt_421	GE-5994
18	Plantation Estates	1 of 2	WN-10_Esmnt_212	R3-2182
19	Plantation Estates	2 of 2	WN-10_Esmnt_213	R3-2183
20	Plantation Fairway Section A	1 of 1	WN-10_Esmnt_309	CU-1082
21	Plantation Fairway Section C - Abandonment Plat	1 of 1	WN-10_Esmnt_316	DA-8957
22	Stonebridge "J" Phase 1- Force Main	1 of 1	WN-10_Esmnt_355	EE-8971
23	Stonebridge Section A-Lift Station Location	1 of 1	WN-10_Esmnt_084	J9-3149
24	Stonebridge Sewer Improvements Hwy 64- Davies Plantation	1 of 1	WN-10_Esmnt_085	J7-4094

Notes:

1. The plat count as noted is specific to the referenced sewer project.
2. The record number represents the applicable file number for the project as maintained by the City of Memphis.
3. City of Memphis asset ID number 1000234.

Meeting Cycle: Thursday, January 13, 2022

Subject: **Resolution** - authorizing the City Manager to approve a Notice of Intent to participate in the FY2022-FY2025 ReGIS Imagery Project. *Sponsored by Josh Thompson*

Staff Contact: Josh Thompson, GIS Manager

STAFF RECOMMENDATION

Staff recommends approval of the resolution authorizing the City Manager to approve the Notice of Intent to participate in the FY2022-FY2025 ReGIS Imagery project in the amount of Ten Thousand, Four Hundred Forty-Eight Dollars (\$10,448).

BUDGET IMPACT

The total cost associated with this agreement for the City of Lakeland is \$10,448 and will be funded over a four-year period. The annual cost is \$2,612 over that period and will be funded from the General Fund – Other Professional Services. The FY2022 portion is a budgeted item in the approved Fiscal Year 2021-22 budget.

DISCUSSION

The City of Lakeland participated in the most recent ReGIS Imagery Project (FY18-21) and has participated in other data acquisition projects under this agreement. Additional partners include other Shelby County agencies and other local governments.

The FY22-25 Regional Geographic Information Systems (ReGIS) Imagery Project consists of an agreement between ReGIS and its partners and a vendor to acquire aerial imagery updates and other associated datasets for Shelby County. This imagery is used within geospatial services such the City's Geographic Information System (GIS) and Cityworks Asset Management System (AMS) as well as web maps and applications.

Preliminary deliverables include:

- 5 angle imagery each year (Jan- Feb target flight dates)
- 3-inch resolution imagery
- access to Eagleview Connect Explorer application, Eagleview WMTS Imagery services, ReGIS Rest endpoints for shared Feature Data
- 1 LIDAR capture in Spring of 2024 (not yet fully funded; if not funded, will be canceled)



Shelby County Government

Regional GIS Office

160 N. Main St, Memphis TN 38103

February 17, 2021

City of Lakeland

NOTICE OF INTENT TO PARTICIPATE IN FUNDING REGIS PROJECTS FOR FY2021 – FY2025

This letter serves as my agencies renewal for the funding of ReGIS Projects. This funding includes new Pictometry in FY2022 – FY2025. I understand that the amount due for each Fiscal Year will be \$2,612.00. Your agency will receive an invoice after the start of each fiscal year which runs July 1 through June 30. My authorizing signature below confirms my agencies renewal.

City of Lakeland
Agency Name

Signature of Authorizing Agent

Print name of Authorizing Agent

Respectfully,

Richard T. Steeg

RESOLUTION R-9-2022
AUTHORIZING THE CITY MANAGER TO APPROVE A NOTICE OF INTENT
TO PARTICIPATE IN THE ReGIS IMAGERY PROJECT FOR FY2022-FY2025

- WHEREAS,** the City of Lakeland desires to update its aerial imagery; and,
- WHEREAS,** new aerial imagery updates are available through the ReGIS Imagery project; and,
- WHEREAS,** the Year 1 purchase will be funded from the Fiscal Year 2021-22 Annual Budget from the General Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAKELAND, TENNESSEE: That the City Manager is hereby authorized to approve the Notice of Intent to participate in the ReGIS Imagery Project in the amount of Ten Thousand, Four Hundred Forty-Eight Dollars (\$10,448).

APPROVED AND ADOPTED by the Board of Commissioners of Lakeland, Tennessee this 13th day of January 2022, the public welfare requiring it.

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell
City Recorder

**COOPERATIVE AGREEMENT
BETWEEN
SHELBY COUNTY GOVERNMENT, TENNESSEE AND
CITY OF LAKE LAND
FOR THE SHARING OF
GEOGRAPHIC INFORMATION SYSTEMS DATA,
INFORMATION SYSTEMS DATA
AND ASSOCIATED TECHNOLOGY**

Whereas, Shelby County Government ("Shelby County") on behalf of the Regional GIS ("ReGIS") maintains an information system containing a significant variety of digital information and computer software programs used in the daily operation of numerous departments and agencies supporting the constituents of Shelby County as well as the surrounding region; and

Whereas, City of Lakeland maintains information and computer software programs used daily by departments to support decision-making and constituent services; and

Whereas, it has been determined that each of the agencies maintains some information or knowledge, that is corresponding, interconnecting, and useful to both groups; and

Whereas, it is in the best interest of those served by ReGIS and City of Lakeland that a cooperative agreement be established to exchange certain information system data, and technologies; and

Whereas, it is the expectation of both Shelby County and City of Lakeland that participation will be extended to other agencies using comparable agreements to either build a storehouse of data, or to create a central hub to link other data, software and technologies accessible to all contributors; and

Whereas, this repository will be built, maintained and governed by all contributing agencies.

Now therefore, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency that are hereby acknowledged, Shelby County and City of Lakeland agree as follows:

Section 1. Definitions

Definitions: As used herein the following terms shall have the meaning ascribed to them:

"APPENDIX "B" is the compiled list of all ReGIS Member Agencies with appropriate administrative and technical contact information. This list will be maintained by ReGIS from information published in each agencies Database Dictionary.

"Data" refers to the digital and non-digital information, calculations, databases, and any products developed or placed to support computerized applications. This includes, but not limited to location-based information, related attribute records, data files and metadata that are stored and maintained in the Data Owner's or Steward's computer systems.

"Database Dictionary" is a description of Data Records. It should include, but not limited to features of elements, and their corresponding key-linking and descriptive attributes. Geographic information should include the spheroid, datum, and epoch of the map projection for themes or feature datasets. The Database Dictionary should also include tables that diagram the contents of data records, the linkages between record types, and

the linkages between related databases that store information pertaining to the mapped features. The Database Dictionary should also include appropriate administrative and technical contact information including physical mailing address, phone number, and email address.

“Derivative Data or Products” shall mean all works created by the Steward that incorporates all or part of the Owner’s technology, including but not limited to, a revision, modification, translation, abridgement, condensation, expansion, collection, compilation, or any other form of, modification to the Owner’s information.

“Digital Contributions” are enhancements, improvements or expansions made to data.

“Owner” refers to the entity that holds a copyright to the subject data, software or other technology.

“ReGIS System” Shelby County Regional Geographic Information Systems office developed to encourage the sharing and development of technological innovations in geospatial data for local governments.

“ReGIS Coordinator” is the designated Shelby County ITS employee. The ReGIS Coordinator contact information will be maintained by ReGIS as part of the Shelby County ITS Database Dictionary and Exhibit “B” to this agreement.

“Shelby County Officer, official, agent, or employee” describes any individual who is employed by Shelby County or elected to an office associated with Shelby County, Tennessee.

“Steward” refers to the agency responsible for the Owner’s information once it has been provided to another member agency.

“Technology” refers to any software, calculations, processes, procedures, and methods, developed by a Party to increase the efficiency of analysis, work flow and data collection.

“The Parties” are City of Lakeland and ReGIS.

“Third Party” refers to any organization or individual not a signatory of this agreement,

Section 2. Duties, Obligations and Responsibilities

- a) Each Party recognizes that no third party shall benefit from this Agreement. Any third party will be required to enter into a separate agreement with the Owner.
- b) Each Party asserts its right to regulate the distribution of its data and all its portions through its claim of ownership as a copyright. All title, ownership and intellectual property rights that may exist or be created with the data shall remain with the Owner. Allowable access should be documented in each Owner’s Database Dictionary.
- c) The arrangement of facts of the data, the organizational structure of the data, the coding of the data, the format of the data and the graphic design of its maps and reports are the property of the Owner, as protected by U. S. copyright statutes and treaties.

- d) The Owner retains all rights pertaining to its data, particularly those regarding its distribution or sale. Any Derivative product of the Owner created by the Steward becomes the property of the Owner.
- e) The Owner is recognized as the entity responsible for quality control and evaluation of their data. The Owner may request assistance in these efforts, but responsibility for final acceptance or rejection of data deliverables lies with the Owner.
- f) The Parties agree to work together to develop data standards that will allow continued and increased exchange of data with each other and other agencies.
- g) All requests will be in writing and data will be delivered to the Requestor in the standard format of the Owner.
- h) Data will be provided in the most cost-efficient manner available for the Data Owner. Data transmission will not take more than thirty (30) business days to complete. If requests cannot be fulfilled in this time period, the Owner will provide just reasons, in writing, for the delay. The Owner will provide an estimated time when the Requester may expect access to the data.
- i) If the Requesting Party needs data in a non-standard format or has some other unusual demand, the Owner will provide, in writing, an estimate of costs and a statement of work that will be associated with this special request. The Requesting Party may choose to accept the costs or may choose to rescind the original request.
- j) In order to facilitate the exchange and/or translation of the Data, the Owner will maintain a current Database Dictionary describing the contents and structures of all Data. All other data will be considered outside the scope of this Agreement. The Owner will update, add to and maintain this dictionary in a diligent manner. The Owner has the right to refuse a request.
- k) The Steward will not distribute the Owner's data to third parties unless specifically set forth in this Agreement or have written authorization from the Owner for a unique situation.
- l) Each Party recognizes that the Owner will be the sole source of a specific data layer. These layers will be listed in the Data Dictionary. A Steward will not maintain, enhance or update a separate file of the specific data obtained from the Owner.
- m) There may be Data that is developed cooperatively by both Parties or it is found that it is in the best interest of both Parties to be Co-Owners. These data will be attributed to both Parties and held with coauthor's copyrights. Both parties must agree to this by identifying the data within their Data Dictionary as being Co-Owned. Other, third Parties may be included if claims are considered reasonable or it is in the best interest of both Parties.
- n) With verifiable information, the Steward may notify the Owner that there are errors or updates to be made to data. The Owner will make the changes to the original database and provide an updated copy to ReGIS. These changes will be verified and made within a reasonable time consistent with the update policies of the affected Owner's department.

- o) The Owner may allow the Steward to make changes to the Owner's data. The Owner must be aware and agree to the changes. Once the changes are made, the Steward will send changes to the Owner to be incorporated into the original data layer at no cost to the Owner. The Steward will hold no right to this changed data.
- p) All paper publications of the Owner's information must include the following notice:

"Parts of this information are held in Copyright by <name of Data Owner>"
- q) The Parties agree to share Technologies that do not violate third-party copyrights.
- r) Each Party agrees that any data provided will be relied upon at the individual party's own risk. Neither Party will be responsible for incidental, consequential, special damages, nor any other damages of any type or character arising out of the use of any data, information, or products which may be furnished by the Owner. Neither Party warrants, either expressed or implied, of fitness of such data, information or products for a particular purpose or any other use or purpose.
- s) Nothing in this document shall be construed to create or impose any duty upon Shelby County or any Shelby County officers, officials or employees, to plan, develop, update, correct, implement, operate, maintain, or manage the data, information or products, except those items to which Shelby County is the Owner.
- t) Neither Shelby County nor, separately and severally, any Shelby County officers, officials, agents, and employees shall be liable in any way to any person for failure to plan, update, correct, develop, implement, operate, maintain or manage the data, information or products or any part thereof, including, but not limited to, situations where such failure is caused by or results from negligence, a strike, an act of God, an accident or other contingency.
- u) Neither Shelby County nor any County officer or official, nor any other agent, or employee of Shelby County shall be responsible for incidental, consequential, special damages of any type or character, arising out of the use of any data, information or products. City of Lakeland agrees to indemnify and hold harmless Shelby County, its officials, officers, and employees from any liability, claims, loss, damages, injury, costs and attorneys' fees arising out of procuring, compiling, collecting, interpreting, producing, using or communicating such data, information or products or the use thereof. The indemnification provisions included in this paragraph are not applicable when both parties to this agreement are governmental bodies, agencies or departments and are prevented by the Tennessee Constitution or other legal prohibitions from providing this indemnification assurance.
- v) City of Lakeland agrees that the data, information or products provided by Shelby County shall be used and relied upon only at the risk of City of Lakeland. City of Lakeland agrees to defend Shelby County in any event that shall arise with an employee of City of Lakeland, a consultant, or contractor in the employment of City of Lakeland.
- w) In the event of an emergency, as defined by the Shelby County Emergency Management Authority (EMA), the Parties agree to share all Data that would be of benefit to the assistance of EMA in the emergency. At the conclusion of the emergency event all data that is outside the scope of the agreement will be purged from the

Steward's computer systems or turned over to EMA to hold as a record of the emergency event.

- x) Data Security. Those safeguards mutually agreed upon to maintain access control and availability of data applicable to this agreement. Including but not limited to system virus, malware, and other hacking protection, network and system access controls. See **Section 15** for Data Security Information.

Section 3. Grant of Exclusive License

Each party grants to the other a mutual license for their exclusive respective use of all data originating from this Agreement.

- a) The Parties shall use the Data only for their respective internal business purposes. Data can be provided to consultants, contractors, etc. who are formally working with the Steward to perform internal business for the Steward, but only through the Owner. The Steward will provide a letter to the Owner that formally recognizes the consultant as working for the Steward. The consultant will also provide a letter to the Owner with the following recital:

"All data provided by [Owner] to [Agency Name] will be used for the exclusive purpose of contract work for the [Steward]. The data will not be sold or in any other way made available to any other individual, firm, company, corporation or government agency without the specific written consent of [Owner]. All original data and data derived from the original data will be returned to the [Owner] at the conclusion of the project. [Agency name] will remove all data provided by the Owner from their respective computer systems. This includes both requested Data as well as Derivative Data. All backup tapes or other backup media will be destroyed. The data will be deleted and the original media will be turned over to the [Owner].

It is understood that if this data is used for any other purpose other than this project, that [Agency Name] will be ineligible to receive data in the future and may lose the right to work on any other projects for [Owner] and may be subject to criminal or civil penalties and damages."

- b) The Steward can opt to include the recital in Section 3, Item "a" in a consultant's contract in lieu of a letter and provide the contract to the Owner.

Section 4. Penalties

Any person who violates any provision of this contract or any of the rules and regulations promulgated heretofore or hereafter by either Party pertaining thereto, or any provision developed within any contract or license that has been executed as permitted herein, in addition to any legal remedies, shall be subject to forfeiture of all future rights to the other Party's data. Financial penalties not to exceed three (3) times the amount that would have been charged for the products and services may also be imposed, all in addition to any other legal remedies in law or equity to be assessed by a court of appropriate jurisdiction.

Section 5. Confidentiality

A Party may designate information to be deemed confidential because of considerations of individual privacy, safety and health, corporate proprietary claims, and other reasons in the best interests of the public or that would violate agreements with other entities. This designation must be clearly defined in the Owner's Database Dictionary.

Section 6. Term

This Agreement shall commence on the date hereof and continue for four years. After such time and every four years thereafter, this Agreement shall be reviewed by ReGIS Commission for renewal for a four (4) year period unless either party terminates the Agreement by written notice to the other at least thirty (30) days before the renewal date.

Section 7. Termination

This Agreement can be terminated by a thirty (30) day written notice for any reason. Upon termination of this Agreement for any reason whatsoever, the Steward will remove all data provided by the Owner from their respective computer systems. This includes both requested Data as well as Derivative Data. All backup tapes or other backup media will be destroyed. The data will be removed or the media will be turned over to the Data Owner. Within thirty (30) days of termination, City of Lakeland shall notice Shelby County and every other agency, as set forth in **Exhibit B**, of said termination pursuant to the notice provision, Section 14 below.

Section 8. Assignment

Neither this Agreement nor any of the rights or duties hereunder may be assigned or otherwise transferred in any way by any party hereto, voluntarily or involuntarily, by operation of law, or otherwise, without the prior written consent of the other party. Such consent may be conditioned upon execution of an agreement by the assignee to assume the obligations of the assignor and to fulfill the assignor's duties hereunder. Such consent shall not be unreasonably withheld, conditioned or delayed.

Section 9. Force Majeure

No party is responsible for delays due to causes or occurrences beyond its control, including, but not limited to, civil disobedience, acts of God, casualty or accident, war, labor disputes, or the like.

Section 10. Successors and Assigns

This Agreement will apply to, be binding in all respects upon, and inure to the benefit of the successors and permitted assigns of the parties.

Section 11. No Third Parties Benefited

This Agreement is made and entered into solely for the benefit of the represented Parties, their successors and permitted assigns, and no other person or entity shall have any rights hereunder.

Section 12. Miscellaneous

This Agreement supersedes all prior agreements between the parties with respect to its subject matter and constitutes a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. This Agreement may not be amended except by a written agreement executed by the parties. If any court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, the other provisions of this Agreement will remain in force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable. The captions used herein are for convenience and shall not control interpretation of the text.

Section 13. Governing Law/Dispute Resolution

The parties agree that this contract is made and entered into in Shelby County, Tennessee and that all services, materials and equipment to be rendered pursuant to said Agreement are to be delivered in Shelby County, Tennessee. The interpretation and enforcement of this Agreement will be governed by the laws of the State of Tennessee, without giving effect to the conflict of laws rules thereof. The parties agree that jurisdiction and venue over all disputes arising under this

Agreement shall be in the Circuit Court of Shelby County Tennessee. The parties further agree that they may enter into non-binding mediation governed by the local rules of the 30th Judicial District of Tennessee, each party to bear its own costs of mediation, prior to the filing of any lawsuit which may be contractually provided for by the terms of this agreement.

Section 14. Notice

Any notices required or permitted to be given under the provisions of this contract shall be effective only if in writing and delivered either in person to the Shelby County's authorized agent or by First Class or U.S. Mail to the addresses set forth below, or to such other person or address as either party may designate in writing and deliver as herein provided:

SHELBY COUNTY: 160 N. Main Street, Suite 1000
Memphis, Tennessee 38103
Attn.: ITS Department
and
Shelby County Government
Contract Administration
160 N. Main St., Suite 950
Memphis, Tennessee 38103

AGENCY: Name of Agency: City of Lakeland
Contact Person/Attn: _____
Address:
City/State/Zip:

Section 15. Data Security

City of Lakeland warrants to Shelby County that the City of Lakeland will not distribute sensitive data under this agreement. Any future requirements to share sensitive data will require separate data sharing agreements to be entered into by all parties. Any provision of sensitive data to this ReGIS system must be immediately removed from the ReGIS system and reported to the ReGIS Coordinator pursuant to the notice provision, Section 14. Said notification including the nature of data uploaded, date uploaded, the agency uploading the data, and the location of data placement.

Shelby County currently identifies the following classes of sensitive information:

ACCESSED: Payment Card Industry (PCI) data, as defined by PCI Security Standard v3.2;

PROTECTED HEALTH INFORMATION (PHI), as defined under the Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 160, Subpart A, §160.103 (45 C.F.R. §160.103);

PERSONALLY IDENTIFIED INFORMATION (PII), as defined under the Tennessee Code Annotated § 47-18-2107 and the National Institute of Standards and Technology Special Publication 800-122 sections 2.1 and 2.2, in electronic and/or paper format; and the

CRIMINAL JUSTICE INFORMATION SERVICES (CJIS) requirements as defined by the current revision of the Federal Bureau of Investigation (FBI) CJIS policy.

City of Lakeland agrees to sign and abide by the Shelby County Government Acceptable Use Policy v1.4.b, attached as Exhibit "A", as it applies to access provided to City of Lakeland for the purpose of satisfying the Administrative Controls for access to ReGIS systems.

City of Lakeland will provide specific administrative, technical and physical safeguards for their environments, systems, and applications accessing ReGIS data.

City of Lakeland shall promptly report to the ReGIS Coordinator any breaches of ReGIS data, pursuant to the notice provision, Section 14, and will implement immediate, appropriate corrective actions to contain and prevent recurrence of the breach.

Shelby County warrants to City of Lakeland that Shelby County will not distribute sensitive data via this ReGIS sponsored system, in accordance with this agreement. Any access of sensitive data reported to, or identified by Shelby County will be reported to the agencies listed in Exhibit "B" pursuant to the notice provision, Section 14, notification including the data uploaded, date uploaded, and agency uploading the data.

Shelby County will ensure that all participating agencies adhere to the access requirements established by the ReGIS member as specified in said agencies Database Dictionary.

Shelby County will provide specific administrative, technical and physical safeguards for their environments, systems, and applications hosting and providing access to ReGIS data.

Shelby County shall promptly report to the ReGIS membership any breaches of REGIS data pursuant to the notice provision, Section 14. Shelby County will implement immediate, appropriate corrective actions to contain and prevent recurrence of the breach.

Section 17. Amendment

This agreement may be modified or amended only by written instrument signed by both parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives this ____ day of _____, 20__.

APPROVED AS TO FORM:
AND LEGALITY:

SHELBY COUNTY GOVERNMENT

Contract Administration
Assistant County Attorney

Lee Harris, Mayor

City of Lakeland

By: _____

Printed Name: _____

Title: _____

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RESOLUTION R-8-2022

A RESOLUTION TO RECOGNIZE AND CELEBRATE THE COMMUNITY CONTRIBUTIONS OF KEMBREE DARAKSHANI

WHEREAS, volunteering personal time and resources has traditionally been and continues to be, an elemental part of the essence and tradition of our country and is essential to its spirit and vitality. Kembree Darakshani has displayed this spirit of volunteerism in Lakeland in many ways; and

WHEREAS, Kembree has served on the Lakeland Parent Teacher Association (PTA) Board for the past three years, serving in the role of Vice President of Ways and Means which provides oversight in PTA fundraising; and

WHEREAS, Kembree provided leadership in all PTA fundraisers including: Spring Auction, Boosterthon, Holiday Market and assisting the Lakeland Chamber with the annual Golf Tournament; and

WHEREAS, Kembree has volunteered her time as a Room Mom for all three of her kids in Lakeland schools and participated in helping with Kindergarten Reading Folders, and was an advocate to bring them back when they were removed for a short time; and

WHEREAS, Kembree has also provided leadership within her neighborhood in serving for three years on the Herons Ridge HOA Board, including a term as President of the Board; and

WHEREAS, Kembree also serves throughout the region and state in fundraising efforts with the Mid South Spay and Neuter Spaytacular Board, is a founding Board Member of Women Who Care Memphis raising over \$100,000 locally, and the University of Tennessee Alumni Big Orange Gala Board.

NOW, THEREFORE, BE IT RESOLVED that Kembree Darakshani is hereby recognized and celebrated for her outstanding community contributions of her time and talent within the Lakeland community and for her efforts in making Lakeland a wonderful place to live, work, and play.

PASSED AND ADOPTED by the Board of Commissioners of the City of Lakeland, Tennessee, this 13th day of January, 2022, the public welfare requiring it.

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell, *City Recorder*

Meeting Cycle: Thursday, January 13, 2022

Subject: **Resolution** - authorizing a professional services agreement with Kimley Horn and Associates, Inc. for the Heathfield at Scotts Creek Traffic Impact Study Amendment - Seed Tick Road Extension. *Sponsored by Emily Harrell*

Staff Contact: Emily Harrell, City Engineer

STAFF RECOMMENDATION

Staff recommends the Board of Commissioners, by resolution, authorize a professional services agreement with Kimley Horn and Associates, Inc. for the Heathfield at Scotts Creek Traffic Impact Study Amendment - Seed Tick Road Extension.

BUDGET IMPACT

The Land Development Regulations authorize the City to contract with a Consultant to perform a Traffic Impact Study on proposed developments. The Developer is required to reimburse the City all expenses incurred for the study. The total cost of the proposed study is \$31,100.00.

DISCUSSION

Heathfield at Scotts Creek Planned Development provided a traffic impact study with their development application. As a condition of approval, further studies shall be conducted related to the timing of the Seed Tick Road extension at the time of the Phase 2 Development contract .

The City, as directed in the Land Development Regulations, will contract with the Consultant to complete the Traffic Impact Study at the expense of the Developer. Kimley Horn prepared the initial Traffic Impact Study for the Developer and is Staff's recommendation to complete the analysis.

RESOLUTION 11-2022

A RESOLUTION APPROVING A CONTRACT WITH KIMLEY HORN AND ASSOCIATES, INC. FOR HEATHFIELD AT SCOTTS CREEK TRAFFIC IMPACT STUDY AMENDMENT – SEED TICK ROAD EXTENSION

WHEREAS, as a condition of approval, the developer is required to provide additional studies related to the timing of the Seed Tick Road Extension; and,

WHEREAS, the Land Development Regulations allow the City to contract with a Consultant for the Traffic Impact Study for proposed developments; and,

WHEREAS, Kimley Horn was selected to provide professional services related to the Heathfield at Scotts Creek Traffic Impact Study Amendment – Seed Tick Road Extension; and,

WHEREAS, the developer is required to reimburse the City for all expenses incurred related to the Traffic Impact Study for Heathfield at Scotts Creek PD.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAKE LAND, TENNESSEE: That the City Manager is hereby authorized to approve a contract with Kimley Horn and Associates, Inc. for the Heathfield at Scotts Creek Traffic Impact Study Amendment – Seed Tick Road Extension in the amount of Thirty-One Thousand One Hundred Dollars (\$31,100.00).

PASSED AND ADOPTED by the Board of Commissioners of Lakeland, Tennessee on this 13th day of January 2022, public welfare requiring it.

Mike Cunningham, *Mayor*

ATTEST:

Debra Murrell
City Recorder

November 18, 2021

Emily Harrell, P.E., CPESC
City Engineer
City of Lakeland
10001 Highway 70
Lakeland, TN 38002

Re: Professional Services Agreement
Seed Tick Road Extension Traffic Study – Lakeland, TN

Dear Ms. Harrell:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the City of Lakeland ("Client") for providing professional traffic engineering services related to the future construction of the Seed Tick Road extension in Lakeland, TN.

Project Understanding

The following developments are currently under construction or are proposed to be constructed in Lakeland, TN:

- Heathfield on Scott's Creek – single-family residential subdivision
- The Meadows – single-family residential subdivision
- Evergreen – single-family residential subdivision
- New Lakeland High School – grades 9-12
- New Lakeland Elementary School – grades K-5
- Lakeland Commons – mixed-use

Phase 1 of the Meadows is currently under construction. Phase 1 and Phase 2 of the Heathfield on Scott's Creek development are proposed to start construction within the next two years. An extension of Seed Tick Road from the existing intersection at Highway 70 north to Old Brownsville Road is proposed to be constructed to mitigate the impact of site traffic generated by the above developments. The Client desires for Kimley-Horn to perform a traffic study to determine the development activity threshold at which the construction of the Seed Tick Road extension is required.

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

Task 1 – Data Collection

Kimley-Horn will conduct a virtual methodology meeting with the City of Lakeland to discuss the methodology to be used for the study and obtain concurrence regarding the limits of the area and intersections to be included in the study. Kimley-Horn proposes a methodology that is consistent with the Institute of Transportation Engineers standards for a traffic study, which is understood to be the methodology preferred by the City.

Kimley-Horn assumes that the study area will consist of the following intersections:

- Old Brownsville Road at Evergreen Road
- Old Brownsville Road at Adagio Lane
- Old Brownsville Road at Canada Road
- Highway 70 at Canada Road
- Highway 70 at Seed Tick Road
- Highway 70 at Adagio Lane
- Highway 70 at Evergreen Road

Kimley-Horn will obtain turning movement count data for the AM, School, and PM peak hours at the existing study intersections listed above. Kimley-Horn will also obtain road segment Average Annual Daily (AADT) traffic volumes from TDOT count stations in the vicinity of the project. Kimley-Horn will obtain the existing signal phasing and signal timing for the signalized study intersections from the City of Memphis. Lakeland will provide site plans, phasing plans, plats, and other information to Kimley-Horn for the referenced development.

Task 2 – Traffic Analysis

Based on the site plans and proposed land use data provided by the Client for the above developments, Kimley-Horn will perform a trip generation analysis for the following scenarios using the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 10th Edition*:

- **Scenario 1 – Analysis year 2022**
Existing intersection volumes, with the addition of the following development traffic:
 - The Meadows – Phase 1
 - Lakeland High School – Grade 9
- **Scenario 2 – Analysis year 2024**
All Scenario 1 traffic, with the addition of the following development traffic:
 - Heathfield on Scott's Creek – Phase 1 and Phase 2
 - The Meadows – Phase 2
 - Evergreen – Phase 1
 - Lakeland High School – Grade 10 and Grade 11
 - Lakeland Commons
- **Scenario 3 – Analysis year 2026**
All Scenario 2 traffic, with the addition of the following development traffic:
 - Heathfield on Scott's Creek – Phase 3
 - The Meadows – Phase 3
 - Evergreen – Phase 2
 - Lakeland High School – Grade 12
 - Lakeland Elementary School – All grades K-5
- **Scenario 4 – Analysis Year 2028**
All Scenario 3 traffic, with the addition of the following development traffic:
 - Heathfield on Scott's Creek all phases
 - The Meadows Phase 5
 - Evergreen Phase 3

- **Scenario 5 – Analysis Year 2028**

Scenario 5 consists of the following development traffic:

- Heathfield on Scott's Creek – Phase 1 and Phase 2
- The Meadows – All Phases
- Evergreen – All Phases
- Lakeland High School – All grades 9-12
- Lakeland Elementary School – All grades K-5
- Lakeland Commons

Kimley-Horn will distribute trips to and from the respective developments for each Scenario based on the adjacent street traffic and the existing traffic patterns in the vicinity of the project. Kimley-Horn will use this distribution of trips to assign new site traffic volumes onto the adjacent street network.

Kimley-Horn will use the TDOT historical AADT volumes and knowledge of the project area to estimate the anticipated background traffic growth rate. The growth rate will be used to determine the background growth for the project build out year for each Scenario described above as specified by the Client. To obtain total project build-out year traffic volumes, the new site volumes for each Scenario will be added to the existing traffic volumes plus the background traffic growth. Based upon these traffic volumes, a detailed traffic engineering capacity analysis will be prepared for the study intersections for each Scenario.

Capacity analyses and level of service determinations for the study intersections will be conducted in accordance with the most current version of the Transportation Research Board *Highway Capacity Manual*. Kimley-Horn will conduct analyses for the existing conditions, the build-out year background traffic for each Scenario, and the build-out year with background traffic plus site traffic for each Scenario. These scenarios will demonstrate the direct impacts of the proposed development phases for each Scenario on the surrounding road network.

Kimley-Horn will review the impacts of the additional traffic to the operation of the study intersections and determine if the construction of the proposed Seed Tick Road extension will be required to accommodate the development traffic assumed under each Scenario. If the construction of the proposed Seed Tick Road extension is required, Kimley-Horn will identify the Scenario and associated development phases that are expected to warrant the Seed Tick Road extension.

Kimley-Horn will perform an additional trip distribution for trips to and from the respective developments for each Scenario with the completed Seed Tick Road extension. Kimley-Horn will perform capacity analyses for the study intersections with full build-out of the above developments and the completed Seed Tick Road extension.

Task 3 – Traffic Study Report

Kimley-Horn will prepare a Traffic Study Report in accordance with City of Lakeland requirements. This report will contain a summary of the methodology used, findings, and recommendations. A draft of the report will be provided to the Client for review. Upon review of the Client's comments, Kimley-Horn will revise the report accordingly and prepare the final report for distribution to the Client and other parties, as determined by the Client. For budget purposes, it is assumed that the report will be submitted electronically, and no hard copies will be required.

Deliverables:

- One electronic copy of the draft report in PDF format to the Client
- One electronic copy of the final report in PDF format to the Client

Task 4 – Meetings

Kimley-Horn will prepare for and attend meetings as directed by the Client. These meetings are expected to consist of the following:

- City of Lakeland Methodology Meeting (virtual)
- Analysis and Recommendations Review Meeting with the Client (virtual)
- City of Lakeland Planning Commission Meeting (in-person)
- City of Lakeland Board of Commissioners Meeting (in-person)

Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following: Identify items that we may want to provide later, and also use this section as appropriate to clarify what is not in the base scope.

- Additional capacity analysis
- Roadway design
- Traffic signal timing
- Traffic signal design
- Site Civil Engineering
- Simulation and modeling
- Additional meetings not listed above

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

- An electronic version of the preliminary site plans for all above developments in AutoCAD and/or PDF format

Schedule

We will provide our services as expeditiously as practicable with the goal of meeting a mutually agreed upon schedule.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 – 4 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Task 1	Data Collection	\$ 4,400.00
Task 2	Traffic Analysis	\$ 17,150.00
Task 3	Traffic Study Report	\$ 6,550.00
Task 4	Meetings	\$ 3,000.00
Total		\$ 31,100.00

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to the City of Lakeland.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

_____ Please email all invoices to _____

_____ Please copy _____

If you want us to proceed with the services, please have an authorized person sign this Agreement below and return to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on your project.

(Intentionally left blank)

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

Signed:



Printed Name: James F. Collins

Title: Senior Vice President

Signed:



Printed Name: Douglas Swett

Title: Project Manager

CITY OF LAKELAND

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

Attachment – Request for Information

Attachment – Standard Provisions

Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client					
Mailing Address for Invoices					
Contact for Billing Inquiries					
Contact's Phone and e-mail					
Client is (check one)	Owner	☐	Agent for Owner	☐	Unrelated to Owner

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
County in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

Attach additional sheets if there are more than 4 parcels or more than 4 owners

KIMLEY-HORN AND ASSOCIATES, INC.

STANDARD PROVISIONS

(with modifications to sections 3, 4(c), 4(e), 5, 10, and 13, and removal of section 4(d))

(1) **Consultant's Scope of Services and Additional Services.** The Consultant will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:

- (a) Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- (b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
- (c) Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
- (d) Arrange for access to the site and other property as required for the Consultant to provide its services.
- (e) Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.
- (f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
- (g) Obtain any independent accounting, legal, insurance, cost estimating and feasibility services required by Client.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.

(3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months, Consultant's compensation may be renegotiated.

(4) **Method of Payment.** Client shall pay Consultant as follows:

- (a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
- (b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
- (c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
- (d) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) **Use of Documents.** All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client to any of the Consultant's documents, or any use, partial use or reuse of the documents without written authorization or adaptation by the Consultant will be at the Client's sole risk and without liability to the Consultant. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

(6) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services

furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination.

(8) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(9) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section 9 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 9 shall require the Client to indemnify the Consultant.

(10) **Mutual Waiver of Consequential Damages.** In no event shall client be liable to the consultant for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

(11) **Construction Costs.** Under no circumstances shall the Consultant be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully-approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.

(12) **Certifications.** All requests for the Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to the Consultant at least 14 days prior to the requested date of execution. The Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

(13) **Dispute Resolution.** All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation.

(14) **Hazardous Substances and Conditions.** Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) **Construction Phase Services.**

(a) If the Consultant prepares construction documents and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.

(b) The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or

responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

(c) The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

(16) No Third-Party Beneficiaries; Assignment and Subcontracting. This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(17) Confidentiality. The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(18) Miscellaneous Provisions. This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.