

WORKSHOP AGENDA

Board of Mayor and Aldermen

February 29, 2024 @ 6:30 PM

For the March 7, 2024 Regular Meeting @ 7:00 PM

- Call meeting to order.
- Determine quorum.
- Prayer by Alderman Waldron.
- Pledge of Allegiance by Vice-Mayor Noe.

ORDER OF BUSINESS

1. Approve Minutes: February 1, 2024 Workshop, February 6, 2024 Public Hearing and February 6, 2024 Regular Meeting.
2. Public Comment Period.
3. Department Reports:
 - A. Police Department
 - B. Fire Department
 - C. Parks & Recreation Department
 - D. Library
 - E. Finance Department
 - F. Water Treatment Plant

OLD BUSINESS

4. Second Reading - **Ordinance #2024-03** - An Ordinance to Amend the Fiscal Year 2023-2024 General Fund Budget.

CONSENT AGENDA (All items under the Consent Agenda are deemed to be non-controversial and routine in nature by the governing body. They will be approved by one motion of the governing body. The items on the Consent Agenda will not be discussed.)

5. Consent Agenda Items
 - A. Approve or Reject City Bids and Purchases:
 1. State Contract Purchase - Rapid All Terrain Tower for the Police Department.
 2. State Contract Purchase - Motorola Radios for Police Vehicles.
 3. Emergency Purchase - Pump Repair for the Hollandale Sewer Lift Station.
 - B. Approve an Infrastructure Use Agreement with Nashville Electric Service for Attachments on NES Power Poles.

- C. Approve Agreement with Salary.com.
- D. Approve a Contract to Audit Accounts from Blankenship CPA Group, PLLC for Fiscal Year 2023-2024.
- E. Approve Annual League Facility User Agreement with Rutherford County Crimson Tide Youth Football and Cheerleading League.
- F. Approve Agreement with the Tennessee Department of Health.
- G. Approve Amendment #1 to the Grant Contract with the State of Tennessee Office of Criminal Justice Programs for the Violent Crime Intervention Fund.
- H. Approve Change Order #2 with Baron Construction, LLC for the Public Works and Community Development Services Facility.

NEW BUSINESS

- 6. First Reading - **Ordinance #2024-04** - An Ordinance to Amend the Fiscal Year 2023-2024 General Fund Budget.
- 7. **Resolution #2024-05** - A Resolution Authorizing the City of La Vergne to Participate in the Public Entity Partners Cyber Security Partners Matching Grant Program.
- 8. **Resolution #2024-06** - A Resolution to Authorize the Mayor to Execute Certain Settlement Agreements.
- 9. Motion to Approve a Lease and Operating Agreement with FiftyForward for the La Vergne Senior Center.
- 10. Appoint or Remove Board / Committee Members:
 - A. Senior Citizen's Advisory Committee. (One term expired 1/31/2024.)
 - B. Stormwater Appeals and Advisory Board. (Three terms are vacant.)
- 11. Discussion - New Mission, Vision and Values Statements for the City of La Vergne.

MAYOR / ALDERMEN COMMENTS

ADJOURN

MINUTES OF THE REGULAR WORKSHOP OF THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF LA VERGNE, TENNESSEE HELD ON FEBRUARY 1, 2024, AT LA VERGNE CITY HALL, LA VERGNE, TENNESSEE.

CALL TO ORDER

The February 1, 2024 regular workshop of the Board of Mayor and Aldermen of the City of La Vergne, Tennessee was called to order at 6:30 p.m. at La Vergne City Hall by Mayor Jason Cole.

BOARD MEMBERS PRESENT

Members present: Mayor Jason Cole, Vice-Mayor Steve Noe, Alderman Carol Haas, and Alderman Dennis Waldron. Alderman Kara Hobbs was absent.

Mayor Cole stated that the prayer will be led by Alderman Hobbs and that he would lead the Pledge of Allegiance at the Regular Meeting on February 6, 2024.

ORDER OF BUSINESS

1. Approve Minutes: January 2, 2024 Workshop and January 4, 2024 Regular Meeting.

No action was taken.

2. Public Comment Period.

No one spoke.

3. Department Reports:
A. Police Department.
B. Fire Department.
C. Parks & Recreation Department.
D. Library.
E. Finance Department.
F. Water Treatment Plant.

Department reports will be given at the February 6, 2024 regular meeting. No action was taken.

OLD BUSINESS

4. Second Reading - Ordinance #2024-01 - An Ordinance to Amend the City of La Vergne Zoning Ordinance by Changing the Official Zoning Map for Tax Map 18P, Group C, Parcels 5 and 5.01, Consisting of Approximately 0.83 Acres.

Located at 512 and 516 Old Nashville Highway, From a R-3 (High Density Residential) Zoning District to a C-3 (Neighborhood Service Commercial) Zoning District. (Received a favorable recommendation from the Planning Commission on November 28, 2023. A Public Hearing will be held on Tuesday, February 6, 2024 at 6:30 p.m.)

Mayor Cole explained the ordinance. Alderman Waldron made comments about the acreage and the easements. Mayor Cole asked if the applicant could attend the regular meeting.

City Planner Bo Logan approached the podium. Alderman Waldron asked about the lot. Mr. Logan explained what the applicant had submitted on their application. A discussion ensued. Alderman Waldron explained his concerns.

No action was taken.

5. **Second Reading - Ordinance #2024-02 - An Ordinance to Amend Article IV, Section 4.010 of the La Vergne Zoning Ordinance Regarding Off-Street Parking Requirements. (Received a favorable recommendation from the Planning Commission on November 28, 2023. A Public Hearing will be held on Tuesday, February 6, 2024 at 6:30 p.m.)**

Mayor Cole explained the ordinance. A discussion ensued.

No action was taken.

CONSENT AGENDA

6. **Consent Agenda Items:**

A. Approve or Reject City Bids and Purchases:

1. Bid - Bain Drive Water and Sewer Relocation Project
2. State Contract Purchase - Internal Network Cable and Installation for the Fire Station 41 Construction Project.
3. State Contract Purchase - Security Camera Hardware and Installation for the Fire Station 41 Construction Project.
4. State Contract Purchase - Access Control Hardware and Installation for the Fire Station 41 Construction Project.

B. Approve a Professional Services Agreement with Croft and Associates, LLC for the Upper Chaney Woods Interceptor Sewer Appraisals and Market Study.

C. Approve Change Order #1 with CTI for the Upper Chaney Woods Interceptor Sewer Project.

D. Ratify the Approval of a Grant Contract with the State of Tennessee Department of Commerce and Insurance for the Provision of Grant Funds for Tuition Assistance, Training and Professional Development Expenses for the Tennessee Law Enforcement Training Academy (TLETA).

- E. **Approve Contract with the Greater Nashville Regional Council for the Provision of Special Census Field Verification and Review Services.**
- F. **Approve Annual Renewal of GIS Managed Services for the Police FLEX/CAD System.**

Mayor Cole explained each item.

Vice-Mayor Noe asked why staff recommended rejecting the Bain Drive Water and Sewer Relocation project. Assistant City Administrator Kyle Brown explained the reasoning due to the price of the project. He stated the budget was out of order and that the project may need to be revised.

Alderman Waldron asked if the Upper Chaney Woods Interceptor Sewer project appraisals would come out of the Stormwater Fund. Mayor Cole confirmed it would.

A discussion ensued about the ratification of the grant contract for the Tennessee Law Enforcement Training Academy that is due on Monday, February 5, 2024.

No action was taken.

NEW BUSINESS

- 7. **First Reading - Ordinance #2024-03 - An Ordinance to Amend the Fiscal Year 2023-2024 General Fund Budget.**

Mayor Cole explained the ordinance.

No action was taken.

- 8. **Resolution #2024-03 - A Resolution to Acquire Easements for the Upper Chaney Woods Interceptor Sewer line Project by Eminent Domain.**

Mayor Cole explained the ordinance.

No action was taken.

- 9. **Resolution #2024-04 - A Resolution to Amend the City of La Vergne Check Signing Policy.**

Mayor Cole explained the resolution.

No action was taken.

10. Motion to Approve Addendum #2 - Professional Services for the Brookside Park Revision.

Mayor Cole explained the motion. Vice-Mayor Noe asked Parks and Recreation Director David McGowan if he was ok with the addendum. Mr. McGowan approached the podium and stated that he felt it was the best option. A discussion ensued.

No action was taken.

11. Appoint or Remove Board / Committee Members:

- A. Beer Board.** Mayor Cole spoke about the Board and vacancies.
- B. Board of Zoning and Appeals.** Mayor Cole spoke about the applicants.
- C. Construction Board of Adjustment and Appeals.** Mayor Cole spoke about the Board and applicants.
- D. Greenway Advisory Committee.** Mayor Cole spoke about the Committee and the applicants.
- E. Library Board.** Mayor Cole spoke about the Board and the vacancies.
- F. Local Emergency Planning Committee.** Mayor Cole explained the Committee and the vacancies.
- G. Stormwater Appeals and Advisory Board.** Mayor Cole explained the Board and the vacancies.

MAYOR / ALDERMEN COMMENTS

Alderman Waldron made comments about Groundhog Day. He asked everyone to check on their pets and the elderly.

Alderman Haas reminded everyone to sign up for baseball and softball on Sunday afternoons.

Vice-Mayor Noe thanked Public Works Director Michael Dietz and his crew for their hard work during the week of snow and icy weather. He stated that the Driveway Group will have its electronics dumpster at the Senior Center on February 24, 2024 and will be taking donations.

Mayor Cole reminded everyone about the upcoming Father-Daughter Dance this Saturday, February 3, 2024. He also thanked Mr. Dietz and his crew for their hard work during the week of snow and icy weather. He thanked Mr. Doug Oakley and team for their hard work to repair the potholes around the City.

ADJOURNMENT

There being no further business, Mayor Cole declared the workshop adjourned at 6:55 p.m.

Mayor

City Recorder

Approved: _____

**MINUTES OF THE PUBLIC HEARING OF THE BOARD OF MAYOR AND ALDERMEN
OF THE CITY OF LA VERGNE, TENNESSEE HELD ON FEBRUARY 6, 2024, AT
LA VERGNE CITY HALL, LA VERGNE, TENNESSEE.**

Call to Order

The February 6, 2024 Public Hearing of the Board of Mayor and Aldermen of the City of La Vergne, Tennessee was called to order at 6:30 p.m. at La Vergne City Hall by Mayor Jason Cole.

Board Members Present

Members present: Mayor Jason Cole, Vice-Mayor Steve Noe, Alderman Carol Haas, Alderman Kara Hobbs, and Alderman Dennis Waldron.

ORDER OF BUSINESS

1. **Ordinance #2024-01 - An Ordinance to Amend the City of La Vergne Zoning Ordinance by Changing the Official Zoning Map for Tax Map 18P, Group C, Parcels 5 and 5.01, Consisting of Approximately 0.83 Acres, Located at 512 and 516 Old Nashville Highway, From a R-3 (High Density Residential) Zoning District to a C-3 (Neighborhood Service Commercial) Zoning District. (Received a favorable recommendation from the Planning Commission on November 28, 2023.**

Mr. Rafik Aleshea, the owner of 512 and 516 Old Nashville Hwy, spoke about the rezoning.

No one else spoke.

2. **Ordinance #2024-02 - An Ordinance to Amend Article IV, Section 4.010 of the La Vergne Zoning Ordinance Regarding Off-Street Parking Requirements. (Received a favorable recommendation from the Planning Commission on November 28, 2023.**

No one spoke.

ADJOURNMENT

Mayor Cole declared the public hearing adjourned at 6:33 p.m.

Mayor

City Recorder

Approved: _____

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF MAYOR AND ALDERMEN
OF THE CITY OF LA VERGNE, TENNESSEE HELD ON FEBRUARY 6, 2024, AT
LA VERGNE CITY HALL, LA VERGNE, TENNESSEE.**

CALL TO ORDER

The February 6, 2024 regular meeting of the Board of Mayor and Aldermen of the City of La Vergne, Tennessee was called to order at 7:00 p.m. at La Vergne City Hall by Mayor Jason Cole.

BOARD MEMBERS PRESENT

Members present: Mayor Jason Cole, Vice-Mayor Steve Noe, Alderman Carol Haas, Alderman Kara Hobbs, and Alderman Dennis Waldron.

A prayer was led by Alderman Hobbs. The Pledge of Allegiance was led by Mayor Cole.

ORDER OF BUSINESS

1. Approve Minutes: January 2, 2024 Workshop and January 4, 2024 Regular Meeting.

A motion, made by Alderman Haas, seconded by Alderman Hobbs, to approve the minutes of the January 2, 2024 Workshop and the January 4, 2024 Regular Meeting, was adopted with all voting AYE, except Alderman Waldron, who voted NO.

2. Public Comment Period.

No one spoke.

3. Department Reports:

A. Police Department. Police Chief Christopher Moews gave the report for the Police Department.

B. Fire Department. Fire Chief Ronny Beasley gave the report for the Fire Department.

C. Parks & Recreation Department. Mr. David McGowen gave the report for the Parks & Recreation Department.

D. Library. Mr. Andrew Patton gave the report for the Library.

E. Finance Department. Ms. Tonya Williams gave the report for the Finance Department.

F. Water Treatment Plant. Mr. Dwayne Lowery gave the report for the Water Treatment Plant.

OLD BUSINESS

4. **Second Reading - Ordinance #2024-01 - An Ordinance to Amend the City of La Vergne Zoning Ordinance by Changing the Official Zoning Map for Tax Map 18P, Group C, Parcels 5 and 5.01, Consisting of Approximately 0.83 Acres, Located at 512 and 516 Old Nashville Highway, From a R-3 (High Density Residential) Zoning District to a C-3 (Neighborhood Service Commercial) Zoning District. (Received a favorable recommendation from the Planning Commission on November 28, 2023.)**

A motion was made by Mayor Cole, seconded by Vice-Mayor Noe, to approve to suspend the rules, was adopted following a roll-call vote.

Alderman Waldron	AYE
Alderman Hobbs	AYE
Alderman Haas	AYE
Vice-Mayor Noe	AYE
Mayor Cole	AYE

Mr. Rafik Aleshea, the owner of 512 and 516 Old Nashville Hwy, approached the podium to field questions from the Board.

Vice-Mayor Noe asked Mr. Aleshea about his plans. Mr. Aleshea stated that he did not have a specific business in mind. He explained that he would be the lessor. He stated that he would only have tenants that would benefit the City. Vice-Mayor Noe asked about tobacco shops.

City Planner Bo Logan approached the podium. He stated that Zoning C-3 is a pedestrian-scale business. He gave examples of a bakery, restaurant, or retail that would fit that zoning. He stated that no car repairs are allowed in a C-3 zoning district. Mr. Logan stated that tobacco shops are zoned C-2. Vice-Mayor Noe asked if this was in the overlay. Mr. Logan stated that it is proposed in the new draft Zoning Ordinance that has not been approved yet. A discussion ensued.

Alderman Hobbs asked if Mr. Aleshea had any other commercial properties. Mr. Aleshea stated he did and gave the addresses of those properties. A discussion ensued about the property behind 512 and 516 Old Nashville Highway.

Alderman Haas asked if Mr. Aleshea would be interested in having an event space. Mr. Logan stated event spaces are not allowed in a C-3 zoned district. A discussion ensued.

Vice-Mayor asked about the street access. Mr. Logan explained that it would be on the site plan. A discussion ensued.

Mayor Cole reestablished the rules of order for the meeting.

A motion was made by Alderman Waldron, seconded by Vice-Mayor Noe, to approve

Ordinance #2024-01 on second reading.

Vice-Mayor Noe made comments about the rezoning. Alderman Waldron stated his concerns.

This motion was adopted following a roll-call vote.

Alderman Waldron	AYE
Alderman Hobbs	AYE
Alderman Haas	AYE
Vice-Mayor Noe	AYE
Mayor Cole	AYE

5. Second Reading - Ordinance #2024-02 - An Ordinance to Amend Article IV, Section 4.010 of the La Vergne Zoning Ordinance Regarding Off-Street Parking Requirements. (Received a favorable recommendation from the Planning Commission on November 28, 2023.)

A motion, made by Alderman Haas, seconded by Alderman Hobbs, to approve Ordinance #2024-02 on second reading, was adopted following a roll-call vote.

Alderman Waldron	AYE
Alderman Hobbs	AYE
Alderman Haas	AYE
Vice-Mayor Noe	AYE
Mayor Cole	AYE

CONSENT AGENDA

6. Consent Agenda Items:

A. Approve or Reject City Bids and Purchases:

1. Bid - Bain Drive Water and Sewer Relocation Project
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3. State Contract Purchase - Security Camera Hardware and Installation for the Fire Station 41 Construction Project.
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B. Approve a Professional Services Agreement with Croft and Associates, LLC for the Upper Chaney Woods Interceptor Sewer Appraisals and Market Study.

C. Approve Change Order #1 with CTI for the Upper Chaney Woods Interceptor Sewer Project.

D. Ratify the Approval of a Grant Contract with the State of Tennessee Department of Commerce and Insurance for the Provision of Grant Funds

- for Tuition Assistance, Training and Professional Development Expenses for the Tennessee Law Enforcement Training Academy (TLETA).**
- E. Approve Contract with the Greater Nashville Regional Council for the Provision of Special Census Field Verification and Review Services.**
- F. Approve Annual Renewal of GIS Managed Services for the Police FLEX/CAD System.**

A motion was made by Vice-Mayor Noe, seconded by Mayor Cole, to approve the consent agenda as recommended, was adopted with all voting AYE.

NEW BUSINESS

- 7. First Reading - Ordinance #2024-03 - An Ordinance to Amend the Fiscal Year 2023-2024 General Fund Budget.**

A motion was made by Alderman Haas, seconded by Mayor Cole, to approve Ordinance #2024-03 on first reading, was adopted following a roll-call vote.

Alderman Waldron	AYE
Alderman Hobbs	AYE
Alderman Haas	AYE
Vice-Mayor Noe	AYE
Mayor Cole	AYE

- 8. Resolution #2024-03 - A Resolution to Acquire Easements for the Upper Chaney Woods Interceptor Sewer Line Project by Eminent Domain.**

A motion was made by Vice-Mayor Noe, seconded by Mayor Cole, to approve Resolution #2024-03, was adopted following a roll-call vote.

Alderman Waldron	AYE
Alderman Hobbs	AYE
Alderman Haas	AYE
Vice-Mayor Noe	AYE
Mayor Cole	AYE

- 9. Resolution #2024-04 - A Resolution to Amend the City of La Vergne Check Signing Policy.**

A motion was made by Alderman Haas, seconded by Vice-Mayor Noe, to approve Resolution #2024-04, was adopted following a roll-call vote.

Alderman Waldron	AYE
Alderman Hobbs	AYE

Alderman Haas	AYE
Vice-Mayor Noe	AYE
Mayor Cole	AYE

10. Motion to Approve Addendum #2 - Professional Services for the Brookside Park Revision.

A motion was made by Mayor Cole, seconded by Alderman Haas, to approve Addendum #2 for the professional services for the Brookside Park revision, was adopted following a roll-call vote.

Alderman Waldron	AYE
Alderman Hobbs	AYE
Alderman Haas	AYE
Vice-Mayor Noe	AYE
Mayor Cole	AYE

11. Appoint or Remove Board / Committee Members:

- A. Beer Board.** Mayor Cole appointed Jamie Knight to the Beer Board. The board confirmed the appointment with all voting AYE.
- B. Board of Zoning Appeals.** Mayor Cole reappointed Graeme Coates and Craig Pollock to the Board of Zoning Appeals. The board confirmed the appointment with all voting AYE.
- C. Construction Board of Adjustment and Appeals.** A motion, made by Mayor Cole, seconded by Alderman Hobbs, to reappoint David Waldron and John Rutledge, to the Construction Board of Adjustment and Appeals, was approved with all voting AYE.
- D. Greenway Advisory Committee.** Mayor Cole appointed Leslie Ballard to the Greenway Advisory Committee. The board confirmed the appointment with all voting AYE.
- E. Library Board.** A motion, made by Mayor Cole, seconded by Alderman Haas, to appoint Rene Cruz, to the Library Board was approved with all voting AYE.
- F. Local Emergency Planning Committee.** Mayor Cole appointed Brian Gather to the County position and Joe White to the Codes position on the Local Emergency Planning Committee. The board confirmed the appointments with all voting AYE.

MAYOR / ALDERMEN COMMENTS

Alderman Waldron thanked Finance Director, Tonya Williams, for her service to the city. He

made comments about the Waldron Road drop-offs on the side of the road. He spoke about the January snowstorm and reminded everyone to check on their pets and the elderly.

Alderman Hobbs thanked Finance Director, Tonya Williams, for her service to the city. She made comments about her concerns for South Waldron Road and the long-term plan for it. She thanked Public Works for adding the reflectors to the road and their hard work during the snowstorm last month. She thanked the Parks and Recreation Department for their hard work on the Father-Daughter dance last weekend. She reminded everyone about the La Vergne Rescue breakfast this Saturday.

Alderman Haas thanked Finance Director, Tonya Williams, for her service to the city. She made comments about the South Waldron Road drop-offs and stated her concerns. She thanked Public Works for their hard work during the snowstorm and filling the potholes. She thanked the Parks and Recreation Department for their hard work on the Father-Daughter dance. She also thanked the community for supporting the event.

Vice-Mayor Noe thanked Finance Director, Tonya Williams, for her service to the city. He reminded everyone about the Driveway Group bringing the electronics dumpster to the Senior Center on February 24, 2024. He stated that they would be accepting donations that would go to the Senior Center. He made comments about the Inframark team that was in town and about his concerns for South Waldron Road.

Mayor Cole thanked Finance Director, Tonya Williams, for her service to the city. He welcomed Joe White, the new Codes Director, to the city. He thanked the Parks and Recreation Department for their hard work on the Father-Daughter dance. He thanked Bobby McCoy for his balloon talent at the event. He reminded everyone about the Special Census that is on-going. He thanked Doug Oakley and his team for filling over 500 potholes so far. He stated that more reflectors would be added to South Waldron Road. He made comments about Aldi coming to the city and the Uptown La Vergne project. He thanked City Engineer Gary Lide, City Planner Bo Logan, and Economic Development Director Tom Broeker, for their hard work on the Aldi project.

ADJOURNMENT

There being no further business, Mayor Cole declared the meeting adjourned at 7:41 p.m.

Mayor

City Recorder

Approved: _____



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 4. Second Reading - **Ordinance #2024-03** - An Ordinance to Amend the Fiscal Year 2023-2024 General Fund Budget.

Department: Finance

Presented By: Tonya Williams

Item Attachments: 1. Ordinance #2024-03

Summary:

This is a budget amendment for the General Fund for the purchase of a mobile surveillance camera for the Police Department.

Background Information:

The city received a Justice Assistance Grant from the Department of Justice to purchase a Mobile Surveillance Trailer for the Police Department. The amount of the grant is \$12,037.00. The grant agreement was approved by the Board of Mayor and Aldermen at the November 7, 2023 meeting. The cost of the surveillance trailer is \$29,995, so additional funds need to be allocated to make the purchase.

The Police Department has recently sold some surplus military equipment through GovDeals. They have asked that those funds be used to pay for this additional cost for the equipment. Unfortunately, with the way the accounting rules work, we cannot take funds directly from a revenue account to pay for purchases. The revenues from the sale of the surplus property go into the general fund revenue account, which will end up in the fund balance. The remaining \$18,000 needed to make the purchase will need to come from the fund balance in order to make this purchase.

The actual purchase has not been approved by the Board. Once this is approved on first reading, the purchase will be added to the next meeting to be considered by the Board.

Financial Summary:

The total budget amendment is \$30,000. A total of \$12,000 will be added to the Grant Revenue line item and the remaining \$18,000 will come out of Fund Balance.

Staff Recommendation:

Staff recommends approval.

ORDINANCE #2024-03

AN ORDINANCE TO AMEND THE FISCAL YEAR 2023-2024 GENERAL FUND BUDGET.

BE IT ORDAINED By the Board of Mayor and Aldermen of the City of La Vergne
as follows:

The 2023-2024 Budget is hereby amended for the **General Fund** by providing for:

Increased Expenditures for account number:

110-42100-949	Other Machinery & Equipment	\$	30,000
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Increase Grant Revenue / Decrease Fund Balance:

110-33418	JAG Grant Revenue	\$	12,000
110-37840	Transfer from Fund Balance	\$	18,000

**THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER THE DATE OF FINAL
PASSAGE, THE PUBLIC WELFARE REQUIRING IT.**

LEGAL STATUS PROVISIONS

Approved by the Mayor and Board of Aldermen:

1st Reading

Jason Cole, Mayor

2nd Reading

ATTEST:

Bruce E. Richardson, City Recorder

Published in the Murfreesboro Post on _____.



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.A.1. State Contract Purchase - Rapid All Terrain Tower for the Police Department.

Department: Police

Presented By: Christopher Moews

Item Attachments: 1. Quote - State Contract Purchase

Summary:

The rapid all-terrain trailer (RATT) is a vehicle hitch, portable system that provides high-resolution video through a tower-mounted camera and secure wireless connection.

Background Information:

The police department has a need for a self-contained mobile video surveillance platform for use at special events and other occasions. The RATT is a budget-friendly option compared to other towed platforms that can cost 2-3 times more. This tool will also allow viewing of a scene from a safe distance while maintaining command and control in real time when necessary. This will be purchased using State Contract #SWC424.

Financial Summary:

The cost of the tower is \$29,995. The city has received a grant for approximately \$12,000 and a budget amendment for the remaining \$18,000 is on this meeting agenda for final approval.

Staff Recommendation:

Staff recommends approval.

La Vergne Police Department (TN)

Mike Campbell
5093 Murfreesboro Rd
La Vergne, Tennessee 37086

Quote Date : 01.10.24

Reference # : TN-La Vergne PD-Lt.
Campbell

#	Item & Description	Color	Qty	Rate	Amount
1	3039 Mast-Black 30' Telescoping Pneumatic Mast with 39lb Payload Max Includes Lockable Sections & Mast-Mounted Manual Hand Pump	Black	1.00 pcs	4,495.00	4,495.00
2	Accessories-Mast-Cover-Canvas-Mast-OD Green Mast Top Canvas Cover (NATO Green)	Green	1.00 pcs	125.00	125.00
3	ASSY-Mast Maintenance Kit RATT Mast Maintenance Kit (Assy) Silicone Grease & Microfiber Cloth	Black	1.00 pcs	110.00	110.00
4	RATT Field Swappable - RV Hitch Base - 11ga ASSY (Black) RATT Field Swappable 2x2" Hitch Base - 11ga Steel (Mil-Spec Primer/Powdered Black)	Black	1.00 pcs	2,995.00	2,995.00
5	ASSY-RV Hitch Base NEMA Compressor (Amphenol 2-Pin) Hitch-Mounted Compressor in NEMA Enclosure with Bleed Valve + Amphenol 2-Pin 12v DC Connector	Black	1.00 pcs	1,275.00	1,275.00
6	ASSY-RV Hitch Base Parking Spot-Black (IM) RATT Parking Spot Black	Black	1.00 pcs	250.00	250.00
7	RQ621 (b) 5G LTE/WiFi 6/iPad Rapid Deployment Kit (RDK) + 12 Months of FirstNet RATT RQ621 (b) 5G LTE/WiFi 6/iPad RDK + 12 Months of Unlimited Data Subscription on FirstNet (or free device mount) Includes: 2MP PTZ (Black), 256GB SD Card, Camera Mount with IP67 RJ45 Bulkhead, iOS or Android Tablet in Rugged Case, 50' of CAT6 (Flat), 50' of CAT6 (Threaded), 25' 12v DC Power Cable & Self-Contained Pelican-based Electronics Kit with 5G LTE/WiFi 6 Router, 5dbi Antenna, PoE Hub, Dual LAN Ports, Dual USB Bulkhead & External 12v DC Power Port	Black	1.00 pcs	20,250.00	20,250.00

#	Item & Description	Color	Qty	Rate	Amount
8	CamStreamer App (One-Time License per Camera) CamStreamer App is a smart application for streaming live video directly to Facebook and many other platforms. With CamStreamer App installed, RATT cameras don't require additional equipment to stream content.	N/A	1.00	495.00	495.00
				Sub Total	29,995.00
				Total	\$29,995.00

- Per Motorola Solutions, Inc. Tennessee State Contract # SWC424
- Lead time is 4-6 weeks ARO.





ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.A.2. State Contract Purchase - Motorola Radios for Police Vehicles.

Department: Police

Presented By: Christopher Moews

Item Attachments: 1. Quote - Motorola Radios

Summary:

This is an item to authorize the purchase of the Motorola radios needed for the new Police vehicles using state contract pricing.

Background Information:

These radios are for the ten new Police patrol vehicles that have been approved by the Board and have been ordered. The state contract is SWC-424 and the lead time is at least 20 weeks from Motorola. This is a budgeted item.

Financial Summary:

The cost of the radios with installation is \$72,230.40.

Staff Recommendation:

Staff recommends approval.



Billing Address:
LAVERGNE, CITY OF
283 OLD NASHVILLE HWY
LA VERGNE, TN 37086
US

Shipping Address:
LA VERGNE POLICE DEPT
5093 MURFREESBORO RD
LA VERGNE, TN 37086
US

Quote Date:02/12/2024
Expiration Date:05/12/2024
Quote Created By:
Brian Lorenz
Sr. Account Manager
brian.lorenz@
motorolasolutions.com
615-428-0541

End Customer:
LAVERGNE, CITY OF
Lt. Mike Campbell
mcampbell@lavergnetrn.gov
(615) 793-7744

Contract: SWC 424 - TENNESSEE

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
	APX™ 6500 / Enh Series	ENHANCEDAPX6500				
1	M25URS9PW1BN	APX6500 ENHANCED 7/800 MHZ MOBILE	10	\$3,383.12	\$2,435.85	\$24,358.50
1a	QA01648AA	ADD: HW KEY SUPPLEMENTAL DATA*	10	\$6.00	\$4.32	\$43.20
1b	GA09007AA	ADD: OUT OF THE BOX WIFI PROVISIONING	10	\$0.00	\$0.00	\$0.00
1c	GA00318AF	ENH: 5 YEAR ESSENTIAL SVC	10	\$480.00	\$480.00	\$4,800.00
1d	GA00235AA	ADD: NO GPS ANTENNA NEEDED APX	10	\$0.00	\$0.00	\$0.00
1e	GA01579AB	ADD: BLUETOOTH/WIFI GLASSMOUNT 2.4/5GHZ	10	\$77.00	\$55.44	\$554.40
1f	GA00580AA	ADD: TDMA OPERATION	10	\$495.00	\$356.40	\$3,564.00
1g	G51AU	ENH: SMARTZONE OPERATION APX6500	10	\$1,320.00	\$950.40	\$9,504.00
1h	G67DT	ADD: REMOTE MOUNT E5 APXM	10	\$327.00	\$235.44	\$2,354.40
1i	GA09001AA	ADD: WI-FI CAPABILITY	10	\$330.00	\$237.60	\$2,376.00



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

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
1j	B18CR	ADD: AUXILIARY SPKR 7.5 WATT APX	10	\$66.00	\$47.52	\$475.20
1k	G843AH	ADD: AES ENCRYPTION AND ADP	10	\$523.00	\$376.56	\$3,765.60
1l	G444AH	ADD: APX CONTROL HEAD SOFTWARE	10	\$0.00	\$0.00	\$0.00
1m	G806BL	ENH: ASTRO DIGITAL CAI OP APX	10	\$567.00	\$408.24	\$4,082.40
1n	GA01670AA	ADD: APX E5 CONTROL HEAD	10	\$717.00	\$516.24	\$5,162.40
1o	GA01693AA	ADD : LEGACY TRUNNION SCREW KIT	10	\$11.00	\$7.92	\$79.20
1p	W22BA	ADD: STD PALM MICROPHONE APX	10	\$79.00	\$56.88	\$568.80
1q	QA09113AB	ADD: BASELINE RELEASE SW	10	\$0.00	\$0.00	\$0.00
1r	W969BG	ENH: MULTIKEY OPERATION	10	\$363.00	\$261.36	\$2,613.60
1s	G174AD	ADD: ANT 3DB LOW-PROFILE 762-870	10	\$47.00	\$33.84	\$338.40
1t	G361AH	ENH: P25 TRUNKING SOFTWARE APX	10	\$330.00	\$237.60	\$2,376.00
2	LSV00Q00203A	DEVICE INSTALLATION	10	\$521.43	\$521.43	\$5,214.30

Grand Total **\$72,230.40(USD)**

Notes:

- Additional information is required for one or more items on the quote for an order.
- Unless otherwise noted, this quote excludes sales tax or other applicable taxes (such as Goods and Services Tax, sales tax, Value Added Tax and other taxes of a similar nature). Any tax the customer is subject to will be added to invoices.





ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.A.3.	Emergency Purchase - Pump Repair for the Hollandale Sewer Lift Station.
Department:	Public Works
Presented By:	Michael Dietz
Item Attachments:	1. Emergency Purchase - Hollandale Sewer Pump Station 2. Invoice - HercRentals - Bypass Pump

Summary:

This is an item to approve/ratify the emergency purchase that was needed to repair the pump at the Hollandale Sewer Lift Station.

Background Information:

On February 14, 2024, the pump at the Hollandale Sewer Lift Station failed after hours. Nedrow & Associates came out and pulled the pump, inspected it and then repaired it. Nedrow & Associates is the sole authorized distributor for the pump used in the station. The cost to repair the pump is much less than the cost to purchase a new pump. A quote for a new pump is attached. This was not a budgeted purchase, but had to be completed due to the failure of the pump.

Also, the city had to rent a bypass pump while the pump was being repaired. We just received the invoice for the bypass, so we have included it with this item.

Financial Summary:

The cost to repair the pump was \$36,611.00. The cost of the bypass pump was \$6,018.66. This brings the cost to \$42,629.66. Funds are available in the Sewer Department budget, but a budget amendment might be needed before the end of the year depending on any

other unexpected repairs that might be needed.

Staff Recommendation:

Staff recommends approval.



CITY OF LA VERGNE, TENNESSEE PURCHASE REQUISITION

Date Requested:	02/14/2024
Date Needed:	

Requisition Number:	
Date Ordered:	

Department:	Sewer
Department Head:	Michael Dietz
Account to Charge:	52200. 320

Requestor:	Shane Stott
Purchase From:	
Nedrow & Associates	

Vendors Contacted	Comparative Pricing
1. Nedrow - Emergency	
2.	
3.	

Item Number	QTY	Description	Unit Price	Total
	1	Repair of Flygt Pump (emergency)	\$ 30,211.00	\$ 30,211.00
	100	Flygt P/N 942110 Motor Cable	\$ 64.00	\$ 6,400.00
				\$ 0.00
				\$ 0.00
				\$ 0.00
				\$ 0.00
				\$ 0.00
				\$ 0.00
				\$ 0.00
Total				\$ 36,611.00

Special Instructions: Pump is for Hollandale Sewer Lift Station. Station went down after hours, emergency visit performed, pump taken for inspection, and repaired.

Requestor Signature:

Date: 2/14/24

Department Head Signature:

Date: 2/14/24

City Administrator Signature:
(If Needed)

Date:

Nedrow & Associates, Inc.
 2233 Southpark Drive
 Murfreesboro, TN 37128
 USA

Voice: 615-867-7576
 Fax: 615-867-7606

QUOTATION

Quote Number: 7468
 Quote Date: Jan 15, 2024
 Page: 1

Quoted To:

City of LaVergne
 5093 Murfreesboro Road
 LaVergne, TN 37086

Customer ID	Good Thru	Payment Terms	Sales Rep
City of LaVergne	2/14/24	Net 30 Days	102

Quantity	Item	Description	Unit Price	Amount
		Repair of Flygt pump 3301.090 S/N 1050010		
1.00		Flygt P/N 6571705 Repair Kit	10,330.00	10,330.00
1.00		Flygt P/N 6085802 Inner Cooling Jacket	2,888.00	2,888.00
1.00		Flygt P/N 6085702 Diffuser	752.00	752.00
4.00		Flygt P/N 841932 Grommets	84.00	336.00
1.00		Flygt P/N 6059610 Impeller	8,628.00	8,628.00
1.00		Flygt P/N 7045901 Insert Ring	4,902.00	4,902.00
1.00		Machine work of Volute	500.00	500.00
15.00		Labor & Shop Supplies	125.00	1,875.00
			Subtotal	30,211.00
			Sales Tax	
			TOTAL	30,211.00

All credit card payments are subject to
 4% surcharge.

Nedrow & Associates, Inc.

2233 Southpark Drive
Murfreesboro, TN 37128
USA

Voice: 615-867-7576
Fax: 615-867-7606

QUOTATION

Quote Number: 7501

Quote Date: Feb 13, 2024

Page: 1

Quoted To:

City of LaVergne
5093 Murfreesboro Road
LaVergne, TN 37086

Customer ID	Good Thru	Payment Terms	Sales Rep
City of LaVergne	3/14/24	Net 30 Days	102

Quantity	Item	Description	Unit Price	Amount
100.00		Flygt P/N 942110 Motor Cable for Hollandale Pump	64.00	6,400.00
Subtotal				6,400.00
Sales Tax				
TOTAL				6,400.00

All credit card payments are subject to
4% surcharge.

Nedrow & Associates, Inc.

2233 Southpark Drive
Murfreesboro, TN 37128
USA

Voice: 615-867-7576

Fax: 615-867-7606

QUOTATION

Quote Number: 7467

Quote Date: Jan 8, 2024

Page: 1

Quoted To:

City of LaVergne
5093 Murfreesboro Road
LaVergne, TN 37086

Customer ID	Good Thru	Payment Terms	Sales Rep
City of LaVergne	2/7/24	Net 30 Days	102

Quantity	Item	Description	Unit Price	Amount
1.00		Flygt Pump 3301.095-0015 NP462-6 105/460/3 2x50' FM FLS FV Cost for new pump	107,250.00	107,250.00

All credit card payments are subject to
4% surcharge.

Subtotal	107,250.00
Sales Tax	
TOTAL	107,250.00



Mark A Shaw
SE Territory Manager
Xylem Inc
Flygt Products

766 N Sandy LN
Elkhorn WI 53121
Cell 262 227 3763

mark.shaw@xyleminc.com

February 7, 2024

TO; City of LaVernge

RE: Nedrow Sole Source Flygt Distributor;

This letter is to confirm that Nedrow and Associates, 2233 Southpark Drive Murfreesboro, TN 37128 is the sole authorized distributor for Flygt, a Xylem brand for pumps and parts for the State of Tennessee.

If you have any questions feel free to call.

Sincerely,

Mark A Shaw

Mark A Shaw
SE Territory Manager
Flygt Products
Xylem INC.
262 227 3763 Mobile



27500 Riverview Center Blvd
Suite 100
Bonita Springs, FL 34134

For correspondence only (no payments)

BILL TO:

CITY OF LAVERGNE
5093 MURFREESBORO RD
LAVERGNE, TN 37086-2706

FINAL INVOICE

INVOICE NO.	INVOICE DATE
34298627-002	02/26/2024
INVOICE AMOUNT	CURRENCY
\$ 6018.66	USD
CUSTOMER NO.	TERMS
1863514	Due Upon Receipt
ACH PAYMENT	
Beneficiary's Bank:	Wells Fargo
RTN/ABA#:	121000248
Acct#:	4217127869
Beneficiary's Name:	Herc Rentals
CHECK PAYMENT	ONLINE PAYMENT
HERC RENTALS INC. P.O. Box 936257 Atlanta, GA 31193	 www.HercRentals.com
PAY BY PHONE/QUESTIONS: 877-953-8778	
AMOUNT ENCLOSED: \$	

To ensure accurate and timely posting, detach and send top portion with your payment

PO #		RES/QUOTE #		CUSTOMER #		SALES REP		
		55635956		1863514		CHRIS DENNIS		
ORDERED BY		DELIVERED BY		SIGNED BY		CLOSED BY		
SHANE STOTT		HERC		EMAIL CONFIRMATION		NEAL DURBIN		
JOB #/SITE								
1 - LIFT STATION #D								
QTY	EQUIPMENT #		HRS/MINIMUM	HOURLY	DAY	WEEK	4 WEEK	AMOUNT
1	PUMP VAC ASSIST HIGH HEAD 6X4IN T4F DSL IC#: 800382609 CAT/Class: 8041490 Make: PIONEER Model: PP64S17L71-6068 Ser #: 22L310400027A Hours Free: HR OUT: 14.200 HR IN: 50.000 TOTAL: 35.800 FREE: 320.000 EXCESS: 0 HRS CHG: 29.113 EMISSIONS & ENV SURCHARGE EMISSIONS		8/ 499.00	83.17	499.00	1670.00	4658.00	N/C
4	COMPOSITE DISCHARGE HOSE W/FLANGE 6X20 9206636 EMISSIONS & ENV SURCHARGE EMISSIONS		8/ 25.00	4.17	25.00	95.00	175.00	700.00
1	WATER PUMP FLOAT SWITCH DOUBLE 9203645 Includes call box and telematics		8/ 25.00	4.17	25.00	75.00	250.00	225.00
1	CHECK VALVE 6 9204335		8/ 20.00	3.33	20.00	30.00	40.00	40.00
1	PUMP VAC ASSIST HIGH HEAD 6X4IN T4F DSL IC#: 800408536 CAT/Class: 8041490 Make: PIONEER Model: 64S17-HRC-01-J Ser #: 23C312400024A Hours Free: HR OUT: 5.400 HR IN: 42.000 TOTAL: 36.600 FREE: 320.000 EXCESS: 0 HRS CHG: 29.113 EMISSIONS & ENV SURCHARGE EMISSIONS		8/ 499.00	83.17	499.00	1670.00	4658.00	4658.00
SALES ITEMS:								92.23
QTY	ITEMS				UNIT	PRICE		AMOUNT
2	LABOR 3730000001 - LABOR SETUP SERVICE CALL TO DE-RAG PUMP.				EA	150.00		300.00

To ensure accurate payment processing, please include a remittance with your payment.
If paying by ACH/Wire, send remittance to HercTimeChecks@hercrentals.com.

Check fraud is on the rise-making secured payments through Pro Control Next Gen is the best/safest way to makes payments to Herc Rentals. To enroll please talk with your sales representative or call 1-877- 953-8778, opt 1, 1. You can also visit www.HercRentals.com

CUSTOMER #: 1863514

RES/QUOTE #: 55635956

INVOICE #: 34298627-002

INVOICE DATE: 02/26/2024



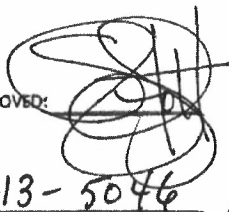
27500 Riverview Center Blvd
Suite 100
Bonita Springs, FL 34134

For correspondence only (no payments)

FINAL INVOICE

INVOICE NO.	INVOICE DATE
34298627-002	02/26/2024
INVOICE AMOUNT	CURRENCY
\$ 6018.66	USD
CUSTOMER NO.	TERMS
1863514	Due Upon Receipt

PO #		RES/QUOTE #		CUSTOMER #		SALES REP		
		55635956		1863514		CHRIS DENNIS		
ORDERED BY		DELIVERED BY		SIGNED BY		CLOSED BY		
SHANE STOTT		HERC		EMAIL CONFIRMATION		NEAL DURBIN		
JOB #/SITE								
1 - LIFT STATION #D								
QTY	EQUIPMENT #		HRS/MINIMUM	HOURLY	DAY	WEEK	4 WEEK	AMOUNT

SEWER
DATE: 2/28/24 APPROVED: 
413-52200-320 P.O. #: 413-5046 
OTHER: _____

THIS INVOICE IS SUBJECT TO THE TERMS AND CONDITIONS OF THE RENTAL AGREEMENT

SHIP TO:
LIFT STATION #D
400 HOLLANDALE RD
LA VERGNE, TN 37086

RENTED FROM:
HERC RENTALS 360
1320 MURFREESBORO ROAD
NASHVILLE, TN 37217
PH: 615-365-8888

	Original	Adjustment	Total
RENTAL CHARGES	5623.00		5623.00
OTHER CHARGES	395.66		395.66
TOTAL CHARGES	6018.66		6018.66

RENTAL DAYS: 17
INVOICE FROM: 2/05/24 17:01
INVOICE TO: 2/22/24 17:00

RENTAL START DATE: 1/08/24 17:00

LATE CHARGES MAY APPLY

CUSTOMER #: 1863514

RES/QUOTE #: 55635956

INVOICE #: 34298627-002

INVOICE DATE: 02/26/2024

City of Lavergne
5093 Murfreesboro Rd.

La Vergne, TN 37086

PURCHASE ORDER

PO #:	413-5046
Order Date:	01/08/2024
Vendor #:	14338
Date:	01/08/2024

To: Herc Rentals Inc (Cust# 1863514)
PO Box 936257
Atlanta, GA 31193

Print Date: 01/08/2024
Date Needed:
Terms:

DELIVER ITEMS TO:

Public Works
148 International Blvd
La Vergne, TN 37086

Attn:

SPECIAL INSTRUCTIONS

Item	Fund Account Number	Qty	Description	Unit Price	Amount
1	413-52200-320	1.0000	Emergency Pump went down at Hollandale Pump Station <i>DONOT KNOW How Long this will be Needed</i> <i>EMERGENCY</i> <i>Mike Dietz</i> <i>+</i> <i>Shane Stott</i>	\$4,000.000000	\$4,000.00
Grand Total					\$4,000.00

		There is an otherwise unencumbered balance to the credit of the proper appropriation, allotment or fund to meet the expenditure covered by this purchase.	APPROVED 
		AUTHORIZED SIGNATURE	PURCHASING AGENT



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.B. Approve an Infrastructure Use Agreement with Nashville Electric Service for Attachments on NES Power Poles.

Department: City Administrator

Presented By: Bruce Richardson

Item Attachments: 1. Infrastructure Use Agreement - NES

Summary:

This is an agreement that will allow the city to continue attaching Christmas lights, banners, cables or other necessary items to NES power poles.

Background Information:

The city has had an agreement with NES to allow pole attachments for a long time, but that agreement has expired. The city has been working with NES on the renewal of this agreement for several months and this is the final version. The term of the agreement is an initial 10-year term with an automatic renewal of two additional 5-year periods for a total of 20 years.

Financial Summary:

The pole attachment fee is \$38 per attachment per year. There are other fees depending on what is needed at each individual pole.

Staff Recommendation:

Staff recommends approval.

NASHVILLE ELECTRIC SERVICE INFRASTRUCTURE USE AGREEMENT

Contract No. 23-31-261

THIS AGREEMENT (hereinafter “Agreement”) is made and entered into on _____ (“Effective Date”), by and between the Metropolitan Government of Nashville and Davidson County, Tennessee, a municipal corporation duly created, organized, and existing under and by virtue of the laws of the State of Tennessee, acting by and through the Electric Power Board of said Government, operating under the service name of Nashville Electric Service (hereinafter, “NES”), and the City of La Vergne, a municipal corporation duly created, organized, and existing under and by virtue of the laws of the State of Tennessee (hereinafter, “Operator”).

RECITALS

WHEREAS, NES is an agency of the Metropolitan Government of Nashville and Davidson County, Tennessee, performing the essential public service of distributing electric power and as a necessary part of its operating as an electric distributor; and

WHEREAS, Operator proposes to furnish communications services in various areas within which NES distributes electric power, and desires to place and maintain facilities and equipment on or in NES’s infrastructure and in the rights of way of NES throughout NES’s service area; and

WHEREAS, NES’s infrastructure has limited capacity for access and use by others for attachments to provide communications services; and

WHEREAS, NES’s electric customers have first priority over all other competing uses of NES’s infrastructure; and

WHEREAS, NES is responsible for safeguarding the integrity of the electric system, obtaining fair compensation for the use of NES’s infrastructure through collection of fees and other charges, ensuring the compliance with all applicable federal, state and local laws, rules and regulations, ordinances and standards and policies, and permitting fair and reasonable access to available capacity on NES’s infrastructure; and

WHEREAS, Operator wishes to utilize NES’s infrastructure to operate its communications system pursuant to the applicable franchise authority; and

WHEREAS, NES is willing to permit the placement of said Operator’s facilities and equipment on or in NES’s infrastructure where such use will not interfere with NES’s service requirements, or the lawful use of NES’s facilities by others, and only under the terms and restrictions imposed herein, and upon payment by Operator of the consideration hereinafter set out; and

WHEREAS, the parties intend that this Agreement shall replace and supersede all previous pole attachment and or infrastructure use agreements between the parties upon the Effective Date of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set out below, the parties agree as follows:

AGREEMENT

Article 1. Definitions.

For the purpose of this Agreement, the following terms, phrases, words, and their derivations shall have the meanings given below. When not inconsistent with the context, words used in the present tense include the future and past tense, and words in the singular number include the plural number. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- 1.1 Anchor: means an anchor owned by NES which is a device to reinforce the Pole to which it is attached by a guy wire.
- 1.2 Applicable Standards: means all applicable engineering and safety standards governing the installation, maintenance, and operation of facilities and the performance of all work in or around electric Infrastructure and includes the then-current versions of the National Electrical Safety Code (“NESC”), as adopted by the State of Tennessee, the National Electrical Code (“NEC”), and the regulations of the Occupational Safety and Health Administration (“OSHA”), each as may be amended from time to time, and/or other reasonable construction, safety and engineering requirements of NES (provided such requirements of NES are applied on a non-discriminatory basis to NES, Joint Users, and all other Users and provided further that such requirements of NES are not inconsistent with this Agreement) or other federal, state, or local authority with jurisdiction over NES’s Infrastructure.
- 1.3 Applicant: means any person who applies to access and make attachment to or otherwise occupy NES Infrastructure.
- 1.4 Application: means an application by Operator to install an Attachment as described in Article 7 and Article 8.
- 1.5 Assignee: shall have the meaning ascribed thereto in Article 31.4.
- 1.6 Attachment: means with respect to Operator, wireline facilities affixed to or placed within NES Infrastructure to provide communications services, and as further designated in the Application and/or this Agreement, and with respect to other Users, any communications or electric facilities or equipment affixed to or placed within NES Infrastructure.
- 1.7 Cable: means any communications cable, wire, or strand, including fiber optic cable, coaxial cable, and twisted pair copper cable.
- 1.8 Claims: shall have the meaning ascribed thereto in Article 25.1.

- 1.9 Communications System or System: means Operator's wireline facilities, including but not limited to Cables and electronics, as well as any and all associated equipment and facilities owned or controlled by Operator to provide any communications services, and attached to NES Infrastructure.
- 1.10 Conduit Attachment: means an Attachment consisting of a single communications Cable or other object occupying one linear foot of a single conduit, duct, Innerduct, or other enclosed structure in NES's underground Conduit System.
- 1.11 Conduit System: means all the underground conduits owned by NES.
- 1.12 Correct: means to perform work to bring an Attachment into compliance with Applicable Standards.
- 1.13 Defective Pole: shall have the meaning ascribed thereto in Article 13.2.
- 1.14 Effective Date: shall have the meaning ascribed thereto in the Preamble to this Agreement.
- 1.15 Electronic Record: means a record created, stored, generated, received, or communicated by electronic means, including but not limited to the use of a computer program, electronic data interchange, electronic mail, facsimile, or scanner.
- 1.16 Electric Supply Space: means the space on joint-use structures where supply facilities are separated from the communications worker safety zone.
- 1.17 Emergency: means a situation exists which, in the reasonable discretion of Operator or NES, if not remedied immediately, will result in a threat to public safety, a hazardous condition, damage to property or a service outage.
- 1.18 Equipment Attachment: means each power supply, amplifier, pedestal, appliance or other single device or piece of equipment but excluding wireless attachments affixed to or contained in any unit of NES's Infrastructure.
- 1.19 Event of Default: shall have the meaning ascribed thereto in Article 29.1.
- 1.20 Franchise: shall have the meaning ascribed thereto in Article 31.4.1.
- 1.21 Indemnitees: shall have the meaning ascribed thereto in Article 25.1.
- 1.22 Infrastructure: means NES distribution Poles, transmission Poles with distribution underbuild, ducts, conduit, vaults, Anchors, fiber optic cable capacity and active communications capacity, facilities and all other utility infrastructure and associated materials and equipment on or connected to these structures which are owned by, or under the control of, NES.
- 1.23 Innerduct: means a flexible conduit installed by NES inside a larger conduit for the placement of fiber optic cable.

- 1.24 Joint-Use Agreement: means an agreement whereby each party to an agreement owns poles and has agreed that the other party has the right to attach to and occupy space upon the poles owned by it.
- 1.25 Joint User: means a joint user which may attach to a Pole or Anchor, or occupy conduit, either solely or partially owned by NES, in return for granting NES equivalent rights of attachment to poles and anchors and/or occupancy of conduit which it owns, either solely or partially.
- 1.26 License: means the written consent of NES for Operator to make its Attachment.
- 1.27 Make Ready: means all work that NES reasonably determines to be required to accommodate Operator's Attachments or those of another User, including the rearrangement or transfer of NES electric facilities, and/or to comply with all Applicable Standards. Such work includes, but is not limited to, administrative work, engineering work, rearrangement and/or transfer of NES facilities or existing Attachments, inspections, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), Pole replacement and construction, or Conduit System clearing, but does not include Operator's routine maintenance.
- 1.28 NJUNS: means the National Joint Utility Notification System, an organization that facilitates efficient utility communications through an electronic online system built to communicate and track information regarding joint utility ventures.
- 1.29 Nonfunctional Attachment: shall have the meaning ascribed thereto in Article 11.
- 1.30 Overlash Attachment: means each additional Cable owned and operated by Operator placed onto an existing licensed Cable owned and operated by Operator already attached to a Pole. Overlash Attachments shall not be counted as an additional Pole Attachment for Pole Fee purposes. Operator shall not allow third-party overlash or overlash to Unauthorized Attachments without NES's prior approval.
- 1.31 Overloaded Pole: shall have the meaning ascribed thereto in Article 13.2.
- 1.32 Pole: means a utility pole owned by NES.
- 1.33 Pole Attachment: means each communications wire or line attached to a Pole, including, but not limited to, Cables and Service Drops. A span wire required to support an unbalanced load shall be considered a Pole Attachment if the Operator does not have a Licensed Communications Attachment on that same Pole or the span wire attachment point is outside the space designated for the Licensed Communications Attachment.
- 1.34 Pole Attachment Fee or Conduit Attachment Fee: shall have the meaning ascribed thereto in Article 5.4.
- 1.35 Pre-Construction Survey: means all work or operations required by Applicable Standards and/or NES to determine the Make Ready work necessary to accommodate Operator's Attachments on a Pole or within a span of conduit. Such work includes, but is not limited

to, a pole loading analysis by a licensed professional engineer (with respect to Poles), field inspections and administrative processing.

- 1.36 Rearrangement of Attachment or Rearrange: means the moving of Attachments from one position to another on the same Pole or in the same conduit.
- 1.37 Reserved Capacity: means capacity or space on a Pole or within a portion of conduit that NES has identified and reserved for its own future electric utility requirements pursuant to a *bona fide* development plan existing at the time of the License grant, including the installation of communications circuits for operation of NES's electric system.
- 1.38 Riser Attachment: means each metallic or plastic encasement material placed vertically on NES's Infrastructure to guide and protect wires and cables when transitioning from underground to overhead or overhead to underground. Riser Attachments shall not be counted as an additional Pole Attachment for rental fee purposes on Poles where Operator has an existing licensed Pole Attachment.
- 1.39 Safety Inspection: shall have the meaning ascribed thereto in Article 23.2.
- 1.40 Service Drop: means (i) a Cable used to connect directly to a customer's location from one Pole, and attached to no more than one additional Pole where the additional Pole does not support voltage greater than 600V; or (ii) a Cable used to connect a customer's location through the use of multiple Licensed Poles where Service Drop Make Ready has been performed pursuant to Article 7.1.2.5. Service Drops shall not be counted as an additional Pole Attachment for Pole Fee purposes as long as such Service Drop is within the attachment space of a Licensed Attachment subject to the Pole Fee.
- 1.41 Tag: means the placement of permanent identifying markers on Attachments to make the nature of the Attachments and their ownership readily identifiable to NES and other Users.
- 1.42 Transfer of Attachments or Transfer: means the removing of Attachments from one Pole and placing these onto another Pole or moving of Attachments from one location in NES's Conduit System to another location in NES's Conduit System.
- 1.43 Unauthorized Attachment: means the placement of any Attachment on an NES Pole or on or within any other NES Infrastructure without proper authorization as required by this Agreement. An Unauthorized Attachment shall not include any Attachment that Operator is permitted to affix to a Pole pursuant to the terms and conditions hereof, even if the installation of such Attachment does not meet Applicable Standards or differs from the design described in the applicable Application; the foregoing notwithstanding, the deliberate installation of an Attachment or Overlash in knowing violation of Applicable Standards constitutes an Unauthorized Attachment.
- 1.44 User: means any entity that has received approval from NES to place facilities on or within NES Infrastructure.

Article 2. Scope of Agreement.

- 2.1 Subject to the provisions of this Agreement, NES will issue to Operator, for any lawful purpose, a revocable (solely pursuant to the terms and conditions hereof), nonexclusive license authorizing the attachment of Operator's Cables, equipment, and facilities to NES's Infrastructure within NES's service area to operate its Communications System.
- 2.2 This Agreement does not contemplate or authorize the attachment of Wireless Attachments to NES Infrastructure, and such use will only be allowed pursuant to a separately negotiated Wireless Pole Attachment Agreement.
- 2.3 No use, however extended, of NES's Infrastructure or payment of any fees or charges required under this Agreement shall create or vest in Operator any ownership or property rights in said Poles, Anchors, conduit or duct facilities, but Operator's rights therein shall be and remain a mere license. NES is not compelled to construct, retain, extend, place or maintain any Infrastructure not needed for its own service requirements, except as otherwise expressly provided herein.
- 2.4 Operator recognizes that NES has entered into, or may in the future enter into, agreements and arrangements with others not parties to this Agreement regarding the Infrastructure covered by this Agreement. Nothing herein contained shall be construed as a limitation, restriction, or prohibition against NES with respect to such other agreements and arrangements.
- 2.5 The rights of Operator shall at all times be subject to any present or future Joint-Use Agreement between NES and any other party regarding use of the Infrastructure covered herein; provided, however, that nothing in any such present or future Joint-Use Agreement shall restrict, modify, or abridge the rights of Operator set forth in this Agreement.
- 2.6 No license granted under this Agreement shall extend to any Pole(s) where the attachment or placement of Operator's facilities would result in a forfeiture of rights of NES to occupy the property on which such Pole(s) are located. If the existence of Operator's facilities on a Pole(s) or within a portion of conduit would cause a forfeiture of the right of NES to occupy such property, Operator agrees to remove Operator's facilities from the applicable Pole(s) or conduit forthwith upon receipt of written notification by NES in accordance with Article 32. If said facilities are not so removed, NES may perform and/or have performed such removal after the expiration of sixty (60) days from receipt of written notification without liability on the part of NES, and Operator agrees to pay all actual and documented costs associated with such removal. Without limiting Operator's obligations under this Article 2.6, NES agrees to reasonably cooperate, at Operator's cost and assumed liability, with any effort by Operator to cause the existence of Operator's facilities on a Pole or portion of conduit to no longer result in the forfeiture of the right of NES to occupy such property.
- 2.7 To the extent allowed by Applicable Law and Applicable Standards, NES may, at its discretion, modify and/or waive provision(s) of this Agreement at the request of Operator. NES's decision to modify and/or waive any such provision will be based on the number of Operator's Attachments, the type and purpose of Operator's Attachments, and the business considerations of NES, as well as principles of non-discrimination and competitive

neutrality between similarly situated Users and types of Attachments. Any request by Operator to modify and/or waive a provision of this Agreement must be submitted in writing. If granted by NES, any modifications and/or waivers will be included in the terms of this Agreement or in an addendum to the Agreement.

Article 3. Reservation and Restrictions.

- 3.1 NES may retain for its own use transmission structures (other than those with distribution underbuild), the electric supply area on Poles, and conduit that is co-resident with electric service or terminates in electric service vaults or manholes.
- 3.2 Specific units of NES Infrastructure may be reasonably determined by NES to be necessary for NES's exclusive use due to legal, mechanical, structural, safety, environmental, service or other requirements, and therefore, will be unavailable for use by others; provided, however, that the foregoing clause will not be applicable to Poles, for which NES's right to deny access to Operator is set forth in Article 7.
- 3.3 Within the electric service area, other entities own some portions of distribution poles, transmission structures, and underground duct and conduit. This Agreement does not address the use of non-NES infrastructure.
- 3.4 Access to space on NES Poles will be made available to Operator with the understanding that certain Poles may be subject to Reserved Capacity for future electric service use. At the time of License issuance, NES shall notify Operator if capacity on particular Poles is being reserved for reasonably foreseeable future electric use pursuant to a *bona fide* development plan. For Attachments made with notice of such a reservation of capacity, on giving Operator at least sixty (60) calendar days prior notice, NES may reclaim such Reserved Capacity at any time following the installation of Operator's Attachment if then-required for NES's core electric utility service. If reclaimed for NES's core electric utility service use, NES may at such time also install associated facilities, including the attachment of communications lines for internal NES operational or governmental communications requirements. NES shall give Operator the option to remove its Attachment(s) from the affected Pole(s) or to pay for the actual and documented cost of any Make Ready needed to expand capacity for core electric utility service requirements, so that Operator can maintain its Attachment on the affected Pole(s). The allocation of the cost of any such Make Ready (including the transfer, rearrangement, or relocation of other User's Attachments) shall be determined in accordance with Article 12.2. Operator shall not be required to bear any of the costs of rearranging or replacing its Attachment(s), if such rearrangement or replacement is required as a result of an additional Attachment or the modification of an existing Attachment by any other User.
- 3.5 NES reserves to itself, its successors and assigns the right to maintain its Poles, manholes and conduit and to operate its facilities thereon in such manner as will best enable it to fulfill its own core electric service requirements, subject in all respects to NES's obligations set forth in this Agreement.
- 3.6 NES makes no representation or warranty of any nature that its existing or future rights-of-way, easements or other property rights, private or public, were, are or will be sufficient to

permit the attachment, maintenance, replacement, relocation, repair, modification or removal of Attachments on or between any NES Infrastructure.

- 3.7 NES's service restoration requirements shall take precedence over any and all work operations of Operator on NES's Infrastructure.
- 3.8 To the extent Operator requires electric service for its facilities, it shall obtain such power pursuant to the standard application for metered service.

Article 4. Specifications and Standards.

- 4.1 Operator's facilities, in each and every location, shall be erected and maintained in accordance with the requirements and specifications of Applicable Standards. Notwithstanding the foregoing, with respect to an Operator Attachment that was in compliance with the NESC or NES construction standards at the time such Attachment was made but has become noncompliant because of revisions to the NESC or NES construction standards, Operator shall be required to bring such Attachment into compliance with then-current standards only in connection with relocation or rebuild affecting such Attachment or the regular maintenance plan of Operator or NES. Operator's Attachments shall be made in accordance with Operator's customary standards and specifications, which Operator shall furnish to NES as part of the Standard Pole Attachment Application and Licensing Process. The location of any Attachment may be reasonably redesignated from time to time to accommodate other Users or for reasons of electrical service safety or reliability, with costs allocated in accordance with Article 12.2.
- 4.2 Operator shall be responsible for the installation and maintenance of its Attachments and associated facilities. Operator shall, at its own cost, make and maintain its Attachment(s) in safe condition and good repair, in accordance with all Applicable Standards.
- 4.3 NJUNS. Operator shall become a participating member of the NJUNS or other similar notification system(s) identified and utilized by NES to facilitate required notices, including, but not limited to, any need to Rearrange or Transfer Operator's Attachments. NES will determine the extent to which notifications via NJUNS or other similar notification system will be utilized for Pole Attachments, Transfers, Rearrangements, Pole Attachment abandonment and removal, and substantially similar matters in respect to the Conduit System, as well as the extent to which such use will satisfy the notification requirements of this Agreement, and provide notice thereof to Operator; provided, however, that NES's determinations in respect thereto shall be made applicable to all Other Communications Attachers placing or affixing facilities within or on Infrastructure, and provided further that NES will provide Operator with contact information for any other User which is not an Other Communications Attacher and is not using NJUNS or other similar notification system. To the extent that NES determines to use NJUNS, Operator and NES agree to perform their respective tasks set forth in NJUNS tickets in a commercially reasonable and timely fashion, and in accordance with the timeframes specified in this Agreement.
- 4.4 Tagging. Operator shall Tag all its Attachments to NES Infrastructure that will allow for ready identification of the type of Attachment and its owner. Operator shall be responsible for periodically inspecting its Attachments to ensure they are tagged with approved

permanent identification markers. Should NES encounter any of Operator's Attachments without approved permanent identification markers, NES may notify Operator, provided that NES can identify the Attachments as belonging to Operator. Subject to the provisions of Article 24, NES will provide written notice to Operator and Operator will have one hundred twenty (120) days from receipt of notice to place such markers.

- 4.4.1 Notwithstanding the foregoing, Operator shall have six (6) months from the Effective Date of this Agreement to Tag Attachments that were authorized prior to the Effective Date of the Agreement, to the extent Operator has any such Attachments attached to NES's Infrastructure.
- 4.5 Interference. Operator shall not allow its Attachments to impair the ability of NES or any third party to use NES Infrastructure, nor shall Operator allow its Attachments to interfere with the operation of any NES facilities or facilities of other Users.
- 4.6 Protective Equipment. Operator and its employees and contractors shall utilize and install adequate protective equipment to ensure the safety of people, property and facilities. Operator shall, at its own cost, install protective devices designed to handle the electric voltage and current carried by NES's facilities in the event of a contact with such facilities.
- 4.7 Violation of Specifications. If Operator's Attachments, or any part of them, are installed, used, or maintained in violation of this Agreement, and Operator has not Corrected the violation(s) within thirty (30) days from receipt of written notice of the violation(s) from NES, the provisions of Article 24 shall apply. When NES believes, however, that such violation(s) pose an immediate threat to the safety of any person, interfere with the performance of NES's service obligations, or present an immediate threat to the physical integrity of NES Infrastructure or facilities, NES may perform such work and/or take such action as it deems necessary without first giving written notice to Operator. As soon as practicable afterward, NES will advise Operator of the work performed or the action taken. Operator shall be responsible for all actual and documented costs incurred by NES in taking action pursuant to this Article.
- 4.8 At all times while performing work in the field on NES Infrastructure, Operator and its authorized contractors shall maintain a copy of all required permits and licenses for inspection by NES and all applicable State and local jurisdictions.
- 4.9 It is Operator's obligation to ensure that all Make Ready work, including any necessary rearrangement and/or modification of NES electric facilities, is performed in accordance with all Applicable Standards.

Article 5. Payment of Fees, Charges and Expenses.

- 5.1 Operator shall pay to NES the fees and charges and costs specified herein and/or in Exhibit A and shall comply with the terms and conditions specified in this Agreement.
- 5.2 Payment Period. Unless otherwise expressly provided, Operator shall pay any invoice it receives from NES pursuant to this Agreement within forty-five (45) days of receipt of invoice.

- 5.3 Application Fee. Operator shall be charged an Application Fee for each unit of NES Infrastructure (Pole, section of conduit, etc.) on which new Attachments are proposed under this Agreement. There shall be no Application Fee for Service Drops, Riser Attachments, and Overlashing qualifying for exclusion under Article 7.1.1. The current Application Fee is sixty-five dollars (\$65) for each unit of NES Infrastructure. NES reserves the right to adjust the Application Fee from time to time. Failure to pay the Application Fees will cause the Application(s) to be deemed incomplete, and NES will not process such Application(s) until the Application Fees are paid. NES will make timely and reasonable efforts to contact Operator should its Application Fee not be received.
- 5.4 Attachment Fees. Operator shall be charged an annual Pole Attachment Fee or Conduit Attachment Fee per wireline Pole Attachment or per linear foot of conduit occupied by Conduit Attachments, per year.
- 5.4.1 The Pole Attachment Fee shall be calculated annually, on a per Attachment basis, and set out in Exhibit A.
- 5.4.2 The Conduit Attachment Fee shall be calculated annually and set out in Exhibit A.
- 5.4.3 Lease of Infrastructure not defined above will be negotiated at NES's discretion.
- 5.4.4 Operator shall be billed semi-annually for Attachment Fees (one-half of the annual attachment fee at each billing period), and Operator shall have one hundred eighty (180) days from receipt of invoice to contest the number of Attachments. Failure to contest or otherwise dispute the invoice within one hundred eighty (180) days of receipt shall be deemed to be acceptance by the Operator.
- 5.4.5 Refunds. No fees and charges specified in Exhibit A shall be refunded on account of any surrender of a License granted under this Agreement.
- 5.5 Charges and Expenses. Operator shall reimburse NES and any other Users for those actual and documented costs in this Agreement for which Operator is responsible.
- 5.5.1 Such costs and reimbursements shall include, but not necessarily be limited to, all design, engineering, administration, supervision, payments, labor, overhead, materials, equipment and applicable transportation used for work on, or in relation to, the Operator's Attachments as set out in this Agreement or as requested by Operator in writing.
- 5.5.2 NES shall provide Operator with invoices for such work (in progress or upon completion, as determined by NES), and payment shall be due and payable upon receipt, but shall not draw interest at NES's prevailing rate until forty-five (45) days after its receipt by Operator. Interest shall not exceed the State of Tennessee statutory interest rate as set out in Tenn. Code Ann. § 47-14-103.
- 5.6 Advance Payment. The parties will mutually agree on the extent to which Operator will be required to pay in advance estimated costs, including, but not limited to, administrative, construction, inspections, and Make Ready work costs, in connection with the initial installation or Rearrangement of Operator's Attachments pursuant to the procedures set

forth in Articles 7 and 8 below. The above notwithstanding, NES may require the payment of estimated Make Ready work in advance if there are repeated instances of Operator making late payments for such work.

- 5.7 True-Up. Whenever the parties have agreed, or this Agreement otherwise provides, for an advance payment of estimated costs prior to undertaking an activity on behalf of Operator and the actual and reasonable cost of the activity exceeds the advance payment of estimated costs, Operator agrees to pay NES for the difference in cost, provided that NES documents such costs with sufficient detail to enable Operator to verify the charges. To the extent that NES's actual and documented cost of the activity is less than the estimated cost, NES shall refund to Operator the difference.
- 5.8 Determination of Charges. Wherever this Agreement requires Operator to pay for work done or contracted by NES, the charge for such work shall include all actual and documented material, labor, engineering, administrative, and applicable overhead costs. NES shall bill its services based upon actual and documented costs, and such costs will be determined in accordance with NES's cost accounting systems used for recording capital and expense activities. All such invoices shall include an itemization of dates of work, location of work, labor costs per hour, persons employed, and costs of materials used. Labor costs shall be actual costs based upon NES employee rates. Consistent with Article 24, if Operator was required to perform work and fails to perform such work within the specified timeframe, and NES performs such work, NES may charge Operator an additional twenty-five percent (25%) of its actual and documented costs for completing such work.
- 5.9 Work Performed by NES. Wherever this Agreement requires NES to perform any work, NES, at its sole discretion, may utilize its employees or contractors, or any combination of the two, to perform such work.
- 5.10 Charges for Incomplete Work. In the event that an Application is submitted by Operator and then steps are taken by NES to carry out review of the Application by performing necessary engineering and administrative work and the Application is subsequently canceled, Operator shall reimburse NES for all of the actual and documented costs incurred by NES through the date of cancellation, including engineering, clerical and administrative and Make Ready construction costs.
- 5.11 Default for Nonpayment. Nonpayment of any amount due under this Agreement beyond ninety (90) days shall constitute an Event of Default of this Agreement.

Article 6. Private and Regulatory Compliance.

- 6.1 In order to construct, place and maintain the Operator's System on NES's Infrastructure, Operator must obtain from the various federal, state, county and local authorities any required permits, licenses, and Franchise required to be obtained to make an Attachment before making such Attachment. The cost of such permits, licenses, and Franchise shall be borne by Operator.
- 6.2 Operator shall be solely responsible for obtaining all necessary rights-of-way and easements or approvals, either public or private, which may be necessary prior to the

beginning of construction, and Operator's right to make an Attachment shall be contingent upon acquisition, under terms acceptable solely to Operator, of all such permits, consents or approvals as are required to make such Attachment.

- 6.3 Lawful Purpose and Use. Operator's Attachments and associated facilities must at all times serve a lawful purpose, and the use of such Attachments and facilities must comply with all applicable federal, state and local laws.

Article 7. License Application Process.

7.1 Application Required. Before making any Attachments (excluding Overlashing qualifying for exclusion under Article 7.1.1, Service Drops, and Riser Attachments where there is an existing licensed Pole Attachment) to any Poles or in the Conduit System, Operator shall first make an Application and must have received a License therefor, with respect to each Pole or conduit.

7.1.1 Overlashing. Overlashing shall be allowed without separate Application up to the design capacity of the strand (all Attachments to be guyed for the capacity of the strand) and if the final diameter of the Attachment bundle (to include strand and all attached Cables) does not exceed two inches (2") in diameter. A new Application shall be required if the underlying strand must be replaced or if the final diameter of the Attachment bundle (to include strand and all attached Cables) exceeds two inches (2") in diameter.

7.1.1.1 It is Operator's responsibility to verify that the Pole and strand to which it proposes to overlash meets all Applicable Standards before overlashing. If Operator identifies pre-existing violations of Applicable Standards it is the responsibility of the Operator to notify NES of the violations. Operator shall not be allowed to overlash until the pre-existing violations of Applicable Standards are resolved. If it is determined by NES that Operator has overlash on a Pole with a pre-existing violation of Applicable Standards, Operator shall be required to bring the Overlashed Attachment into compliance with Applicable Standards to the extent that it is Operator's underlying Attachment that is non-compliant. Subject to the provisions of Article 24, NES will provide written notice to Operator and Operator shall have thirty (30) days from receipt of notice to Correct the existing standards issue(s) and notify NES that the work has been completed.

7.1.1.2 Except in instances of Overlashing requiring a separate Application pursuant to Article 7.1.1, Operator shall send written notification to NES of an Overlash Attachment within thirty (30) days of installation. NES may require the notification be submitted electronically utilizing a system specified by NES.

7.1.1.3 Any Overlash Attachment that was deliberately installed in knowing violation of Applicable Standards will be considered an Unauthorized Attachment subject to the provisions of Article 20.

7.1.1.4 In the case of Emergency, Operator may make an Overlash Attachment to a Nonfunctional Attachment; provided, however, that Operator's

overlapping of such Nonfunctional Attachment does not modify or alter Operator's obligation to timely remove the overlapped Nonfunctional Attachment as set forth in Article 11.

- 7.1.2 Service Drops. Operator may attach a Service Drop, without Application, from one Pole with an existing licensed Operator Attachment to connect directly to Operator's customer's building, premise, or location, and attached to no more than one additional Pole where the additional Pole does not support voltage greater than 600V.
- 7.1.2.1 It is Operator's responsibility to verify that the Pole on which it proposes to make a Service Drop meets all Applicable Standards before attaching the Service Drop. If existing standards issues are identified, it is the responsibility of the Operator to notify NES of the issue. Operator shall not be allowed to attach the Service Drop until the standards issue is resolved.
- 7.1.2.2 If it is determined by NES that Operator has attached a Service Drop on a Pole with a pre-existing violation of Applicable Standards, Operator shall be required to bring the Service Drop into compliance with Applicable Standards to the extent that it is Operator's existing Attachment that is non-compliant. Subject to the provisions of Article 24, NES will provide written notice to Operator and Operator will have thirty (30) days from receipt of such notice to Correct the existing standards issue, otherwise the provisions of Article 24 shall apply. If the Attachment that is non-compliant belongs to another User, then Operator shall coordinate with NES and the other User concerning any necessary rearrangement of Operator's Service Drop in conjunction with the Correction of the non-compliant Attachment.
- 7.1.2.3 Operator shall send written notification to NES of a Service Drop within thirty (30) days of installation. NES may require the notification be submitted electronically utilizing a system specified by NES.
- 7.1.2.4 Any Service Drop that NES discovers more than thirty (30) days after installation will be considered an Unauthorized Attachment subject to the provisions of Article 20.
- 7.1.2.5 On any Pole where Operator has applied for an Attachment License, Operator may, in its discretion, perform or have performed such Make Ready, subject to the terms and conditions hereof governing the Application process and Make Ready, as is necessary or advisable for future installation of a Service Drop ("Service Drop Make Ready") on (i) any Pole at the time Operator performs other Make Ready on such Pole in connection with installation of Operator's Communications System (a "Mainline Pole") and (ii) any other Pole that Operator contemplates using for purposes of connecting a Cable directly to a customer's premises from a Mainline Pole (a "Service/Lift Pole"). Operator shall clearly tag and identify the space on the Mainline Pole or Service/Lift Pole that Operator intends to use for a Service Drop, by placing a bolt in the Pole in the contemplated Attachment space or utilizing another mutually agreed upon means to tag and identify

such space. NES may inspect related Service Drop Make Ready at Operator's cost and expense at the time NES inspects Operator's Make Ready on such Pole.

7.1.2.6 Operator shall not be required to use a messenger strand in connection with connecting any communications cable or wire as part of a Service Drop; provided, however, multiple cables sharing common attachment points on a Pole, including Service Drops, shall be lashed, bound or bundled and satisfy all Applicable Standards.

7.1.2.7 Where Operator desires to connect Cable directly to a customer's premises from a Mainline Pole, and such connection to a customer's premises requires the use of more than one Service/Lift Pole, Operator's placement of an Attachment on such Service/Lift Pole(s) for connecting Cable to a customer's premises shall be treated like any other Attachment under this Agreement. For any Pole where Operator has already performed authorized Service Drop Make Ready pursuant to Article 7.1.2.5, Operator shall only be required to provide notice that it has connected Service Drops to such Poles.

7.1.2.8 Operator may attach its Service Drop in its Attachment space, or in a space tagged and identified for use by Operator as a Service Drop (by placing a bolt in the Pole in the contemplated Service Drop Attachment space or utilizing another mutually agreed upon means to tag and identify such space as described in Article 7.1.2.5), more than one hundred twenty (120) days after completing the Service Drop Make Ready for such Service Drop.

7.1.3 Riser Attachments. The installation of a Riser Attachment shall be allowed without separate Application on a Pole with an existing licensed Operator Attachment.

7.1.3.1 It is Operator's responsibility to verify that the Pole and Riser Attachment meets all Applicable Standards before installation. If Operator identifies pre-existing violations of Applicable Standards it is the responsibility of the Operator to notify NES of the violations. Operator shall not be allowed to install the Riser Attachment until the pre-existing violations of Applicable Standards are resolved. If it is determined by NES that Operator has installed a Riser Attachment on a Pole with a pre-existing violation of Applicable Standards, Operator shall be required to bring the Riser Attachment into compliance with Applicable Standards to the extent that it is Operator's Riser Attachment that is non-compliant. Subject to the provisions of Article 24, NES will provide written notice to Operator and Operator shall have thirty (30) days from receipt of notice to Correct the existing standards issue(s) and notify NES that the work has been completed.

7.1.3.2 Operator shall send written notification to NES of any Riser Attachment within thirty (30) days of installation. NES may require the notification be submitted electronically utilizing a system specified by NES.

7.1.3.3 Any Riser Attachment that NES discovers more than thirty (30) days after installation will be considered an Unauthorized Attachment subject to provisions of Article 20.

7.1.4 If the Pole or conduit is located on public rights-of-way, Operator shall obtain all necessary permits from the city of Nashville, Davidson County, or surrounding counties NES serves, or the state of Tennessee, as applicable, and present evidence thereof to NES at the time the request is made to attach to said Poles or in conduit (unless such evidence is already on file with NES).

7.2 Standard Pole Attachment Application and Licensing Process.

The Standard Pole Attachment Application and Licensing Process set forth in this Article 7.2 shall be followed.

7.2.1 Submission and Review of License Application. Operator shall submit a properly executed Pole Attachment License Application, which may, at Operators' option, include a Pre-Construction Survey and detailed plans for the proposed Attachments, including a description of any necessary Make Ready to accommodate the Attachments, certified by a professional engineer licensed in the state of Tennessee. Operator shall use the NES Pole Attachment License Application form, which form shall be provided to Operator (NES may require that the Application be submitted electronically utilizing a system specified by NES). NES may amend the Pole Attachment License Application form and/or process from time to time, provided that any such changes are not inconsistent with the terms of this Agreement, state and/or federal law, and are applied on a non-discriminatory basis. NES's acceptance of the submitted design documents does not relieve Operator of full responsibility for any errors and/or omissions in the engineering analysis. Unless otherwise agreed, in performing loading, Pre-Construction Survey and other engineering calculations submitted to NES, Operator shall utilize engineering software specified by NES, and in all instances such software shall be compatible with NES's systems. Unless otherwise agreed, under normal circumstances, the License Application process shall be as follows:

7.2.1.1 If Operator's Application includes a Pre-Construction Survey and detailed plans for the proposed Attachments, including a description of any necessary Make Ready to accommodate the Attachments, certified by a professional engineer licensed in the state of Tennessee, NES shall review and respond to such properly executed and complete License Application for routine installations as promptly as is reasonable, with a goal of providing a response during normal circumstances within fourteen (14) days of receipt. NES's response will either: (i) grant permission to undertake such Make Ready as described in Operator's Application and engineering survey; (ii) grant permission to undertake such Make Ready as NES reasonably determines is required; or (iii) provide a written explanation as to why the Application is being denied, in whole or in part, for reasons of safety, reliability or insufficient capacity that cannot be

resolved consistent with Applicable Standards, including City and County zoning and construction ordinances.

7.2.1.2 If Operator's Application does not include a Pre-Construction Survey (including a description of necessary Make Ready), NES shall review the Application and perform a Pre-Construction Survey, and, if the Attachment can be accommodated consistent with Applicable Standards, prepare a description of any necessary Make Ready to accommodate the proposed Pole Attachment. Under normal circumstances, NES will respond to such properly executed and complete Permit Application for routine installations as promptly as is reasonable, with a goal of providing a response within forty-five (45) days of receipt. NES's response will either: (i) provide a description of Make Ready identified by NES and a cost estimate for the NES portion of that Make Ready; or (ii) provide a written explanation as to why the Application is being denied, in whole or in part, for reasons of safety, reliability or insufficient capacity that cannot be resolved consistent with Applicable Standards. Upon receipt of NES's Make Ready cost estimate, Operator shall have fourteen (14) days to approve the estimate, and provide payment, if required under the terms of the Make Ready estimate, if NES is going to perform the Make Ready.

7.2.1.3 For License Applications seeking Attachments to one hundred (100) or more Poles, NES may require additional time to review. For the purposes of this Article 7.2 only, all License Applications made by Operator in a thirty (30) day period will be considered as one Application.

7.2.1.4 In order to be considered as part of the same License Application, all of the Poles listed must be consecutive or in close proximity to one another.

7.2.2 Make Ready Work.

7.2.2.1 Make Ready work in the electric supply space may be performed only by NES and/or a qualified contractor authorized by NES to perform such work. Under normal circumstances, NES will give Operator the option of either having NES perform any necessary Make Ready work, at Operator's cost, or allowing Operator to complete Make Ready work through the use of qualified contractors authorized by NES.

7.2.2.2 If NES is performing Make Ready work, it will use good faith efforts to complete routine Make Ready work within sixty (60) days of receipt of Operator's approval of the Make Ready estimate. If there are extenuating circumstances that make the necessary Make Ready more complicated or time-consuming, including, but not limited to, an Application requesting attachment to more than one hundred (100) Poles, or seasonal weather conditions, NES shall identify those factors in the Make Ready description and cost estimate and the parties shall agree upon a reasonable timeframe for completion. If NES does not complete agreed upon Make Ready work within sixty (60) days or the agreed-upon timeframe, it will allow Operator to use an NES approved qualified contractor to complete such Make Ready

work and refund any amounts paid by Operator to NES for performing such Make Ready work that is not completed.

7.2.2.2.1 The above notwithstanding, if NES has substantially completed the Make Ready, the parties will reasonably determine whether it makes more sense from an operational efficiency perspective to have NES complete the work rather than have Operator's authorized qualified contractors do the work.

7.2.2.3 Payment for Make Ready Work. Upon completion of the Make Ready work performed by NES, NES shall invoice Operator for NES's actual and documented cost of such Make Ready work. The costs of the work shall be itemized in accordance with Article 5.8, and if NES received advance payment, the costs shall be trued up in accordance with Article 5.7. Operator shall be responsible for entering into an agreement with existing other Users to reimburse them for any costs that they incur in Rearranging or Transferring their facilities to accommodate Operator's Attachments.

7.2.2.4 Scheduling of Make Ready Work. In performing all Make Ready work to accommodate Operator's Attachments, NES will endeavor to include such work in its normal work schedule. If Operator requests, and NES agrees, to perform Make Ready work on a priority basis or outside of NES's normal work hours, Operator will pay any resulting increased actual and documented costs. Nothing in this Agreement shall be construed to require NES to perform Operator's work before other scheduled work or service restoration.

7.2.2.5 Notification of Make Ready Work. Before starting Make Ready work, NES shall notify all existing Users of the date and location of the scheduled work and notify them of the need to Rearrange and/or Transfer their facilities at Operator's cost within the specified time period. To the extent that NES has the legal authority, it shall Rearrange and/or Transfer existing facilities of such other Users that have not been moved in a timely manner. Operator shall pay for any such Rearrangement or Transfer.

7.2.2.6 In instances where Operator is performing Make Ready, where an existing User has not relocated or otherwise undertaken work required to complete Make Ready (such as repairing existing Attachments not in compliance with Applicable Standards) within thirty (30) days of notice by NES or Operator to such other User, Operator is authorized, to the extent that NES has such authority, and the legal ability to delegate such authority, to relocate or repair the other User's Attachments on behalf of NES. If NES determines that it does not have the legal ability to delegate authority to Operator to relocate or repair the other User's Attachments on behalf of NES, NES shall diligently enforce all contractual or legal rights of NES to require such other User to relocate or repair its Attachments. Operator shall pay the costs to relocate the other User's Attachments as part of Operator's Make Ready. NES shall provide reasonable assistance to Operator in obtaining

reimbursement from any such other User for Operator's costs to repair such other User's Attachments that are not in compliance with Applicable Standards.

7.2.3 Operator's Installation/Removal/Maintenance Work.

7.2.3.1 License as Authorization to Attach. Upon satisfactory completion and inspection of any necessary Make Ready work, NES will issue a License to Operator which shall serve as authorization for Operator to make its Attachment(s).

7.2.3.2 All of Operator's installation, removal, and maintenance work, by either Operator's employees or authorized contractors, shall be performed at Operator's sole cost, in a good and workmanlike manner, and must not adversely affect the structural integrity of NES Infrastructure or other facilities or other Users' facilities or equipment.

7.2.3.3 All of Operator's installation, removal, and maintenance work, either by its employees or authorized contractors, shall comply with all Applicable Standards. Operator shall assure that any person installing, maintaining, or removing its facilities is fully qualified and familiar with all Applicable Standards, including standards for working in the supply space.

Article 8. Conduit Attachment License Application and Use Requirements.

In addition to the general provisions of this Agreement, the following procedures and requirements shall apply to the use of the Conduit System.

- 8.1 Route Investigation/Survey. If Operator seeks to utilize a portion of NES conduit for placement of its Cables, Operator shall first request a Route Investigation/Survey to be completed by NES. The Route Investigation/Survey shall be performed at Operator's cost, such cost to be actual and documented. Upon receipt and review of a Route Investigation/Survey, Operator may apply for installation of its Cable within the Conduit System.
- 8.2 Conduit Usage License Application. Operator shall submit a properly executed Conduit Usage License Application, which shall include detailed plans for the proposed Attachments, including a construction drawing indicating the location of and specifying the type of Cable to be installed. Operator shall use the NES Conduit Usage License Application form, which form has been provided to Operator. NES may amend the Conduit Usage License Application form from time to time, provided that any such changes are not inconsistent with the terms of this Agreement, state and/or federal law and are applied to all Other Communications Attachments on a non-discriminatory basis.
- 8.3 NES will review the Application and discuss any issues with Operator, including engineering or Make Ready work requirements associated with the Application.

- 8.4 NES shall review and respond to properly executed and complete Applications for routine installations as promptly as is reasonable. NES's response will either provide a written explanation as to why the Application is being denied, in whole or in part, or provide an estimate of the costs of all necessary Make Ready work.
- 8.5 Upon receipt of NES's Make Ready estimate, Operator shall have fourteen (14) days to approve the estimate and provide payment in accordance with this Agreement and the specifications of the estimate.
- 8.6 Upon receipt of payment of estimated Make Ready, NES will use best efforts to complete routine Make Ready work within the conduit in a reasonable time frame, and shall advise Operator of any extenuating circumstances that make the necessary Make Ready more complicated or time-consuming.
- 8.7 NES reserves the right to determine routes and conduit to be used where there is insufficient capacity or operational limitations to accommodate Operator's proposed Conduit Attachments, including, consistent with Article 3, the ability to exclude the use of Conduit and tunnels containing electric transmission facilities.
- 8.8 Work Rules. While some of the standards and technical requirements for Operator's Cable and use in NES's Conduit System are set forth herein, NES reserves the right to specify the type of construction required with respect to the Conduit System in situations not otherwise covered, provided that such construction requirements are not inconsistent with this Agreement and are imposed by NES on all Users on a non-discriminatory basis. In such cases, NES will furnish to Operator written materials which will specify and explain the required construction. NES and Operator shall negotiate in good faith with respect to any Conduit System construction requirement to which Operator reasonably objects.
- 8.8.1 NES's manholes or transformer vaults shall not be opened or tampered with by an employee, agent or contractor of Operator.
- 8.8.2 No employee, agent or contractor of Operator shall enter or work in any of NES's manholes or transformer vaults without an authorized representative of NES present.
- 8.8.3 NES shall place, remove, change, and maintain all Cable in the Conduit System with materials supplied by Operator, approved by NES and delivered in a timely manner to the location designated by NES.
- 8.8.4 Operator's Cable shall be permanently identified by tags at each manhole or other access opening in the Conduit System. Tags shall be of a type and wording reasonably satisfactory to NES, and consistent with NES guidelines. All cost of this identification shall be at the cost of Operator.
- 8.8.5 Where manholes or transformer vaults must be pumped in order to allow work operations to proceed, pumping shall be done by NES at Operator's cost, such cost to be actual and documented.

- 8.8.6 Any leak detection liquid or device used by Operator or Operator's agents, employees or contractors shall be of a type approved in writing by NES.
- 8.8.7 No equipment or facilities other than cables are permitted within NES underground structures. Slack loop and coils are not allowed within NES underground structures.
- 8.8.8 When Operator, its agents, employees, or contractors are working around any part of NES's Conduit System located in the streets, alleys, highways, or other public rights-of-way or easements granted to NES or the Metropolitan Government of Nashville and Davidson County, the protection of persons and property shall be provided by Operator in an adequate and satisfactory manner. Operator shall be solely responsible for providing adequate barricades, warning lights, traffic cones, danger signs, and other similar devices to protect all traffic, persons, and property around the work area from danger. In areas of the City of Nashville where NES is required to have uniformed police during construction or installation required by Operator, this cost will also be borne by Operator.
- 8.8.9 NES's authorized representative shall have the authority to terminate Operator's work operations around NES's manholes or transformer vaults if, in the reasonable discretion of NES's authorized representative, any hazardous condition arises or any unsafe practice is being followed by Operator's agents, employees or contractors. Said discretion shall not be unreasonably executed.
- 8.8.10 Operator further agrees to comply with all safety laws, regulations, ordinances, and statutes pertaining to the work to be performed hereunder and the tools and equipment used to accomplish such work, and to be and remain solely responsible for the compliance therewith by its employees, agents, servants and/or contractors.

8.9 Conduit Attachment Procedures.

- 8.9.1 All installations in conduits must be approved and performed by NES. Operator shall reimburse NES for all actual and documented costs incurred.
- 8.9.2 Operator's representative shall be present during all NES installation of underground Cable, Innerduct and accessories on behalf of Operator. Operator's representative shall be knowledgeable and experienced in underground Cable, Innerduct and accessory installation and shall be authorized by Operator to answer questions and make decisions on Operator's behalf regarding problems and questions that occur during NES installation of underground Cable, Innerduct and accessories. Operator's representative shall be furnished at Operator's cost.
- 8.9.3 NES may exclude conduit and ducts for its core electric service. NES may pull a cable into any of NES's conduits either occupied by or scheduled to be occupied by Operator's facilities. Should it become necessary for NES to use a conduit occupied by Operator, Operator's Cable may upon a minimum of thirty (30) days' notice be removed by NES except in the event of an emergency. In lieu thereof, Operator may request NES to expand conduit or duct capacity, at the cost of Operator.

- 8.9.4 Operator shall compensate NES for the actual and documented cost, including engineering and administrative cost, for the connection of Operator's conduit which connects to NES's manhole or transformer vault. The section of connecting conduit shall not be longer than five (5) feet and shall be maintained by NES at Operator's cost.
- 8.9.5 Operator shall compensate NES for the actual and documented cost, including engineering and administrative cost, for any work required to make a conduit usable for the initial placing of Operator's Cable and/or Innerduct.
- 8.9.6 NES may rearrange Operator's Cable at the cost of Operator when necessary to make maximum use of its Conduit System, such cost to be actual and documented.
- 8.10 In Cases of Emergency.
 - 8.10.1 NES's work shall take precedence over any and all operations of Operator.
 - 8.10.2 Operator is responsible for supplying to NES a point(s) of contact for non-Emergency and Emergency twenty-four (24) hour service and for informing NES of any change in point(s) of contact.
 - 8.10.3 In the event Operator experiences an Emergency with its Attachments located in NES's Conduit System, it is necessary that a NES representative be at the site before Operator enters a manhole and/or works on the Cable in NES's Conduit System for any reason. NES will respond to an Emergency as arranged between Operator and a NES representative. An Emergency call associated with Operator or NES's customers out of service will be treated on a "priority" basis. NES's response time will be based on the situation existing at the time of the Emergency. All NES labor and material associated with an Operator Emergency that does not arise from faults in the Conduit System or the acts or omissions of any other User of the Conduit System will be billed to Operator.

Article 9. Post Installation Inspections.

- 9.1 Within thirty (30) days of notice to NES that the Operator has completed installation of an Attachment (including Overlashing, Riser Attachments, Equipment Attachments, and/or Service Drops), NES or its contractors may perform a post-installation inspection for each Attachment made to NES Infrastructure. If such post-installation inspections are performed, Operator shall pay the actual and documented costs for the post-installation inspection, including the administrative costs to NES of the notification and inspection.
- 9.2 If NES elects to not perform any post-installation inspection, such non-inspection shall not be grounds for any liability being imposed on NES or a waiver of any liability of Operator.
- 9.3 If the post-installation inspection reveals that Operator's facilities have been installed in violation of Applicable Standards or the approved design described in the Application, NES will notify Operator in writing and Operator shall have thirty (30) days from the date of receipt of such notice to correct such violation(s), or such other period as the parties may agree upon in writing, unless such violation creates an Emergency in which case Operator

shall make all reasonable efforts to correct such violation immediately. NES may perform subsequent post-installation inspections within thirty (30) days of receiving notice that the correction has been made as necessary to ensure Operator's Attachments have been brought into compliance.

- 9.4 If Operator's Attachments remain out of compliance with Applicable Standards or approved design after any subsequent inspection, consistent with Article 24, NES will provide notice of the continuing violation and Operator will have thirty (30) days from receipt of such notice to Correct the violation, otherwise the provisions of Article 24 shall apply.

Article 10. Effect of Failure to Exercise Access Rights.

If Operator does not exercise any access right granted pursuant to an applicable License(s) within one hundred twenty (120) calendar days from the issuance of a License to make Attachments (unless such time period is extended), NES may, but shall have no obligation to, use the space scheduled for Operator's Attachment(s) for its own needs or make the space available to other Users. In such instances, NES shall endeavor to make other space available to Operator, upon submission of a new Application under Article 7 or Article 8, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make Ready work provisions.

Article 11. Removal of Nonfunctional Attachments.

At its sole cost, Operator shall remove any of its Attachments or any part thereof that becomes nonfunctional and no longer fit for service ("Nonfunctional Attachment"). Except as otherwise provided in this Agreement, Operator shall remove Nonfunctional Attachments within one (1) year of the Attachment becoming Nonfunctional unless Operator receives written notice from NES that removal is necessary to accommodate NES's or another User's use of the affected Pole(s) or portion of the Conduit System, in which case Operator shall remove the Nonfunctional Attachment within thirty (30) days of receiving the notice. Operator shall give NES notice of any removed Attachments, otherwise the provisions of Article 24 shall apply. If NES discovers Nonfunctional Attachments that have not been reported, consistent with Article 24, NES shall notify Operator, who shall have one year from the date of discovery to remove such Attachments, after which the provisions of Article 24 shall apply.

Article 12. Rearrangements and Transfers.

- 12.1 Required Transfers of Operator's Attachments. If NES reasonably determines that a Rearrangement or Transfer of Operator's Attachments is necessary, including as part of Make Ready to accommodate another User's Attachment, NES will require Operator to perform such Rearrangement or Transfer within thirty (30) days after receiving notice from NES, including notice via NJUNS or other agreed upon notification system, pursuant to Section 4.3. If Operator fails to Rearrange or Transfer its Attachment within thirty (30) days after receiving such notice from NES, the provisions of Article 24 shall apply, including NES's right to Rearrange or Transfer Operator's Attachments sixty (60) days after Operator's receipt of original notification of the need to Rearrange or Transfer its facilities. The actual and documented costs of such Rearrangements or Transfers shall be apportioned as specified under Article 12.2. NES shall not be liable for damage to Operator's facilities except to the extent provided in Article 26. In Emergency situations, NES may Rearrange or Transfer Operator's Attachments as it determines to be necessary

in its reasonable judgment. In Emergency situations NES shall provide such advance notice as is practical, given the urgency of the particular situation. NES shall then provide written notice of any such actions taken within ten (10) days following the occurrence.

12.1.1 If Operator fails to Rearrange and/or Transfer its facilities within the prescribed time period, NES may delegate its authority to Rearrange and/or Transfer Operator's facilities to another User that is authorized by NES to Rearrange and/or Transfer Attachments or its authorized contractors. In such case, such other User may Rearrange or Transfer Operator's Attachments sixty (60) days after Operator's receipt of original notification of the need to Rearrange or Transfer its facilities.

12.2 Allocation of Costs. The costs for any Rearrangement or Transfer of Operator's Attachment or the replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location) shall be allocated to NES and/or Operator and/or other User on the following basis:

12.2.1 If NES intends to modify or replace Infrastructure solely for its own requirements, it shall be responsible for the costs related to the modification/replacement of the Infrastructure. Operator shall be responsible for costs associated with the Rearrangement or Transfer of Operator's Attachments.

12.2.2 If the modification or replacement of Infrastructure is necessitated by the requirements of Operator, Operator shall be responsible for all costs caused by the modification or replacement of the Infrastructure as well as the costs associated with the Transfer or Rearrangement of NES's facilities and any other User's facilities. NES shall not be obligated in any way to enforce or administer Operator's responsibility for the costs associated with the Transfer or Rearrangement of another User's facilities pursuant to this Article 12.2.

12.2.3 If the modification or the replacement of Infrastructure is the result of an additional Attachment or the modification of an existing Attachment sought by a User other than NES or Operator, the User requesting the additional or modified Attachment shall bear the entire cost of the modification or replacement, as well as the costs for Rearranging or Transferring Operator's Attachments. Operator shall cooperate with such third-party User to determine the costs of moving Operator's facilities.

12.2.4 If the Infrastructure must be modified or replaced for reasons unrelated to the use of the Infrastructure by Users or NES (e.g., storm, accident, deterioration), NES shall pay the costs of such modification or replacement and Operator shall pay the costs of replacing, Rearranging, or Transferring its Attachments.

Article 13. Pole Replacements.

13.1 At Operator's request, NES shall change out an existing Pole for a taller or stronger Pole in order to accommodate an Attachment request by Operator, unless such replacement Pole would be reasonably likely to adversely affect safety or electric reliability, or is otherwise inconsistent with applicable local, state or federal law. Subject to Article 14, Operator shall pay the actual and documented cost of changing out the existing Pole.

13.2 Where Operator is unable to place an Attachment on a Pole because such Pole is a Defective Pole or Overloaded Pole, provided that the communications space on such Pole could otherwise have been arranged with sufficient spacing to accommodate the Operator's proposed Attachment(s), NES will replace, at NES's sole cost, such Defective Pole or Overloaded Pole. A "Defective Pole" means a Pole that is no longer serviceable due to decay, damage, or deterioration. An "Overloaded Pole" is a Pole that (without consideration of Operator's proposed Attachment) exceeds the applicable loading requirements set forth in the Applicable Standards.

13.2.1 In the event that an existing Pole is a Defective Pole or Overloaded Pole but does not pose an imminent threat or danger to safety or the safe functioning or operation of existing Attachments or facilities, NES shall replace said Pole at its sole cost consistent with its routine maintenance schedule.

13.2.2 If Operator seeks to expedite the replacement of a Defective Pole or Overloaded Pole, NES will provide Operator with the materials and Operator will pay the labor cost of using approved contractors to replace the Pole.

13.2.3 In all instances, the replaced Pole will remain the property of NES.

Article 14. Treatment of Multiple Requests for Same Pole.

If NES receives License applications for the same Pole or conduit from two (2) or more prospective Users within one hundred twenty (120) calendar days of the initial request, and has not yet completed the licensing of the initial applicant, and accommodating their respective requests would require modification of the Pole or replacement of the Pole, NES will make reasonable and good faith efforts to allocate among such Users the applicable costs associated with such modification or replacement.

Article 15. Equipment Attachments.

15.1 Operator shall compensate NES for the actual and documented cost, including engineering and administrative cost, for rearranging, transferring, and/or relocating NES Infrastructure to accommodate Operator's Equipment Attachments. There shall be no additional Pole Attachment Fee for Equipment Attachments on a Pole where Operator has a Licensed Attachment, provided that the Equipment Attachment is located below the designated communications space under Applicable Standards. Equipment Attachments within the communications space shall be subject to a separate Pole Attachment Fee to the extent they extend beyond the one foot of space allocated to the Licensed Attachment.

15.2 Operator shall reimburse the owner or owners of other facilities attached to NES Infrastructure for any actual and documented cost incurred by them for rearranging or transferring such facilities to accommodate Operator's Equipment Attachments.

Article 16. Authorized Contractors.

Operator shall only use authorized, qualified contractors approved by NES to conduct Make Ready work (or any other work) in or around the electric supply space on a Pole. NES shall not unreasonably withhold, delay, or condition its approval of any contractor proposed by Operator to

be authorized by NES to perform Make Ready in the electric supply space on NES's Poles, provided such contractors meet NES's qualified contractor specifications.

Article 17. Guys and Anchor Attachments.

Operator shall at its own cost and to the satisfaction of NES place guys and anchors to sustain any unbalanced loads caused by Operator's Attachments. When, in unusual circumstances, Operator determines that it is necessary or desirable for Operator to attach its guys to Anchors owned by NES, it may make application to do so in a manner similar to that outlined in Article 7 above for application to make Pole Attachments. In such circumstances, all the provisions of this Agreement that are applicable to Poles shall also be separately applicable to Anchors. Operator will be subject to a one time Anchor Fee as set out in Exhibit A, but shall not be subject to an annual Attachment fee for Operator's use of Anchors owned by NES. In the event that any Anchor or guy to which Operator desires to make Attachments is inadequate to support the additional facilities in accordance with the aforesaid specifications, NES will notify Operator of the changes necessary to provide an adequate Anchor or guy, together with the estimated cost thereof to Operator. Operator will compensate NES for the actual and documented cost, including engineering and administrative cost, for changing the guy and Anchor, if such change is performed by NES.

Article 18. Installation of Grounds.

When NES is requested by Operator to install grounds or make connections to NES's system neutral, Operator shall within forty-five (45) days of demand reimburse NES for the total actual and documented costs, including engineering, clerical and administrative cost thereby incurred on initial installation only. All grounds installed by Operator shall be in accordance with NES's standard grounding practices.

Article 19. Actual Inventory.

NES will at intervals of not more often than once every five (5) years perform an actual inventory of the Attachments of Poles in all or in part of the territory covered by this Agreement, for the purpose of checking and verifying the number of Poles on which Operator has Attachments. Such field check shall be made jointly by both parties and shall be at the cost of Operator, such costs to be actual and documented, unless NES is also performing an inventory of any other User with Attachments on such Poles, and then the actual and documented cost shall be shared proportionately among all such Users based upon the number of Attachments.

Article 20. Unauthorized Attachments.

If, during the term of this Agreement, NES discovers Unauthorized Attachments placed on or within its Infrastructure (including Overlashing, Riser Attachments or Service Drops for which timely notification was not provided or that were deliberately installed in knowing violation of Applicable Standards) attributable to Operator, the following fees may be assessed, and procedures will be followed:

- 20.1 NES shall provide specific written notice, including electronic notification via NJUNS, SPIDAMin or other similar service, of each violation within thirty (30) days of discovering such violation and Operator shall be given thirty (30) days from receipt of notice to contest

an allegation that an Attachment is unauthorized (or that Operator failed to timely provide notice).

- 20.2 Operator shall pay back rent for all Unauthorized Attachments (except Overlash Attachments and/or Riser Attachments where an existing licensed Pole Attachment exists) for a period of five (5) years, or since the date of the last inventory of Operator's Attachments (whichever period is shortest), at the rental rates in effect during such periods.
- 20.3 In addition to the back rent, where post-installation notification was required but not provided, or where Operator deliberately installed Overlash Attachments in knowing violation of Applicable Standards, Operator shall be subject to the Unauthorized Attachment Penalty as specified in Exhibit A for each Unauthorized Attachment, including Service Drops, Riser Attachments and Overlash Attachments, where an existing licensed Pole Attachment exists.
- 20.3.1 If Operator is found to have (i) repeated instances of Unauthorized Attachments demonstrating a deliberate or consistent pattern of making Unauthorized Attachments; or (ii) a significant number of poles (comprising 5% or more of Operator's total Attachments), Operator shall be considered to be in material breach and such Unauthorized Attachments shall constitute an Event of Default.
- 20.4 Operator shall submit a License Application in accordance with Article 7 of this Agreement within thirty (30) days of receipt of notice from NES of any Unauthorized Attachment, or such longer time as mutually agreed to by the parties after an inventory.
- 20.4.1 No additional notification is required for Service Drops.
- 20.4.2 In the case of Overlashing requiring a separate License application under Article 7.1.1, Operator shall be required to submit an application within thirty (30) days of receipt of notice of Unauthorized Attachment.
- 20.5 In the event Operator fails to submit a License Application within thirty (30) days, or such longer time as mutually agreed to by the parties after an inventory, the provisions of Article 24 shall apply.
- 20.6 No Ratification of Unauthorized Use. No act or failure to act by NES with regard to any Unauthorized Attachments shall be deemed as ratification of the unauthorized use. Unless the parties agree otherwise, a License for a previously Unauthorized Attachment shall not operate retroactively or constitute a waiver by NES of any of its rights or privileges under this Agreement or otherwise, and Operator shall remain subject to all obligations and liabilities arising out of or relating to its unauthorized use.

Article 21. Abandonment of Jointly Used Poles.

- 21.1 If NES desires at any time to abandon or sell any Poles on which Operator has an Attachment, it shall give Operator notice in writing to that effect at least thirty (30) days prior to the date on which it intends to abandon or sell such Pole. NES will in its sole discretion determine whether to sell the Pole to Operator, Joint User or other User. If NES sells a Pole the Operator will continue to be able to maintain its existing Attachments on

such Poles under the same terms and conditions as it has under this Agreement. If NES sells Operator the Pole, Operator shall pay NES an amount equal to the depreciated value of such abandoned Pole(s) at the time of transfer, or such other reasonable amount as may be agreed upon between the parties.

- 21.2 If Operator shall become owner of said Pole, Operator shall save harmless NES from all obligation, liability, damages, costs, expenses, or charges incurred after transfer of such ownership, because of, or arising out of, the presence or condition of such Pole or any Attachments thereon. To the extent permitted by applicable law, NES shall be responsible for all obligations, liabilities, damages, costs, expenses, or charges that arise from any acts or omissions that occurred prior to transfer of ownership.

Article 22. Removal of Attachments for Overhead to Underground Conversion.

Upon notice from NES to Operator that the NES facilities are to be converted from overhead to underground in a specified area and the Poles will be removed, the permit covering the use of said Poles shall immediately terminate and the Attachments of Operator shall be removed from the affected Pole within sixty (60) days of Operator receiving notice from NES. In connection with undergrounding electric service as contemplated by this Article 22, NES shall provide Operator with the reasonable opportunity for Operator to install its own conduit at the time NES digs trenches. NES conduit installed in connection with undergrounding electric service shall be subject to the terms and conditions of this Agreement.

Article 23. Inspection.

- 23.1 General Inspections. NES reserves the right to make periodic inspections, as conditions may warrant, of the entire system of Operator. Such inspections, or the failure to make such inspections, shall not operate to relieve Operator of any responsibility or obligation or liability assumed under this Agreement.
- 23.2 Periodic Safety Inspections. Upon twelve (12) months' advance written notice from NES, and not more frequently than every five (5) years, NES may at its option jointly perform a safety inspection in all or in part of the territory covered by this Agreement with all Users to identify any safety violations of all Attachments and facilities on or within NES Infrastructure ("Safety Inspection"). Such notice shall describe the scope of the inspection and provide Operator and all Users an opportunity to participate. Operator, NES and other Users shall share proportionately in the actual and documented Safety Inspection costs (based on the proportion of Attachments of NES and each other User) irrespective of whether NES elects to perform the Safety Inspection itself or have it performed by a contractor.
- 23.3 Corrections. In the event any of Operator's facilities are found to be in violation of the Applicable Standards and such violation poses a potential Emergency situation, Operator shall use all reasonable efforts to correct such violation immediately. Should Operator fail or be unable to correct such Emergency situation immediately, NES may correct the Emergency and bill Operator for one hundred twenty-five percent (125%) of the actual and documented costs incurred. If any of Operator's facilities are found to be in violation of the Applicable Standards and such violations do not pose potential Emergency conditions, NES shall, consistent with Article 24, give Operator notice, whereupon Operator shall have

thirty (30) days from receipt of notice to correct any such violation, or within a longer, mutually agreed-to time frame if correction of the violation is not possible within thirty (30) days, such extended time to be not more than an additional sixty (60) days. Notwithstanding the foregoing grace periods, in the event NES or another User prevents Operator from correcting a Non-Emergency violation, the timeframe for correcting such violation shall be extended to account for the time during which Operator was unable to correct the violation due to action (or failure to act) by NES or other User. Operator will not be responsible for the costs associated with violations caused by others that are not affiliated or acting under the direction of Operator. In all circumstances, all of the Users on the Pole and NES will work together to maximize safety while minimizing the cost of correcting any such deficiencies, but the Operator shall be responsible for the actual and documented cost of any necessary or appropriate corrective measures associated with violations caused by Operator, including removal and replacement of the Pole and all Transfers or other work incident thereto. If Operator fails to Correct a non-Emergency violation within the specified timely period, including any agreed upon extensions, the provisions of Article 24 shall apply.

23.3.1 If any facilities of NES are found to be in violation of the Applicable Standards and specifications and NES has caused the violation, then the parties will work together to minimize the cost of correcting any such deficiencies, but NES shall be responsible for the full cost of any necessary or appropriate corrective measures, including removal and replacement of the Pole; provided, however, that NES shall not be responsible for Operator's own costs.

23.3.2 If one or more other Users' Attachment caused the violation, then such User(s) shall pay the corrective costs incurred by all who have Attachments on the Pole, including the Operator, and NES will make reasonable effort to cause the User to make such payment.

23.3.3 If there exists a violation of Applicable Standards and it cannot be determined which User on the Pole, including Joint User, caused such violation or there is a mixture of the Users causing the violation, then the parties will work together to minimize the cost of correcting any such deficiencies, and all Users who may have caused such violation will share equally in such costs to the extent provided for under existing agreements with said Users; provided that Operator shall not be required to pay more than its proportionate share of such costs.

Article 24. Failure to Rearrange, Transfer or Correct.

24.1 Unless otherwise agreed, as part of NES's written notice of a need for Operator to Rearrange, Transfer, Remove or Correct violations (including Tagging), NES will indicate whether or not NES is willing to perform the required work.

24.2 If NES indicates in the notice that it is willing to perform the work, Operator shall have fifteen (15) days to notify NES in writing of its election to either have NES perform the work or that the Operator will perform the work itself.

24.2.1 If Operator requests that NES perform the work, Operator shall reimburse NES for the actual and documented cost of such work.

- 24.2.2 If Operator either fails to respond or indicates that it will perform the work itself, then until such work is complete and NES receives written notice of the completion of such work, Operator shall be subject to a daily penalty as specified in Exhibit A, per Attachment, per day commencing on the day after expiration of the time period for completion of the work specified in the Agreement and original notification that Operator needs to Rearrange, Transfer, Remove or Correct violations. Beginning with the ninetieth (90th) calendar day after expiration of the time period for completion of the work specified in the Agreement and original notification, the daily penalty shall escalate as specified in Exhibit A.
- 24.2.3 Notwithstanding Operator's election under Article 24.2.2 to perform the required work itself, commencing on the thirtieth (30th) day after expiration of the time period for completion of the work specified in the Agreement and original notification, NES may perform the required work at Operator's expense, or may delegate such authority to another User utilizing a qualified contractor.
- 24.2.4 If Operator was required to perform work under this Article 24 and fails to perform such work within the specified timeframe, and NES performs such work, NES may charge Operator an additional twenty-five percent (25%) of its actual and documented costs for completing such work.
- 24.3 If NES indicates in the notice that it is unwilling or unable to perform the work, then until such work is completed and NES receives written notice of the completion of such work, Operator shall be subject to a daily penalty as specified in Exhibit A, per Attachment, per day commencing on the day after expiration of the time period for completion of the work specified in the Agreement and original notification that Operator needs to Rearrange, Transfer, Remove or Correct violations. Beginning with the ninetieth (90th) calendar day after expiration of the time period for completion of the work specified in the Agreement and original notification, the daily penalty shall escalate as specified in Exhibit A.
- 24.3.1 If Operator fails to submit a License Application in accordance with Article 7 of this Agreement within thirty (30) days of receipt of notice from NES of any Unauthorized Attachment, or such longer time as mutually agreed to by the parties after an inventory, the daily penalties specified in Exhibit A shall apply.
- 24.4 Operator shall provide written notification to NES upon completion of any of the required work; daily penalty fees will continue to accrue until NES's receipt of such notice of completion. Notice of completion shall be given by the same means as it was received from NES.

Article 25. Indemnification and Insurance.

- 25.1 To the extent permitted by law, each party agrees to be responsible for any claims or damages arising out of its own acts or omissions directly or indirectly related to this Agreement.
- 25.2 [Intentionally omitted.]
- 25.3 [Intentionally omitted.]

- 25.3 Operator shall take out and maintain throughout the agreement period, insurance in the minimum requirements:
- 25.3.1 Workers' compensation insurance covering all employees in statutory limits who perform any of the obligations assumed by Operator under this Agreement.
 - 25.3.2 Commercial general liability insurance covering all operations under this Agreement of \$300,000 per person for tort claims; \$700,000 aggregate per occurrence; and \$100,000 per occurrence for property damage during the policy period. For non-tort claims, the limits of liability shall be \$1,000,000 per occurrence during the policy period. The Metropolitan Government of Nashville and Davidson County acting by and through the Electric Power Board of the said Metropolitan Government and the Metropolitan Government of Nashville and Davidson County in its regular corporate capacity shall be named as additional insureds in this policy or policies.
 - 25.3.3 Automobile liability insurance on all self-propelled vehicles used in connection with the Agreement, whether owned, non-owned, hired, or otherwise. This policy shall be comprehensive automobile liability policy as approved by the National Bureau of Casualty Underwriters and the Insurance Department of the State of Tennessee of \$300,000 per person for tort claims; \$700,000 aggregate per occurrence; and \$100,000 per occurrence for property damage during the policy period. For non-tort claims, the limits of liability shall be \$1,000,000 per occurrence during the policy period. The Metropolitan Government of Nashville and Davidson County acting by and through the Electric Power Board of the said Metropolitan Government and the Metropolitan Government of Nashville and Davidson County in its regular corporate capacity shall be named as an additional insured in this policy or policies.
- 25.4 [Intentionally omitted.]
- 25.5 NES and its officers, employees and agents shall all be named as additional insureds in all policies required under this Article 25 of this Agreement.
- 25.6 Operator shall provide NES with a current certificate of insurance evidencing all of the insurance required above in this Article 25 prior to commencing installation of its system on NES's Infrastructure. Each policy of insurance shall be endorsed to provide at least thirty (30) days' prior notice of cancellation by the insurer for any reason except non-payment of premium. Operator shall make all reasonable efforts to furnish replacement certificates to NES at least thirty (30) days before the expiration of the then-current insurance policies.
- 25.7 All insurance required by Article 25 to be maintained by Operator shall be pursuant to valid and enforceable policies issued by insurers authorized to conduct business in Tennessee.
- 25.8 Failure of Operator to maintain the proper insurance required under this Article 25 shall result in termination of this Agreement if the breach is not cured in accordance with Article 29.

Article 26. Duties, Responsibilities and Exculpation.

- 26.1 NES makes no representation as to the condition of the premises or equipment at or near which Operator will work, the existing Poles, equipment or installations, and has and assumes no responsibility to Operator, its employees, agents, servants, and subcontractors, except to inform Operator of any hidden defects or dangerous conditions known to NES and not known to or ascertainable by Operator by reasonable inspection.
- 26.2 By executing this Agreement, Operator warrants that it has or will fully acquaint itself with the conditions relating to the work it will undertake under this Agreement, and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.
- 26.3 It is further understood by and between the parties that in the performance of the work performed under this Agreement, Operator, its agents, servants, employees, and contractors will necessarily be required to work near, about, adjacent to and in the vicinity of energized (hot) lines, transformers, or other equipment of NES, and it is the intention that energy therein will not be interrupted during the continuance of this Agreement, except (i) in an Emergency, (ii) as deenergized by NES at Operator's request, or (iii) as deenergized by Operator with NES's consent. Operator is fully and solely responsible for seeing that its employees, servants, agents or subcontractors shall have the necessary skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of NES, and the general public, from harm or injury while performing under this Agreement, and furnishing them with competent supervision and sufficient and adequate tools and equipment, for their work to be performed in a safe manner while the existing equipment of NES is energized. Except in an Emergency, Operator shall not deenergize any of NES's system without first obtaining permission from NES.
- 26.4 In the event any transformer or line is deenergized at Operator's request and for its purposes, benefit and convenience in performing a particular segment of any work, Operator shall be responsible for seeing that all clearances and arrangements for such cutoff of electric service shall conform with all applicable safety rules and regulations and Operator shall complete the work with all reasonable speed so that service may be restored without unnecessary delay. In the event that Operator shall unintentionally or accidentally cause an interruption of service by damaging or interfering with any equipment or facilities of NES, Operator shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting therefrom and shall notify NES immediately. Operator shall be solely responsible for any injuries or damages or claims for losses growing out of such interruption or deenergization of NES's electric system (except to the extent such interruption or deenergization was performed by NES or with NES's consent), to all persons whomsoever.
- 26.5 [Intentionally omitted.]

Article 27. Damages to Facilities.

- 27.1 NES shall exercise reasonable caution to prevent damage to, or interference with the operation of the equipment of Operator, but NES shall not be liable for any such damage or interference which may arise out of the use of NES's Poles, manholes or conduit

hereunder, except to the extent caused by the negligence or intentional misconduct of NES or its employees, agents, or contractors.

- 27.2 Operator shall exercise reasonable caution to avoid damage to facilities of NES or of other authorized Users of said Poles or conduit; and Operator hereby assumes all responsibility for any and all damage to facilities of said NES or other authorized Users arising out of or caused by the erection, maintenance, installation, presence, use or removal of Operator's facilities, except to the extent such damage is caused by the negligent or intentional misconduct of NES or its employees, agents or contractors.
- 27.3 Operator shall make an immediate report to the particular owner of the facilities affected by the occurrence of any damage caused by Operator or its agents, and hereby agrees to reimburse such owner for the actual and documented costs incurred in making the necessary repairs and replacement if damage is caused by Operator or its agents.

Article 28. Dispute Resolution Process.

- 28.1 Dispute Resolution. To the extent permitted under applicable law and except for an action seeking a temporary restraining order, an injunction, or an order to compel compliance with this dispute resolution procedure, either party can invoke the dispute resolution procedures in this Article 28 at any time to resolve a controversy, claim, or breach arising under this Agreement. Each party will bear its own costs for dispute resolution activity.
- 28.2 Initial Meeting. At either party's written request, each party will designate knowledgeable, responsible, senior representatives to meet and negotiate in good faith to resolve a dispute. The representatives will have discretion to decide the format, frequency, duration, and conclusion of these discussions. The parties will conduct any meeting in-person or via conference call, as reasonably appropriate.
- 28.3 Executive Meeting. If, thirty (30) days after the first in-person meeting of the senior representatives, the parties have not resolved the dispute to their mutual satisfaction, each party will designate executive representatives at the director level or above to meet and negotiate in good faith to resolve the dispute. To facilitate the negotiations, the parties may agree in writing to use mediation.
- 28.4 Unresolved Dispute. If, after thirty (30) days from the first executive-level, in-person meeting, the parties have not resolved the dispute to their mutual satisfaction, either party may invoke any legal means available to resolve the dispute, including enforcement of the default and termination procedures set out in Article 29.
- 28.5 Confidential Settlement. Unless the parties otherwise agree in writing and to the extent permitted under applicable law, communication between the parties under this Article 28 will be treated as Confidential Information developed for settlement purposes, exempt from discovery and inadmissible in litigation.
- 28.6 Business as Usual. During any dispute resolution procedure or lawsuit, the parties will continue providing services to each other and performing their obligations under this Agreement.

- 28.7 All fees and penalties will continue to accrue pending dispute resolution procedures unless the dispute specifically involves a dispute over the application of the fee or penalty.
- 28.8 In the event of any breach of this Agreement, the parties shall have all rights and remedies available under applicable law, whether at law or in equity, including without limitation the right to seek specific performance of the obligations under this Agreement, and the right to seek monetary damages. No remedy or election hereunder shall be deemed exclusive, but shall, wherever possible, be cumulative with all other remedies at law or in equity. The election of any one or more remedies by either party or the use Article 28 shall not constitute a waiver of the right to pursue other available remedies.

Article 29. Default.

- 29.1 An Event of Default (each of the following being an “Event of Default”) shall be deemed to have occurred hereunder by either Party if:
- 29.1.1 Either Party shall breach any material term or condition of this Agreement; or
 - 29.1.2 Either Party shall fail to perform, observe or meet any material covenant or condition made in this Agreement; or
 - 29.1.3 At any time, any representation, warranty or statement made by either Party herein shall be incorrect or misleading in any material respect.
- 29.2 Upon the occurrence of any one or more of the Events of Default set forth in Article 29.1 hereof, either Party, at its option, in addition to and not in lieu of any other remedies provided for herein, shall be entitled to proceed to exercise any and all actions it may have at law or in equity, including drawing down upon the bond for any fees, costs, expenses or penalties that either Party has not paid, and, in addition, at its option, may terminate this Agreement upon providing notice to the other Party. provided, however, that such Party may only take such action or actions after first giving the other Party written notice of the Event of Default and a reasonable time in which other Party may cure or commence diligent efforts to cure such Event of Default, which period of time shall be not less than thirty (30) calendar days.
- 29.2.1 The above notwithstanding, Operator’s sole remedy if NES is unable to perform a survey or complete Make Ready work within the prescribed timeframes under Article 7 is the authority to perform such survey or Make Ready itself at Operator’s expense.
 - 29.2.2 Under no circumstances will a failure of NES to meet the survey or Make Ready time periods set out in Article 7 subject NES to damages.
- 29.3 Without limiting the rights granted to NES pursuant to the foregoing Article 29.2, the parties hereto agree to conduct themselves reasonably and in good faith and to use a good faith effort to meet and to resolve outstanding issues, including but not limited to the Dispute Resolution Process of Article 28 to the extent permitted under applicable law.

- 29.4 Upon termination for Default Operator shall remove its Attachments from all NES Poles and conduits within six (6) months of receiving notice, or at a rate of ten percent (10%) of its Attachments per month, whichever period results in the greatest length of time for completing removal. If not so removed within that time period, NES shall have the right to remove Operator's Attachments, and Operator agrees to pay the actual and documented cost thereof within forty-five (45) days after it has received an invoice from NES.

Article 30. Force Majeure.

Notwithstanding any other term or provision in this Agreement, neither party shall be liable to the other party or any other person, firm, or entity for any delay or failure of performance hereunder if such failure is due to any cause or causes beyond its reasonable control and without its fault or negligence, other than the acts or omissions of a party's own contractors, suppliers, representatives, or agents. Such causes shall include without limitation: acts of God or any civil or military authority, governmental regulations, national emergencies, insurrections, riots or wars.

Article 31. Assignment.

- 31.1 Except as otherwise provided herein, Operator shall not assign or transfer any of its rights or obligations under this Agreement, in whole or in part, by merger, consolidation, reorganization, or change in the ownership or control of Operator's business, or by any other means, without the prior written consent of NES, which consent shall not be unreasonably withheld, conditioned or delayed.
- 31.2 Any assignment or transfer by Operator prohibited by Article 31.1 above, without prior written consent, shall constitute a Default.
- 31.3 Prior to any assignment or transfer, any new owner or operator shall be required to be bound by and to continue under the same terms and conditions as this Agreement and to execute all necessary acknowledgments to this effect.
- 31.4 Notwithstanding Article 31.1 above, Operator may, during the term of this Agreement, assign or transfer this Agreement to (i) any affiliate of Operator or to a partnership of which at least fifty percent (50%) of the units are owned directly or indirectly by Operator or its parent company; or (ii) any successor to Operator's business, or a substantial part thereof, whether through merger, amalgamation, consolidation or sale of assets (each, an "Assignee"), without the prior consent of NES; provided, however, such assignment or transfer shall be subject to the following conditions:
- 31.4.1 In the case of a sale of assets, (i) the Operator has assigned its state-issued certificate of franchise authority or other authorization issued by a franchising authority (the "Franchise") to such Assignee, and such assignment has been approved (if applicable law requires approval), or the Assignee otherwise holds an applicable and effective Franchise; and (ii) the Assignee has received and accepted an assignment or transfer of the assets comprising the Operator's business, or a substantial part thereof.
- 31.4.2 Notice of the assignment or transfer has been provided to NES, in writing, at the earlier of (a) within sixty (60) days of the date an application for transfer or

assignment of the Franchise is filed with the Tennessee Regulatory Authority or other applicable franchising authority, if such application for transfer or assignment is required by applicable law under the circumstances, or (b) in the case of a sale of assets, within seven (7) business days after the assignment or transfer.

31.4.3 Assignee has executed documents, reasonably satisfactory to NES, committing Assignee to fulfill and honor all of the terms and conditions of this Agreement, including, but not limited to, all of the representations and warranties of Operator.

31.5 Any assignment or transfer of this Agreement by NES shall require the new owner to be bound by and to continue under the same terms and conditions as this Agreement and to execute all necessary acknowledgments to this effect.

Article 32. Notice.

Wherever in this Agreement notice is required to be given by either party to the other, such notice shall be in writing and shall be effective when personally delivered to, or when mailed by certified mail, return receipt requested, with postage prepaid or in the form of an Electronic Record. All such notice shall be directed to the addresses specified below:

If to the Operator:

City of La Vergne
5093 Murfreesboro Road
La Vergne, TN 37086
Telephone No.: (615) 287-8634
Attention: Bruce Richardson, City Administrator
RUSH: FORMAL NOTICE OF CONTRACT ACTION

If to NES:

Nashville Electric Service
1214 Church Street
Nashville, TN 37246
Fax No.: 615-747-3854
Confirmation No.: 615-747-3895
Attention: President and CEO
RUSH: FORMAL NOTICE OF CONTRACT ACTION

With a copy to NES at:

Nashville Electric Service
1214 Church Street
Nashville, TN 37246
Fax No.: 615-747-3667
Confirmation No.: 615-747-3701
Attention: General Counsel
RUSH: FORMAL NOTICE OF CONTRACT ACTION

or to such other address as the parties shall designate in writing or in the form of an Electronic Record; provided, however, that notices of interruption and communications may be provided orally, effective immediately and, upon request, confirmed in writing or in the form of an Electronic Record. A notice sent by facsimile transmission shall be deemed received on the day sent (unless such day is not a business day, in which case it shall be deemed received on the next business day), and notice by overnight mail or courier shall be deemed to have been received based upon the mode of delivery, unless it confirms a prior verbal communication in which case any such notice shall be deemed received on the day sent.

Article 33. Term.

This Agreement shall become effective on the Effective Date and, if not terminated in accordance with the provisions hereof, shall continue in effect for a term of ten (10) years. This Agreement shall automatically renew thereafter for two (2) additional, five (5) year periods, unless notice is given in writing by either party to terminate this Agreement, which notice must be given no less than six (6) months before the end of the initial ten (10) year period, or given no less than six (6) months before the end of any such renewal term. Such termination in no way exempts payment for pole and conduit attachment rental fees and continued compliance with all obligations and Applicable Standards hereunder pending the actual removal of all facilities. Upon termination of this Agreement in accordance with the provisions hereof and in Article 29, Operator shall remove its Attachments from all NES Poles and conduits within six (6) months of receiving notice, or at a rate of ten percent (10%) of its Attachments per month, whichever period results in the greatest length of time for completing removal. If not so removed within that time period, NES shall have the right to remove Operator's Attachments, and Operator agrees to pay the actual and documented cost thereof within forty-five (45) days after it has received an invoice from NES.

Article 34. Receivership, Foreclosure or Act of Bankruptcy.

34.1 The Pole and conduit use granted hereunder to Operator shall, at the option of NES, cease and terminate one hundred twenty (120) days after the filing of bankruptcy or the appointment of a receiver or receivers or trustee or trustees to take over and conduct the business of Operator whether in a receivership, reorganization, bankruptcy or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless such receivers or trustees shall have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Agreement granted pursuant hereto, and the receivers or trustees within said one hundred twenty (120) days shall have remedied all Defaults under this Agreement.

34.2 In the case of foreclosure or other judicial sale of the plant, property and equipment of Operator, or any part thereof, including or excluding this Agreement, NES may serve notice of termination upon Operator and the successful bidder at such sale, in which event this Agreement herein granted and all rights and privileges of this Agreement hereunder shall cease and terminate thirty (30) days after service of such notice, unless:

34.2.1 NES shall have approved the transfer of this Agreement to the successful bidder, as and in the manner in this Agreement provided; and

- 34.2.2 Such successful bidder shall have covenanted and agreed with NES to assume and be bound by all the terms and conditions to this Agreement.

Article 35. Transfer Rights of Attachments.

Operator shall not assign, transfer, sublease or resell the rights of Attachments hereby granted to it, or the rights to use facilities so attached to NES's Poles, without prior consent in writing of NES, except as otherwise set forth herein.

Article 36. Removal of Attachments.

Operator may at any time remove its Attachments from any facility of NES, but shall promptly give NES written notice of such removals as specified in NES's License Application. No refund of any rental fee will be due on account of such removal.

Article 37. Performance Bond.

Operator shall furnish a performance bond executed by a surety company reasonably acceptable to NES which is duly authorized to do business in the state of Tennessee in the amount of Fifty Thousand Dollars (\$50,000.00) for the duration of this Agreement as security for the faithful performance of this Agreement and for the payment of all persons performing labor and furnishing materials in connection with this Agreement.

Article 38. Termination.

In the event of termination not the fault of NES, Operator shall compensate NES as described in this Agreement for all actual and documented costs incurred under this Agreement, including costs incurred after date of termination.

Article 39. Jurisdiction.

Any and all disputes arising out of this Agreement shall be governed, construed and enforced according to the laws of the State of Tennessee. All actions relating to the validity, construction, interpretation, and enforcement of this Agreement shall be instituted and litigated in the courts of Tennessee; in accordance herewith, the parties to this Agreement submit to the jurisdiction of the courts of Tennessee, located in Davidson County, Tennessee.

Article 40. Nondiscriminatory Employment Practice/Absence of Conflict of Interest.

- 40.1 Operator makes oath, in a form similar to that set forth in Exhibit B, that its employment standards meet all local, state, and federal laws prohibiting discriminatory employment practices, and that neither the mayor, city council members, members of the Electric Power Board, nor any other Metropolitan Government official has direct or indirect interest in this contract as set forth in the Contractor/Vendor Affidavit.
- 40.2 Operator assures that it will comply with pertinent statutes, and such rules as are promulgated, to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap, be excluded from participating in any activity conducted with or benefited from NES or the Metropolitan Government.

Article 41. Authorizations.

NES and Operator each represents that it has the respective necessary corporate and/or legal authority and has obtained any and all regulatory approvals to enter into and perform this Agreement, and that this Agreement, when executed by such party, represents a valid, binding and enforceable legal obligation of that party.

Article 42. Sovereign Immunity.

NES represents and warrants to Operator that the State of Tennessee does not afford to NES as a governmental entity the defense of sovereign immunity for breach of contract.

Article 43. Miscellaneous.

- 43.1 The failure of either party to give notice of default or to enforce or insist upon compliance with any of the terms or conditions of this Agreement, the waiver of any term or conditions of this Agreement or the granting of an extension of time for performance shall not constitute the permanent waiver of any term or condition of this Agreement and this Agreement and each of its provisions shall remain at all times in full force and effect until modified by authorized representatives of the parties in writing.
- 43.2 The provision of services by NES or Operator under this Agreement will not create a partnership or joint venture between the parties nor result in a joint communications service offering to the customers of either Operator or NES.
- 43.3 Operator shall not, without the prior written consent of NES, use any of its facilities attached to NES's Poles, or installed in NES's conduit, for any purpose other than that provided in this Agreement. Whenever, in the reasonable judgment of NES, Operator has used its facilities for any purpose not authorized herein, NES shall forthwith notify Operator. Upon receipt of such notice, Operator shall as promptly as practicable cease such use complained of in the notice. Failure to do so shall constitute an Event of Default under this Agreement.
- 43.4 No subsequent amendment or agreement between NES and Operator regarding this Agreement shall be effective or binding unless it is in writing and made by authorized representatives of the parties hereto.
- 43.5 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns. Except as otherwise expressly provided in this Agreement, this Agreement shall not inure to the benefit of, or be enforceable by, or create any right or cause of action to, any person or entity other than the parties hereto.
- 43.6 This Agreement sets forth the entire understanding of the parties and supersedes any and all prior agreements, whether written or oral, arrangements or understandings relating to its subject matter. No representation, promise, inducement or statement of intention has been made by either party which is not embodied herein. All existing licenses outstanding shall be subject to this Agreement.

- 43.7 If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement, and the parties hereby agree to negotiate with respect to any such invalid or unenforceable part to the extent necessary to render such part valid and enforceable.
- 43.8 Descriptive headings in this Agreement are for convenience only and shall not affect the construction of this Agreement.
- 43.9 If any legal action is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to its costs, including reasonable attorney's fees, in addition to any other relief to which that party may be entitled.
- 43.10 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, LIQUIDATED, OR SPECIAL DAMAGES OR LOST REVENUE OR LOST PROFITS TO ANY PERSON ARISING OUT OF THIS AGREEMENT OR THE PERFORMANCE OR NONPERFORMANCE OF ANY PROVISION OF THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.
- 43.11 The provisions of this Article 43 shall survive the termination of any other portions of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their respective duly authorized representatives.

ATTEST:

**METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,
ACTING BY AND THROUGH THE ELECTRIC
POWER BOARD OF SAID GOVERNMENT**

Secretary

By: _____
President & CEO

Date: _____

Approved as to Form & Legality

By: _____
Vice President & General Counsel

Date: _____

OPERATOR

CITY OF LA VERGNE

By: _____

Name: _____

Title: _____

Date: _____



EXHIBIT A FEES AND CHARGES

Effective Dates: 1/1/24 – 12/31/24

Attachment Fees and Charges¹

The Pole Attachment Fee: Thirty-eight dollars (\$38.00) per Attachment per year.

Each Attachment shall only occupy twelve (12) inches of vertical space on a Pole, as measured either above or below (but not both) the point of attachment, and any Attachment outside of the twelve inches shall be deemed to constitute a separate Attachment for Pole Attachment Fee calculation purposes.

One-half (1/2) of the Pole Attachment Fee shall be billed and paid on a semi-annual basis (billing periods: January–June and July–December), applied to the total number of licensed Attachments. Changes to the Pole Attachment Fee shall be applied beginning with the July–December billing (typically billed the following January).

Annual Conduit Rental Fee: Four dollars and fifty-two cents (\$4.52) per linear foot per year (one-half (1/2) paid semi-annually) (NES reserves the right to recalculate the Conduit Rental Fee from time to time to cover actual costs).

Non-Recurring Fees

1. License Application Fee \$ 65 per Unit of NES Infrastructure
2. Make Ready Work and Other Charges..... See Article 5 of Agreement
3. Work performed by NES where Operator failed to perform in a timely manner may be subject to a twenty-five (25%) percent additional charge pursuant to Article 24 of Agreement.

Anchor Use Fee: Ninety-eight dollars and forty-six cents (\$98.46) per NES Anchor (NES reserves the right to adjust the Anchor Fee from time to time to cover actual costs, provided any such adjustment is applied on a nondiscriminatory basis to other Users Penalties.

¹ Consistent with Article 5 of the Agreement, the Pole Attachment Fee shall be recalculated on an annual basis utilizing the NES Shared-Cost Rate Formula, and the non-recurring fees may be recalculated from time-to-time.

1. Unauthorized Attachment Penalty Fee:

One hundred dollars (\$100) per Unauthorized Attachment (including Service Drops, Riser Attachments and Overlashing that were not reported or which were deliberately installed in knowing violation of Applicable Standards).

2. Non-Transfer/Removal Penalty:

If, consistent with Article 24 of the Agreement, Operator fails to Rearrange, Transfer, Remove or Correct Violations in a timely manner, Operator shall be subject to a daily penalty of five dollars (\$5) per Attachment, per day beginning on the day after expiration of the original time period for completion of the work specified in the Agreement and the original notification that Operator needs to Rearrange, Transfer, Remove or Correct Violations. Beginning with the 90th calendar day after expiration of the time period for completion of the work specified in the Agreement and original notification, the daily penalty shall escalate to ten dollars (\$10) per Attachment per day.



EXHIBIT B
CONTRACTOR/VENDOR AFFIDAVIT

STATE OF _____)
COUNTY OF _____)

I, _____ (affiant), the _____
(title/office) of _____ (company)
("Contractor/Vendor"), do hereby swear, affirm and make oath as follows:

1. I am above the age of 18 and am duly authorized to make this affidavit on behalf of Contractor/Vendor.

2. Contractor/Vendor's employment practices do not subscribe to any policy that permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, religion, age, sex or handicap; further, Contractor/Vendor will not discriminate against any individual due to race, creed, color, national origin, religion, age, sex or handicap.

3. As of the date of this affidavit, neither the Mayor, any councilperson, member of the Electric Power Board, employee of the Electric Power Board, nor any other Metropolitan Government official is directly or indirectly interested in any contract with Contractor/Vendor for which compensation will be sought during the period of time covered by this affidavit.

If Contractor/Vendor for whom I sign is a widely-held, publicly-traded Fortune 1000 company whose securities are listed on NASDAQ, Contractor/Vendor may be unable to determine whether any government official owns its common stock. However, based on available securities filings, no individual owns greater than six percent (6%) of Contractor's common stock.

Contractor/Vendor pledges that it will notify immediately the Procurement & Services Manager of the Electric Power Board in writing should any information come to Contractor/Vendor's attention indicating that any Metropolitan Government official has become either directly or indirectly interested in any contract for which compensation will be sought during the aforesaid period. For purposes of this affidavit, "direct" and "indirect" are defined by Tenn. Code Ann. § 12-4-101.

4. As of the date of this affidavit, Contractor/Vendor has not given or donated, or promised to give or donate, directly or indirectly, to any official or employee of the Metropolitan Government or the Electric Power Board, or to anyone else for its benefit, any sum of money or other thing of value for aid or assistance in obtaining any contract under which compensation will be sought during the period covered by this affidavit. Contractor/Vendor pledges that neither it nor any other officer or employee will give or donate, or promise to give or donate, directly or indirectly, to any official or employee of the Metropolitan Government or the Electric Power Board, or anyone else for its benefit, any sum of money or other thing of value for aid or assistance in obtaining any contract for which compensation will be claimed during the aforesaid period.

5. Contractor/Vendor has not colluded and shall not collude with any other person, firm, corporation or association in arriving at any prices or amounts listed in any bid or response to Request for Proposal, Request for Bid or any other solicitation for work.

AFFIANT

Date: _____

Sworn to and subscribed before me this _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires: _____



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.C. Approve Agreement with Salary.com.

Department: Human Resources

Presented By: Andrew Patton

Item Attachments:

1. La Vergne - Proposal
2. Digital Service Agreement
3. Memo - Katie Driver - Salary-dot-com Agreement

Summary:

As requested by the City Administrator, the Director of Human Resources is conducting a compensation study to review all positions within the City of La Vergne. That evaluation will include gathering data and salary figures from different sources, including public records in neighboring municipalities, previous data from past compensation reviews, and information from websites like Salary.com.

Background Information:

A complete presentation of the value of the platform is included in the packet.

Financial Summary:

The annual cost is \$6,300 and these funds are available in the Human Resources Department budget.

Staff Recommendation:

Staff recommends approval.

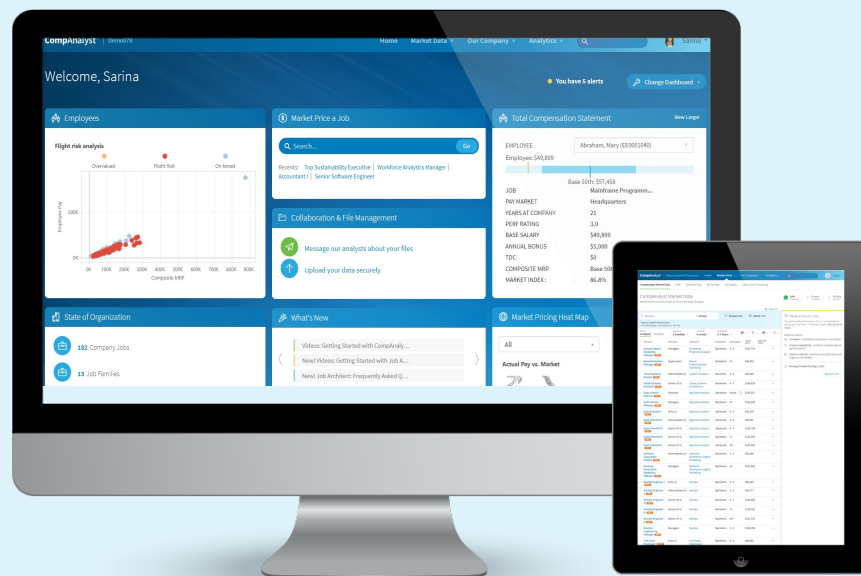
Salary.com Overview for La Vergne

Prepared by: Rob Pikovski

954.701.2047

rob.pikovski@salary.com





CompAnalyst® Market Data

Designed for HR and compensation professionals, CompAnalyst Market Data is a comprehensive, HR-reported source of market pricing information. With CompAnalyst Market Data, organizations have access to HR-reported market data from more than 15,000 unique job titles across 225 industry breakouts in the US. Organizations can scope data to their specific industry, company size, and geographic location for unparalleled pricing accuracy.

- 27,000+ Compensable Factors
- 42,000+ Geographies Available
- Up to 22 Countries Available
- 800 Million Market Data Points

Pricing Solutions Built for Speed and Accuracy

Accuracy at your fingertips: Insightful market pricing specific to your organizations scope parameters and percentile flexibility within market pricing reports.

Anytime, anywhere access: Quickly answer market pricing questions without needing to run complicated analyses, reports, or queries.

Compensable factors, simplified: Attract and retain top talent in critical roles by assessing how hot skills and competencies impact prices.

Embedded executive pay insights: Keep executive pay packages competitive by benchmarking them against your peers.

Customizable dashboards: Customize dashboard look and feel, as well as individual widgets and tiles to display relevant data on a user basis.

The screenshot displays the 'CompAnalyst' interface by Cyberdyne Systems. The main heading is 'CompAnalyst Market Data' with a sub-link 'My Scopes'. Below this, there's a 'Back to Job List' link and the job title 'Human Resources Assistant I (OF13000038)'. A detailed job description follows, mentioning administrative support, recruiting, and HR functions. To the right, key details are listed: LEVEL 'Entry (I)', EDUCATION 'High School', and JOB FAMILY 'Human Resources'. Below the description, there are sections for 'Alternate Job Titles' (HR Assistant I, HR Generalist Support Coordinator I) and 'Competencies/Skills'. A link 'Use this content for my Job Description' is provided. A metadata bar shows 'Data Source: Market Data', 'Currency: Local', 'Rate: Annual', 'Data Effective: 1 Feb 2021', 'Age from 1 Feb 2021', and 'Aging Factor: 0.0%'. The main table displays market pricing data with columns for SCOPE, CURRENCY CODE, and three percentiles (25TH, 50TH, 75TH) under a 'BASE(000s)' header. The data is segmented by region: All United States, Middle Atlantic (Region), Midwest (Region), Northeast (Region), South (Region), and West (Region), all for 'All Industries | All FTEs' in 'USD'. A legend at the bottom explains the analysis basis and includes a disclaimer.

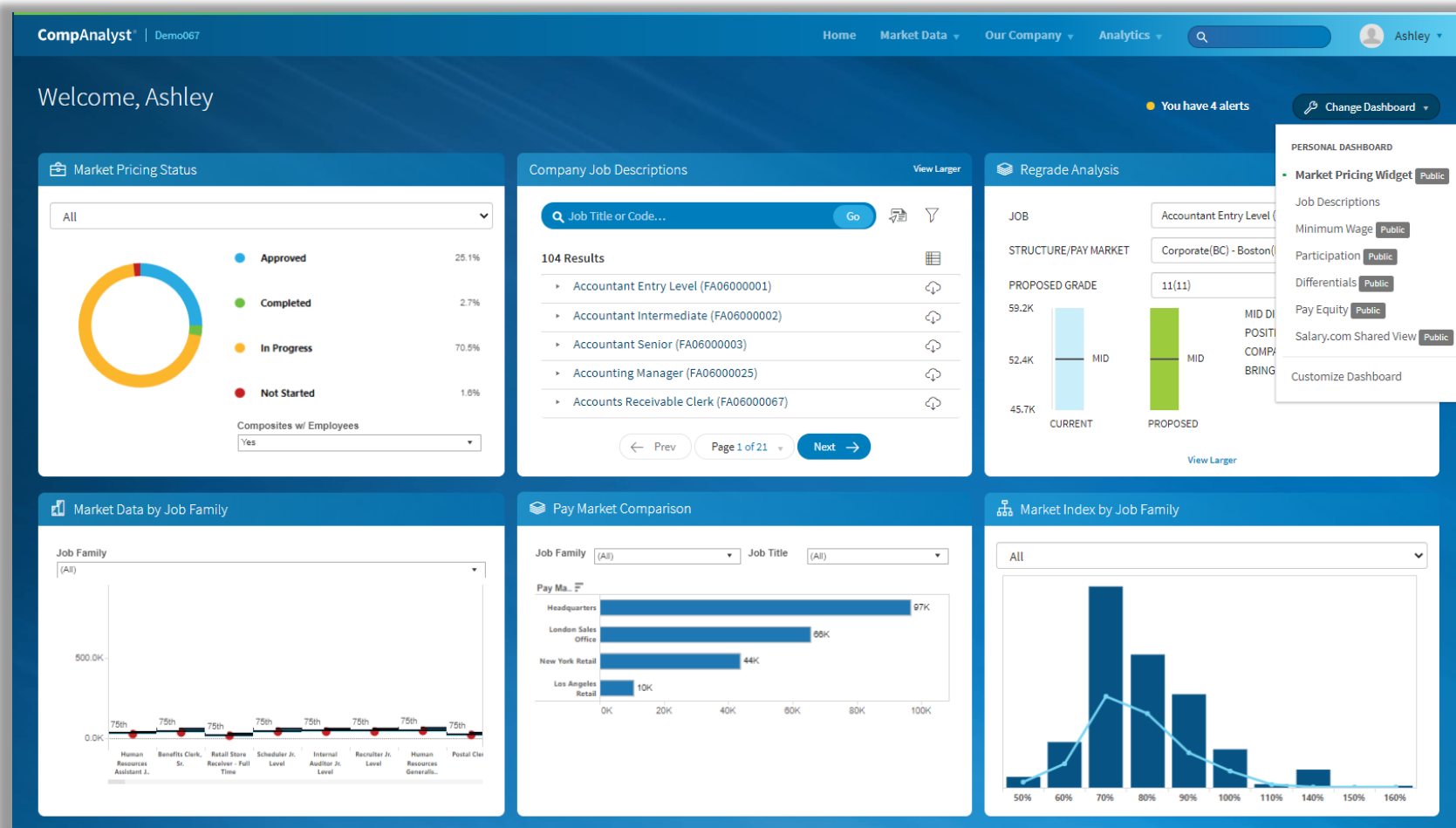
SCOPE		BASE(000s)		
	CURRENCY CODE	25TH	50TH	75TH
All United States All Industries All FTEs	USD	37.9	42.7	48.2
Middle Atlantic (Region) All Industries All FTEs	USD	39.7	45.0	50.3
Midwest (Region) All Industries All FTEs	USD	37.4	42.2	47.4
Northeast (Region) All Industries All FTEs	USD	40.6	45.8	51.7
South (Region) All Industries All FTEs	USD	36.0	40.7	46.3
West (Region) All Industries All FTEs	USD	38.7	43.6	49.5

LEGEND:
† Analysis based on at least this many orgs./incs that partially match the selected scope.
‡ Analysis based on all orgs./incs adjusted for selected scope. [see more](#)

Displayed as general business information only, not legal advice.
Note: All orgs./incs are at least the number specified.
Salary.com's compensation analysts strictly adhere to professional compensation standards and principles when pricing and analyzing jobs. Refer to the statement on [Methodology](#) for more information.

Dashboard Widgets & Configurability

Each individual user can create their own customized dashboard.



Create different dashboard views to highlight widgets. You can also set up **proactive alerts** to notify you to specific data issues or updates.

Use **permission settings** to customize the level of data transparency and access granted to your stakeholders.

Industry's Largest Job Database

Search through CompAnalyst robust job library with over **15,000 unique job titles**.

CompAnalyst provides multiple ways to sift through data. Positions are organized through our detailed job taxonomy. Breaking positions down by **family, function, and focus**.

The screenshot displays the CompAnalyst Market Data interface. The top navigation bar includes links for Home, Market Data, Our Company, and Analytics. The main header shows 'CompAnalyst Market Data' with a subtitle 'Market price thousands of jobs across a wide range of scopes.' Below this is a search bar and filters for 'in all fields', 'Browse Jobs', and 'Saved Jobs'. A table of job listings is shown with columns for Job Title, Job Level, Job Focus, Education, Experience, and Matched Jobs. The table lists various roles such as Academic Advising Director, Academic Advisor, Academic Support Coordinator, Account Based Marketing Manager, Account Executive - Advertising, Account Executive - Home Care, Account Executive, Sr. - Advertising, Account Management Director, Account Management Manager, Account Manager I, Account Manager II, Account Manager III, Account Manager IV, Account Manager V, and Account Services Representative. The right sidebar contains a 'Jobs' section with a 'Market price your Jobs' button and a 'Pricing Analysis' section with a 'Request a Job' button.

JOB TITLE	JOB LEVEL	JOB FOCUS	EDUCATION	EXPERIENCE	MATCHED JOBS
Academic Advising Director	Managers	Counseling and Advising	Bachelor's	5+	...
Academic Advisor	Intermediate (II)	Counseling and Advising	Bachelor's	2 - 4	...
Academic Support Coordinator	Intermediate (II)	Student Programs	Bachelor's	2 - 4	...
Account Based Marketing Manager	Managers	Marketing Programs/Support	Bachelor's	5+	...
Account Executive - Advertising	Intermediate (II)	Advertising, Client Relationship Management	Bachelor's	2 - 4	...
Account Executive - Home Care	Intermediate (II)	Home Care, Client Relationship Management	Bachelor's	2 - 4	...
Account Executive, Sr. - Advertising	Senior (III-V)	Advertising, Client Relationship Management	Bachelor's	4 - 7	...
Account Management Director	Directors	Client Relationship Management	Bachelor's	Varies	...
Account Management Manager	Managers	Client Relationship Management	Bachelor's	5+	...
Account Manager I	Entry (I)	Client Relationship Management	Bachelor's	0 - 2	...
Account Manager II	Intermediate (II)	Client Relationship Management	Bachelor's	2 - 4	...
Account Manager III	Senior (III-V)	Client Relationship Management	Bachelor's	4 - 7	...
Account Manager IV	Senior (III-V)	Client Relationship Management	Bachelor's	7+	...
Account Manager V	Senior (III-V)	Client Relationship Management	Bachelor's	10+	...
Account Services Representative	Intermediate (II)	Acct Svc, Customer Service	High School	1 - 3	...

Easily market price positions through CompAnalyst's **3 step process**. Select jobs, define scopes, and run a market pricing report.

Ability to compare jobs, create hybrid jobs and save jobs to lists for unparalleled market pricing accuracy.

Filtering Job Database

Change the display from **Compact** view to the **Detailed** job description view for more easily comparison of jobs.

Select the job(s) you'd like to price by checking the box next to the job title.

The screenshot shows the CompAnalyst Market Data interface. The top navigation bar includes links for Home, Market Data, Our Company, and Analytics. The main header displays 'CompAnalyst Market Data' and 'Market price thousands of jobs across a wide range of scopes.' Below this, there are tabs for 'Jobs' (4 Selected), 'Scopes' (3 Selected), and 'Pricing' (Analysis). A search bar is present, along with buttons for 'Browse Jobs' and 'Saved Jobs'. The main content area shows a list of jobs with columns for Job Title, Job Level, Job Focus, Education, Experience, and Matched Jobs. The 'Display' tab is set to 'Compact', but the 'Detailed' view is selected. The 'Job Family' filter is set to '40 Families'. The 'Job Level' filter is set to '7 Levels'. The 'Experience' filter is set to '0-10 Years'. The 'Base Salary' filter is set to '\$10-\$818 k'. The 'Job List' filter is set to 'All'. The 'Education' filter is set to '10 Education'. The 'Manage People' filter is set to 'All'. The 'Matched Jobs' column shows a dropdown menu with 4 jobs selected. The 'Detailed' view shows the following jobs:

Job Title	Job Level	Job Focus	Education	Experience	Matched Jobs
Academic Advising Director	Managers	Counseling and Advising	Bachelor's	5+	...
Academic Advisor	Intermediate (II)	Counseling and Advising	Bachelor's	2 - 4	...
Academic Support Coordinator	Intermediate (II)	Student Programs	Bachelor's	2 - 4	...
Account Based Marketing Manager	Managers	Marketing Programs/Support	Bachelor's	5+	...
Account Executive - Advertising	Intermediate (II)	Advertising, Client Relationship Management	Bachelor's	2 - 4	...
Account Executive - Home Care	Intermediate (II)	Home Care, Client Relationship Management	Bachelor's	2 - 4	...
Account Executive, Sr. - Advertising	Senior (III-V)	Advertising, Client Relationship Management	Bachelor's	4 - 7	...
Account Management Director	Directors	Client Relationship Management	Bachelor's	Varies	...
Account Management Manager	Managers	Client Relationship Management	Bachelor's	5+	...
Account Manager I	Entry (I)	Client Relationship Management	Bachelor's	0 - 2	...
Account Manager II	Intermediate (II)	Client Relationship Management	Bachelor's	2 - 4	...
Account Manager III	Senior (III-V)	Client Relationship Management	Bachelor's	4 - 7	...
Account Manager IV	Senior (III-V)	Client Relationship Management	Bachelor's	7+	...
Account Manager V	Senior (III-V)	Client Relationship Management	Bachelor's	10+	...
Account Services Representative	Intermediate (II)	Acct Svc, Customer Service	High School	1 - 3	...
Account Services Representative, Sr.	Senior (III-V)	Acct Svc, Customer Service	High School	3 - 5	...
Accountant I	Entry (I)	General Accounting	Bachelor's	0 - 2	1
Accountant II	Intermediate (II)	General Accounting	Bachelor's	2 - 4	1
Accountant III	Senior (III-V)	General Accounting	Bachelor's	4 - 7	1

Sort and filter the job list by Job Family, Job Level, Base Salary, Job List, Education, and Country.

Use the (...) menus to view job details, adjust a job, save a job to your job list, or match it to a company job.

Scopes

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CompAnalyst Market Data My Surveys **My Scopes**

My CAMD Scopes

Customize and save Scopes to quickly get most relevant pricing information

SCOPE NAME	GEOGRAPHY
CAN National Avg	All Canada
Canada	Central Canada (Region) Ontario (State)
GBR National Avg	All United Kingdom
Northeast	Northeast (Region)
Taiwan	All Taiwan
USA National Avg	All United States

Add a Scope

Choose at least one value for each category below:

GEOGRAPHY

REGION: United States [Change](#)

Search Metro, City, Zip...

- ☐ All United States
- ☐ Northeast
- ☐ Middle Atlantic
- ☐ South
- ☐ Midwest
- ☐ West

INDUSTRY [Industry Definition](#)

COMPANY SIZE

Scope selections

[Cancel](#) [Apply](#)

NAME *

ACCESS ☒ Private ☐ Public

☐ Make this my default Scope for Market Pricing

GEOGRAPHY

INDUSTRY

COMPANY SIZE

Scope your organizations market data by geography, industry, company size, and revenue. Access CompAnalyst Industry Definition breakout of industries, sub-industries and sector. Save your scope and allow access to other members in your organizations or keep it private.

Market Pricing Report

Access to CompAnalyst's robust job description, leveling insights and data updated on the 1st of every month.

Leverage the job details to update your company's respective job description.

Back to Job List

Accountant I (FA06000001)

Assists in maintaining financial records and ensuring that financial transactions are properly recorded. Ensures the accuracy of entries to ledger accounts and reconciles subsidiary ledger accounts to the general ledger. Compiles financial data to aid more senior accountants in the preparation of balance sheets, profit and loss statements and other financial reports. Assists in analyzing current costs, revenues, financial commitments, and obligations incurred to predict future revenues and expenses. Requires a bachelor's degree. May require eligibility to sit for CPA exam. Typically reports to a supervisor or manager.

P01-Entry : Works on projects/matters of limited complexity in a support role. Work is closely managed. Typically requires 0-2 years of related experience.

Alternate Job Titles

Entry Accountant | Financial Accountant I | General Accountant, Entry | Junior Accountant | Staff Accountant I

Competencies/Skills

Use this content for my Job Description

1 Matched Job

Export

LEVEL

Entry (I)

EXPERIENCE

0 - 2 Years

FLSA STATUS

Varies

EDUCATION

Bachelor's

MANAGE PEOPLE

No

REPORTS TO

Supervisor or Manager

JOB FAMILY

Finance & Accounting

JOB FUNCTION

Accounting

JOB FOCUS

General Accounting

Job Focus Report

Data Source: Market Data | Currency: Local | Rate: Annual | Data Effective: 1 Feb 2021 Age from 1 Feb 2021 | Aging Factor: 0.0% | Edit

DISPLAY

Data Grid

Bar Charts

Matched Company Jobs

Adjust Pricing Factors

0.0 % Adjust

Scopes

SCOPE	BASE(000s)				TCC(000s)				SALARY STRUCTURE(000s)			BONUS TARGET%
	25TH	50TH	75TH	AVG.	25TH	50TH	75TH	AVG.	MIN	MID	MAX	50TH
All United States All Industries All FTEs	50.6	55.6	61.2	56.2	51.7	57.1	63.2	57.7	46.5	58.0	69.7	6.0

Easily match CompAnalyst jobs to your internal jobs, export market pricing reports and saved jobs to organized job lists.

Utilize Compensible Factors to make streamlined adjustments to positions and store those alterations within CompAnalyst.

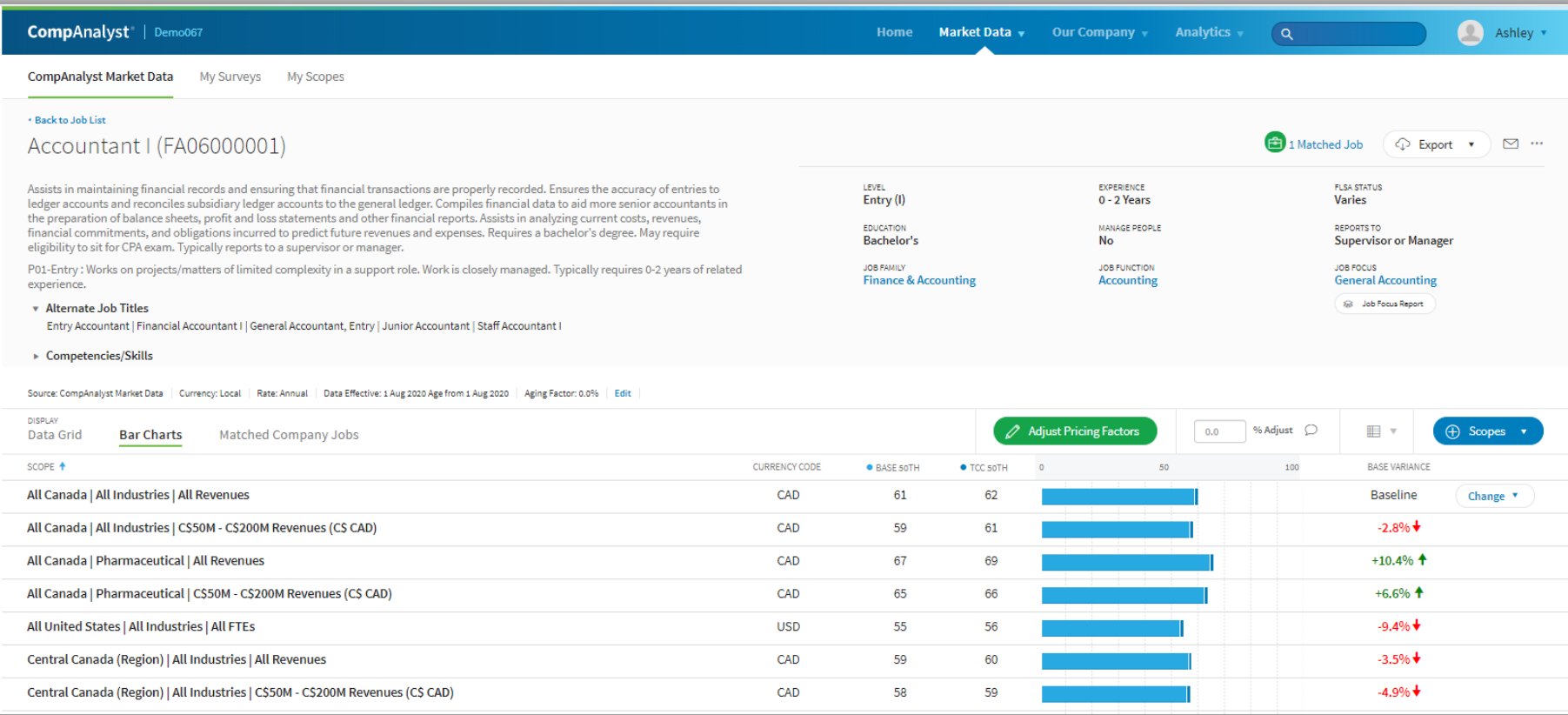
Access to multiple compensation data points and the ability to scope down to geography, industry and organization size.

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Market Pricing Report

Change the display to either a **Data Grid** for in-depth pricing information, or a **Bar Chart** to see a visual summary of your pay data.



Edit the Display Options to see pricing data such as **Base and Total Cash Compensation** percentiles.

Add, apply, or manage your **Scopes** to see pricing information across different industries, locations, and company sizes.

Job Focus Report

Job Focus Report

General Accounting Focus

Benchmark Job Title	Entry (I)	Intermediate (II)	Senior (III-V)	Senior (III-V)	Supervisors	Managers	Directors	Executives
	Accountant I	Accountant II	Accountant III	Accountant IV	Accounting Supervisor	Accounting Manager	Accounting Director	Top Accounting Executive
Matched Company Job	Accountant Entry Level	Accountant Intermediate	Accountant Senior			Accounting Manager		Chief Accounting Executive
Base 50th	\$55.0K	\$63.9K	\$80.2K	\$95.4K	\$83.3K	\$105.8K	\$156.0K	\$219.8K
Job Progression (% Difference)		16.3%	25.5%	18.9%	-12.7%	27.0%	47.5%	40.9%
Year Experience	0 - 2	2 - 4	4 - 7	7 +	3 - 5	5 +	Varies	Varies
Degree	Bachelor's	Bachelor's	Bachelor's	Bachelor's	Bachelor's	Bachelor's	Bachelor's	Bachelor's
Reports To	Supervisor or Manager	Supervisor or Manager	Supervisor or Manager	Manager or Head of a Unit/Department	Manager	Director or Head of a Unit/Department	CFO or Top Management	Chief Financial Officer
Supervision	Work is closely managed.	Occasionally directed in several aspects of the work.	Work is generally independent and collaborative in nat..	Work is highly independent. May assume a team lead..	Supervises a group of primarily para-professional le..	Manages subordinate staff in the day-to-day perf..	Manages a departmental sub-function within..	Manages a business unit, division, or corporate function ..

Generate a Job Focus Report to understand the job's pay and career opportunities within its focus. Job Focus reports help provide organizations insight into the career progression for a job and deliver leveling insights.

Compensable Factors

Assess if adjustments made to jobs impact underlying job matches.

CompAnalyst® | Demo067

Ashley ▾

Create a New Adjusted Job

Cancel

Save Adjusted Job

Accountant I (FA06000001) Edit

Reset All

Assists in maintaining financial records and ensuring that financial transactions are properly recorded. Ensures the accuracy of entries to ledger accounts and reconciles subsidiary ledger accounts to the general ledger. Compiles financial data to aid more senior accountants in the preparation of balance sheets, profit and loss statements and other financial reports. Assists in analyzing current costs, revenues, financial commitments, and obligations incurred to predict future revenues and expenses. Typically requires a bachelor's degree. May require eligibility to sit for CPA exam. Typically reports to Director. Manages No subordinate staff in the day-to-day performance of their jobs. May require Accredited Receivables Specialist (ARS). Shift: Day.

P01-Entry : Works on projects/matters of limited complexity in a support role. Work is closely managed. Typically requires 5+ Years of related experience.

▼ Alternate Job Titles

Entry Accountant | Financial Accountant I | General Accountant, Entry | Junior Accountant | Staff Accountant I

► Competencies/Skills Edit

▼ Certifications/Licenses Edit

Company Specific

Accredited Receivables Specialist (ARS)

► Managerial Exp: Use this content for my Job Description

LEVEL

Entry (I)

EDUCATION

Bachelor's ▾

JOB FAMILY

Finance & Accounting

WORKING CONDITIONS

No Hazard ▾

EXPERIENCE

5+ Years ▾

MANAGE PEOPLE

No ▾

JOB FUNCTION

Accounting

SHIFT

Day ▾

FLSA STATUS

Varies ▾

REPORTS TO

Director ▾

JOB FOCUS

General Accounting

SECURITY CLEARANCE view details

No Security Clearance ▾

RECALCULATED BASE 50TH

ADJUSTED +6.6% BASE 50TH

Recalculate Comp

\$58,604

\$54,976

All United States | All Industries | All FTEs

How was this number derived?

See all scopes and values below

Save adjusted jobs to your job library in CompAnalyst for future reference and export them out of the platform.

Add, edit, or remove compensable factors such as years of experience, education, skills, competencies, certifications and licenses from jobs to see how these adjustments affect the prices of jobs.

Hybrid Jobs

Select multiple jobs to blend jobs, creating a hybrid job within CompAnalyst.

CompAnalyst Market Data

Market price thousands of jobs across a wide range of scopes.

accountant

43 Results

DISPLAY Compact Detailed

JOB FAMILY 2 Families

☐ JOB TITLE

☐ Accountant I

☐ Accountant II

☐ Accountant III

☐ Accountant IV

☒ Cost Accountant I

☐ Cost Accountant II

☐ Cost Accountant III

☐ Tax Accountant I

☐ Tax Accountant II

☐ Tax Accountant III

☐ Cost Accountant IV

☐ Tax Accountant IV

☐ Plant Accountant

☐ Financial Reporting Accountant I

☐ Financial Reporting Accountant II

☐ Financial Reporting Accountant III

☐ Financial Reporting Accountant IV

☐ Revenue Recognition Accountant I

☐ Revenue Recognition Accountant II

Senior (III-V) Financial Reporting Bachelor's 4 - 7

Senior (III-V) Financial Reporting Bachelor's 7+

Entry (I) Revenue Bachelor's 0 - 2

Intermediate (II) Revenue Bachelor's 2 - 4

Create Hybrid Job

Cancel Save

CREATE HYBRID JOB:

☐ A New Company Job

☐ An Existing Company Job

☒ Unmatched

HYBRID JOB TITLE*

Demo Hybrid

HYBRID JOB CODE

HYBRID JOB DESCRIPTION

CAVD JOB	PREMIUM/DISCOUNT	WEIGHT	BASE 50TH	TCC 50TH
Cost Accountant I (FA06000004)	0.0 %	1	62.9	63.9
Project Accountant I (FA06000098)	0.0 %	1	60.3	61.4
Hybrid Job Preview			61.6	62.7

Add a new company job, to an existing company job, or create an unmatched hybrid job.

Apply the desired weights to your hybrid job and premiums/discounts if applicable and run your hybrid job report.

Match to Company Job

Secondly, enter in your organizations job title. Other optional fields to include are job code, job description, and comments.

CompAnalyst

Demo067

Home

Market Data

Our Company

Analytics

Ashley

CompAnalyst Market Data

My Surveys

My Scopes

Back to Job List

Human Resources Information System

Manages and oversees an organization's Human Resources Information Systems (HRIS). Develops, implements, and modifies software and hardware requirements based on changing business requirements. Maintains internal database files and tables, and develops custom reports to meet the requirements of company management and staff. Provides the necessary training to meet end users needs. Typically requires a bachelor's degree or its equivalent. Typically reports to Director.

M02-Manager (True 1st level Manager) : Manages subordinate staff in the day-to-day performance of their jobs. True first level manager. Ensures that project/departments milestones/goals are met and adhering to approved budgets. Has full authority for personnel actions. Extensive knowledge of department processes. Typically requires 5 years experience in the related area as an individual contributor. 1 to 3 years supervisory experience may be required.

Alternate Job Titles

HRIS Manager | Human Resource Information System Manager | Manager

Competencies/Skills

Source: CompAnalyst Market Data

Currency: Local

Rate: Annual

Data Effective:

DISPLAY

Data Grid

Bar Charts

SCOPE

All United States | All Industries | All FTEs

LEGEND:

† Analysis based on at least this many orgs / (nics that partially match the selected scope.

‡ Analysis based on all orgs / (nics adjusted for selected scope. [see more](#)

Displayed as general business information only, not legal advice.

Note: All orgs/nics are at least the number specified.

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Match to Company Job

Cancel Match

CAMD Job

Human Resources Information System (HRIS) Manager

\$118,589

Manages and oversees an organization's Human Resources Information Systems (HRIS). Develops, implements, and modifies software and hardware requirements based on changing business requirements. Maintains internal database files and tables, and develops custom reports to meet the requirements of company management and staff. Provides the necessary training to meet end users needs. Typically requires a bachelor's degree or its equivalent. Typically reports to Director.

M02-Manager (True 1st level Manager) : Manages subordinate staff in the day-to-day performance of their jobs. True first level manager. Ensures that project/departments milestones/goals are met and adhering to approved budgets. Has full authority for personnel actions. Extensive knowledge of department processes. Typically requires 5 years experience in the related area as an individual contributor. 1 to 3 years supervisory experience may be required.

Company Job

☐ Match to Existing Job
 ☒ Match to New Company Job

JOB TITLE*

Demo

JOB CODE

1234

AVG BASE

\$

MATCH ADJUST

JOB DESCRIPTION

Demo Description

comments

Match to Company Job

Export

FLSA STATUS

Typically Exempt

REPORTS TO

Director

JOB FOCUS

HRIS

Job Focus Report

0.0

% Adjust

Scopes

TCC(000s)

25TH

50TH

75TH

AVG.

109.1

127.6

146.5

128.8

Salary.com's prior written consent.

First, select Match to Company Job on a market pricing report.

Lastly, once a job has been matched you can access it at any point to gather up to date market data.

Save to Job List

Secondly, either create a new list from scratch or access an existing job list. When creating a new list, access can be set to either private or public.

The screenshot shows the Salary.com CompAnalyst interface. The main content area displays job details for 'Human Resources Information System (HRIS) Manager (HR09200312B)'. A 'Save to Job List' dialog box is open in the center, allowing the user to either 'Add to Existing List' or 'Create New List'. The 'Create New List' option is selected, and the 'LIST TITLE' field contains the text 'Demo'. Below the title field, there are radio buttons for 'Public' and 'Private' access, with 'Public' currently selected. The background interface includes a navigation bar with 'Home', 'Market Data', 'Our Company', and 'Analytics'. The job details section includes fields for 'LEVEL' (Managers), 'EXPERIENCE' (5+ Years), 'EDUCATION' (Bachelor's), 'MANAGE PEOPLE' (Yes), 'JOB FAMILY' (Human Resources), 'JOB FUNCTION' (HRIS), and 'FLSA STATUS' (Typically Exempt). A table at the bottom shows 'TCC(000s)' data with columns for AVG., 25TH, 50TH, 75TH, and AVG. values.

First, select the three dots (...) to access the save to job list functionality.

Lastly, once a job has been saved to a job list you can access it at any point to gather up to date market data.

Collaborate With Your Peers

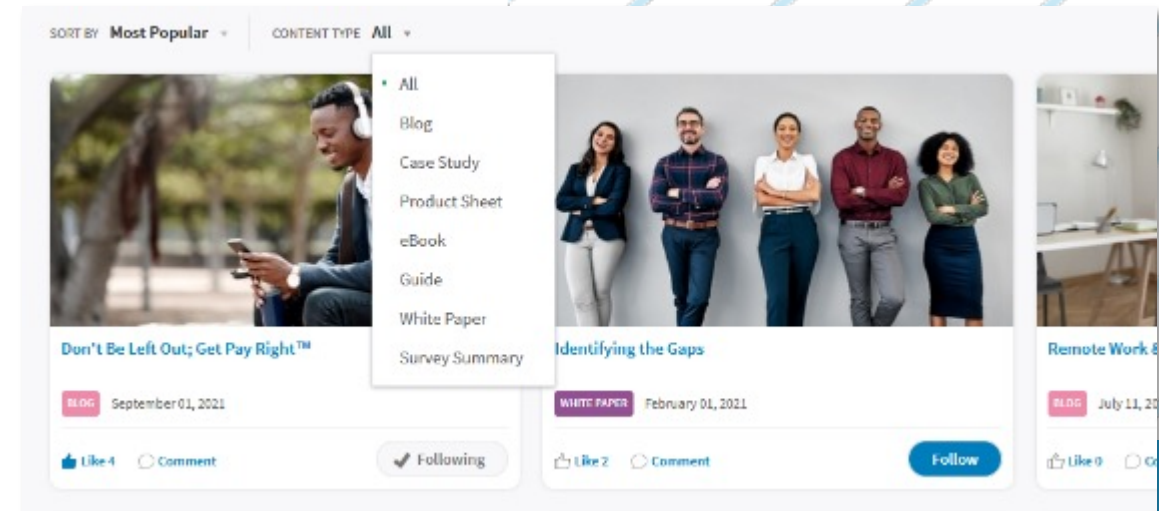
- Share best practices and discover insightful feedback from your network of HR professionals.

Access Real-Time Trends & Insights

- Find timely information on the latest compensation practices and thought leadership topics posted frequently by our Community Moderator.

Seamlessly Integrated with CompAnalyst

- Easily locate documentation and training material to learn more about the products offered by Salary.com.



What's Included in your CompAnalyst Market Data Subscription?



All in One Software Platform

CompAnalyst is designed to grow with you, offering one platform for all solutions



Complete Compensation Data Set

Accurate, reliable data for over 15,000 unique job titles



Unlimited Scopes

Scope data by location, industry/ sub-industry, company size, and revenue



Unlimited Users

Add as many users as you'd like at no additional cost (with individual logins)



10 Free Job Matches

Completed by our team of Certified Compensation Professionals



Dedicated Customer Success Manager

Support every step of the way, including Onboarding & Training, ongoing needs, assessments, and quarterly business reviews



Best Practice Materials

- Customized product training
- Product resource center with tutorials, videos, and tips
- Educational webinars

Customer Testimonials



Advance Auto Parts

"I started using CompAnalyst 4 years ago and CompAnalyst has made a cumbersome activity that was done on Excel previously into a **very seamless experience**. I cannot ignore the **hours saved** and having information at your fingertips.

Their analytics feature throws out intelligence and numbers that otherwise would have taken me a lot of time to do manually. I can't forget the amount of time the tool has saved on Benchmarking activities as well!

The time spent on a cumbersome Excel sheet that was error-prone has been eliminated. **Data is instantly available** at my fingertips with options to pull reports in the way I want to."

Rohit Krishnasa
Senior Compensation Analyst
Advance Auto Parts



HD Supply

"CompAnalyst, Salary.com's compensation software, has allowed our organization to create a **"one stop shop"** for compensation management. Our HR Partners are able to use the tool to view our company's job descriptions and access job information. The software has greatly increased the amount of time we can spend providing **strategic direction** to the business.

Additionally, having access to CompAnalyst Market Data has allowed us to **fill in match-related gaps** in our other surveys.

I highly recommend considering Salary.com's product offerings if you're looking to **take your compensation function to the next level.**"

Shaun Drawdy
Senior Compensation Analyst
HD Supply

Supporting Team

With Salary.com, you have a team of experts to support you at every step in your journey with us. Meet your team!



Tucker Lutz

Customer Success Manager



Nathalie Yamio

Customer Success Specialist

CompAnalyst Market Data Pricing

Quote valid through 09/30/2023 by 11:59PM EST

Contract Length	Price (Billed Annually)
1 year	\$6,300 / year
2 years	\$5,700 / year
3 years	\$5,000 / year
4 years	\$4,500 / year
5 years	\$3,800 / year



Last Updated 30 October 2020

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1. SOFTWARE SERVICE

Subject to this agreement (“Agreement”), Salary will provide Customer with access to use a subscription to Salary’s software-as-a-service offering and other services (the “Subscription Service”) and/or Consulting Services (as defined herein) as purchased either via any and all Salary websites or purchased in an order (each separately and together, the “Service”) for the duration of the Subscription Term (as defined herein). As part of provision of the Service, Salary may provide Customer with access to various compensation, HR, and/or other information or data (the “Salary Data”) which Customer may only use solely and exclusively for its own internal purposes.

2. USE OF SERVICE

2.1 Customer Data

All data and information uploaded or otherwise submitted into the Service by Customer (“**Customer Data**”) will remain the property of Customer. Customer represents and warrants to Salary that it has full power and authority to enter into the Agreement and to convey all rights granted to Salary under the Agreement, including all rights in and to the Customer Data. Customer grants Salary the right to use, modify and anonymize and aggregate Customer Data for purposes including, but not limited to providing aggregated and anonymized compensation analysis and information. Such aggregated and anonymized information is deemed Salary Data and is excluded from Customer Data. Salary will never share any data provided to Salary other than in an aggregated and anonymized format in accordance with applicable Safe Harbor provisions.

2.2 Access and Usage

Customer may allow its employees and their third parties to access the Service and any data contained therein in compliance with the terms of the Agreement, which access must be for the sole and exclusive benefit of Customer. Customer is responsible for the compliance with the Agreement by its employees and their third parties. You are responsible for access and use of Salary Data. Accordingly, you agree to indemnify and hold harmless Salary for any and all loss, damage or liability incurred by Salary as a result of a breach by You or any other party to whom you have shared Salary Data with as permitted under this Agreement.

You represent that You seek access to the Service for the sole and exclusive purposes as authorized in this Agreement. Your access, is subject at all times to: your own employees being made aware that any insubstantial parts of Salary Data to whom they are given access are made aware that such access must adhere to the terms of this Agreement, particularly sections 2.2 and section 4.2 and that use of any such parts of Salary Data are properly attributed to Salary.

Salary Data cannot be shared with any third parties for any reason whatsoever without first securing a non-disclosure agreement between you, the third party, and Salary and which is satisfactory to Salary. Click [here](#) for a downloadable copy of the required NDA. Salary Data may not be used for any other purpose including, without limitation, any purpose which may result in the development and provision of products or services competitive to Salary, the disparagement of Salary's reputation, or injury to Salary in its business or public affairs. **If you are using Salary Data on behalf of a third party, are a consultant, a software services provider or a consulting firm, your use is further bound by the terms of Section 2.3 below.**

2.3 Customer Responsibilities

Customer (i) must keep its passwords secure and confidential; (ii) is solely responsible for Customer Data and all activity in its account in the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify Salary promptly of any such unauthorized access; and (iv) must use the Service only in accordance with the Service's technical documentation and applicable law. You also must not host any Salary Data, such as a survey, in a third party's software without first having in place and signed by the third party, You, and Salary, a Non-Disclosure Agreement, which is satisfactory to Salary.

As a Consultant, you may:

- a. Use the Service to provide data or analytics to a single consulting client with whom you are working on a single compensation project with.
- b. Download and/or export insignificant parts of Salary Data for use with a single consulting client at one time.
- c. Transfer Salary Data to a single consulting client so long as a) such client agrees to abide by the same terms and conditions contained within this Agreement and b) such client adheres to the same level of privacy protection and other rights afforded by this Agreement.
- d. The rights above are further conditioned upon and granted to you upon your agreement to use only insignificant parts of the Salary Data.

Salary has the right at any time to ask for and receive within 30 days of its request a full and complete report from you describing all third parties including consulting clients with access to Salary Data and/or Surveys and for Salary to conduct an audit (at Salary's sole expense) of your records to ensure compliance with the terms of this Agreement. Should an audit not be permitted, then it is assumed that such third party is acting in violation of the terms of this Agreement.

As a Consultant you may not:

- a. Share any Salary Data with any third parties other than for a single consulting client with whom you are working with on a single compensation project. You also will defend, indemnify, and hold Salary (and Salary's officers, directors, employees, agents, and affiliates) harmless, at your expense (including costs, damages, and attorney's fees), from and against any third party claim, suit, fine, action, or allegation based upon or arising from, directly or indirectly your breach of these terms or your misappropriation of Salary Data.
- b. Allow access to any Services and/or Salary Data to individuals not having an explicit need to know and who agree in writing to the terms of this Agreement.
- c. Pay the non-Consultant price for a survey or a set of surveys purchased from Salary.
- d. Copy, cut and paste, email, broadcast, adapt, edit, re-utilize, reproduce, disseminate, reverse engineer, sell, extract, paraphrase, or create any derivative works or derive compensation methodologies or processes based on Salary Data for any reason whatsoever for use with or by means of using other analytics or artificial intelligence environments. If You become aware of scraping or any other automated collection of data found on the website in violation of these terms You must immediately report any and all such violations via email to privacy@salary.com. In the event that such a report is found to be materially accurate, the reporting individual shall be entitled to 30% of any settlement reached in such a case.

2.4 Salary Support

Salary will provide telephone support to Customer for the Service between 9:30am to 5:30pm EST, Monday to Friday (excluding company holidays). Such support may include general maintenance (bug fixes) releases, enhancements, new versions, additions and modifications and is provided at no additional fee. Salary will try to limit scheduled outages to evening hours (EST) and to provide Customer with notice of scheduled outages via the Services, email to the address on record, or any Sites.

2.5 Safeguards

Salary will take commercially appropriate and reasonable physical, technical, and administrative measures to safeguard, protect, and secure the Service and Customer Data. This Agreement shall incorporate by reference the Data Processing Addendum located at www.salary.com/legal/dpa, which sets forth the agreement and respective obligations of the Parties with respect to the processing of Personal Data which may be included in Customer Data transferred to Salary under this Agreement. In addition, Salary will only use Customer Data in accordance with the Agreement and Salary's Privacy Policy located at www.salary.com/legal/pp/ (the "Privacy Policy").

3. SALARY PROPERTY

The software, all Salary provided data, workflow processes, user interface, designs and other technologies and data provided to Customer by Salary, including the Service and Salary Data, are the proprietary property of Salary and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with Salary (or its licensors as the case may be). Customer may not remove or modify any proprietary marking or restrictive legends in the Service. Salary reserves all rights unless expressly granted in the Agreement. The Agreement does not grant Customer any ownership rights in or to the Service or Salary Data.

4. USE RESTRICTIONS

4.1 Prohibited Data

Customer agrees not to use the Service to store, transmit, process, or otherwise handle (i) infringing material, unsolicited marketing emails, libelous material, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights, and (ii) social security numbers, passport numbers, driver's license or other government identification numbers, physical or mental health information or other information subject to the Health Insurance Portability and Accountability Act or similar legislation, personal financial account information, debit or credit card numbers, or other information subject to the Gramm-Leach-Bliley Act or similar legislation, or any Special Categories of Data under applicable EEA data protection regulations (combined, "**Prohibited Data**"). Customer Data and Confidential Information expressly exclude Prohibited Data. Salary disclaims all liability arising from or related to the Prohibited Data.

4.2 Prohibited Use

Customer agrees that it will not (i) commercially exploit, including but not limited to selling, reselling, renting, leasing, lending, providing, commercially exploiting or making available the Service or the Salary Data to a third party or use Salary Data in a service provider capacity or make them available to third parties; (ii) store any Salary Data in an archive, library, or any other storage mechanism; (iii) interfere with or disrupt the integrity or performance of the Service or use the Service or Salary Data in violation of applicable law; (iv) attempt to gain unauthorized access to the Service or their related systems or networks; (v) reverse engineer the Service; (vi) aggregate insubstantial parts of Salary Data for machine learning or artificial intelligence purposes; (vii) upload to the Service or use the Service in conjunction with any viruses, worms, malware, spyware, or other malicious or harmful files, programs, code, or similar material; or (viii) access the Service or the Salary Data for purposes of sharing with a competitor of Salary or to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

You may not copy, cut and paste, email, broadcast, adapt, edit, re-utilize, reproduce, disseminate, reverse engineer, sell, extract, paraphrase, or create any derivative works based on the Salary Data for any reason whatsoever including, but not limited to other analytics or artificial intelligence environments. You also agree not to provide access to Salary Data to anyone else other than your fellow employees who have an explicit need to know or use such Salary Data. If You become aware of scraping or any other automated collection of data found on the website in violation of these terms You must immediately report any and all such violations via email to privacy@salary.com. In the event that such a report is found to be materially accurate, the reporting individual shall be entitled to 30% of any settlement reached in such a case.

Salary monitors exports and downloads from the Sites and will not hesitate to take aggressive legal and/or other action including blocking all IP addresses, without prior notification, against those individuals and/or IP addresses used to take such illegal action, in the event that any inappropriate or unusual download activity is detected. While non-systematic downloading of insubstantial parts of Salary Data are acceptable, bulk and/or systematic downloads including, but not limited to downloading of the entire Salary Data database and/or an aggregated data set for commercial machine learning purposes, are not allowed. All data found on the site including, but not limited to Salary Data and job descriptions are the intellectual property of Salary. While certain forms of some data found on the site may be found in the public domain, any misuse of any data found on the site in violation of this Agreement is subject to damages including, but not limited to, \$2,000 per each copyrighted data point (which includes Salary Data including, but not limited to job titles, pay ranges, job descriptions and geographical information excluding Survey Data) used in violation of applicable copyright law as well as attorney fees and costs and in addition to any and all other penalties or fines available under copyright or other applicable law.

5. PAYMENT

5.1 General Payment

Customer must pay all fees based on the payment terms specified on the order. If no payment terms are specified on the order, all fees are due upon receipt of an invoice. Fees specified on the order are exclusive of taxes which will be charged as applicable. Customer is responsible for the payment of all sales, use, withholding, VAT and other similar taxes applicable to Customer's purchase of the Service. All payment obligations are non-cancelable and non-refundable except as expressly specified in the Agreement. Unless otherwise specified in the applicable order, all fees shall be invoiced in advance of the applicable billing period and are due and payable immediately upon receipt of the applicable invoice. Invoices will be sent to the email address provided to Salary and will be deemed received upon being sent by Salary. Upon termination of the Agreement for any reason, except for termination by Customer for material breach, Customer must pay Salary for any unpaid amounts through the remainder of the Subscription Term. Salary may suspend and/or terminate the order and/or Service if an invoice is more than fifteen (15) days past due. Unless expressly set forth otherwise, all amounts are in USD.

5.2 Additional Fees

Customer represents and warrants that its number of full-time employees ("FTEs") is less than or equal to FTE Limit indicated in the applicable order. Customer agrees that it will promptly notify Salary if its actual number of FTEs increases above the FTE Limit indicated in the applicable order and that Salary may monitor its use of the Service in order to evaluate Customer's number of FTEs. Upon request, Customer must provide a report of its current FTE count. In the event that Customer's number of FTEs exceeds the FTE Limit indicated in the applicable order, Salary will increase Customer's FTE Limit to the next appropriate FTE Limit tier and charge Customer a corresponding fee for such increased FTE Limit and Customer agrees to pay such fee. Customer cannot downgrade or decrease the FTE Limit associated with its subscription to the Service at any time during a Subscription Term.

5.3 Collections

In the event Customer fails to pay any fee, charge, or other bill when due, Customer agrees that Salary may use a third party collection agency to collect such past-due amounts (as well as any other fees, charges, or other bills that may be due) and Customer agrees to pay reasonable collection costs as determined by a neutral arbitrator in accordance with the terms of Section 13.3.

6. TERM AND TERMINATION

6.1 Term

The term of the Agreement will commence on the Subscription Start Date and expire on the Subscription End Date as specified in the applicable and any and all website purchases or this Agreement, order (such period, the “**Subscription Term**”) and cannot be cancelled or otherwise terminated prior to the conclusion of the Subscription Term.

6.2 Renewal

Unless either party provides the other party with notice of its intent to not renew the Service (the “**Notice of Non-Renewal**”) at least sixty (60) days prior to the end of the Subscription Term (or as otherwise specified in the applicable order), upon conclusion of the Subscription Term, the order will automatically renew for the Renewal Term specified in the order or, if no Renewal Term is specified, for 36 months. During any renewal term the renewal price will be an increase by up to 5% above the applicable pricing in the prior term unless Salary provides Customer notice of different pricing at least 60 days prior to the applicable renewal term. Customer must send any Notice of Non-Renewal to Salary at billing@salary.com; notice of Customer’s intent to not renew the Service sent otherwise shall be invalid and have no effect. In the event that a Customer’s Subscription Term ends, but is in the process of renewing its agreement, unless the agreement is terminated at Salary’s sole discretion, such a Customer contract shall be automatically extended on a month to month basis for continued access until such renewal agreement is completed and executed by both parties.

6.3 Termination for Material Breach

If either party is in material breach, the other party may terminate the applicable order at the end of a written 30-day notice/cure period, if the breach has not been cured by the expiration of such notice/cure period. In the event that Salary terminates an order in accordance with this paragraph, Customer will promptly pay all unpaid fees through the end of the Subscription Term.

6.4 Return Salary Property Upon Termination

Upon termination of this Agreement for any reason, Customer must destroy or return all property of Salary, including all Salary Data and will, upon Salary’s request, confirm in writing its compliance with this destruction or return requirement.

6.5 Suspension for Violations

Salary may suspend the Service or remove the applicable Customer Data, or both, if it in good faith believes that, as part of using the Service, Customer has violated a law or is in breach of the Agreement. Salary will attempt to contact Customer prior to suspension under this paragraph.

7. MUTUAL CONFIDENTIALITY

7.1 Definition of Confidential Information

Confidential Information means all non-public information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (**Confidential Information**). Salary's Confidential Information includes without limitation the Service, its user interface design and layout, pricing information about the Service, and all Salary Data. Customer's Confidential Information includes without limitation Customer Data. Confidential Information does not include Anonymous Data or Survey Data (as defined below).

7.2 Protection of Confidential Information

The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information of a similar nature (but in no event less than reasonable care). Recipient agrees not to disclose or use any Confidential Information of the Discloser for any purpose except as permitted by the Agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and third parties who need such access in order to deliver the Service and who are bound by confidentiality obligations no less restrictive than the confidentiality terms of this Agreement.

7.3 Exclusions

Confidential Information excludes information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was or becomes known to the Recipient without, to Recipient's reasonable knowledge, breach of any obligation owed to the Discloser, or (iii) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will, to the extent not prohibited by law, provide Discloser with reasonable advance notice in order to allow Discloser an opportunity to seek a protective order.

8. NOTICE

Except as otherwise specified in the Agreement, any notice required to be sent under the Agreement must be sent as specified below.

Notice to Salary

Salary.com, LLC
Attn: Legal Department
610 Lincoln St. North, Suite # 200
Waltham, MA 02451

With a copy to billing@salary.com

Notice to Customer

Customer's address as provided in Salary's account information for Customer. Customer agrees that it is Customer's responsibility keep its contact and billing information with Salary up to date. Salary may give general notice via Salary's website or through the Service and will be deemed received upon posting on

Salary's website or through the Service. Salary may also provide email notice to the email address in Salary's account information for Customer and will be deemed received upon being sent by Salary.

9. DISCLAIMER

TO THE MAXIMUM EXTENT PERMITTED BY LAW, SALARY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND NON-INFRINGEMENT. WHILE SALARY TAKES REASONABLE PHYSICAL, TECHNICAL AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, SALARY DOES NOT GUARANTEE THAT THE SERVICE CANNOT BE COMPROMISED NOR THAT IT IS FREE OF VIRUSES OR MALICIOUS CODE. CUSTOMER UNDERSTANDS THAT THE SERVICE AND SALARY DATA MAY NOT BE ERROR FREE, AND USE OF THE SERVICE MAY BE INTERRUPTED. THOUGH SALARY TAKES REASONABLE STATISTICAL AND OTHER REASONABLE MEASURES TO ENSURE THE DATA IS ACCURATE AND REPRESENTATIVE, IT CANNOT AND DOES NOT GUARANTY THAT THE SALARY DATA IS ACCURATE OR REPRESENTATIVE. THE SERVICE AND SALARY DATA IS PROVIDED "AS IS".

10. PRODUCT SPECIFIC TERMS

Salary offers a variety of products and services some of which require additional terms specific to the relevant product or service. This clause sets forth additional terms that apply to Customer's use of the specified products, (s) and service(s) and, in the event of a conflict between this clause (including the sub-clauses below) and any other clause of this Agreement, the applicable clause below will control.

10.1 Free Services

This clause will apply to any Service made available to Customer free of charge including, but not limited to, free trials of a Service (a "Free Service"). Customer agrees that (i) all Free Services and related material are provided "as is" and without warranty of any kind, (ii) Salary may suspend, limit, modify, or terminate any Free Service for any reason at any time without notice, and (iii) SALARY WILL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR DAMAGES OF ANY KIND RELATED TO OR ARISING FROM A FREE SERVICE. Notwithstanding anything to the contrary herein, Salary has no obligation to maintain or return any data provided to Salary as part of the Free Services. If Salary is determined to have any liability arising from or related to any Free Services, such liability (whether in contract, tort or otherwise) will not exceed one hundred dollars (\$100).

10.2 Alpha and Beta Services

This clause will apply to Customer's use of any alpha and beta version of any Service (the "Alpha/Beta Services"). Customer agrees that (i) the **Alpha/Beta** Services and related material are provided "as is" and without warranty of any kind, (ii) Salary may suspend, limit, modify, or terminate the Alpha/Beta Services for any reason at any time without notice, and (iii) SALARY WILL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR DAMAGES OF ANY KIND RELATED TO OR ARISING FROM THE ALPHA/BETA SERVICES. Customer may be required to provide feedback to Salary about the Alpha/Beta Services and Customer agrees that Salary will own all rights to use and incorporate Customer's feedback into Salary's products and service without payment or attribution to Participant. Notwithstanding anything to the contrary herein, Salary has no obligation to maintain or return any data provided to Salary as part of the Alpha/Beta Services. If Salary is determined to have any liability arising from or related to the

Alpha/Beta Services, such liability (whether in contract, tort or otherwise) will not exceed one hundred dollars (\$100).

10.3 Surveys

These clauses will apply to Your use of Salary's participant, survey-based products and services. If you purchase access to data at the discounted "participant" rates, you agree to and must provide Salary with acceptable submission of a file containing all of participant's employees, jobs, pay and locations within sixty (60) days of contract execution / renewal. Failing to provide Salary with acceptable submission of data within 60 days will result in You being charged an incremental upgrade fee ("Fee") equal to the difference between the current listed non-participant price and participant price annual price. The Fee is then divided by the remaining months of the initial twelve (12) month contract period and invoiced monthly until acceptable participation submission files are provided, or the full contract term has expired, whichever occurs first. Should a state of non-participation exist at the end of the initial twelve (12) month contract period, then the customer will be converted to a non-participant and billed annually the non-participant price for each of the remaining contract annual periods. In addition, If you are a customer purchasing a survey on behalf of a consultant, you must select and pay the consulting price. If You do not, You will be liable and charged for the difference between the non-consultant price and the consulting price.

You hereby grant Salary a perpetual, irrevocable, royalty free license to reproduce, modify, distribute, create derivative works and otherwise use the participation data in anonymized form for Salary internal and external business purposes. You represent and warrant that it is authorized to provide participation data, such data is true and accurate, and uploading such data does not violate any law or regulation. You agree to indemnify, defend, and hold Salary harmless any claim, suit, or action based upon or arises out of an allegation to the contrary. You agree that Salary may use Your company name and logo in connection with Salary's survey participant lists and to build safe harbor compliant, aggregated, peer group data cuts. You may not disseminate, sell, extractor paraphrase, or use any Survey Data to create any derivative works.

10.4 Consulting Services

This clause will apply to any professional consulting services that You purchase from and/or which Salary may provide. Such services include, but are not limited to, implementation consulting services, training consulting services, and/or other consulting services (the "Consulting Services"). Unless otherwise specified, all Consulting Services will be delivered remotely and in English. One-time or recurring fees for any Consulting Services will be as specified in the applicable order. For Consulting Services performed on-site, You agree to will reimburse Salary for its reasonable costs for all expenses incurred in connection with the Consulting Services including, but not limited to, travel, room, and board expenses. Any invoices or other requests for reimbursements will be due and payable in accordance with the payment terms specified on the applicable order; if no payment terms are specified on the order, all fees are due upon receipt of an invoice. Unless otherwise specified in the applicable order, the parties agree that all materials, content, data or information is developed, produced, or otherwise created in the course of delivery of the Consulting Services, the parties agree that such materials, content, data, and information shall be Salary's sole and exclusive property and, except for the limited right to use such materials, content, data, and information in conjunction with the Consulting Services, You gain no rights in or to such materials, content, data, or information. Unless otherwise specified in the applicable order,

all Consulting Services will expire ninety (90) days after purchase (the “Expiration Period”). Salary may extend the Expiration Period at its sole discretion. In order to realize the value of the Consulting Services, Your participation and effort are necessary and You acknowledge that your lack of participation shall not entitle Customer to an extension of the Expiration Period or a refund of any sort. All Consulting Services are non-cancellable and non-refundable.

10.5 Certain Website Services

This clause applies to the purchase of a subscription to Salary’s Salary Wizard Pro, Job Valuation Reports, Personal Salary Reports products and syndicated e-commerce versions of those products. Such products shall be considered Services for purposes of this Agreement. With the exception of the Lifetime Personal Salary Report product (the terms of which are set forth below), subscriptions to any of these products shall be for an initial subscription term of three (3) months. Salary’s total liability arising out of or related to these products (whether in contract, tort or otherwise) will not exceed the amount paid by You within the 12-month period prior to the event that gave rise to the liability.

10.5.1 Salary Wizard Pro

Your subscription to Salary Wizard Pro (“SWP”) shall automatically renew for successive one (1) month terms unless either (i) You disable automatic renewal from within Your online account for SWP at least thirty (30) days prior to the expiration of Your subscription period or (ii) Salary provides You with at least thirty (30) days’ notice that Your SWP subscription will not be renewed.

10.5.2 Lifetime Personal Salary Report

A subscription to Salary’s Lifetime Personal Salary Report (“Lifetime PSR”), shall be for a period of 99 years, OR for as long as the product is offered by Salary, OR until You choose to cancel Your subscription, OR the email address or phone number you have registered are no longer deliverable, whichever occurs first. Lifetime PSR subscribers will be authorized to create one Personal Salary Report each calendar quarter during each year of the subscription period. Unused reports from any year may not be transferred to later years. You agree to keep Your account up to date and to remain opted-in to receive communications from Salary regarding Your subscription and other Salary services. Lifetime PSR subscriptions are intended for private, non-commercial use only. Limit one membership per customer. You may not assign, transfer or resell in any way your Lifetime PSR subscription to any other person or entity. No refunds or credits will be provided if You choose to cancel Your subscription. Salary reserves the right to revise the foregoing terms, to make changes to the Lifetime PSR product at any time, to substitute a successor or equivalent product, or to stop offering the product altogether. Salary makes no warranties as to the expected duration of its Lifetime PSR product, and in purchasing this product, You acknowledge and agree that the Lifetime PSR product could change or become unavailable in the future.

10.6 Big Data, AI, Machine Learning and Analytics Vendors

If You generally have operated in the past as a vendor or currently have product and services offerings in the Big Data, AI, Machine Learning or Analytics areas, You must have in place a non-disclosure agreement with Salary.com. A copy of the NDA can be found and downloaded [here](#). Furthermore, you may not copy, cut and paste, email, broadcast, adapt, edit, re-utilize, reproduce, disseminate, reverse engineer, sell, extract, paraphrase, or create any derivative works and/or derive compensation

methodologies based on the Salary Data for any reason whatsoever including, but not limited to use with or in other analytics or artificial intelligence environments.

11. INDEMNITY

11.1 By Salary

Salary will defend, indemnify, and hold Customer (and Customer's officers, directors, employees, agents, and affiliates) harmless, at Salary's expense (including costs, damages, and reasonable attorney's fees), from and against any third party claim against Customer to the extent that such claim alleges that Salary Data violates a valid copyright, trademark or trade secret, so long as Customer promptly notifies Salary of the claim in writing, cooperates with Salary in the defense, and allows Salary to solely control the defense or settlement of the claim provided that Salary will not (without Customer's prior written consent) accept any related settlement that requires Customer to make an admission or imposes any obligation, restriction, or liability on Customer that is not covered by this indemnification. **Process:** If such a claim appears likely, then Salary may modify the Salary Data, procure the necessary rights, or replace it with the functional equivalent. If Salary determines that none of these are reasonably available, then Salary may terminate the applicable order and refund any prepaid and unused fees. **Exclusions.** Salary has no obligation for any claim arising from Salary's use of Customer Data in accordance with this Agreement, Customer's use of Customer Data or items, data, or materials not provided by Salary. **THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND SALARY'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.**

11.2 By Customer

Customer will defend, indemnify, and hold Salary (and Salary's officers, directors, employees, agents, and affiliates) harmless, at Customer's expense (including costs, damages, and attorney's fees), from and against any third party claim, suit, fine, action, or allegation based upon or arising from, directly or indirectly (i) Customer's Customer Data, (ii) Prohibited Data, (iii) Customer's breach of this Agreement, (iv) Customer's misappropriation of Salary Data. **For clarity, a customer completing an onward transfer of Salary Data to a third party vendor or customer ("Recipient") who then violates the terms of this agreement is jointly and severally financially and legally responsible for the actions of that Recipient. Salary has no obligation to prove that, upon multiple customers providing access to the same datasets to a Recipient, that the access to the data being provided by any one customer is the sole source of intellectual property violations.** **Process:** Salary will: promptly notify Customer in writing of the claim and allow Customer to control, and will cooperate with Customer in, the defense and any related settlement; provided that Customer will not (without Salary's prior written consent) accept any related settlement that requires Salary to make an admission or imposes any obligation, restriction, or liability on Salary that is not covered by this indemnification.

12. LIABILITY LIMIT

12.1 EXCLUSION OF INDIRECT DAMAGES

Except as arising from or related to Customer's misappropriation or unauthorized disclosure of Salary Data, neither party will be liable for any indirect, special, incidental or consequential damages arising out of or related to the Agreement (including, without limitation, costs of delay; loss of data, records or information; and lost profits, revenue or anticipated cost savings), even if it knows of the possibility

of such damage or loss. For clarity, these exclusions of indirect damages do not apply to a customer who provides Salary Data to a third-party vendor or customer and such third-party vendor or customer then violates the terms of this agreement.

12.2 TOTAL LIMIT ON LIABILITY

Except for liability arising from or related to either party's obligations under the 'Indemnity' section herein, Customer's payment obligations, or Customer's misappropriation or unauthorized disclosure of Salary Data, each party's total liability arising out of or related to the Agreement (whether in contract, tort or otherwise) will not exceed the amount paid by Customer within the 12-month period prior to the event that gave rise to the liability; provided that Salary's total liability arising from its indemnification obligations herein will not exceed \$100,000.

12.3 LIMITATIONS BY LAW

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages; as such, the above limitations or exclusions shall apply to the maximum extent permitted by law. Customer may have additional consumer rights under local law.

13. GOVERNING LAW AND FORUM

13.1 Governing Law

The Agreement is governed by the laws of the Commonwealth of Massachusetts (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of the Agreement.

13.2 Forum

Any suit or legal proceeding must be exclusively brought in the federal or state courts for Middlesex County, Massachusetts, and Customer submits to this personal jurisdiction and venue.

13.3 Injunctive Relief and Costs

Nothing in the Agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction.

13.4 Disputes

All disputes pertaining to this Agreement shall be subject to mandatory binding arbitration conducted in accordance with the commercial arbitration rules of the American Arbitration Association (the "AAA") to the fullest extent permitted by law. Salary shall have the right to audit Your books and records including electronic books and records during the term of this Agreement and the electronic books and records of any Recipient. Should such an audit uncover, in Salary's "reasonable" judgment Salary Data or other Salary.com intellectual property not handled in accordance with the terms of this Agreement, such a dispute shall also be subject to mandatory binding arbitration. The AAA will appoint the arbitrator within 30 business days upon receiving notice of a dispute subject to this clause. The arbitrator shall allocate all of the costs of the arbitration including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party, against the party who did not prevail. Both parties understand that arbitration is

final and binding on both parties and that each party in executing this agreement is waiving their rights to seek remedies in court, including the right to jury trial.

14. ENTIRE AGREEMENT AND CHANGES

14.1 Entire Agreement

The Agreement constitutes the entire agreement between the parties and supersedes any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in the Agreement. No representation, promise or inducement not included in the Agreement is binding.

14.2 Updates

Salary may update or change any part of this DSA at any time. If Salary updates or changes any part of this DSA, Salary will inform customer through a notification within the Service, posting the updated or changed DSA at www.salary.com/legal/DSA, or updating the 'Last Updated' date above. The updated or changed DSA will be effective and binding upon Customer immediately.

14.3 Objections to Updates

If Customer provides Salary with written notice to billing@salary.com that Customer objects to the updated or otherwise modified terms within thirty (30) days after the terms of this Agreement are updated or otherwise modified, the remainder of Customer's then-current Subscription Term will be governed by the version of the Agreement terms then in effect immediately preceding the objectionable version. For clarity, any renewal or subsequent Subscription Term will be governed by the version of the terms of the Agreement available at the time of such renewal or subsequent Subscription Term.

14.4 Archived Terms

As a convenience, archived prior versions of Salary's legal terms are available [here](#). These archived prior versions are provided for convenience only and are expressly excluded from and do not form a part of this Agreement.

14.5 Amendment; No Waiver

Except as otherwise specified herein, no modification of the Agreement is effective unless both parties sign it, and no waiver is effective unless the party waiving the right signs a waiver in writing.

15. OTHER TERMS

15.1 Press Releases

Customer agrees to allow use of Customer's name and logo by Salary in press releases and in discussions with Salary customers, prospective customers and industry/financial analysts and to permit inclusion of Customer's name and logo on Salary's websites, customer lists, sales and marketing materials and related disclosures.

15.2 No Assignment

Neither party may assign or transfer the Agreement to a third party, except that the Agreement may be assigned, without the consent of the other party, to a party's affiliates or as part of a merger, change in control, or sale of all or substantially all the assets of a party, so long as such successor is not a competitor of the other party. In the event that any assignment or transfer of the Agreement results in an increased number of FTE, Salary may, in accordance with the Additional Fees section herein, charge Customer for the increased number of FTEs and Customer agrees to pay such charge.

15.3 Compliance with Law

Salary will comply with all applicable U.S. federal, state, and local laws in relation to Salary's delivery of the Service. Customer agrees that Salary may disclose any information necessary to satisfy any applicable legal process, court order, governmental request, law, or regulation. Customer agrees that it will comply with all applicable laws in the course of Customer's use of the Service. Customer further agrees that it will comply with all applicable export laws including, but not limited to, the sanctions programs administered by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury and Customer agrees that it will not directly or indirectly export, re-export, or transfer the Service to any prohibited countries or individuals or permit use by prohibited countries or individuals.

15.4 Independent Contractors

Salary and Customer agree that no joint venture, partnership, employment, or agency relationship exists between the parties. The parties are independent contractors with respect to each other.

15.5 Enforceability and Force Majeure

If any term of the Agreement is invalid or unenforceable, the other terms remain in effect. Neither party is liable for events beyond its reasonable control, including, without limitation force majeure events.

15.6 No Third-Party Beneficiaries

Nothing in the Agreement, express or implied, is intended to or shall confer upon any third-party person or entity any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

15.7 Money Damages Insufficient

Any breach by a party of the Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

15.8 No Additional Terms

Salary rejects additional or conflicting terms of any Customer form-purchasing document, purchase order, or similar document.

15.9 Order of Precedence

If there is an inconsistency between this Agreement and an order, the applicable order will prevail.

15.10 Survival of Terms

Any terms that by their nature survive termination or expiration of this Agreement or the applicable order, will survive (including without limitation, the Mutual Confidentiality, Product Specific Terms, and the Anonymized Data sections of the Agreement).

15.11 Provision of Services

Each order, along with this Agreement, is a contract for the provision of services, not for the sale of goods. The UN Convention on Contracts for the International Sale of Goods, the Uniform Commercial Code (UCC), the Uniform Computer Information Transaction Act (UCITA), and any similar legislation now in effect or later enacted does not apply.

15.12 Feedback

If Customer provides feedback or suggestions about the Service, then Salary (and those it allows to use its technology) may use such information without obligation to Customer.

15.13 Authority

Each party represents and warrants to that it has all necessary power and authority to enter into this Agreement and that it is binding upon such party and enforceable in accordance with its terms.

To: Board of Mayor and Aldermen
From: Katie Driver
Date: 2/28/24
Re: Salary.com Proposed Agreement Terms and Conditions

Recently, I was asked to review the Terms of Use/ Data Subscription Agreement for software sought by the Human Resources Department, and a number of terms contained therein were unfavorable for the City. It is my understanding that the software sought will not require the City to provide information and data to the Vendor, but instead allow the City to receive information and data from the Vendor through the software. This limited use makes a number of the terms inapplicable, however this memo serves to highlight the objectionable (and applicable) terms in order for the Board to make an informed decision whether or not to engage the Vendor to provide the requested software. Should the scope of the intended use change, the terms should be reexamined to confirm that there are no additional obligations for the City.

It should be noted at the outset that the agreement terms provided are hosted online (<https://www.salary.com/legal/dsa/>), not maintained in a .pdf or other “hard copy” format. The terms were last updated October 30, 2020, but could be updated at any time and the City would not necessarily be provided notice or have knowledge of the change, it is the City’s responsibility to occasionally check the page for updates and the continued use of the services are considered to be the acceptance of the agreement terms. For more information on this, see Section 14.

With that acknowledgment, the following sections of the October 30, 2020 terms warrant informed consideration by the Board:

Section 2.2 – Access and Usage: contains indemnification and limitation of liability language that is unenforceable against the City and prohibited under Article II, Section 29 of the Tennessee Constitution.

Section 4.2 – Prohibited Use: contains similar indemnification and limitation of liability language as found above in Section 2.2 and includes additional terms regarding prevailing attorney fees and costs.

Section 5.3 – Collections: objectionable on the same basis as above (TN Constitution, Art. II, Sec. 29).

Section 6.2 – Renewal: not legally objectionable, however, City must give Vendor notice at least 60 days prior to the end of the Subscription Term that City intends to terminate the agreement or it will automatically renew for an additional term. Renewal terms will have a price increase. Notice of Non-Renewal must be sent to billing@salary.com in order to be effective.

Section 7 – Mutual Confidentiality: this provision does not recognize an exception for the City’s obligations under the Tennessee Open Records Act.

Section 11 – Indemnity: objectionable on the same basis as above (TN Constitution, Art. II, Sec. 29).

Section 12 – Liability Limit: objectionable on the same basis as above (TN Constitution, Art. II, Sec. 29).

Section 13 – Governing Law and Forum – objectionable on the same basis as above (TN Constitution, Art. II, Sec. 29). Additionally, the City should not consent to binding arbitration as it could be considered a designation of taxpayer funds without consent of the governing body.



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.D. Approve a Contract to Audit Accounts from Blankenship CPA Group, PLLC for Fiscal Year 2023-2024.

Department: Finance

Presented By: Phillis Rogers

Item Attachments: 1. Contract to Audit Accounts

Summary:

This is to approve the annual Audit Contract with Blankenship CPA Group, PLLC for the 2023-2024 Fiscal Year.

Background Information:

This is the annual contract to audit our city accounts. By state law, we must conduct an audit every year.

Financial Summary:

The total cost for this year's audit will be \$45,250.00.

Staff Recommendation:

Staff recommends approval.

CONTRACT TO AUDIT ACCOUNTS

OF

City of La Vergne

FROM July 01, 2023 TO June 30, 2024

This agreement made this 6th day of February 2024, by and between Blankenship CPA Group, PLLC, 215 Ward Circle, Brentwood, TN 37027, hereinafter referred to as the "auditor" and City of La Vergne, of 5093 Murfreesboro Road, La Vergne, TN 37086, hereinafter referred to as the "organization", as follows:

1. In accordance with the requirements of the laws and/or regulations of the State of Tennessee, the auditor shall perform a financial and compliance audit of the organization for the period beginning July 01, 2023, and ending June 30, 2024 with the exceptions listed below:

2. The auditor shall conduct the audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and requirements prescribed by the Comptroller of the Treasury, State of Tennessee, as detailed in the *Audit Manual*. Additional information and procedures necessary to comply with requirements of governments other than the State of Tennessee are permissible provided they do not conflict with or undermine the requirements previously referenced. If applicable, the audit is to be conducted in accordance with the provisions of the Single Audit Act and Title 2 U.S. *Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)*. The audit is also to be conducted in accordance with any other applicable federal agency requirements. It is agreed that this audit will conform to standards, procedures, and reporting requirements established by the Comptroller of the Treasury. It is further agreed that any deviation from these standards and procedures will be approved in writing by the Comptroller of the Treasury prior to the execution of the contract. The interpretation of this contract shall be governed by the above-mentioned publications and the laws of the State of Tennessee.

3. The auditor shall, as part of the written audit report, submit to the organization's management and those charged with governance:

- a) a report containing an expression of an unmodified or modified opinion on the financial statements, as prescribed by the *Audit Manual*. This report shall state the audit was performed in accordance with *Government Auditing Standards*, except when a disclaimer of opinion is issued. If the organization is a component unit or fund of another entity, it is agreed that: (a) the financial statements may be included in the financial statements of the other entity; (b) the principal auditor for the other entity may rely upon the contracted auditor's report; and (c) any additional information required by the principal auditor of the other entity will be provided in a timely manner.
- b) a report on the internal control and on compliance with applicable laws and regulations and other matters. This report shall be issued regardless of whether the organization received any federal funding. Audit reports of entities which are subject to the provisions of the Single Audit Act and OMB's Uniform Guidance shall include the additional reports required by that guidance. The reports will set forth findings, recommendations for improvement, concurrence or nonconcurrence of appropriate officials with the audit findings, comments on management's responses as appropriate, and comments on the disposition of prior year findings.

4. If a management letter or any other reports or correspondence relating to other matters involving internal controls or noncompliance are issued in connection with this audit, a copy shall be filed with the Comptroller of the Treasury by the auditor. Such management letters, reports, or correspondence shall be consistent with the findings published in the audit report (i.e., they shall disclose no reportable matters or significant deficiencies not also disclosed in the findings found in the published audit report). The report should also include a corrective action plan for findings developed under OMB's Uniform Guidance and for other findings in accordance with Tennessee Code Annotated § 9-3-407, and the *Audit Manual*. The corrective action plan is only applicable to findings published in the audit report.

5. The auditor shall file **one (1)** electronic copy of said report with the Comptroller of the Treasury, State of Tennessee. The auditor shall furnish **10** printed copies and/or an electronic copy of the report to the organization's management and those charged with governance. It is anticipated that the auditor's report shall be filed no later than December 31, 2024, or **six (6) months following the period to be audited, whichever is earlier, without explanation to the Comptroller of the Treasury, State of Tennessee, and the organization. (Audit documentation for additional procedures for centralized cafeteria systems contracted with audits of internal school funds must be completed and available for review by September 30 following the fiscal year being audited.)** Requirements for additional copies, including those to be filed with the appropriate officials of granting agencies, are listed below:

Additional copies provided upon request

6. The auditor agrees to retain working papers for no less than five (5) years from the date the report is received by the Comptroller of the Treasury, State of Tennessee. In addition, the auditor agrees that all audit working papers shall, upon request, be made available in the manner requested by the Comptroller for review by the Comptroller of the Treasury or the Comptroller's representatives, agents, and legal counsel, while the audit is in progress and/or subsequent to the completion of the report. Furthermore, at the Comptroller's discretion, it is agreed that the working papers will be reviewed at the office of the auditor, the entity, or the Comptroller and that copies of the working papers can be made by the Comptroller's representatives or may be requested to be made by the firm and may be retained by the Comptroller's representatives.

7. Any reasonable suspicion of fraud, (regardless of materiality) or other unlawful acts including, but not limited to, theft, forgery, credit/debit card fraud, or any other act of unlawful taking, waste, or abuse of, or official misconduct, as defined in Tennessee Code Annotated § 39-16-402, involving

public money, property, or services shall, upon discovery, be promptly reported in writing by the auditor to the Comptroller of the Treasury, State of Tennessee, who shall under all circumstances have the authority, at the discretion of the Comptroller, to directly investigate such matters. Notwithstanding anything herein to the contrary, the Comptroller of the Treasury, State of Tennessee, acknowledges that the auditor's responsibility hereunder is to design its audit to obtain reasonable, but not absolute, assurance of detecting fraud that would have a material effect on the financial statements, as well as other illegal acts or violations of provisions of contracts or grant agreements having a direct and material effect on financial statement amounts. If the circumstances disclosed by the audit call for a more detailed investigation by the auditor than necessary under ordinary circumstances, the auditor shall inform the organization's management and those in charge of governance in writing of the need for such additional investigation and the additional compensation required therefor. Upon approval by the Comptroller of the Treasury, an amendment to this contract may be made by the organization's management, those charged with governance, and the auditor for such additional investigation.

8. **Group Audits.** The provisions of Section 8 relate exclusively to contracts to audit components of a group under AU-C 600. (See definitions in AU-C 600, Paragraph 11.) Section 8 is only applicable to an auditor that audits a component (e.g., a fund, component unit, or other component) **of a county government that is audited by the Division of Local Government Audit (LGA)**. Section 8 is intended to satisfy the communication requirements for the group auditor (LGA) to the component auditor under AU-C 600.

- a) The Division of Local Government Audit (LGA) shall be considered the "group auditor" for any contract to audit a component of an applicable county government. LGA shall present the county's financial statements in compliance with U.S. Generally Accepted Accounting Principles (GAAP) as promulgated by the Governmental Accounting Standards Board (GASB). LGA shall conduct the audit in accordance with auditing standards generally accepted in the United States of America and the auditing standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States.
- b) The contracting auditor shall be considered the "component auditor" for purposes of this section.
- c) The financial statements audited by the component auditor should be presented in accordance with GAAP as promulgated by GASB. If the financial reporting framework for any component does not conform to this basis, the financial reporting framework should be disclosed in Section 10 (Special Provisions). (Component financial statements that are not presented using the same financial reporting framework as the county's financial statements may cause this contract to be rejected.)
- d) The component auditor shall conduct the component audit in accordance with auditing standards generally accepted in the United States of America and the auditing standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States.
- e) The component auditor shall cooperate with LGA to accomplish the group audit. It is anticipated that LGA will make reference to the component auditor's report in the group audit report. Should LGA find it necessary to assume responsibility for the component auditor's work, the terms, if any, shall be negotiated under a separate addendum to this contract.
- f) The component auditor shall follow the ethical requirements of *Government Auditing Standards* and affirms that the component auditor is independent to perform the audit and will remain independent throughout the course of the component audit engagement.
- g) The component auditor affirms that the component auditor is professionally competent to perform the audit. LGA may confirm certain aspects of the component auditor's competence through the Tennessee State Board of Accountancy.
- h) The component auditor will be contacted via email by the LGA's Audit Review Manager with the estimated date of the conclusion of LGA's audit of the county government. The component auditor agrees to **update subsequent events** between the date of the component auditor's report and the date of the conclusion of LGA's audit of the county government. Additional subsequent events should be communicated via email to LGA's Audit Review Manager.
- i) The component auditor shall read LGA's audited financial statements for the county government for the previous fiscal year noting in particular **related parties** in the notes to the financial statements, and **material misstatement** findings in the Findings and Questioned Costs Section. The previous year audited financial statements can be obtained from the Comptroller's website at www.comptroller.tn.gov. As required by generally accepted auditing standards, we have identified Management Override of Controls and Improper Revenue Recognition as presumptive fraud risks. The component auditor shall communicate to LGA (i.e., group management) on a timely basis **related parties** not previously identified by the group management in LGA's prior year audited financial statements. Related parties should be communicated via email to LGA's Audit Review Manager.
- j) The component auditor's report should not be restricted as to use in accordance with AU-C 905.
- k) Sections 1-7 and Sections 10-14 of this contract are also applicable to the component auditor during the performance of the component audit.

9. **Municipal Chart of Accounts Crosswalk.** The provisions of Section 9 relate exclusively to contracts to audit of a municipality, municipality's fund(s), and municipality's school board of education. The auditor shall convert respective municipal audited financial data into a condensed chart of accounts by use of a Microsoft Excel crosswalk tool prescribed by the Comptroller of the Treasury, State of Tennessee, **or** if a respective municipality, municipality's fund(s), or municipality's school board of education chooses to convert their own audited financial data by use of the crosswalk, the auditor shall verify the accuracy of their conversion. The completed condensed chart of accounts crosswalk in Microsoft Excel format shall be filed with the Comptroller of the Treasury, State of Tennessee, by the auditor when the audited financial report is submitted.

10. (Special Provisions) **Attached engagement letter incorporated by reference**

11. In consideration of the satisfactory performance of the provisions of this contract, the organization shall pay to the auditor the fee(s) listed below. (Fees may be fixed amounts or estimated.)

Fixed Contract Fee:

Audit **\$44,000.00**
Municipal Chart of Accounts Crosswalk **\$1,250.00**
Total Fixed Contract Fee **\$45,250.00**

or

Estimated Contract Fee:

Audit
Municipal Chart of Accounts Crosswalk
Total Estimated Contract Fee

(If not a fixed amount, an estimated contract fee should be furnished to the governing unit for budgetary purposes. A schedule of fees and/or rates should be set forth below. Interim billings may be arranged with consent of both parties to this contract.) Provision for the payment of fees under this agreement has been or will be made by appropriation of management and those charged with governance.

SCHEDULE OF FEES AND/OR RATES:

\$44,000 for ACFR audit. Additional Single Audit fee of \$5,000 for first major program and \$2,750 for each additional major program, if applicable.
Additional fees for adoption of new accounting pronouncements and other accounting assistance will be accounted for and billed separately

12. As the authorized representative of the firm, I do hereby affirm that:
- our firm and all individuals participating in the audit are in compliance with all requirements of the Tennessee State Board of Accountancy and;
 - our firm has participated in an external quality control review at least once every three (3) years, conducted by an organization not affiliated with our firm, and that a copy of our most recent external quality control review report has been provided to the organization and the office of the Tennessee Comptroller of the Treasury approving this contract;
 - all members of the staff assigned to this audit have obtained the necessary hours of continuing professional education required by *Government Auditing Standards*;
 - all auditors participating in the engagement are independent under the requirements of the American Institute of Certified Public Accountants and *Government Auditing Standards*.

13. This writing, including any amendments or special provisions, contains all terms of this contract. There are no other agreements between the parties hereto and no other agreements relative hereto shall be enforceable, unless entered into in accordance with the procedures set out herein and approved by the Comptroller of the Treasury, State of Tennessee. In the event of a conflict or inconsistency between this contract and the special provisions contained in paragraph 10 of this contract, the special provision(s) are deemed to be void. Any changes to this contract must be agreed to in writing by the parties hereto and must be approved by the Comptroller of the Treasury, State of Tennessee. All parties agree that the digital signatures, that is, the electronic signatures applied by submitting the contract, are acceptable as provided for in the Uniform Electronic Transaction Act. Any paper documents submitted related to this contract will be converted to an electronic format and such electronic document(s) will be treated as the official document(s).

14. If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

Blankenship CPA Group, PLLC

Audit firm

Governmental Unit or Organization



Richard Lockwood

By

Signature

Title/Position:

Partner

E-mail address

rlockwood@bcpas.com

Date:

February 06, 2024

By

Signature

Title/Position:

E-mail address

Date:

Approved by the Comptroller of the Treasury, State of Tennessee

For the Comptroller:

By

Date:

DRAFT



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.E. Approve Annual League Facility User Agreement with Rutherford County Crimson Tide Youth Football and Cheerleading League.

Department: Parks & Recreation

Presented By: David McGowen

Item Attachments: 1. Football agreement 2024

Summary:

This is an annual user agreement with Rutherford County Crimson Tide to operate the youth football league.

Background Information:

Attached is the user agreement between the City and Rutherford County Crimson Tide and Cheerleading. The term of this annual agreement shall be for one season, beginning on July 8, 2024 and continuing until November 16, 2024. The User will have the right to use the property during the term of this agreement.

Financial Summary:

The User agrees to pay the City \$2,000. The fee is payable at the end of the season, December 2, 2024.

Staff Recommendation:

Staff recommends approval.

LA VERGNE PARKS AND RECREATION

2024 LEAGUE FACILITY USER AGREEMENT

This User Agreement made and entered for the 2024 Season between the City of La Vergne, hereafter referred to as “City”, and the Rutherford County Crimson Tide Youth Football & Cheerleading League, hereafter referred to as “User”. In consideration of the mutual promise and agreement continued herein, the City and User agree to a Partnership as follow:

1. Purpose.

- a. The City and User enter into this Agreement for the mutual purpose of providing local youth with the opportunity to learn, play and appreciate the games of football, inspiring them to recognize their potential and realize their dreams. Through this Agreement, the City and User shall work to achieve the following goals in a safe and positive environment: increase participation and interest among disadvantaged youth in football; promote healthy living and eating and encourage and facilitate exercise; develop self-esteem and teach valuable life lessons; and, encourage academic participation and academic achievement.
- b. The City agrees to allow User to use City park property as designated in Exhibit A (hereinafter, “property”), attached hereto, for the sole purposes of conducting the league and related activities. User agrees to comply with the terms of this Use Agreement, the rules and regulations of the La Vergne Parks and Recreation Department, and applicable city, state and federal laws and regulations.
- c. Subject to the City’s express approval of the merchandise, User may provide for the sale of merchandise at the concession stands during and immediately before and after ball games.
- d. Both parties will work together to keep the property clean.

2. Term.

The term of this Use Agreement shall be for one season, beginning on July 8, 2024, and continuing until November 16, 2024. The User shall have a non-exclusive right to use the property during the term of the Use Agreement, but only on the dates and at the times scheduled by the City as set forth in Exhibit B. The City reserves the right to schedule other activities at the Property on dates not in use by the User. User may not schedule any activity (practice, game, tournament) for the Property for a date or time other than as specified on Exhibit B, except as specifically approved by the Director of Parks and Recreation or the Director’s designee.

3. City’s Obligations.

- a. The City shall maintain the ball fields in satisfactory playing condition for the normal schedule on Exhibit B.

- b. The City shall maintain existing restroom facilities. This includes building repairs and maintenance for the restrooms, interior and exterior walls, doors, and plumbing and electrical systems. This includes paper products and cleanup for the restrooms once per day. **Additional cleanup and paper products shall be provided by the User.**
- c. The City shall provide building maintenance for existing concession stands. The City does not maintain concession equipment (i.e. fryers, coolers, freezers, ice machine)
- d. The City shall maintain the parking areas.
- e. The City shall determine whether weather conditions (rain, sleet, snow, wind, or severe storms) have made the fields unusable prior to 3:30 p.m. on scheduled weekdays, Monday through Thursday, and prior to 5:00 a.m. on Saturdays, and shall make reasonable efforts to notify the official(s) designated by the User. User shall be bound by City's determination of usability. Also, either party shall have authority to cancel any and all activities due to severe weather (lightning, tornado, etc.) or act of God. The City's decision to cancel any and all activities due to severe weather or act of God shall be final. If the User cancels any activity due to severe weather or act of God, User shall make reasonable efforts to notify the Department as soon as possible.
- f. The City shall pay for utility services (water, electricity & basic telephone service) at the Property. Any additional telephone lines shall be the responsibility of the User.
- g. The City shall require that the User provide the City with the dates and times that the league will use the fields as set forth in Exhibit B no later than two weeks prior to the first scheduled game.
- h. The City shall provide a staff member to coordinate with the league relative to league activities.

4. **User's Obligations.**

- a. The User shall provide any additional maintenance of the ball fields required beyond the normal schedule but shall provide such maintenance only with the prior approval of the City.
- b. The User shall not sell any alcohol or tobacco products in concession stands or on city property. The User shall not sell any beverage or item not approved, prior to sale, by the City.
- c. The User must provide the City with a list of vendors. All deliveries must be made on specific days and times agreed upon by the User and the City.
- d. User shall, within sixty (60) days of a request issued by City, provide a financial statement from the previous year which identifies and includes all revenues and expenses (entry fees, concessions, equipment, etc.).
- e. The User must provide the City with game schedules no later than two weeks prior to the first scheduled game. User shall not schedule games or practices at Veterans Memorial Park according to **Exhibit B**.

- f. The User shall clean and secure all press box facilities, concession areas, offices, and adjacent areas on a daily/nightly basis on the dates specified on Exhibit B.
- g. The User shall maintain and leave the facility grounds litter-free. User will assist City with pick-up of trash and litter by emptying receptacles and putting sealed bags in a designated area for pickup. User may use signage, frequent announcements, and labor by volunteers and supporters to maintain clean and orderly facility and grounds.
- h. The User shall provide supplemental first aid supplies and/or medical assistance required during any game or activity including, but not limited to, preparing for exposure to blood-borne pathogens.
- i. The User shall determine if the playing fields and facility are safe before any usage. User shall immediately advise the City of any defective or unsafe conditions on the Property, and shall not use any facility deemed unsafe until corrected.
- j. The User shall provide and pay umpires during their playing season. The User shall also provide Scorekeepers during their playing season.
- k. The User shall not waste the utility services provided by the City. Under normal circumstances, User shall not turn the ball field lights on until at least 30 minutes before sunset and shall make sure the ball field lights are kept off for fields not in use for official practice or games. On an overcast day, the ball field lights may be turned on if the Parks and Recreation Director or Parks Supervisor is notified and gives his/her approval.
- l. The User shall provide a daily schedule of authorized personnel for the supervision of all areas of the Property during regular season and postseason games.
- m. The User shall provide access to any and all records of User, and shall respond to the City's reasonable requests for information, as necessary for City to verify and/or determine User's compliance with the terms of this Use Agreement, and User shall provide copies of same to City if necessary. Such information shall be provided to the City within fourteen (14) calendar days.
- n. The User is responsible to notify all County and City agencies relating to the safe operation of the event.
- o. The User is responsible to provide enough staff to conduct the event in a safe and enjoyable manner, and will provide additional security if requested by the City.
- p. User must obtain written approval from the City before bringing in any outside vendor(s) such as clothing, food, photographers, sporting goods, etc., to the park, both inside and outside the gates. Vendors shall comply with all state and city laws and regulations.
- q. User shall provide a written description of field requirements at least two weeks prior to the start of each season. In addition, User shall provide a complete schedule of all games to be played.

- r. User shall ensure that criminal background screenings have been performed on all employees and coaches working with children in this program. User shall perform the same prior to the start of the season, at no cost to the City. User will provide City with a letter certifying that all necessary background checks have been performed and that each person of whom a background check is required has been approved for participation. Additionally, upon request of the City, a copy of all background checks (pass or fail) shall be provided to the City along with proof of passing the state mandated concussion recognition course.
- s. There will be absolutely no parking on islands
- t. Football field will be used for games only, alternate practice locations are available. Please see exhibit A for directional purposes on areas acceptable to practice on.
- u. There will be no practice on any baseball/softball infields or outfields.
- v. Copies of player's registration forms
- w. Removal of all locks on freezers and refrigerators (maintenance issue)
- x. Portable light towers will not be provided by the City of LaVergne
- y. User shall pay a flat fee of \$2,000.00 to the City of La Vergne to cover the cost of field maintenance. The fee is payable at the end of the season, December 2, 2024.
- z. The User shall be responsible for the disposal of trash and litter from receptacles. The City will provide the trash liners. The User will also ensure that parking lots are trash free after use of the facility.

5. User's Representations.

- a. User represents that it is a not-for-profit corporation under the Internal Revenue Code and has provided City with proof of such status prior to the date of this Agreement. In the event that User's not-for-profit status is suspended or revoked during the term of this agreement, User shall promptly notify the City of the same.
- b. User covenants that it shall not discriminate against any person on any unlawful basis, including but not limited to, sex, race, religion, national origin, or disability and that its programs and services shall comply with the Americans with Disabilities Act.
- c. User shall maintain a liability insurance policy with a minimum limit of \$1,000,000 per occurrence during the term of the Use Agreement, which insurance policy shall list the City as an additional insured. A certificate of insurance to this effect must be presented to the City at the time of signing this agreement.
- d. The User accepts the Property as suitable for the purpose of the Use Agreement. User shall protect and maintain the Property, except for maintenance to be performed by City as described herein. User shall pay City for any damage to Property during the term of the Use Agreement as determined by City based on preseason and postseason inspections.

6. Signage.

No signs or advertisements shall be posted, displayed or listed by User on the Property without the prior approval of City. All signs must conform to the City's sign ordinance, a copy of which shall be provided to User by City upon request. Any signage must be removed at the request of City. All signs must be properly secured at all four corners. Any sign not properly secured or in poor condition will be removed.

7. Sublease.

The User shall not sublease or subcontract the Property.

8. Structure.

The User shall not alter or modify any existing building or structure nor build or locate portable or new building(s) or structure(s) on the Property without prior written approval of the City and the approval of all appropriate City agencies.

9. Concessions Sales.

The sale of food and drinks on Property during the term of the Agreement will be allowed as follows:

User shall be responsible for purchasing any food or drinks that are sold at the concession stand. User will collect and keep all receipts, and will keep the books and make them available upon request from City. User will deposit all money received into its account from which the sales tax will be paid by User. It is User's responsible to see that all sales tax is lawfully collected and paid.

10. Indemnification.

A. User shall indemnify and hold harmless the City, its officers, agents, and employees from:

1. Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of User, its officers, employees, and/or agents, including its sub or independent contractors, in connection with the performance of the Agreement.
2. Any claims, damages, costs and attorney fees arising from any failure of User, its officers, employees, and/or agents, including its sub or independent contractors, to observe applicable law, including, but not limited to, labor laws and minimum wage laws.
3. User shall pay City any expenses incurred as a result of User's failure to fulfill any obligation in a professional and timely manner under the Agreement.

11. Termination of Use Agreement.

This Use Agreement may not be assigned or transferred. Either party may terminate this Use Agreement at any time, with or without cause. Termination may result from either party's failure to abide by the terms of this Use Agreement. In the event of a breach of the Use Agreement, the terminating party may, but is not required to, give the other party an opportunity to timely correct the default.

12. Amendment.

This Use Agreement constitutes the entire Agreement between the City and User. This Agreement may be modified by written amendment executed by all parties and their signatories hereto.

In witness whereof, the City and User have executed this Use Agreement on the day and date first written above.

CITY OF LA VERGNE

**RUTHERFORD COUNTY
CRIMSON TIDE YOUTH**

Signature

Signature

By: Jason Cole

By: _____

Title: Mayor

Title: _____

Date: _____

Date: _____

EXHIBIT LIST FOR
LEAGUE USE AGREEMENT

Exhibit A: Map or Designation of Property Reserved for the Event(s)

Exhibit B: Dates and Times Scheduled by Parks and Recreation for Organization's Use of Property

Exhibit C: User Certificate of Insurance (\$1,000,000 liability minimum)

Exhibit A

Map or Designation of Property Reserved for the Event(s)

(See Attached PDF)

Exhibit B

Dates and Times Scheduled by Parks and Recreation for Organization's Use of Property

Regular Season Dates:

- July 8, 2024 – November 16, 2024

Regular Season Times:

- Monday, Tuesday, Wednesday, and Thursday: 5:00 p.m. through 9:30 p.m.
- No Practices or Games Scheduled on Fridays
- Saturday: 8:00 a.m. through 8:00 p.m.

Games and Practices will not be allowed on the following dates:

Movies in the Park (TBD)

Music in the Park (TBD)

National Night out (TBD)

07/04/2024 - Independence Day Celebration

08/16/2024 - Howl at the Moon 5K

09/13/2024 - Old Timers Festival "Kick-Off" Concert

09/14/2024 – 09/15/2024 - Old Timers Festival & Parade

10/26/2024 – Zombie Walk / Goblins and Goodies

11/11/2024 - Veterans Day Ceremony

Exhibit C

User Certificate of Insurance (\$1,000,000 liability minimum)

(To be Attached by User)



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.F. Approve Agreement with the Tennessee Department of Health.

Department: City Administrator

Presented By: Bruce Richardson

Item Attachments: 1. Agreement

Summary:

This is to approve the annual contract between the City and the Tennessee Department of Health to support the Rutherford County Health Department.

Background Information:

Each year, the City enters into an agreement with the Tennessee Department of Health to provide \$4,000 in funding to the Rutherford County Health Department. This is the agreement for Fiscal Year 2023-2024.

Financial Summary:

The total cost of the agreement is \$4,000.

Staff Recommendation:

Staff recommends approval.

AGREEMENT BETWEEN
TENNESSEE DEPARTMENT OF HEALTH
AND

CITY OF LA VERGNE

This agreement is entered into this first day of July, 2023, between the Tennessee Department of Health, hereinafter referred to as the STATE and the CITY OF LA VERGNE, hereinafter referred to as the CITY.

WHEREAS, it is the vision of the Tennessee Department of Health to be in the top ten states in the nation for health, and

WHEREAS, it is the mission of the Tennessee Department of Health to protect, promote, and improve the health and prosperity of the people in Tennessee through the prevention of conditions that may be a threat to health, individually and collectively, and through the treatment of conditions that have already affected the health of Tennesseans, and

WHEREAS, TCA 68-2-901, provides a means for a State and County effort to accomplish these mutual goals through the delivery of health services through the local health departments.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties have agreed and do hereby enter into this agreement according to the provisions set out herein:

A. THE CITY AGREES:

1. To appropriate a total of \$4,000 for support of the RUTHERFORD County Health Department. This amount consists of:
 - (a) \$0 Direct-Local funds (for which the CITY shall not be billed); in accordance with Item 3 below.
 - (b) \$4,000 of appropriations for which the CITY shall be billed in accordance with item (3) below.
2. To use revenues generated from the provision of health services toward the support of the County Health Department.

3. To pay the STATE biannually, one-half of the total CITY funds appropriated for the purposes of this contract as identified in Item 1 (b) above. Payments are to be received by the STATE no later than the last day of January for the first payment, and no later than the last day of April for the second payment (Jan. 31 and Apr. 30 respectively).
4. To report all local deposits and local expenditures to the STATE quarterly.
5. To submit to the STATE a duly signed and executed CITY agreement.

B. THE STATE AGREES:

1. To provide a total of \$3,964,900 in support of the RUTHERFORD County Health Department.
2. Upon written request, to provide a reporting of all expenditures and revenues.

C. BOTH PARTIES AGREE:

1. It is further agreed that the funds shall be used to pay salary, longevity, fringe benefits, travel, meals and/or lodging and other necessary expenses. The salary and travel, meals and/or lodging payments shall be paid in accordance with State regulations, policies and procedures, and subject to funding availability.
2. The term of this agreement will begin July 1, 2023, and shall extend through June 30, 2024.
3. This agreement may be amended in accordance with procedures established by the Commissioner of the Tennessee Department of Health. All amendments must be reduced to writing.

Approved:

County Health Director

Regional Public Health Director

Fiscal Officer of Local
Appropriating Authority

Assistant Commissioner, Community
Health Services

Commissioner, Department of Health



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.G. Approve Amendment #1 to the Grant Contract with the State of Tennessee Office of Criminal Justice Programs for the Violent Crime Intervention Fund.

Department: City Administrator

Presented By: Bruce Richardson

Item Attachments: 1. Amendment #1 - Grant Contract with State of TN - VCIF

Summary:

This is an item to approve an amendment to the grant contract for the purchase of a Tactical Rescue and Response Vehicle.

Background Information:

In October 2023, the Board approved the grant contract with the State for the purchase of a Tactical Rescue and Response Vehicle. A budget amendment was approved by the Board to pay for the remainder of the vehicle out of the Police Impact Fee Fund. The purchase of the vehicle was approved at the January 2024 meeting.

Due to the amount of time it takes to build the vehicle, staff thought that the grant funds could be used as a downpayment on the vehicle and the receipt of those funds would satisfy the grant requirements. Since then, we have been told that the vehicle must be received by the city before the grant would be completed. This amendment should extend the grant period to allow enough time for the vehicle to be built and received by the city so we can get reimbursed for the grant portion of the purchase.

Financial Summary:

The only budget implication is that the funds will need to be held over into the Fiscal Year

2024-2025 budget since the vehicle will not be delivered before the end of the current fiscal year. The city portion of the funds are already allocated, but we will need to reallocate them again for next year.

Staff Recommendation:

Staff recommends approval.

February 22, 2024

The Honorable Jason Cole, Mayor
City of La Vergne
5093 Murfreesboro Road
La Vergne, TN 37086

Dear Mayor Cole:

Enclosed is amendment to Contract 52768. As the authorized official for your agency, please sign and date the documents in the appropriate places. All signed contracts must be submitted electronically. Return the contract to the enclosed address by **March 15, 2024**. Please contact your project management specialist (see below) with any concerns or questions.

After the State of Tennessee has approved the Contract, a fully executed copy will be returned to your agency.

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

Your Project Management Specialist is Katelyn Cotriss. For questions or assistance regarding this contract, please contact Katelyn Cotriss, at (615) 741-2999, or email Katelyn.Cotriss@tn.gov.

We look forward to our continued partnership with you.

Sincerely,



Jennifer Brinkman
Director

cc: Kemishia Sadler, City of La Vergne
File



GRANT AMENDMENT

Agency Tracking # NA	Edison ID 52768	Contract # 52768	Amendment # 1		
Contractor Legal Entity Name City of La Vergne			Edison Vendor ID 1520		
Amendment Purpose & Effect(s) Revises Clauses, Revises Budget, Extends Expiration Date					
Amendment Changes Contract End Date: ☐ YES ☒ NO		End Date: 6/30/2025			
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			\$ 0.00		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
FY24	\$0.00				\$ 0.00
FY25	\$239,927.00				\$239,927.00
TOTAL:	\$239,927.00				\$239,927.00
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.			<i>OCR USE</i>		
Speed Chart FA00003518	Account Code City - 71302000				

**AMENDMENT ONE
OF GRANT CONTRACT 52768**

This Grant Contract Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Office of Criminal Justice Programs, hereinafter referred to as the "State" and City of La Vergne, hereinafter referred to as the "Grantee." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Grant Contract is hereby amended as follows:

1. Grant Contract section B.1. is deleted in its entirety and replaced with the following:
 - B.1. This Grant Contract shall be effective on 11/1/2023 ("Effective Date") and extend for a period of Twenty (20) months after the Effective Date ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.
2. Grant Contract section B.2. is added with the following:
 - B.2. Term Extension. It is understood and agreed that the State may extend the Term an additional period of time, not to exceed three hundred sixty-five (365) days beyond the expiration date of this Grant Contract, under the same terms and conditions. In no event, however, shall the maximum Term, including all extensions or renewals, exceed a total of sixty (60) months.
3. Grant Contract Attachment A-1 is deleted in its entirety and replaced with the new attachment A-1 attached hereto.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective 4/1/2024. All other terms and conditions of this Grant Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

CITY OF LA VERGNE:

GRANTEE SIGNATURE

DATE

The Honorable Jason Cole, Mayor

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION:

JIM BRYSON, COMMISSIONER

DATE

GRANT BUDGET				
AGENCY NAME: La Vergne Police Department				
FUND SOURCE: VCIF				
SOLICITATION IDENTIFICATION TITLE: Violent Crime Intervention Fund: Formula Based Grant				
The grant budget line-item amounts below shall be applicable only to expense incurred during the following Applicable Period: BEGIN: 11/01/2023 END: 06/30/2024				
POLICY 03 Object Line-item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
1, 2	Salaries, Benefits & Taxes ²	\$0.00	\$0.00	\$0.00
4, 15	Professional Fee, Grant & Award ²	\$0.00	\$0.00	\$0.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications ²	\$0.00	\$0.00	\$0.00
11, 12	Travel, Conferences & Meetings ²	\$0.00	\$0.00	\$0.00
13	Interest ²	\$0.00	\$0.00	\$0.00
14	Insurance ²	\$0.00	\$0.00	\$0.00
16	Specific Assistance To Individuals ²	\$0.00	\$0.00	\$0.00
17	Depreciation ²	\$0.00	\$0.00	\$0.00
18	Other Non-Personnel ²	\$0.00	\$0.00	\$0.00
20	Capital Purchase ²	\$0.00	\$0.00	\$0.00
22	Indirect Cost ²	\$0.00	\$0.00	\$0.00
24	In-Kind Expense ²	\$0.00	\$0.00	\$0.00
25	GRAND TOTAL	\$0.00	\$0.00	\$0.00

¹ Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A.*
(posted on the Internet at: https://www.tn.gov/content/dam/tn/finance/ocjp/Appendix_J_Policy_03_Report.xls)

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

GRANT BUDGET LINE-ITEM DETAIL:

AGENCY NAME: La Vergne Police Department

FUND SOURCE: VCIF

SOLICITATION IDENTIFICATION TITLE: Violent Crime Intervention Fund: Formula Based Grant

SALARIES, BENEFITS & TAXES	AMOUNT
TOTAL	\$0.00

Note: Benefits must be calculated at the same or lesser percentage as the salary for each position.

PROFESSIONAL FEE, GRANT & AWARD	AMOUNT
TOTAL	\$0.00

SUPPLIES (includes "Sensitive Minor Equipment"), TELEPHONE, POSTAGE & SHIPPING, OCCUPANCY, EQUIPMENT RENTAL & MAINTENANCE, PRINTING & PUBLICATION	AMOUNT
TOTAL	\$0.00

TRAVEL, CONFERENCES & MEETINGS	AMOUNT
TOTAL	\$0.00

INSURANCE	AMOUNT
TOTAL	\$0.00

SPECIFIC ASSISTANCE TO INDIVIDUALS	AMOUNT
TOTAL	\$0.00

DEPRECIATION	AMOUNT
TOTAL	\$0.00

OTHER NON-PERSONNEL	AMOUNT
TOTAL	\$0.00

CAPITAL PURCHASE	AMOUNT
TOTAL	\$0.00

INDIRECT COST	AMOUNT
TOTAL	\$0.00

IN-KIND EXPENSE	AMOUNT
TOTAL	\$0.00

GRANT BUDGET				
AGENCY NAME: La Vergne Police Department				
FUND SOURCE: VCIF				
SOLICITATION IDENTIFICATION TITLE: Violent Crime Intervention Fund: Formula Based Grant				
The grant budget line-item amounts below shall be applicable only to expense incurred during the following				
Applicable Period:		BEGIN: 07/01/2024	END: 06/30/2025	
POLICY 03 Object Line-item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹	GRANT CONTRACT	GRANTEE MATCH	TOTAL PROJECT
1, 2	Salaries, Benefits & Taxes ²	\$0.00	\$0.00	\$0.00
4, 15	Professional Fee, Grant & Award ²	\$0.00	\$0.00	\$0.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications ²	\$0.00	\$0.00	\$0.00
11, 12	Travel, Conferences & Meetings ²	\$0.00	\$0.00	\$0.00
13	Interest ²	\$0.00	\$0.00	\$0.00
14	Insurance ²	\$0.00	\$0.00	\$0.00
16	Specific Assistance To Individuals ²	\$0.00	\$0.00	\$0.00
17	Depreciation ²	\$0.00	\$0.00	\$0.00
18	Other Non-Personnel ²	\$0.00	\$0.00	\$0.00
20	Capital Purchase ²	\$239,927.00	\$0.00	\$239,927.00
22	Indirect Cost ²	\$0.00	\$0.00	\$0.00
24	In-Kind Expense ²	\$0.00	\$0.00	\$0.00
25	GRAND TOTAL	\$239,927.00	\$0.00	\$239,927.00

¹ Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A*.
(posted on the Internet at: https://www.tn.gov/content/dam/tn/finance/ocip/Appendix_J_Policy_03_Report.xls)

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

GRANT BUDGET LINE-ITEM DETAIL:

AGENCY NAME: La Vergne Police Department

FUND SOURCE: VCIF

SOLICITATION IDENTIFICATION TITLE: Violent Crime Intervention Fund: Formula Based Grant

CAPITAL PURCHASE	AMOUNT
Description of Capital Purchases: Tactical Multipurpose Resonse and Rescue Vehicle with upfitting	\$239,927.00
TOTAL	\$239,927.00



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 5.H. Approve Change Order #2 with Baron Construction, LLC for the Public Works and Community Development Services Facility.

Department: Engineering

Presented By: Gary Lide

Item Attachments: 1. Change Order #2

Summary:

This is a change order for the construction of the Public Works and Community Development Services Facility.

Background Information:

There are several items in this change order for the construction of this project. They are outlined in the financial summary.

Financial Summary:

The total cost of these changes will cost \$107,945.86. This is still within the overall project budget as shown below.

Public Works and Community Development Services Facility Budget Tracker		
Item	Budget	Total Remaining
Baron Contract	\$27,287,479.74	\$19,740,484.80
Baron Potential Change Order #2	\$107,945.86	\$107,945.86

Lambe + Associates	\$161,115.50	\$95,203.60
Item	Budget	Total Remaining
TTL, Inc. (Structural)	\$100,000.00	\$44,404.08
ACS and CCTV (Turner)	\$142,625.90	\$142,625.90
Total Budgeted	\$27,800,000.00	\$20,130,664.24
Percent Spent		27.59%
Percent Remaining		72.41%

Staff Recommendation:

Staff recommends approval.

Outstanding Request for Changes (RFCs) from Baron Construction as of 24 January 2024

Baron Change Order Request (RFC) No.	RFP Description	Original Proposal Received from Contractor	Modified Proposal Received from Contractor	Modified Proposal Received from Contractor	Staff Recommendation	Modification Amount	Status (Mandatory or Recommended)	Reasoning
17	Electrical Site Changes	19-Oct-23	19-Dec-23	26-Feb-24	Acceptance	\$28,800.88	Mandatory	This is a collection of items which were incomplete on or added to the electrical plans after the contract award.
19	Undercut and backfill material bin and salt dome footers.	27-Oct-23			Acceptance	\$5,760.04	Mandatory	Unforeseen conditions regarding soils types on site.
20	Sidewalk credit (steps, handrail)	27-Oct-23			Acceptance	-\$2,850.00	Recommended	CREDIT--Design was revised to removed steps and a handrail from the exterior walk
21	Additional undercut at east end of area B. Revised and resubmitted for the additional 1' to a total depth of 3' undercut/backfill.	19-Dec-23			Acceptance	\$14,187.89	Mandatory	Unforeseen conditions regarding soils types on site.
22	PIV electrical scope, removed from original RFC 17 per Owner request.	19-Dec-23			Acceptance	\$17,431.45	Mandatory	Original electrical plans did not show required wiring to the post indicator valve on the site.
23	Added embeds for light gauge trusses	11-Jan-24			Acceptance	\$29,611.96	Mandatory	A structural design change required additional work.
24	Revised NES transformer location	11-Jan-24			Acceptance	\$18,456.38	Mandatory	Negotiations with NES required the relocation of the NES transformer from the location shown on the bid documents.
25	Doors frames hardware credit	11-Jan-24			Acceptance	-\$3,452.74	Recommended	CREDIT--Door frames were revised in a value engineering effort.
TOTAL						\$107,945.86		

Public Works Building Budget Tracker

Item	Budget	Remaining
Baron Contract	\$27,287,479.74	\$19,740,484.80
Baron Potential Mod Outstanding	\$107,945.86	\$107,945.86
Lambe + Associates	\$161,115.50	\$95,203.60
TTL. Inc (Structural)	\$100,000.00	\$44,404.08
Furniture	\$0.00	\$0.00
ACS and CCTV (Turner)	\$142,625.90	\$142,625.90
Mgmt Reserve (See Risk Register)	\$833.00	\$0.00
CEC Inc.	\$0.00	\$0.00
Contingency	\$0.00	\$0.00
	\$27,800,000.00	\$20,130,664.24
	Percent Spent	27.59%
	Percent Remaining	72.41%

BARON CONSTRUCTION LLC
PUBLIC WORKS AND COMMUNITY DEVELOPMENT
SERVICES FACILITY

CHANGE ORDER REQUEST

17



State Lic. #20026
Expires: 5/31/2024.
Classification: E, CE
Limit: UNLIMITED
Metro Lic. #415
Murfreesboro Lic.#0165

DATE: February 26, 2024
ATTN: Baron Construction
RE: La Vergne Public Works
1500 E Nir Shreibman Blvd.
La Vergne, TN

Dear Roy Bruce,

We appreciate the opportunity to provide the following quotation for the above referenced project. Our proposal is based upon the updated E101 drawing dated 9/19/23 provided by Baron Construction.

Site Revision Total Sum: \$26,125.62

ITEMS INVOLVED:

1	3#12,¾"pvc for monument sign
1	1-¼" rigid c for data to fuel system
1	1" rigid c spare to fuel system
1	2#8,1#10,1-¼"rigid c for pumps power
1	3#10,1"rigid c for dispensers
1	7#10,1-¼"c.for battery charger,jacket heater and receptacle
1	1"c for low voltage to generator
1	graybar

PROJECT MANAGER'S SPECIFICATIONS:

- All light fixtures located in a drop ceiling are to have a minimum of (2) wire per fixture installed by the ceiling contractor.
- Allowance lighting fixtures must be approved. We gave an allowance for site work provided.
- Parking to be provided by GC.
- Separate spec book for electrical was not provided on this project. We use specs provided on drawings.
- CAD drawings to be provided by GC at no cost.
- Allowances were given for unspecified fixtures. MUST BE APPROVED
- No OT or after hours work.
- Fire alarm, data, and cameras to be in full conduit system.
- 3rd Party Testing is included in the base bid

- 750KW generator included. Fuel station tank is not included. Sub base tank is included.
- All sectional pads are provided and installed by others
- The above total sum has been calculated and the time schedule agreed upon based upon the current prices and availability of materials and labor, considering anticipated impacts from the COVID-19 pandemic, and any governmental action, disruptions in the supply of labor or materials or other impacts related thereto and that A&S Electric has taken or will take all reasonable measures to protect against excessive price increases and delays, such as early purchasing of materials where appropriate and feasible. A&S Electric shall not be responsible for any additional cost associated with changes in the aforementioned conditions, as they are out of our control. A&S Electric shall advise the contractor when conditions change and impacts our contract price.

EXCLUSIONS:

1. EXCLUDE: The repair of existing code deficiencies (if any) is not included in the above total sum quotation.
2. EXCLUDE: Main Switchboard, Generator/ Transformer / electrical equipment pads.
3. EXCLUDE: Any Utility Charges.
4. EXCLUDE: Parking (to be provided by GC)
5. EXCLUDE: Concrete Encasement
6. EXCLUDE: Painting of any kind
7. EXCLUDE: Gravel (included for primary & secondary power only)
8. EXCLUDE: Rock Excavation
9. EXCLUDE: Furnishing big ass fans and controls
10. EXCLUDE: Work from C section to road SE corner shown on E101. (no information provided)
11. EXCLUDE: J hooks, phone/data/tv/camera parts, wiring, and/or terminations.
12. EXCLUDE: All Pads on site shown on site print.
13. EXCLUDE: F/A PIV Connection, Conduit, and/or Termination.
14. EXCLUDE: Fuel Tank Work
15. EXCLUDE: Wage work
16. EXCLUDE: Seismic
17. EXCLUDE: Background check
18. EXCLUDE: X-Ray of Floors
19. EXCLUDE: Pole bases.
20. EXCLUDE: Hauling off of spoils.
21. EXCLUDE: Backfill of any kind. (gravel backfill in primary included in above total sum)
22. EXCLUDE: Cutting of concrete / asphalt.
23. EXCLUDE: Forming / furnishing of concrete.
24. EXCLUDE: Patching of any kind. (concrete / asphalt/ walls / ceilings / roof / etc.)
25. EXCLUDE: Furnishing/Installation of any low voltage cabling. (unless add alt is taken)
26. EXCLUDE: Any type of bonds.
27. EXCLUDE: Dumpster Fees.
28. EXCLUDE: Engineered stamped drawings / BIM
29. EXCLUDE: Surveying.

TERMS AND CONDITIONS:

Our quotation is valid for thirty (30) days from date of receipt.

Upon acceptance of our quotation, the following terms and conditions will apply:

- Amounts billed will be due within thirty (30) days of invoice.
- Project will be billed on a percentage-of-completion basis.
- All work is to be completed during A & S Electric's normal working hours which are Monday through Friday, 7:00a.m. to 3:30p.m. unless agreed upon in writing.
- The handling or disposal of contaminated or hazardous material is not included in the above quotation.

- Seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic, and buyer shall not be entitled to any damages resulting thereof.

Thank you for considering A & S Electric Inc., for your electrical requirements. Please contact our office if you have any questions or comments concerning the above proposal.

Sincerely,

A & S Electric, Inc.

WE PROPOSE to furnish labor and material --- complete in accordance with above specifications, and subject to conditions found on both sides of this agreement, for the sum of:

Payment to be made as follows: _____

ACCEPTED. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.

Respectfully Submitted,

Payment will be made as outlined above.

Date of Acceptance _____

By _____

By _____

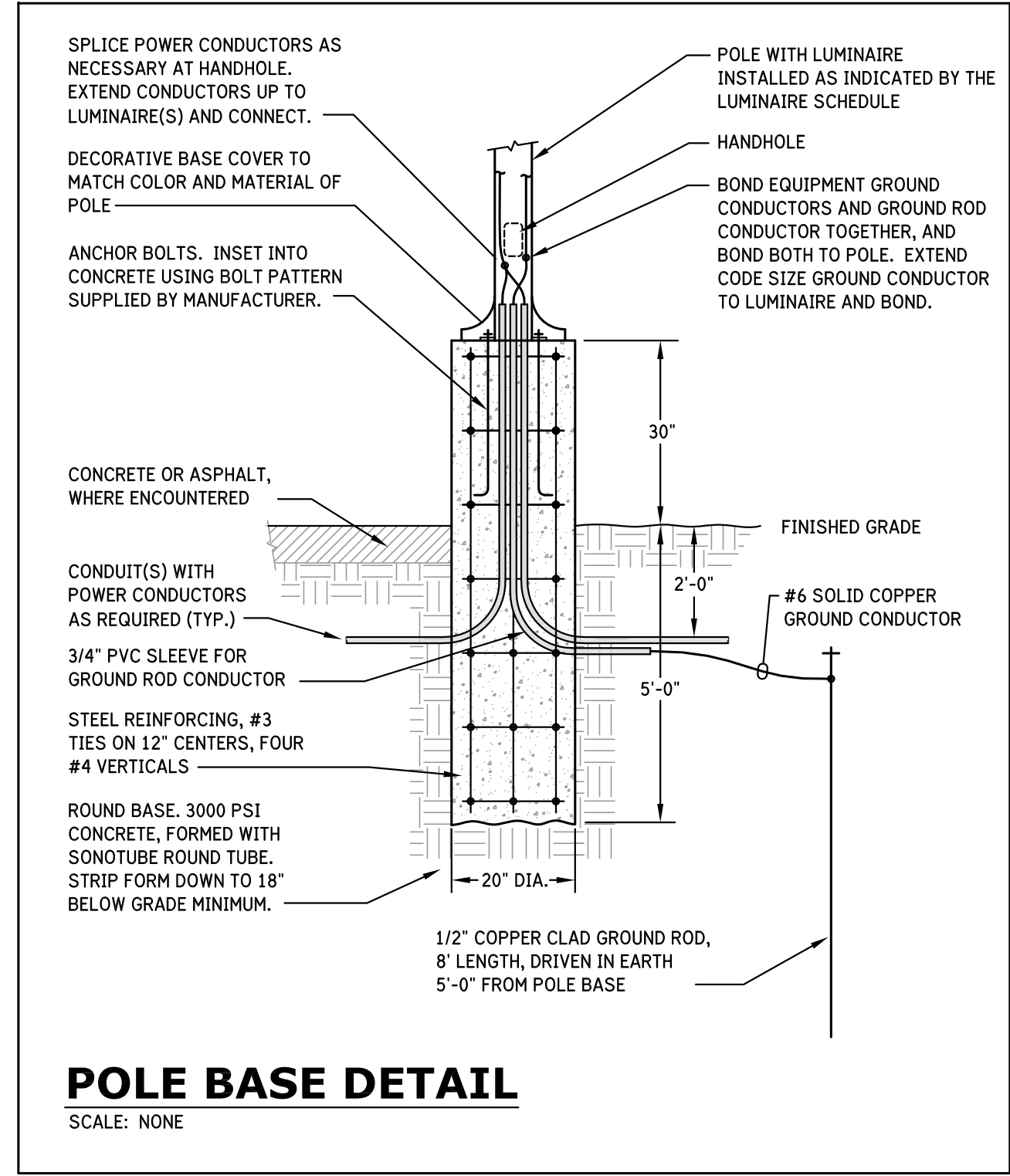
Project Manager

A & S ELECTRIC, INC.

By:  _____

Note: This proposal may be withdrawn by us if not accepted within 30 days.

Shaun Smith



LUMINAIRE SCHEDULE (SITE)	
AA	AREA AND ROADWAY LUMINAIRE, TYPE 5 WIDE DISTRIBUTION.
QTY: 16	232 W LED, 31267 LUMENS, 4000K, 70CRI
	LSI MIRADA-MRM-LED-30L-SIL-5W-40-70CRI
BB	AREA AND ROADWAY LUMINAIRE, TYPE 4 FORWARD THROW DISTRIBUTION WITH INTEGRAL HOUSE-SIDE SHIELDING.
QTY: 5	288 W LED, 38283 LUMENS, 4000K, 70CRI
	LSI MIRADA-MRM-LED-36L-SIL-FT-40-70CRI-IH
CC	AREA AND ROADWAY LUMINAIRE, TYPE 3 DISTRIBUTION WITH INTEGRAL HOUSE-SIDE SHIELDING, HIGH OUTPUT
QTY: 4	401 W LED, 49156 LUMENS, 4000K, 70CRI
	LSI MIRADA-MRM-LED-48L-SIL-3-40-70CRI-IH
DD	AREA AND ROADWAY LUMINAIRE, TYPE 3 DISTRIBUTION WITH INTEGRAL HOUSE-SIDE SHIELDING.
QTY: 2	288 W LED, 38557 LUMENS, 4000K, 70CRI
	LSI MIRADA-MRM-LED-36L-SIL-3-40-70CRI-IH

RECOMMENDED ROUTING TO PANEL "1GLHS". REFER TO "ELECTRICAL POWER DISTRIBUTION DIAGRAM" ON SHEET E701 FOR FEEDER SIZE.

1GL1-103
1GL1-99,101
1GL1-105,107
1GL1-97
2" RMC
NES METER
"MSB" (SERVICE DISCONNECT)
"ATS"
"SSB"

ELEC. ROOM B134
I.T. DATA CENTER B138
MECH. ROOM C116
1GL4-37
1GL4-39
1GL4-41
1GL4-8

POWER FOR FLAG POLE LIGHTING - COORDINATE EXACT POWER AND CONTROLS REQUIREMENTS, PRIOR TO ROUGH-IN.

POWER FOR RPBP HOT BOX - COORDINATE EXACT LOCATION WITH CIVIL, PRIOR TO ROUGH-IN.

TO FIRE ALARM CONTROL PANEL
1" C.

TO TELECOM SERVICE PROVIDER - COORDINATE EXACT SERVICE REQUIREMENTS AND LOCATIONS (THROUGHOUT), PRIOR TO ROUGH-IN.

ELECTRICAL SERVICE PROVIDER (NES) - COORDINATE EXACT ELECTRICAL SERVICE REQUIREMENTS AND LOCATIONS THROUGHOUT, PRIOR TO ROUGH-IN.

POST-INDICATOR VALVE - COORDINATE EXACT LOCATION WITH CIVIL, PRIOR TO ROUGH-IN.

NEVER ELECTRICAL SITE PLAN HERE.

ELECTRICAL SITE PLAN

- | GENERAL ELECTRICAL SITE PLAN NOTES: | KEYED ELECTRICAL SITE PLAN NOTES: | GENERAL ELECTRICAL SITE PLAN NOTES: |
|--|--|--|
| <p>A. ALL UNDERGROUND CONDUIT ROUTING SHOWN ON THIS DRAWING IS DIAGRAMMATICAL AND SHALL BE COORDINATED WITH OTHER DISCIPLINES, PRIOR TO ROUGH-IN.</p> <p>B. REFER TO ELECTRICAL POWER DISTRIBUTION DIAGRAM FOR FEEDER SIZING AND OTHER SERVICE / CONNECTION REQUIREMENTS.</p> <p>C. COORDINATE ALL ELECTRICAL SERVICE AND TELECOM SERVICE REQUIREMENTS, ROUTING, AND TERMINATION LOCATIONS, PRIOR TO PERFORMING WORK.</p> <p>C.1. THE ELECTRICAL SERVICE PROVIDER IS NASHVILLE ELECTRIC SERVICE (NES).</p> <p>D. ALL WIRE SHALL BE EITHER TYPE THHN/THW-2 (COPPER) OR XHHW-2 (COPPER), UNLESS OTHERWISE NOTED.</p> <p>E. MINIMUM WIRE AND CONDUIT SIZE FOR WIRING ON THE BUILDING EXTERIOR SHALL BE #10 AWG. IN 1" C., UNLESS OTHERWISE INDICATED.</p> | <p>E.1. WHERE A 120 V CIRCUIT LENGTH MEETS OR EXCEEDS THE INDICATED DISTANCE, PROVIDE THE CORRESPONDING WIRE SIZE FOR THE ENTIRETY OF THAT CIRCUIT (INCLUDING ALL BRANCHES OF CIRCUIT):</p> <p>70' OR GREATER, PROVIDE #10 CONDUCTORS.</p> <p>110' OR GREATER, PROVIDE #8 CONDUCTORS.</p> <p>170' OR GREATER, PROVIDE #6 CONDUCTORS.</p> <p>E.2. ENSURE TO TAKE NEC TABLE 310.15(B)(3)(a) INTO ACCOUNT WHERE 4 OR MORE CURRENT-CARRYING CONDUCTORS OCCUPY THE SAME RACEWAY.</p> <p>F. EXTERIOR CONDUITS INSTALLED ABOVE GRADE SHALL BE RIGID GALVANIZED.</p> <p>G. ENSURE TO LABEL ALL DISCONNECTS, INDICATING PANEL AND CIRCUIT # (FOR EXAMPLE: "A-1").</p> <p>1. REFER TO PRIMARY TRENCH DETAIL (THIS SHEET).</p> <p>2. REFER TO SECONDARY TRENCH DETAIL (THIS SHEET).</p> <p>3. GENERATOR FEEDER (REFER TO POWER DISTRIBUTION DIAGRAM ON SHEET E701).</p> <p>4. COMMUNICATIONS SERVICE BOX (QUATIZE OR EQUIVALENT) - COORDINATE WITH COMM. PROVIDER FOR EXACT BOX LOCATION AND BOX SIZE, PRIOR TO ROUGH-IN.</p> <p>5. RECOMMENDED ROUTING FOR COMMUNICATIONS SERVICE. PROVIDE (2)" CONDUITS. COORDINATE EXACT ROUTING, QUANTITIES, AND SIZES OF CONDUITS WITH COMMUNICATIONS SERVICE PROVIDER, PRIOR TO ROUGH-IN.</p> <p>6. COMM. SERVICE SUB-UP - COORDINATE EXACT SUB-UP LOCATION WITH SERVICE PROVIDER, PRIOR TO ROUGH-IN (SEE SHEET E403).</p> <p>7. 1" CONDUIT - PROVIDE #8 AWG. WIRE, THROUGHOUT ENTIRETY OF CIRCUIT.</p> <p>8. ROUTE THROUGH LIGHTING CONTROL PANEL.</p> <p>9. MONUMENTAL SIGN - COORDINATE EXACT REQUIREMENTS, PRIOR TO ROUGH-IN.</p> <p>9.1. POWER: 2#12, 1#12 GND, IN 3/4" CONDUIT.</p> <p>10. GATE - COORDINATE EXACT POWER AND LOW VOLTAGE REQUIREMENTS, PRIOR TO ROUGH-IN.</p> <p>10.1. POWER: 1" C. - #10 WIRE, THROUGHOUT ENTIRETY OF CIRCUIT.</p> <p>10.2. LOW VOLTAGE: 1" CONDUIT - STUB-UP IN I.T./ELEC. ROOM A109.</p> <p>11. ALL ELECTRICAL WORK FOR CANOPY LIGHTING, FUEL PUMPS, FUEL SYSTEM, AND FUEL TANKS BY OTHERS. COORDINATE ALL ELECTRICAL WORK WITH FUEL PUMP VENDOR.</p> <p>12. ELECTRICAL CONTRACTOR SHALL BE FAMILIAR WITH NEC ARTICLE 514 - MOTOR FUEL DISPENSING FACILITIES. INSTALLATION SHALL STRICTLY COMPLY WITH NEC 514 REQUIREMENTS, NAMELY THE FOLLOWING: UNDERGROUND WIRING (514.8), SEALING (514.9), CIRCUIT DISCONNECTS (514.11), AND GROUNDING AND BONDING (514.16).</p> <p>13. PROVIDE (1) 1-1/4" CONDUIT FOR PUMP (#8, 1#10 GND.) AND DISPENSER (2#10, 1#10 GND.) POWER, UNLESS OTHERWISE DIRECTED BY FUEL PUMP PROVIDER.</p> <p>14. PROVIDE (2 CONDUITS): (1) 1-1/4" CONDUIT FOR LOW VOLTAGE AND (1) 1" SPARE CONDUIT, UNLESS OTHERWISE DIRECTED BY FUEL PUMP PROVIDER.</p> <p>15. PROVIDE SEALING FITTINGS FOR EACH CIRCUIT (TYPICAL). REFER TO "SEALING FITTINGS DETAIL" (SHEET E001). STUB CONDUITS 10' (MIN.) BEYOND WALK FOR FUEL SYSTEM EQUIPMENT INSTALLER. COORDINATE EXACT REQUIREMENTS AND SUB-UP LOCATION WITH BOTH INSTALLER AND OWNER, PRIOR TO PERFORMING WORK.</p> <p>16. GENERATOR-RELATED POWER AND LOW VOLTAGE:</p> <p>16.1. PROVIDE (1) 1-1/4" CONDUIT FOR THE BATTERY CHARGER (2#10), JACKET HEATER (2#10), AND GENERATOR RECEPTACLE (2#10) CIRCUITS. PROVIDE 1#10 GROUND.</p> <p>16.2. PROVIDE (1) 1" CONDUIT FOR LOW VOLTAGE WIRE. SUB-UP AT BOTH EPO LOCATION AND IN I.T./ELEC. ROOM A109.</p> | <p>NOTE: COORDINATE EXACT BATTERY CHARGER AND JACKET HEATER BREAKER (MOPC) AND WIRE (MCA) REQUIREMENTS, PRIOR TO ROUGH-IN.</p> <p>17. EMERGENCY POWER OFF (EPO) - PROVIDE AN OUTDOOR RATED REMOTE EMERGENCY STOP, RED-MUSHROOM WITH HINGED ENCLOSURE TO PREVENT ACCIDENTAL ACTIVATION. THE STOP BUTTON SHALL BE INSTALLED REMOTE FROM THE GENERATOR WITH A PLASTIC ENGRAVED SIGN THE READS "GENERATOR EMERGENCY STOP". STI COMPANY OR EQUAL.</p> <p>18. REMOTE GENERATOR ANNUNCIATOR (RGA) - COORDINATE EXACT LOCATION OF RGA WITH OWNER, PRIOR TO ROUGH-IN. ALL GENERATOR CONTROLS FROM RGA TO ATS / GENERATOR SHALL BE RAN IN CONDUIT. COORDINATE EXACT POWER AND LOW VOLTAGE REQUIREMENTS, PRIOR TO ROUGH-IN.</p> <p>19. CAMERA - BY OWNER. PROVIDE 1" CONDUIT FROM INDICATED CAMERA LOCATION, BACK TO I.T. DATA CENTER B138 (OR NEAREST I.T. ROOM LOCATION). COORDINATE ALL CAMERA LOCATIONS, CAMERA CIRCUIT ROUTING, AND ALL OTHER ELECTRICAL + LOW VOLTAGE REQUIREMENTS WITH CAMERA PROVIDER, PRIOR TO ROUGH-IN.</p> |

[illegible]

1GH1	VOLTS: 480/277 V		3 PHASE 4 WIRE		B#: 99.3kVA		PROVIDE EATON Pow-R-Line SERIES PANELBOARD (OR EQUIVALENT BY GENERAL ELECTRIC, SIEMENS, OR SQUARE D). PROVIDE DRO-IN-DOOR.			
	AMPS: 600 A		MAIN: LUG		R#: 104.2kVA					
	SCCR: 65 KA		WdO: ---		C#: 97.4kVA					
	TRIM: SURFACE		ENCL: NEMA 1		TOT: 300.9kVA					
DESIGNATION										
DESCRIPTION		BKR	KVA	A B C				KVA	BKR	DESCRIPTION
TRANSFORMER "1R-1GL1" PANELBOARD "1GL1"		225/3	47.3	1			2	1.4	15/3	VEF-1
---	---	---	49.9					1.4	---	---
---	---	---	48.3					1.4	---	---
EUH-1	---	20/3	3.4				4	0.4	15/3	VF-1
---	---	---	3.4					0.4	---	---
---	---	---	3.4					0.4	---	---
EUH-2	---	20/3	3.4				6	0.9	15/3	HVLS-1
---	---	---	3.4					0.9	---	---
---	---	---	3.4					0.9	---	---
EUH-3	---	15/3	1.7				8	0.9	15/3	HVLS-2
---	---	---	1.7					0.9	---	---
---	---	---	1.7					0.9	---	---
EUH-4	---	15/3	1.7				10	0.9	15/3	HVLS-3
---	---	---	1.7					0.9	---	---
---	---	---	1.7					0.9	---	---
DOCK LEVELER	---	15/3	2.1				11	1.8	20/1	LIGHTING - MAINTENANCE BAYS
---	---	---	2.1				12	3.5	20/1	LIGHTING - MAINTENANCE BAYS
---	---	---	2.1				13	3.5	20/1	LIGHTING - MAINTENANCE BAYS
OVERHEAD DOORS IN FULL MAINTENANCE BAYS	---	30/3	6.4				21	2.0	20/1	LIGHTING - MAINTENANCE BAYS
---	---	---	6.4				13	3.2	20/1	LIGHTING - MAINTENANCE BAYS
---	---	---	6.4				14	3.2	20/1	LIGHTING - MAINTENANCE BAYS
OVERHEAD DOORS IN FULL MAINTENANCE BAYS	---	30/3	6.4				23	3.0	20/1	LIGHTING - EQUIPMENT MEZZANINE
---	---	---	6.4				7.5	6.0	---	OVERHEAD BRIDGE CRANE
---	---	---	6.4				16	7.5	---	---
---	---	---	6.4				7.5	---	---	---
OVERHEAD DOORS IN HALF MAINTENANCE BAYS	---	30/3	6.4				18	2.5	20/1	LIGHTING - SITE EXTERIOR (SOUTH-WEST)
---	---	---	6.4				18	2.5	20/1	LIGHTING - SITE EXTERIOR (NORTH-WEST)
---	---	---	6.4				18	2.0	20/1	LIGHTING - SITE EXTERIOR (NORTH-EAST)
PROVISION FOR FUTURE 125 AMP FRAME BREAKER	---	-/3	---				23	2.0	20/1	LIGHTING - SITE EXTERIOR (SOUTH-EAST)
---	---	---	---				1.6	1.0	20/1	LIGHTING - EXTERIOR
---	---	---	---				1.0	2.0	20/1	LIGHTING - EXTERIOR
PROVISION FOR FUTURE 125 AMP FRAME BREAKER	---	-/3	---				22	---	-/3	PROVISION FOR FUTURE 125 AMP FRAME BREAKER
---	---	---	---				---	---	---	---
PROVISION FOR FUTURE 225 AMP FRAME BREAKER	---	-/3	---				24	---	-/3	PROVISION FOR FUTURE 225 AMP FRAME BREAKER
---	---	---	---				---	---	---	---

1NL4	VOLTS: 208/210V 3 PHASE 4 WIRE AMPS: 225 A MAIN SCRR: 10 KA Wkd: 20"x5.75" TRIM: SURFACE ENCL: NEMA 1			AP: 13.6kVA BR: 13.6kVA CP: 13.3kVA TOT: 40.7kVA			PROVIDE EATON Power-Loc 1 PANELBOARD (OR EQUIVALENT BY GENERAL ELECTRIC, SIEMENS, OR SQUARE D). PROVIDE FEED-THROUGH LUGS. PROVIDE DOOR-IN-DOOR.		
	DESIGNATION								
DESCRIPTION				BKR	KVA	A B C	KVA	BKR	DESCRIPTION
AHU-1	150	1.7	20	1	2	10	15/3	EW-1	
AHU-2	150	1.7	17	1	4	1.0	---	---	
AHU-3	150	1.7	17	1	6	1.0	---	---	
AHU-5	150	1.7	20	1	8	1.5	20/1		POWER FOR MONUMENTAL SIGNAGE
AHU-6	150	1.7	20	1	8	2.3	30/2		WATER HEATER "WH1"
AHU-4	150	2.0	13	1	2	2.3	---	---	
AHU-7	150	2.0	13	1	4	0.2	20/1		RECEPTACLES - MECHANICAL ROOM
RECEPTACLES - SUPPLIES, HOT WATER RECIRC. PUMP	200	1.7	15	1	16	0.6	20/1		RECEPTACLES - FAMILY MENS, AND WOMENS TOILETS
RECEPTACLES - WATER MANAGER	200	0.6	18	1	18	0.7	20/1		DRINKING FOUNTAIN
RECEPTACLES - WATER BILLING	200	0.6	18	1	18	0.4	20/1		RECEPTACLES - MAIL ROOM
RECEPTACLES - WATER BILLING	200	1.0	21	1	22	1.0	20/1		RECEPTACLES - RECEPTIONISTS
RECEPTACLES - WATER BILLING	200	0.4	23	1	14	1.0	20/1		RECEPTACLES - CORRIDOR, PUBLIC LOBBY
RECEPTACLES - WATER BILLING	200	1.0	25	1	14	1.0	20/1		POWER FOR DRIVE-UP WINDOW
RECEPTACLES - WATER BILLING	200	1.0	22	1	18	0.8	20/1		SPARE
RECEPTACLES - WATER BILLING	200	1.0	29	1	30	2.0	20/1		SPARE
RECEPTACLES - FILES STORAGE	200	0.8	31	1	32	0.3	20/1		SPARE
RECEPTACLES - WATER BILLING	200	1.0	30	1	34	2.0	20/1		SPARE
RECEPTACLES - WATER BILLING	200	1.0	39	1	36	2.0	20/1		SPARE
RECEPTACLES - WATER BILLING	200	1.0	39	1	36	2.0	20/1		SPARE
POWER FOR FLAGPOLE LIGHTING	200	1.0	37	1	38	2.0	20/1		SPARE
POWER FOR DRIP HOT BOX	200	1.5	39	1	40	1.5	20/1		SPARE
POWER FOR RRPB HOT BOX	200	1.5	41	1	42	2.0	20/1		SPARE

2NL2	VOLTS: 208/120 V 3 PHASE 4 WIRE AMPS: 225 A MAIN LUG SCRR: 10 KA Wd: 20"x5.75" TCTR: SURFACE ENCL: NEMA 1	A-B: 6.5KVA B-C: 6.4KVA C-T: 5.3KVA TOT: 17.4KVA	PROVIDE Eaton Power-R-Line 1in PANELBOARD (OR EQUIVALENT BY GENERAL ELECTRIC, SIEMENS, OR SQUARE D). PROVIDE FEED-THROUGH LUGS. PROVIDE DOOR-N-DOOR.			
	DESIGNATION					
DESCRIPTION	BKR	KVA	A B C	KVA	BKR	DESCRIPTION
AHU-13	15/1	2.0	1	2	0.5	20/1 WATER HEATER
AHU-14	15/1	2.0	3	4	1.4	20/1 RECEPTACLES - MECH., HWRP, MOTORIZED DAMPER
AHU-15	15/1	2.0	3	4	0.7	20/1 RECEPTACLES - MECH. ROOM, MOTORIZED DAMPER
AHU-16	15/1	2.0	7	5	2.0	20/1 SPARE
AHU-17	15/1	2.0	9	10	0.2	20/1 RECEPTACLES - MECH. ROOM
AHU-18	15/1	2.0	11	12	0.6	20/1 RECEPTACLES - FUTURE EXPANSION
AHU-19	15/1	2.0	13	24	2.0	20/1 SPARE
SPARE	20/1	15		16	20/1	SPARE
SPARE	20/1	17		18	20/1	SPARE
SPARE	20/1	19		20	20/1	SPARE
SPARE	20/1	21		22	20/1	SPARE
SPARE	20/1	23		24	20/1	SPARE
SPARE	20/1	25		26	20/1	SPARE
SPARE	20/1	27		28	20/1	SPARE
SPARE	20/1	29		30	20/1	SPARE
SPARE	20/1	31		32	20/1	SPARE
SPARE	20/1	33		34	20/1	SPARE
SPARE	20/1	35		36	20/1	SPARE
SPARE	20/1	37		38	20/1	SPARE
SPARE	20/1	39		40	20/1	SPARE
SPARE	20/1	41		42	20/1	SPARE

HARPETH PARK
ENGINEERING LLC
Phone: (615) 814-6001 HPE Job #121056
Email: info@harpethpark.engineering

BARON CONSTRUCTION LLC
PUBLIC WORKS AND COMMUNITY DEVELOPMENT
SERVICES FACILITY

CHANGE ORDER REQUEST

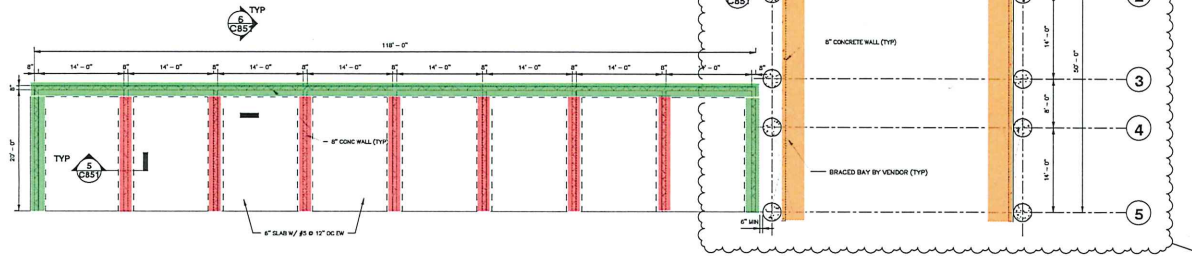
19

Salt Dome Wall Footer Undercut 4'-6" wide, 45' + 45' + 38'
= 128 x 4.5
= 576 CF

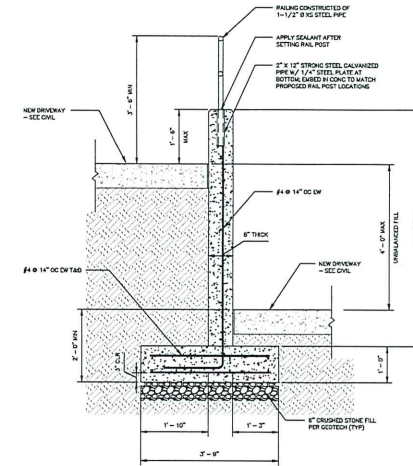
Material Bin outside wall footer undercut 3'-0" wide, 18' + 18' + 119'
= 155 x 3
= 465 CF

Material Bin interior wall footer undercut 2'-6" wide, 7 @ 18' long
= 7 x 18 x 2.5
= 315 CF

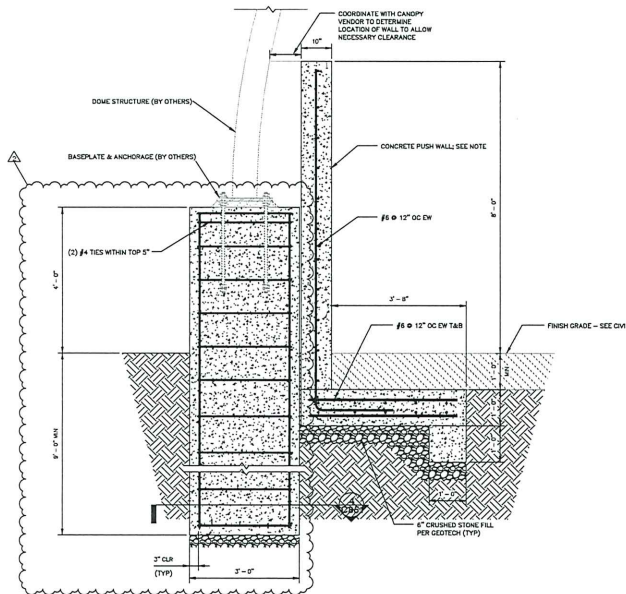
TOTAL UNDERCUT BASED ON 1' DEPTH
= 1,356 CF = 50 CY



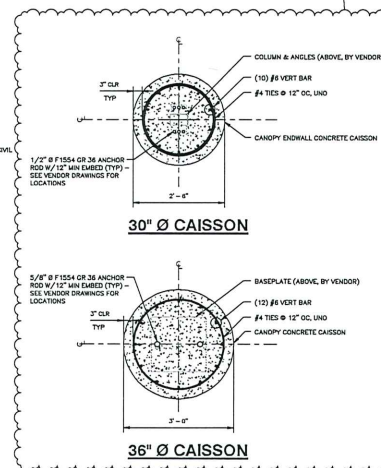
1 MATERIAL BIN & SALT STORAGE DOME FOUNDATION PLAN
C851 1/4" = 1'-0"



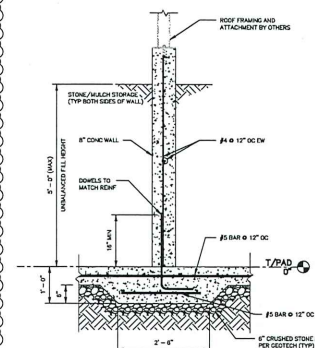
2 LOADING DOCK RETAINING WALL
C851 2/4" = 1'-0"



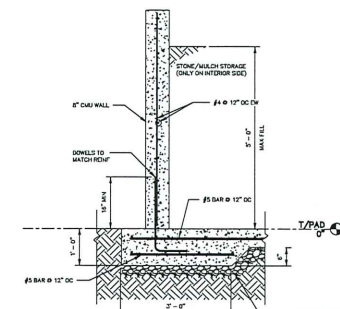
3 DOME FOUNDATION SECTION
C851 3/4" = 1'-0"



4 CAISSON CROSS SECTIONS
C851 3/4" = 1'-0"



5 MATERIAL BIN INTERIOR WALL SECTION
C851 3/4" = 1'-0"



6 MATERIAL BIN EXTERIOR WALL SECTION
C851 3/4" = 1'-0"



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STRUCTURAL ENGINEER:
KSM Structural Engineers
MECHANICAL ENGINEER:
Harper Park Engineering, LLC
ELECTRICAL ENGINEER:
Harper Park Engineering, LLC

CITY OF LA VERGNE, TENNESSEE
PUBLIC WORKS AND COMMUNITY
DEVELOPMENT SERVICES FACILITY
DAVIDS WAY AND SHREEDMAN DRIVE
LA VERGNE, TENNESSEE

REV. DATE
3/24/23
10/2/23
L+A Job No. 2110
07/15/20
STRUCTURAL SITE
DETAILS

C851

sheet

BARON CONSTRUCTION LLC
PUBLIC WORKS AND COMMUNITY DEVELOPMENT
SERVICES FACILITY

CHANGE ORDER REQUEST

20

THM Concrete

2727 union hall rd Clarksville, TN 37040

Phone #: (931) 320-0877

PCO

Project Name: City of LaVergne Public works & Community Dev Services

Owner : Baron Construction LLC

Roy Bruce
652 Old Ezell Rd
Nashville, TN 37217

PCO # 12

Printed On: 10/19/2023

Created On: 10/19/2023

Job Number # 23-020

Architect # :

Architect:

Description	Bid Amount	Status	Change Date
1 Credit for steps. Revisions C201 dated 8/14/2023	(\$525.00)	Pending	
Total:	(\$525.00)		

Please find above pricing as you requested. If this is acceptable, please confirm so we may proceed with a change order.

Thank You,

Kevin Peterson
Project Manager

Roy Bruce

From: Jeff Hagewood <jhagewood@triplesteel.com>
Sent: Friday, October 27, 2023 2:50 PM
To: Roy Bruce
Cc: Jeff Hagewood
Subject: 9725 - La Vergne Public Works - Handrail Credit
Attachments: C201_ ENLARGED SITE PLAN Rev.2.pdf; C802_ SITE DETAILS Rev.1.pdf; C201_ ENLARGED SITE PLAN Rev.1.pdf

Roy,

We are pleased to "Quote as Follows":

- 1.) Credit for (2) Site Rails at the Concrete Stairs.
- 2.) Materials Fabricated, Painted and Installed.

LUMP SUM CREDIT _____ (\$ 2,325.00)

Thanks,

Jeff Hagewood

Office: 615.793.8990

Fax: 615.793.8988

Cell: 615.762.7487

Email: jhagewood@triplesteel.com

Website: <http://www.triplesteel.com/>

Follow us at: <https://www.facebook.com/TripleSteelLLC/>

BARON CONSTRUCTION LLC
PUBLIC WORKS AND COMMUNITY DEVELOPMENT
SERVICES FACILITY

CHANGE ORDER REQUEST

21



Special Inspection

Nashville
624 Grassmere Park
Suite 14
Nashville, TN 37211
Phone: 615-331-7770

Client:
City of LaVergne
5185 Murfreesboro Road
Lavergne, TN 37086

Project:
000230800662.00
City of LaVergne - Public Works and Community
Development Services Facility
1500 E Nir Shreibman Blvd
La Vergne, TN

Activity Date:	10/27/2023	Discipline:	Concrete
Category:	Concrete Testing	Location:	Slab on Grade
Subcategory:	New Sub-Category		
Location Details:	Concrete Sampling / Testing <u>Slab-on-Grade - Area C</u> - G-N/9.2-12.4 <u>Salt Dome Wall</u> - A-F/1,2 ; A/1-2 Proofroll Observation - Area B Subgrade		
Technician:	Miller, Kevin		

Work Completed

Reinspection Visit: No	Reinspection Required: No
Determination: No Discrepancy	
Description: Concrete Sampling / Testing TTL technician Kevin Miller was on-site this date as requested by Baron Construction, LLC to observe, sample, and test the placement of approximately 180 cubic yards of 4,000-psi concrete for the approximate SOG locations noted above. The tests performed included slump, air content, unit weight, and temperature. Each truckload of concrete was observed for the relative consistency of the mixture. Batch tickets for each truckload of concrete were reviewed to verify that the proper mix design was used, and the maximum batch-to-placement time was not exceeded. We did not observe indications that the placement or consolidation of the concrete displaced or damaged the reinforcing steel in the areas placed on this date. A sample was taken at approximately 2, 80, and 160 cubic yards into the placement. The sample was tested for the slump, air content, unit weight, and temperature. Based on the observations and testing performed, the concrete placement appeared to be in general compliance with project requirements. Three sets of five test cylinders were cast for future compressive strength testing. The contractors with Baron and THM were informed of the test results on this date. The cylinders were stored on-site for initial curing. See attached concrete placement summary for further details.	
Tests Performed: Concrete Sampling / Testing	
Discrepancy: No	

Reinspection Visit: No	Reinspection Required: No
Determination: No Discrepancy	
Description: Concrete Sampling / Testing Also while on-site, the TTL technician observed, sampled, and tested the placement of approximately 40 cubic yards of 4,500-psi	

The presence and activities of our field representative were for the purpose of providing observation and field testing. Our work does not include supervision or direction of the actual work of the contractor, his employees or agents. The presence of our field representative or the observation and testing by our firm does not relieve the contractor in any way from its obligation to meet contractual requirements. No one except our client may rely on our findings and opinions. It is understood that our firm is not responsible for job or site safety on this project. The contractor retains sole responsibility for site safety, methods, operations, and sequences of construction.



Special Inspection

Nashville
624 Grassmere Park
Suite 14
Nashville, TN 37211
Phone: 615-331-7770

Client:
City of LaVergne
5185 Murfreesboro Road
Laverne, TN 37086

Project:
000230800662.00
City of LaVergne - Public Works and Community
Development Services Facility
1500 E Nir Shreibman Blvd
La Vergne, TN

concrete for the wall placement noted above. The tests performed included slump, air content, unit weight, and temperature. Each truckload of concrete was observed for the relative consistency of the mixture. Batch tickets for each truckload of concrete were reviewed to verify that the proper mix design was used, and the maximum batch-to-placement time was not exceeded. We did not observe indications that the placement or consolidation of the concrete displaced or damaged the reinforcing steel in the areas placed on this date. Placement of the wall concrete was conducted using a boom pump truck, with a hose reducer that reached the bottom of the formwork.

A sample was taken at approximately 2 cubic yards into the pour. The sample was tested for slump, air content, unit weight, and temperature. Based on the observations and testing performed, the concrete placement appeared to be in general compliance with project requirements. One set of five test cylinders were cast for future compressive strength testing. The contractors with Baron and THM were informed of the test results on this date. The cylinders were stored on-site for initial curing. See attached concrete placement summary for further details.

Tests Performed: Concrete Sampling / Testing

Discrepancy: No

Reinspection Visit: No

Reinspection Required: No

Determination: No Discrepancy

Description:

Proofroll Observation

Also on the afternoon of this date, TTL representative Tyler Hughes was on-site as requested by Baron Construction to observe the subgrade at the above noted undercut locations. Upon arrival, the TTL representative met with Mr. JB Nease (Baron) to discuss previously conducted activities at these approximate locations.

The previously noted locations appeared to have been undercut to approximately 3-ft below initial existing subgrade. The exposed bearing surface appeared to consist of previously compacted soil and stone. According to the contractor, upon undercut to -3-ft, the subgrade was compacted and proofrolled, which yielded significant pumping and rutting. At that time, the contractors over-excavated an approximately 10-ft x 20-ft location of the subgrade (down to total of -6-ft) and replaced with approximately 3-ft of on-site surge stone sized material.

Once the TTL representative arrived on-site, an additional proofroll was performed using a fully loaded tandem axle dump truck. The truck made multiple passes across the exposed subgrade described above. The TTL representative observed the exposed subgrade to exhibit significant rutting and pumping beneath the weight of the passing truck at apparent soil locations. The approximate location of the previously placed stone fill appeared firm and stable beneath the weight of the passing truck.

The TTL representative then observed the contractors excavate a test pit at the approximate center of the undercut locations (within apparent soil locations). The test pit was excavated to approximately 4-ft below the existing undercut subgrade (-7-ft total). The material observed to be removed from the test pit at 0.5 to 3-ft included saturated soils, organics, and trash debris (pallet lumber, asphalt, etc.). The soil beneath the approximately 3-ft layer of the above mentioned material appeared to be clean soil. See images below.

Tests Performed: Proofroll Observation
Test Pit Observation

Discrepancy: No



Special Inspection

Nashville
624 Grassmere Park
Suite 14
Nashville, TN 37211
Phone: 615-331-7770

Client:	Project:
City of LaVergne 5185 Murfreesboro Road Lavergne, TN 37086	000230800662.00 City of LaVergne - Public Works and Community Development Services Facility 1500 E Nir Shreibman Blvd La Vergne, TN



Description: SOG Placement **Image Date Taken:** 10/27/2023
Photographer: Miller, Kevin



Description: Boom truck setup **Image Date Taken:** 10/27/2023
Photographer: Miller, Kevin



Special Inspection

Nashville
624 Grassmere Park
Suite 14
Nashville, TN 37211
Phone: 615-331-7770

Client:	Project:
City of LaVergne 5185 Murfreesboro Road Lavergne, TN 37086	000230800662.00 City of LaVergne - Public Works and Community Development Services Facility 1500 E Nir Shreibman Blvd La Vergne, TN



Description: SOG Placement **Image Date Taken:** 10/27/2023
Photographer: Miller, Kevin



Description: SOG placement **Image Date Taken:** 10/27/2023
Photographer: Miller, Kevin



Special Inspection

Nashville
624 Grassmere Park
Suite 14
Nashville, TN 37211
Phone: 615-331-7770

Client:	Project:
City of LaVergne 5185 Murfreesboro Road Lavergne, TN 37086	000230800662.00 City of LaVergne - Public Works and Community Development Services Facility 1500 E Nir Shreibman Blvd La Vergne, TN



Description: Wall pour
Image Date Taken: 10/27/2023
Photographer: Miller, Kevin



Description: Wall pour
Image Date Taken: 10/27/2023
Photographer: Miller, Kevin



Special Inspection

Nashville
624 Grassmere Park
Suite 14
Nashville, TN 37211
Phone: 615-331-7770

Client:
City of LaVergne
5185 Murfreesboro Road
Lavergne, TN 37086

Project:
000230800662.00
City of LaVergne - Public Works and Community
Development Services Facility
1500 E Nir Shreibman Blvd
La Vergne, TN



Description: Bottom of test pit **Image Date Taken:** 10/27/2023
Photographer: Hughes, Tyler



Description:
View of previously placed stone
Image Date Taken: 10/27/2023
Photographer: Hughes, Tyler

[Concrete Placement Summary](#)
[Concrete Placement Summary](#)



Nashville
624 Grassmere Park
Suite 14
Nashville, TN 37211
Phone: 615-331-7770

Concrete Placement Summary

Report Date: 10/30/2023

Client:

City of LaVergne
5185 Murfreesboro Road
Laverne, TN 37086

Project:

000230800662.00
City of LaVergne - Public Works and Community
Development Services Facility
1500 E Nir Shreibman Blvd
La Vergne, TN

Placement Date: 10/27/23		Placement Location: Building Exterior - Retaining Wall			Placement Method: Pump			Technician: Miller, Kevin						
Weather: Cloudy & Windy		Location Details: Salt bin wall			Mix Design: 4489LF5 - 4500PSI, Air, w/ Flyash (4500 psi)			Specified Strength (psi): 4500						
Contractor: JB Nease (Baron Construction)					Supplier: Nashville Ready Mix									
Sample	Set	Truck # Ticket #	Load Volume (yd³)	Times	Placement Time (min)	Consistency	Air Content (%)	Unit Weight (lb/ft³)	Concrete Temp (F)	Air Temp (F)	On-Site Admixtures	Specimens Cast	Specimen Size	Sample Type
92391	18	5863 68658	40.00	Batched: 10:06 CDT Arrived: 10:26 CDT Empty: 10:50 CDT	44	Slump: 6-3/4 in. Spec: 2-1/2 - 8	Result: 3.6 Spec: 3.5 - 6.5	147.7	74	73	None	5	4" x 8"	CC



Nashville
624 Grassmere Park
Suite 14
Nashville, TN 37211
Phone: 615-331-7770

Concrete Placement Summary

Report Date: 10/30/2023

Client:

City of LaVergne
5185 Murfreesboro Road
Laverne, TN 37086

Project:

000230800662.00
City of LaVergne - Public Works and Community
Development Services Facility
1500 E Nir Shreibman Blvd
La Vergne, TN

Placement Date:		10/27/23		Placement Location: Slab on Grade			Placement Method:				Technician: Miller, Kevin			
Weather:		Clear		Location Details: North Side of Area C			Mix Design: 4452LF0 - 4000PSI, No Air, w/ Flyash (4000 psi)				Specified Strength (psi): 4000			
Contractor:		THM Concrete						Supplier: Nashville Ready Mix						
Sample	Set	Truck # Ticket #	Load Volume (yd³)	Times	Placement Time (min)	Consistency	Air Content (%)	Unit Weight (lb/ft³)	Concrete Temp (F)	Air Temp (F)	On-Site Admixtures	Specimens Cast	Specimen Size	Sample Type
92436	19	66625	10.00	Batched: 06:05 CDT Arrived: 06:25 CDT Empty: 06:35 CDT	30	Slump: 5-1/2 in. Spec: 2-1/2 - 8	Result: 1.6 Spec: 0 - 3	149.0	76	68	None	5	4" x 8"	CC

Placement Date:		10/27/23		Placement Location: Slab on Grade			Placement Method: Pump				Technician: Miller, Kevin			
Weather:		Clear		Location Details: Middle of C Section of the slab.			Mix Design: 4452LF0 - 4000PSI, No Air, w/ Flyash (4000 psi)				Specified Strength (psi): 4000			
Contractor:		JB Nease (Baron Construction)						Supplier: Nashville Ready Mix						
Sample	Set	Truck # Ticket #	Load Volume (yd³)	Times	Placement Time (min)	Consistency	Air Content (%)	Unit Weight (lb/ft³)	Concrete Temp (F)	Air Temp (F)	On-Site Admixtures	Specimens Cast	Specimen Size	Sample Type
92354	16	6463 68631	10.00	Batched: 06:40 CDT Arrived: 06:55 CDT Empty: 07:05 CDT	25	Slump: 8 in. Spec: 2-1/2 - 8	Result: 0.9 Spec: 0 - 3	149.6	76	66	None	5	4" x 8"	CC

Placement Date:		10/27/23		Placement Location: Slab on Grade			Placement Method: Pump				Technician: Miller, Kevin			
Weather:		Clear		Location Details: South Side of C Section of the slab.			Mix Design: 4452LF0 - 4000PSI, No Air, w/ Flyash (4000 psi)				Specified Strength (psi): 4000			
Contractor:		JB Nease (Baron Construction)						Supplier: Nashville Ready Mix						
Sample	Set	Truck # Ticket #	Load Volume (yd³)	Times	Placement Time (min)	Consistency	Air Content (%)	Unit Weight (lb/ft³)	Concrete Temp (F)	Air Temp (F)	On-Site Admixtures	Specimens Cast	Specimen Size	Sample Type
92366	17	6463 68642	10.00	Batched: 08:16 CDT Arrived: 08:30 CDT Empty: 08:55 CDT	39	Slump: 7-1/2 in. Spec: 2-1/2 - 8	Result: 1.0 Spec: 0 - 3	150.2	74	67	None	5	4" x 8"	CC

Roy Bruce

From: Klein, Matthew <mklein@cecinc.com>
Sent: Monday, November 6, 2023 10:27 AM
To: Roy Bruce
Subject: FW: 315-277 RFI 43 Unsuitable Soils

Good morning Roy,

Please see the attached response from Mike. I will add this into Procore as well. Let me know if you want to schedule a call to discuss with them.

Thanks,

Matthew Klein, E.I.T. | *Assistant Project Manager*
Civil & Environmental Consultants, Inc.
117 Seaboard Lane, Suite E-100, Franklin, TN 37067
direct 615.577.9369 **office** 615.333.7797 **mobile** 270.893.2368
www.cecinc.com

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Personal Business Relationships

From: Backers, Mike <mbackers@cecinc.com>
Sent: Friday, November 3, 2023 2:49 PM
To: Klein, Matthew <mklein@cecinc.com>
Cc: Reed, Emily <ereed@cecinc.com>; Morton, Bert <bmorton@cecinc.com>
Subject: RE: 315-277 RFI 43 Unsuitable Soils

This is defined in the geotech report. Essentially all deleterious material should be removed within the building footprint.

If they are agreeable to some risk under the slab, then a two foot undercut and replacement may be acceptable and we can discuss what this might look like, however, all the foundations will need undercut to natural ground and brought back up with surge stone as the others were.

Michael E. Backers, P.E. | *Principal*
Civil & Environmental Consultants, Inc.
mobile 513.410.6460
<http://www.linkedin.com/in/michaelbackers/>

CEC CINCINNATI CELEBRATING 30 YEARS

WE OWN IT. Senior Leadership • Integrated Services
Personal Business Relationships



From: Klein, Matthew <mklein@cecinc.com>
Sent: Friday, November 3, 2023 9:20 AM
To: Backers, Mike <mbackers@cecinc.com>
Cc: Reed, Emily <ereed@cecinc.com>; Morton, Bert <bmorton@cecinc.com>
Subject: 315-277 RFI 43 Unsuitable Soils

Good morning Mike,

Please see the attached zip file for RFI No. 47 for La Vergne Public Works Facility. Is there any chance you look this over and get us an answer by the end of the day? Let us know if you want to schedule a call to discuss.

Thanks,

Matthew Klein, E.I.T. | Assistant Project Manager
Civil & Environmental Consultants, Inc.
117 Seaboard Lane, Suite E-100, Franklin, TN 37067
direct 615.577.9369 **office** 615.333.7797 **mobile** 270.893.2368
www.cecinc.com

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BARON CONSTRUCTION LLC
PUBLIC WORKS AND COMMUNITY DEVELOPMENT
SERVICES FACILITY

CHANGE ORDER REQUEST

22



State Lic. #20026
Expires: 5/31/2024.
Classification: E, CE
Limit: UNLIMITED
Metro Lic. #415
Murfreesboro Lic.#0165

DATE: December 19, 2023
ATTN: Baron Construction
RE: La Vergne Public Works
1500 E Nir Shreibman Blvd.
La Vergne, TN

Dear Roy Bruce,

We appreciate the opportunity to provide the following quotation for the above referenced project. Our proposal is based upon the updated E101 drawing dated 9/19/23 provided by Baron Construction.

Site Revision Total Sum: \$49,187.73
Add Alt Site Revision Total Sum: \$15,812.27

ITEMS INVOLVED:

8	120v cameras on pole lights
8	120v cameras on the other 2 buildings
1	3#10, for cameras in same conduits above
-1	conduit for cameras
2	WP/JB's for monument sign power & control
1	trenching for the above (rest in same ditch w.flag pole lights)
1	2#8,1#10,1"pvc for the above 2**circ
1	1"pvc for monument sign control
1	connect monument sign
-1	trenching (didn't include on bid day, fudge it pls)
2	120/30/1/NF/3R disconnects for hot box
1	trenching for piv and hot box's (rest in same ditch w. flag pole lights)
1	4#8,1#10,1"pvc for hot box's 2**circ
2	connect hot box's
6	WP/JB's for gate power and control
1	trenching for the above
1	3#10,1"pvc for gate

1	1"pvc for gate control
-1	trenching that I didn't include on bid day fudge it please
-2	Credit for 4" Phone included in allowance
2	2" PVC for phone service & catv service
1	emergency off push button for generator, nema 3R
1	trenching for generator receptacle,battery charger,and jacket heaters
1	1" rigid c for low voltage to generator
1	3#10,1" rigid for battery charger,jacket heater and receptacle
1	WP duplex rec.at generator
4	WP/JB's for all the above
4	connect jacket heaters,battery chargers
1	connect canopy lights at fuel system
1	connect dispensers at canopy
1	connect pumps
1	trenching for all the above
2	1-1/2" rigid c for data to fuel system
5	3#10,1"rigid c for pumps
5	3#10,1"rigid c for dispensers
1	3#12,1"rigid c.for canopy lights
11	explosion proof WP/JB's
22	1" rigid c.seal offs
4	1-1/2"rigid c seal offs
-1	Credit for fuel station included in allowance
1	graybar cost
1	fire alarm cost

PROJECT MANAGER'S SPECIFICATIONS:

- All light fixtures located in a drop ceiling are to have a minimum of (2) wire per fixture installed by the ceiling contractor.
- Allowance lighting fixtures must be approved. We gave an allowance for site work provided.
- Parking to be provided by GC.
- Separate spec book for electrical was not provided on this project. We use specs provided on drawings.
- CAD drawings to be provided by GC at no cost.
- Allowances were given for unspecified fixtures. MUST BE APPROVED
- No OT or after hours work.
- Fire alarm, data, and cameras to be in full conduit system.
- 3rd Party Testing is included in the base bid
- 750KW generator included. Fuel station tank is not included. Sub base tank is included.
- All sectional pads are provided and installed by others
- The above total sum has been calculated and the time schedule agreed upon based upon the current prices and availability of materials and labor, considering anticipated impacts from the COVID-19 pandemic, and any governmental action, disruptions in the supply of labor or materials or other impacts related thereto and that A&S Electric has taken or will take all reasonable measures to protect against excessive price increases and delays, such as early purchasing of materials where appropriate and feasible. A&S Electric shall not be responsible for any additional cost associated with changes in the aforementioned conditions, as they are out of our control. A&S Electric shall advise the contractor when conditions change and impacts our contract price.

EXCLUSIONS:

1. EXCLUDE: The repair of existing code deficiencies (if any) is not included in the above total sum quotation.
2. EXCLUDE: Main Switchboard, Generator/ Transformer / electrical equipment pads.
3. EXCLUDE: Any Utility Charges.
4. EXCLUDE: Parking (to be provided by GC)
5. EXCLUDE: Concrete Encasement
6. EXCLUDE: Painting of any kind
7. EXCLUDE: Gravel (included for primary & secondary power only)
8. EXCLUDE: Rock Excavation
9. EXCLUDE: Furnishing big ass fans and controls
10. EXCLUDE: Work from C section to road SE corner shown on E101. (no information provided)
11. EXCLUDE: J hooks, phone/data/tv/camera parts, wiring, and/or terminations.
12. EXCLUDE: All Pads on site shown on site print.
13. EXCLUDE: F/A PIV Connection, Conduit, and/or Termination.
14. EXCLUDE: Fuel Tank Work
15. EXCLUDE: Wage work
16. EXCLUDE: Seismic
17. EXCLUDE: Background check
18. EXCLUDE: X-Ray of Floors
19. EXCLUDE: Pole bases.
20. EXCLUDE: Hauling off of spoils.
21. EXCLUDE: Backfill of any kind. (gravel backfill in primary included in above total sum)
22. EXCLUDE: Cutting of concrete / asphalt.
23. EXCLUDE: Forming / furnishing of concrete.
24. EXCLUDE: Patching of any kind. (concrete / asphalt/ walls / ceilings / roof / etc.)
25. EXCLUDE: Furnishing/Installation of any low voltage cabling. (unless add alt is taken)
26. EXCLUDE: Any type of bonds.
27. EXCLUDE: Dumpster Fees.
28. EXCLUDE: Engineered stamped drawings / BIM
29. EXCLUDE: Surveying.

TERMS AND CONDITIONS:

Our quotation is valid for thirty (30) days from date of receipt.

Upon acceptance of our quotation, the following terms and conditions will apply:

- Amounts billed will be due within thirty (30) days of invoice.
- Project will be billed on a percentage-of-completion basis.
- All work is to be completed during A & S Electric's normal working hours which are Monday through Friday, 7:00a.m. to 3:30p.m. unless agreed upon in writing.
- The handling or disposal of contaminated or hazardous material is not included in the above quotation.
- Seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic, and buyer shall not be entitled to any damages resulting thereof.

Thank you for considering A & S Electric Inc., for your electrical requirements. Please contact our office if you have any questions or comments concerning the above proposal.

Sincerely,

A & S Electric, Inc.

WE PROPOSE to furnish labor and material --- complete in accordance with above specifications, and subject to conditions found on both sides of this agreement, for the sum of:

Payment to be made as follows: _____

ACCEPTED. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.

Respectfully Submitted,

Payment will be made as outlined above.

Date of Acceptance _____

By _____

By _____

Project Manager

A & S ELECTRIC, INC.

By:  _____

Note: This proposal may be withdrawn by us if not accepted within 30 days.

Shaun Smith

CHANGE ORDER PROPOSAL FORM

Project Number:	Project Name: Public Works -- PIV
-----------------	--------------------------------------

Proposal Provided By: A&S Electric, Inc.

Proposal Number:	Date: 16-Oct-23	Page 1 of 1 pages
------------------	------------------------	---------------------------------

Description	Quotes				Misc. Materials				Labor			
	Quantity	Unit	Cost	Extension	Quantity	Unit	Cost	Extension	Quantity	Unit	Cost	Extension
Fire Alarm Quote	1		4,363.63	4,363.63				0.00				0.00
#10 Copper Wire				0.00	360	ft	0.48	172.80				0.00
#8 Copper Wire				0.00	1,440	ft	0.93	1,339.20				0.00
1" PVC Conduit				0.00	610	ft	2.70	1,647.00				0.00
1" PVC Coupling				0.00	60		1.93	115.80				0.00
1" PVC Connector				0.00	4		1.27	5.08				0.00
1" EMT Conduit				0.00	360	ft	3.84	1,382.40				0.00
1" EMT Coupling				0.00	45		0.94	42.30				0.00
1" EMT Connector				0.00	4		1.12	4.48				0.00
FS Boxes				0.00	3		3.65	10.95				0.00
120/30/1/NF/3R Disconnect				0.00	2		103.85	207.70				0.00
Labor -- Equipment Operator				0.00				0.00	4	hrs	88.00	352.00
Labor -- Electrician				0.00				0.00	32	hrs	80.00	2,560.00
Labor -- Apprentice				0.00				0.00	32	hrs	41.00	1,312.00

Materials	Subtotal	4,363.63	Materials	Subtotal	4,927.71	Labor	Subtotal	4,224.00
9.25	% Sales Tax =	403.64	9.25	% Sales Tax =	455.81			
	Cost:	4,767.27		Cost:	5,383.52		Cost:	4,224.00

Subtotal of Costs of Materials + Equipment + Labor = \$ **14,374.79**

10% Overhead allowed on costs = \$ **1,437.48**

Subtotal of Costs + Overhead = \$ **15,812.27**

Total = \$ 15,812.27

Total for this Change = \$	15,812.27
-----------------------------------	------------------

BARON CONSTRUCTION LLC
PUBLIC WORKS AND COMMUNITY DEVELOPMENT
SERVICES FACILITY

CHANGE ORDER REQUEST

23



2305 La Vergne Public Works &CDSF
La Vergne, TN

RFC 23

Added embeds for light gauge trusses at shear walls as detailed by structural engineer, due to shear truss reactions at the CMU shear walls being larger than anticipated. Refer to attached email from David Lower

1/11/2024

COST CATEGORY / ITEM	UNIT PRICE	QUANTITY	TOTALS	NOTES
Added Embeds for Light Gauge Trusses				
Added Embeds per provided details	\$ 26,861.36	1.00	\$ 26,861.36	•8 Condition A (embeds with studs) •2 Condition B (embeds with coupler welded and loose threaded rebar #5 x 5'-0") •2 Condition C (same as above) •6 Condition D (same as above) •4 Condition E (embeds with studs)
SUBTOTAL	\$ 26,861.36		\$ 26,861.36	

Subtotal \$ 26,861.36
Indirect \$ 1,074.45 4%
Fee \$ 1,676.15 6%
TOTAL \$ 29,611.96



Change Order Request Form

Date: 20-Dec-23

Job Name: La Vergne Publics Wroks Cust Job #: Job No: 9725

Contractor: Baron Construction TS COR #: C.O.#04 Contact: Roy Bruce

Change Order Name:	Fab, supply, and weld embeds for truss reactions on shear walls	Change Order No:
--------------------	---	------------------

Change Requested by: Cody Glenn

Line #	Type Cost	# of Units	Description	Cost/Unit(\$)	Line Total (\$)	Subtotal (\$)
Detailing		1		3,500.00	3,500.00	3,500.00
Material						
1	Steel	1 lot		325.00	325.00	
2	Cut plate	1 lot		1,150.00	1,150.00	
3	Misc couplers/reba	1 lot		4,780.00	4,780.00	
4					-	
5					-	
Labor					-	6,255.00
6	Shop	54		65.00	3,510.00	
7					-	
8				-	-	
Install					-	3,510.00
9	Foreman	25		90.00	2,250.00	
10	Steel worker	100		80.00	8,000.00	
11				-	-	
12				-	-	
13				-	-	
					-	10,250.00
Delivery						350.00
					Subtotal:	23,865.00
Notes:						
1			Profit:	10%		2,386.50
2			Tax:	9.75%		609.86
3						
4					Total:	26,861.36
5						
6						

382 Sand Hill Road, La Vergne TN 37086

Office: 615.793.8990

Fax: 615.793.8988

Roy Bruce

From: David Lower <david.lower@wallace.design>
Sent: Thursday, November 9, 2023 5:25 PM
To: Roy Bruce
Cc: Tim Lambe
Subject: Part C - Shear Trusses at the CMU Walls
Attachments: Truss Shop Drawing Details 11-9-2023.pdf

Roy,

The shear truss reactions at the CMU shear walls in Part C were larger than anticipated. Please see the attached details associated with these. They are "keyed" on the CFS truss shop drawing that I just returned. Please let me know if you have any questions.

Thanks,

Dave

david lower, p.e.
principal



wallace
design
collective

1801 west end avenue, suite 1220
nashville, tennessee 37203
615.321.9710 o • 629.202.4570 d

atlanta • denver • kansas city • nashville • oklahoma city • tulsa



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Date 11/1/23

Sheet No.

of

Job

Subject

Reference

DETAIL SHOWS
GENERAL CONCEPT
SEE TRUSS
MFR FOR
TRUSS LAYOUT/
CONFIGURATION

EL = COORD W/ ELEV MFR
T/O WALL

TRUSS BEARING
SEE TRUSS
MFR FOR
CONNECTION

CFS
TRUSS

8" BOND BEAM
W/ (2) #5 CONT

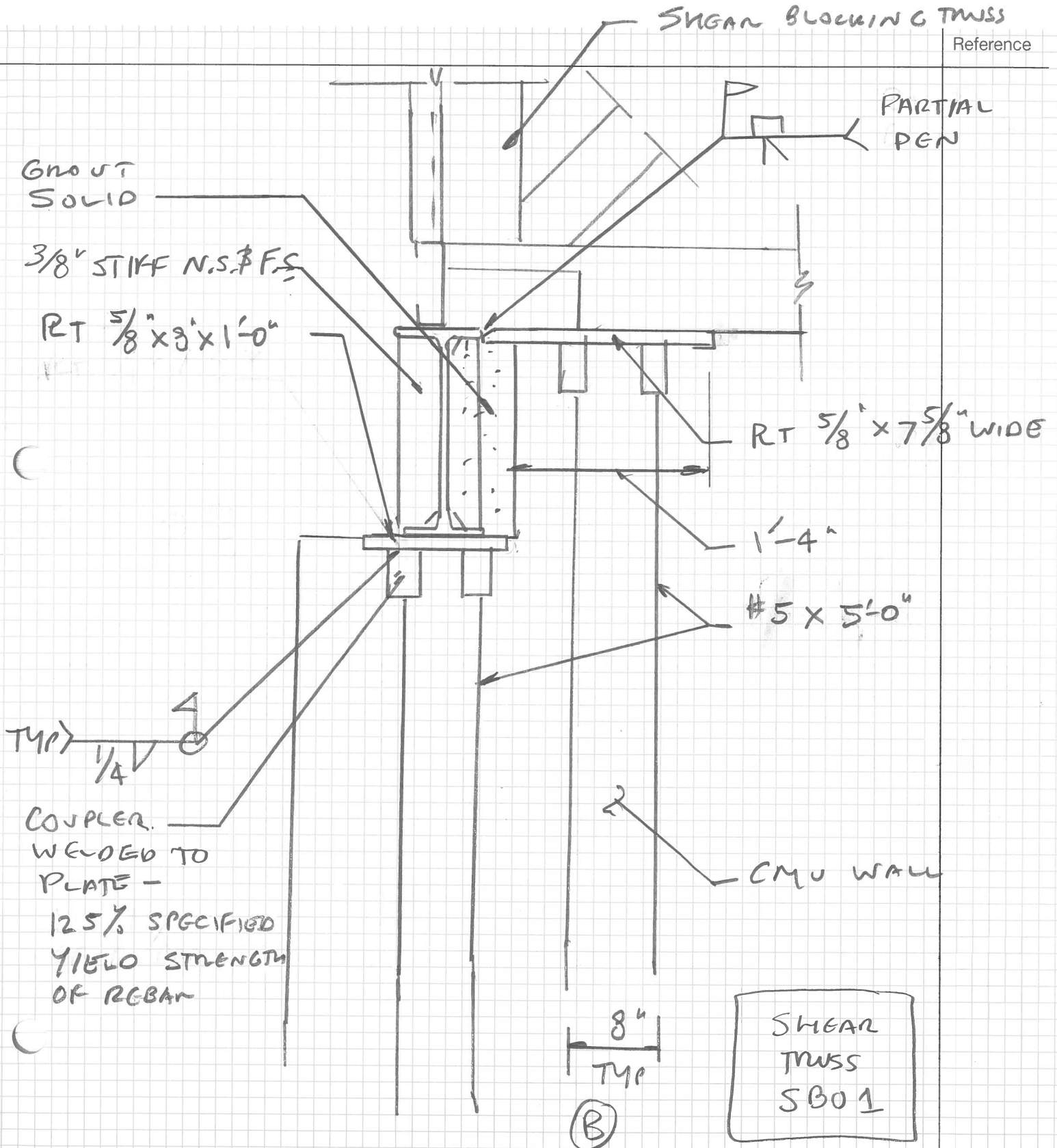
CFS
TRUSS

A



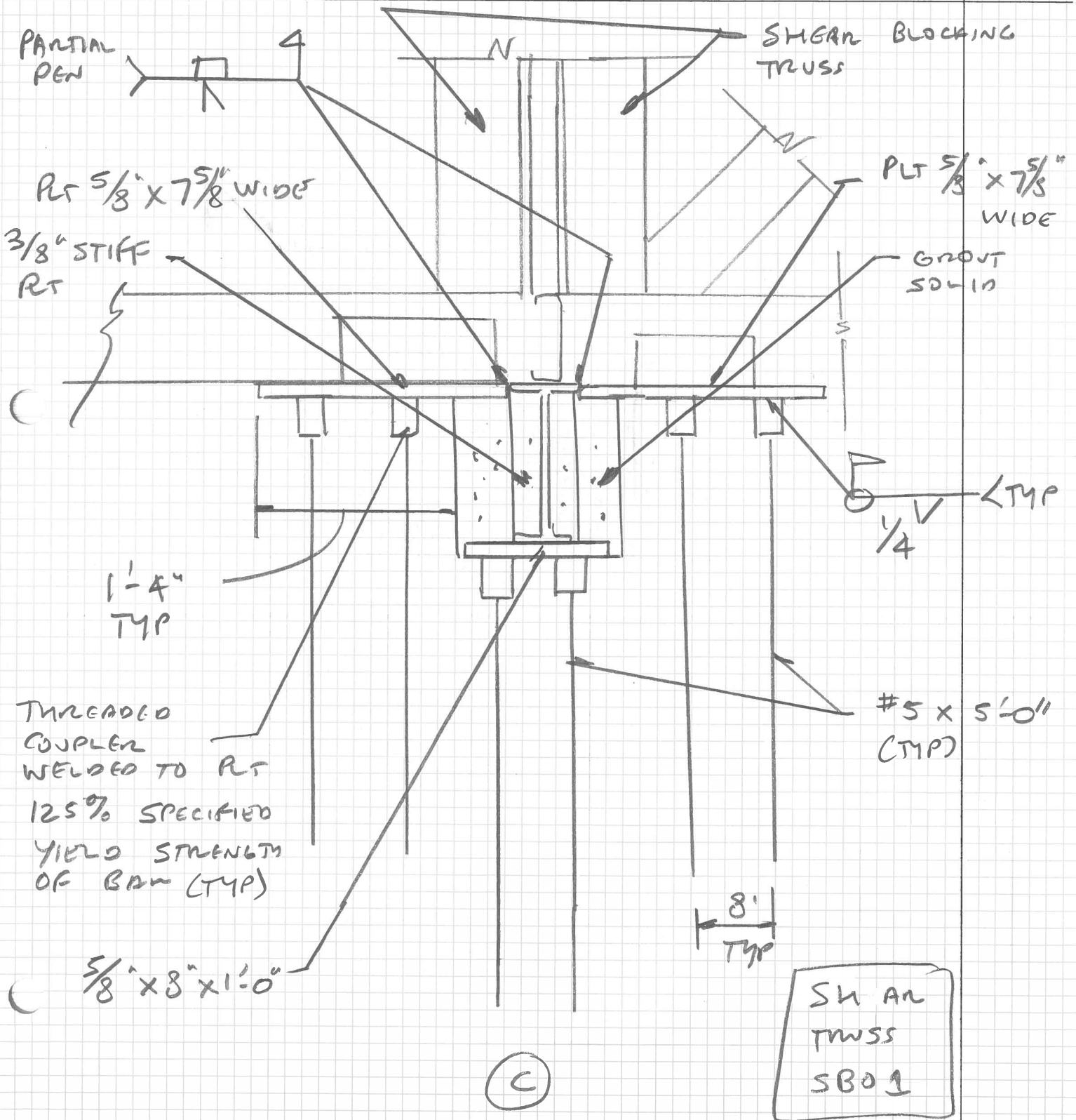
of

Subject



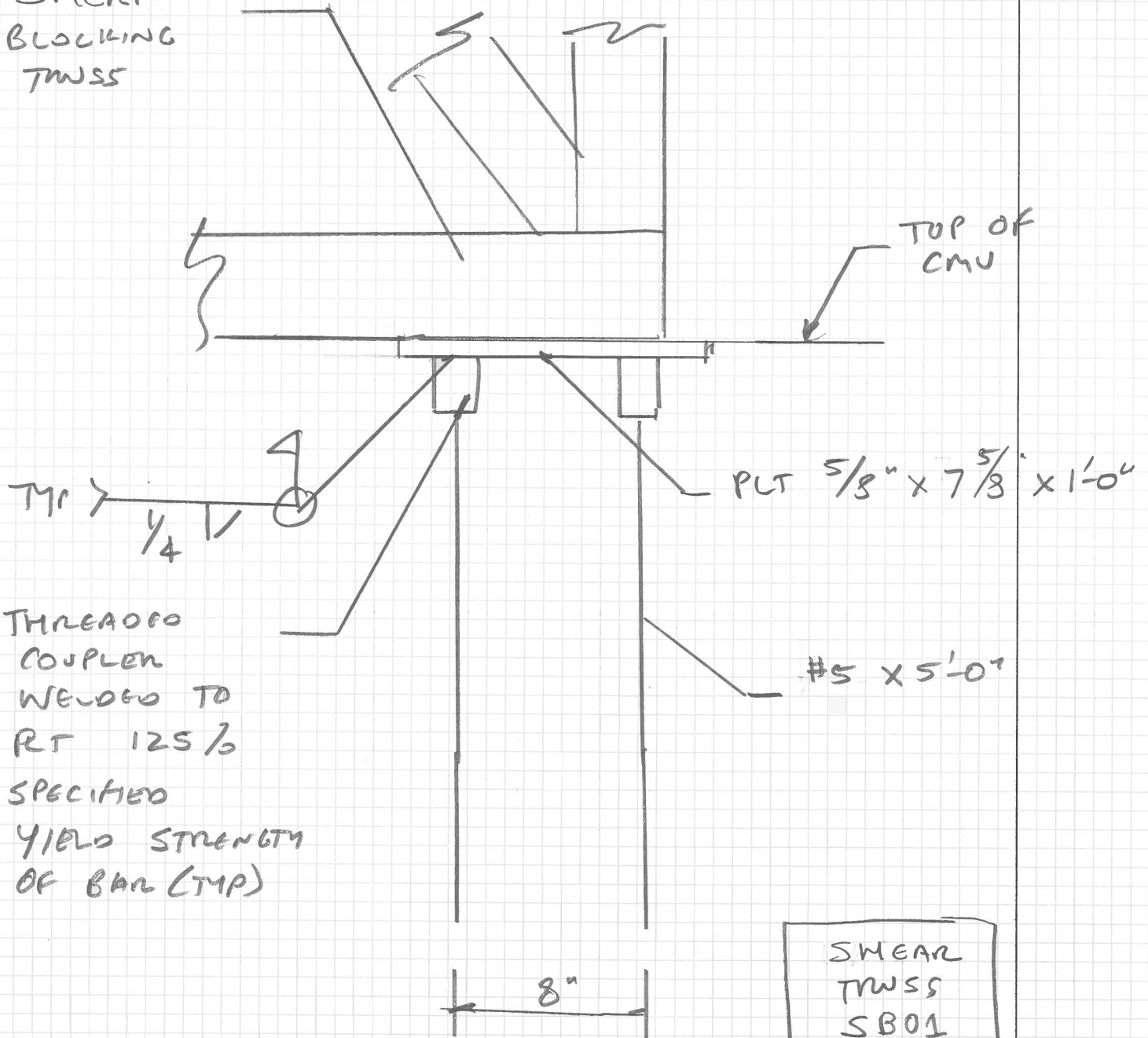


Reference





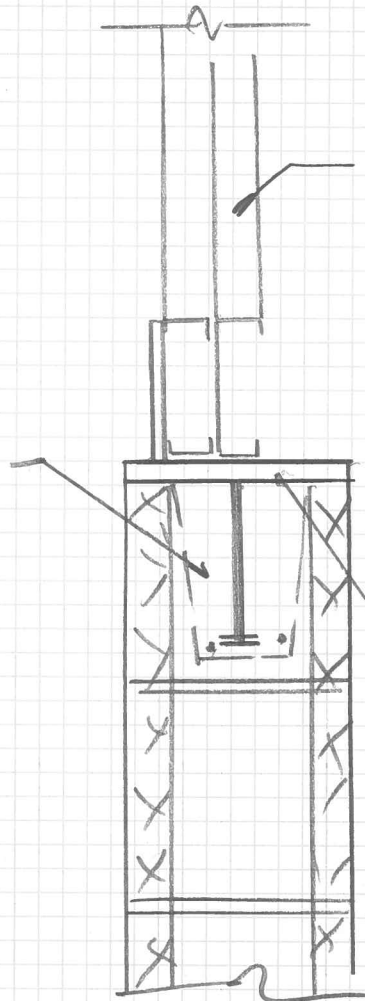
SHEAR
BLOCKING
TRUSS



(D)



8" BOND
BEAM
W/(2) #5
CONT



SHEAR BLOCKING
TRUSS

RT 5/8" x 7 5/8" x 1'-6"
W/(3) 1/2" x 5"
HEADED STUDS
TYPICAL EACH
END OF SHEAR
BLOCKING
TRUSS

(E)

SHEAR
TRUSS
SB03
SB02

BARON CONSTRUCTION LLC
PUBLIC WORKS AND COMMUNITY DEVELOPMENT
SERVICES FACILITY

CHANGE ORDER REQUEST

24



State Lic. #20026
Expires: 5/31/2024.
Classification: E, CE
Limit: UNLIMITED
Metro Lic. #415
Murfreesboro Lic.#0165

DATE: December 20, 2023
ATTN: Baron Construction
RE: La Vergne Public Works
1500 E Nir Shreibman Blvd.
La Vergne, TN

Dear Roy Bruce,

We appreciate the opportunity to provide the following quotation for the above referenced project. Our proposal is based upon the updated E101 drawing dated 9/19/23 provided by Baron Construction.

Added Conduit & Feeders Per NES Moving Transformer Total Sum: \$16,742.00

ITEMS INVOLVED:

420	25'x6	#400 in PVC from MDP to new transformer location
65	ft	2" pvc from meter to transformer
-140	70x2	shorter runs for primary due to transformer location change

PROJECT MANAGER'S SPECIFICATIONS:

- All light fixtures located in a drop ceiling are to have a minimum of (2) wire per fixture installed by the ceiling contractor.
- Allowance lighting fixtures must be approved. We gave an allowance for site work provided.
- Parking to be provided by GC.
- Separate spec book for electrical was not provided on this project. We use specs provided on drawings.
- CAD drawings to be provided by GC at no cost.
- Allowances were given for unspecified fixtures. MUST BE APPROVED
- No OT or after hours work.
- Fire alarm, data, and cameras to be in full conduit system.
- All sectional pads are provided and installed by others
- The above total sum has been calculated and the time schedule agreed upon based upon the current prices and availability of materials and labor, considering anticipated impacts from the COVID-19 pandemic, and any governmental action, disruptions in the supply of labor or materials or other impacts related thereto and that A&S Electric has taken or will take all reasonable measures to protect against excessive price increases and delays, such as early purchasing of materials where appropriate and feasible. A&S Electric shall not be responsible for any additional cost associated with changes in the aforementioned conditions, as they are out of our control. A&S Electric shall advise the contractor when conditions change and impacts our contract price.

EXCLUSIONS:

1. EXCLUDE: The repair of existing code deficiencies (if any) is not included in the above total sum quotation.
2. EXCLUDE: Main Switchboard, Generator/ Transformer / electrical equipment pads.
3. EXCLUDE: Any Utility Charges.
4. EXCLUDE: Parking (to be provided by GC)
5. EXCLUDE: Concrete Encasement
6. EXCLUDE: Painting of any kind
7. EXCLUDE: Gravel (included for primary & secondary power only)
8. EXCLUDE: Rock Excavation
9. EXCLUDE: Furnishing big ass fans and controls
10. EXCLUDE: Work from C section to road SE corner shown on E101. (no information provided)
11. EXCLUDE: J hooks, phone/data/tv/camera parts, wiring, and/or terminations.
12. EXCLUDE: All Pads on site shown on site print.
13. EXCLUDE: F/A PIV Connection, Conduit, and/or Termination.
14. EXCLUDE: Fuel Tank Work
15. EXCLUDE: Wage work
16. EXCLUDE: Seismic
17. EXCLUDE: Background check
18. EXCLUDE: X-Ray of Floors
19. EXCLUDE: Pole bases.
20. EXCLUDE: Hauling off of spoils.
21. EXCLUDE: Backfill of any kind. (gravel backfill in primary included in above total sum)
22. EXCLUDE: Cutting of concrete / asphalt.
23. EXCLUDE: Forming / furnishing of concrete.
24. EXCLUDE: Patching of any kind. (concrete / asphalt/ walls / ceilings / roof / etc.)
25. EXCLUDE: Furnishing/Installation of any low voltage cabling. (unless add alt is taken)
26. EXCLUDE: Any type of bonds.
27. EXCLUDE: Dumpster Fees.
28. EXCLUDE: Engineered stamped drawings / BIM
29. EXCLUDE: Surveying.

TERMS AND CONDITIONS:

Our quotation is valid for thirty (30) days from date of receipt.

Upon acceptance of our quotation, the following terms and conditions will apply:

- Amounts billed will be due within thirty (30) days of invoice.
- Project will be billed on a percentage-of-completion basis.
- All work is to be completed during A & S Electric's normal working hours which are Monday through Friday, 7:00a.m. to 3:30p.m. unless agreed upon in writing.
- The handling or disposal of contaminated or hazardous material is not included in the above quotation.
- Seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic, and buyer shall not be entitled to any damages resulting thereof.

Thank you for considering A & S Electric Inc., for your electrical requirements. Please contact our office if you have any questions or comments concerning the above proposal.

Sincerely,

A & S Electric, Inc.

WE PROPOSE to furnish labor and material --- complete in accordance with above specifications, and subject to conditions found on both sides of this agreement, for the sum of:

Payment to be made as follows: _____

ACCEPTED. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.

Respectfully Submitted,

Payment will be made as outlined above.

Date of Acceptance _____

By _____

By _____

Project Manager

A & S ELECTRIC, INC.

By:  _____

Note: This proposal may be withdrawn by us if not accepted within 30 days.

Shaun Smith

BARON CONSTRUCTION LLC
PUBLIC WORKS AND COMMUNITY DEVELOPMENT
SERVICES FACILITY

CHANGE ORDER REQUEST

25

**Change Order Proposal**

To: Baron Construction Date: November 17, 2023
Change #: COR #2
Job Name: City of La Vergne Public Works
Location:
Attn: Roy Bruce Job #: M061

A contract change is being made.

Reason for change: _____

Add	Deduct	Quantity	Description	Amount
	X		Change Continous Hinges @ HW Sets 5.0, 7.0, & 17.0 to Butt Hinges	
	X		Delete Door/Frame/HW B106A - this opening Alum. Storefront	
	X		Delete Closers @ Doors F201A, F223A, F224A	
	X		Kick Plates Deleted @ 44 Doors	
X			Door E202A - Change from 90 Min. HM Door to 90 Min. Wood Door	
X			Door C133A - Change from 90 Min. Wood Door to 90 Min. HM Door	
	X		Door A109A - Delete DPS, EPT, Power Supply, & Card Reader	
X			Door A110A - Add DPS, EPT, POWER Supply, & Card Reader	
	X		Door F206B - Delete HM Frame - to be aluminum By Others	
	X		Door C102A - Delete narrow vision light	
X			Door C109A - Add narrow vision light (cutout and light kit only)	
X			Doors C122A & F206B - Add full glass light (cutout/light kit only)	
X			Door B118A - Change to plastic laminate	
			Lump Sum	(\$3,146.00)
			9.75% Sales Tax	(\$306.74)
			Total	(\$3,452.74)

Accepted: _____

CHE Mid-Atlantic

Date: _____

Matt Williams
Project Manager



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 6. First Reading - **Ordinance #2024-04** - An Ordinance to Amend the Fiscal Year 2023-2024 General Fund Budget.

Department: Finance

Presented By: Phillis Rogers

Item Attachments: 1. Ordinance #2024-04

Summary:

This is a budget amendment to amend the Fiscal Year 2023-2024 General Fund Budget for the Fire Department.

Background Information:

In the Fire Department, an additional \$11,100 is needed for the tools and equipment for the new pumper. This is due to cost increases from the manufacturer.

Financial Summary:

The total amount of the budget amendment is \$11,100 for the Fire Department.

Staff Recommendation:

Staff recommends approval.

ORDINANCE #2024-04

AN ORDINANCE TO AMEND THE FISCAL YEAR 2023-2024 GENERAL FUND BUDGET.

BE IT ORDAINED By the Board of Mayor and Aldermen of the City of La Vergne
as follows:

The 2023-2024 Budget is hereby amended for the **General Fund** by providing for:

Increased Expenditures for account number:

110-42200-944	Fire - Transportation	\$	11,100
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Decrease Fund Balance:

110-37840	Transfer from Fund Balance	\$	11,100
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**THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER THE DATE OF FINAL
PASSAGE, THE PUBLIC WELFARE REQUIRING IT.**

LEGAL STATUS PROVISIONS

Approved by the Mayor and Board of Aldermen:

1st Reading

Jason Cole, Mayor

2nd Reading

ATTEST:

Bruce E. Richardson, City Recorder

Published in the Murfreesboro Post on _____.



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 7. **Resolution #2024-05** - A Resolution Authorizing the City of La Vergne to Participate in the Public Entity Partners Cyber Security Partners Matching Grant Program.

Department: City Administrator

Presented By: Bruce Richardson

Item Attachments: 1. Resolution #2024-05

Summary:

This is a resolution that will authorize the city to participate in this grant from PE Partners.

Background Information:

This year, the city is applying for this grant to help pay for a subscription from ThinkGard Total Data Security which provides backup and disaster recovery, security services and cyber security incident response for the I.T. Department. This is a 50/50 matching grant program.

Financial Summary:

The maximum matching portion of the grant is up to \$2,000. The cost of the subscription is \$11,006.66.

Staff Recommendation:

Staff recommends approval.

RESOLUTION #2024-05

A RESOLUTION AUTHORIZING THE CITY OF LA VERGNE TO PARTICIPATE IN THE PUBLIC ENTITY PARTNERS CYBER SECURITY PARTNERS MATCHING GRANT PROGRAM.

WHEREAS, the cyber security safety of the City of La Vergne is of great importance; and

WHEREAS, all efforts shall be made to provide a reduced liability for the City of La Vergne employees; and

WHEREAS, Public Entity Partners seeks to encourage a safer cyber security environment by offering the Cyber Security Partners Matching Grant Program; and

WHEREAS, the City of La Vergne now seeks to participate in this important program.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Board of Aldermen of the City of La Vergne the following:

SECTION 1. That the City of La Vergne is hereby authorized to submit an application for the Cyber Security Partners Matching Grant Program through Public Entity Partners.

SECTION 2. That the City of La Vergne is further authorized to provide a matching sum to serve as a match for any monies provided by this grant.

RESOLVED this 7th day of March, 2024.

Jason Cole, Mayor

ATTEST:

Bruce E. Richardson, City Recorder

Bruce Richardson

From: noreply@pepartners.org
Sent: Friday, December 1, 2023 10:45 AM
To: ksadler@lavergnethn.gov
Subject: Cyber Security Matching Grant Submission Received

Caution: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

CONGRATULATIONS! We have received your submission for the Cyber Security Matching Grant to PE Partners for consideration. Please review the following information; should there be any changes contact [Tahtia Mitchell](#) or you may call her at (615) 371-0049.

Cyber Security Matching Grant

PE Partners Grant Application

Application Date:	12/1/2023 10:43:04 AM
Participant city (or Agency) Name:	City of La Vergne
P.O. Box Address or Street:	5093 Murfreesboro Rd
City:	La Vergne
Zip Code:	37086
Contact Person:	Kemishia Sadler
Contact Person - Title:	Grant Writer
Contact Person - Telephone:	615-287-8606
Contact Person - Email:	ksadler@lavergnethn.gov
No of Full Time Employees in City/Agency	265
No. Employees Affected by this Purchase:	265
City/Agency Desires to Purchase the Following:	The city wishes to use funds to purchase a subscription program from ThinkGard Total Data Security. This subscription provides backup and disaster recovery, security services, and cyber security incident response to assist the Information Technology department.
Justification for the Needed Purchase:	Cybersecurity attacks pose a huge threat to local governments due to the high volume of confidential information they work with. As a steward to our citizens, it is critical to protect their privacy in the most efficient and practical way possible. The use of this subscription service will serve as a valuable asset to the city and its constituents.
Estimate #1 - Calculated Total	11,006.66

Estimate #2 - <i>Calculated Total</i>	11,124.56
Approving Supervisor - Name	Jason Cole



RESOLUTION #2024-06

A RESOLUTION TO AUTHORIZE THE MAYOR TO EXECUTE CERTAIN SETTLEMENT AGREEMENTS.

WHEREAS, from time to time, lawsuits in which the City of La Vergne ("City") is a defendant are dismissed or resolved in exchange for payment made by the City's insurance provider, less the deductible, if applicable; and,

WHEREAS, when lawsuits are settled on the terms described above, the City is required to execute the settlement agreements.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of La Vergne that the mayor be and hereby is authorized to execute any settlement agreement that is approved as to form by the city attorney and that dismisses or resolves lawsuits in exchange for payment made by the City's insurance provider, less the deductible, if applicable.

Resolved this the 7th day of March, 2024.

CITY OF LA VERGNE, TENNESSEE

Jason Cole, Mayor

ATTEST:

Bruce E. Richardson, City Recorder



ITEM REPORT
Board of Mayor and Aldermen
Meeting Date: February 29, 2024

Item #: 9. Motion to Approve a Lease and Operating Agreement with FiftyForward for the La Vergne Senior Center.

Department: Parks & Recreation

Presented By: David McGowen

Item Attachments: 1. Lease and Operating Agreement - FiftyForward

Summary:

This is an item to approve an Agreement with FiftyForward to manage and operate the La Vergne Senior Center.

Background Information:

FiftyForward was the only organization that responded to an RFP issued by the City. The RFP addressed the daily operations and management of the La Vergne Senior Center. FiftyForward was the only organization that responded. They are a non-profit organization that currently manages senior centers and are interested in providing their services to La Vergne. FiftyForward has the network and resources available to step in and provide a professional and thriving environment for the La Vergne community.

This version of the agreement has been submitted to FiftyForward for their review. Due to possible changes that may be requested by FiftyForward, this might not be ready for the meeting on March 7, 2024.

Financial Summary:

Staff Recommendation:

Staff recommends approval.

LEASE AND OPERATING AGREEMENT

THIS AGREEMENT made and entered into on this _____, 2024 (“Effective Date”) by and between THE CITY OF LA VERGNE, a Tennessee municipal corporation, hereinafter referred to as “City”, and SENIOR CITIZENS, INC. dba FIFTYFORWARD, a Tennessee non-profit corporation, hereinafter referred to as “Lessee”.

W I T N E S S E T H

1. PREMISES: In consideration of the covenants by and between the parties, to be performed by them at the time and in the manner set forth herein City does hereby lease to the Lessee those certain premises hereinafter referred to as “the Premises”, at, 337 States River Road, La Vergne, TN 37086, commonly known as the La Vergne Senior Center.
2. TERM: The term for which the premises are leased shall be for _____, commencing on _____, and ending on June 30, 2025. This lease shall automatically renew and continue to renew for additional one-year periods. This lease may be terminated by either party upon ninety (90) days written notice.
3. RENTAL: In consideration of the material benefits derived by both parties, the City hereby agrees to provide the use of the premises at the cost of \$1.00 per year, to be paid on or before the Effective Date. Receipt of which is hereby acknowledged.
4. USE, OCCUPANCY, AND PURPOSE: Lessee will use the premises to provide certain administrative, managerial, operational, and other services (“Services”) to and for the benefit of City and the Senior Center, and Lessee wishes to be retained by City to provide the Services to, and for the benefit of the City and the Senior Center. Lessee will not use or occupy, or permit to be used or occupy the premises for any purposes or purpose in violation of law, local statutes, ordinances or regulations and Lessee will exempt, exonerate, and discharge City from all claims on account of any damage or injuries incurred by them by reason of Lessee’s violation of any such laws, ordinances, or regulations.
5. MANAGEMENT SERVICES: During the Term of the Lease, Lessee shall manage and supervise the premises and the Senior Center including, without limitation, providing the Services as follows.

- a. Lessee shall provide opportunities for older adults to stay vital and engaged as active members of the community they live in with a comprehensive range of health, wellness, educational, and recreational programs, as well as special events and trips.
- b. All employees of the Senior Center shall be the employee of the Lessee. Lessee shall designate one or more of its employees to serve as Lessee's primary liaison(s) with City and the Senior Center, and will ensure Lessee's provision of the Services in accord with the terms and provisions of this Agreement.
- c. Lessee shall maintain, develop as necessary, supervise and ensure the implementation of (i) all operating policies, procedures, systems and controls at the Senior Center, and (ii) all policy and procedure manuals necessary and appropriate for the Senior center's management and operation. Periodically and as necessary and appropriate, Lessee shall review the policies, procedures systems and controls of and at the Senior Center, and based on such review, make revisions or updates thereto. All policies shall be provided to the City for its approval before implementation.
- d. Lessee shall maintain the financial and accounting books and records, and the financial and accounting management systems, policies and procedures, of the Senior Center. Lessee shall maintain a system of financial controls, and maintain a general ledger and all subsidiary ledgers, as well as prepare regular accounting, budgeting and financial reports to City.
- e. Lessee shall be responsible for the filing of federal, state and local payroll returns and the deposit of all payroll and withholding taxes, and shall be responsible for disbursing payroll checks to the employees of the Senior Center on a timely and accurate basis.
- f. Lessee shall maintain a purchasing program that is in compliance with applicable law, and directly order/purchase inventory and supplies for use at the Senior Center. Such inventory and supplies shall include, but not be limited to, food and dietary supplies, office supplies, and supplies necessary for the operation, repair, and maintenance of the Senior Center.

- g. Periodically, but no less often than annually, Lessee shall prepare, and submit for City's approval, a Capital Budget for routine building and grounds maintenance and repair. Upon City's approval of such budget, City shall supervise and implement the funded maintenance and repair program.
- h. As instructed by, or with the permission of, City from time to time, Lessee may request City purchase on behalf of Lessee, items of equipment, furniture, fixtures and/or other capital improvements for the Senior Center. Lessee's requests will be considered by the City Administrator or the Board of Mayor and Aldermen as required by policy.
- i. Lessee shall assist City in connection with any and all applications, surveys, audits, exit conferences, and other federal, state and local administrative proceedings, examinations or investigations related to the Senior Center, including grant applications for the Senior Center. In addition, Lessee shall maintain compliance with applicable laws, including providing updates regarding changes in the law to the extent applicable to the Senior Center or its operation.
- j. INSURANCE: Lessee shall implement and maintain a comprehensive risk management program, and shall, at its sole expense, procure and maintain and continue in force, a general liability insurance policy in the minimum amount of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate, naming City as an additional insured and loss payee.
- k. Any and all taxes, charges, assessments and contributions incurred, assessed or required to be paid in connection with the Senior Center shall be paid by Lessee.
- l. Lessee shall assist City with respect to compliance with all contracts relating to the Senior Center, and Lessee shall make all payments required pursuant to such contracts.
- m. Lessee shall recommend all rates and fees charged for the use of the Senior Center which must be approved by City before they may be charged.
- n. Lessee shall ensure that no license, certification, permit, right, franchise or privilege in connection with the Senior Center is allowed to lapse or be

forfeited, so long as the same shall be necessary for the operation of the Senior Center, and shall procure the extension and/or renewal of all such licenses, certifications, permits, rights, franchises or privileges during the Term.

- o. Lessee shall fully cooperate with the City in defending any and all claims and causes of action that result, directly or indirectly, from the activities of or at the Senior Center.
 - p. Lessee shall supervise the provision of services performed at the Senior Center. Lessee shall be responsible for ensuring that services provided at the Senior Center are in compliance with the standards set by the City and applicable law.
 - q. Lessee shall honor the membership status of La Vergne Senior Center members at all of their Middle Tennessee locations.
 - r. In the event the lessee is unable to provide the management services required to operate the Senior Center, this Lease shall be declared immediately cancelled and of no further force and effect.
- 6. MANAGEMENT FEES: As compensation for the Services provided by Lessee hereunder during the initial term, Lessee shall be paid a total of Two Hundred Thirty Thousand Dollars and No Cents (\$230,000.00). In any subsequent renewal period following the initial term, compensation for the renewal term shall set pursuant to the City's approved budget for the then-current fiscal year. Lessee will have the opportunity to seek additional funding via grants, conduct fundraisers, and receive donations. La Vergne Senior Center patrons will not be assessed a general membership fee; however, specialized programs and day trips may incur a cost-related usage fee. Usage fee examples may include, art class supply fee, museum tour admission fee, etc.
- 7. SUBLEASING: Lessee shall not have the right to assign this lease or sublease the premises in whole or in part during the term of this lease without prior written consent of City.
- 8. INSURANCE: Lessee will not do, suffer, or permit anything to be done in or on the premises that will increase the premiums on any fire policies placed by City, and in the event there is a violation of this paragraph by Lessee then Lessee agrees to pay the amount of increase in premiums caused by such violations upon demand.

9. UTILITIES: City agrees to promptly pay all bills and charges for utility services assessed or consumed in and within leased premises during the term of this lease.
10. REPAIRS AND MAINTENANCE: City shall perform all routine maintenance to the premises including, but not limited to, repairs to the roof exterior walls plumbing, and electrical wiring. Lessee agrees to maintain the premises in a clean, sanitary condition and promptly alert City of any required maintenance, within two business days after such condition may arise.
11. TERMINATION AND SURRENDER: Lessee agrees that at the termination of this lease or any extensions, or any sooner legal termination thereof, to q2uit and surrender the premises hereby leased in as good order and condition as at the time of its acquisition, reasonable wear and tear, damage by casualty excepted.
12. LIABILITY: Lessee shall during the term of this lease, indemnify City and hold it harmless against any and all claims, suits or judgments for damages to person or persons, whether in the employment of Lessee or otherwise, or property, arising out of any cause or condition in connection with the premises and related to the Lessee's ownership or operation of the Senior Center.
13. FIRE AND OTHER CASUALTY: In case of partial damage by fire, explosion, tornado, or other casualty of the premises, or any part thereof, such damage shall be repaired by City with all reasonable dispatch.

In the event the premises shall be substantially destroyed or damaged so as to render the premises completely untenable, this lease may be cancelled by option of either party by giving notice in writing to the other party within thirty (30) days of such destruction or damage to the premises. If neither party exercises its option to cancel this lease after destruction or damages, City shall, a its own expense, restore the premises to the condition immediately preceding such destruction or damage with all reasonable dispatch.
14. ALTERATIONS AND CONSTRUCTION: Lessee shall not make any repairs, replacements, additions, improvement, alterations or changes to the premises without prior written approval from City.
15. SURRENDER OF POSSESSION: Upon expiration of the term of this Lease, whether by lapse of time or otherwise, Lessee shall promptly and peacefully surrender the leased

premises to City in as good condition as when received by Lessee or as thereafter improved, reasonable use and wear and tear excepted.

16. REMOVAL OF PROPERTY: Lessee shall remove all of its moveable property and trade fixtures which can be removed without damage to the leased premises at the termination of this Lease either by expiration of term or other cause, and shall pay City any reasonable damages for injury to the leased premises resulting from such removal. If Lessee shall fail to remove any of its property of any nature whatsoever from the leased premises at the termination of this lease, City may remove and store such property without liability for loss or damage at the expense of Lessee. If Lessee shall not pay the cost of storing any such property after it has been stored for a period of thirty (30) days or more, City may, at its option, sell or permit to be sold, any or all such property at public sale, in such manner and at such times and places as City, in its sole discretion, may deem proper without notice to Lessee, unless notice is required under applicable statutes and shall apply the proceeds of such sale; first, to the cost and expense of such sale, including reasonable attorney's fees actually incurred; second to the payment of the costs or charges for storing any such property; third, to the payment of any other sums of money which may then be or thereafter become due to City from Lessee under any of the terms hereof; and fourth, the balance, if any, to Lessee. Lessee shall remain liable for any differences.

17. NOTICES: All notices, demands and requests contemplated hereunder by either Party to the other shall be in writing, and shall be deemed given when delivered by hand, or by nationally recognized overnight courier, or mailed, postage prepaid, registered, or certified mail return receipt requested:

To Lessee:

Fifty Forward

To City:

City of La Vergne

c/o City Administrator

18. ACCEPTANCE: Lessee accepts the leased premises in “as is” condition, subject to all laws and regulations without representation by City as to condition.
19. CAPTIONS AND HEADINGS: The captions and headings of this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.
20. ATTORNEY’S FEES: Should City find it necessary to take legal action against Lessee for unpaid rent and/or the enforcement of any provisions or covenant of this lease, then, in that event, in addition to any other damages City shall be entitled to recover, City also shall be entitled to recover its reasonable attorney’s fees and costs.
21. NON-DISCRIMINATION: Neither Lessee, nor anyone on its behalf, shall discriminate against anyone on the basis of race, color, religion, sex, marital status, or national origin.
22. GOVERNING LAW; VENUE: This Lease shall be construed and governed by the laws of the State of Tennessee. Lessee consents to personal jurisdiction in Tennessee. The venue for adjudication of any civil action regarding the terms or performance of this agreement shall be in the state courts of Rutherford County, Tennessee
23. WAIVER: Any waiver by City of any act, failure to act or breach on the part of the Lessee shall not constitute a waiver of any prior or subsequent act or breach.

IN WITNESS WHEREOF, the parties have executed this lease agreement on the day and date first written above.

LESSEE:
FIFTYFORWARD

CITY:
CITY OF LA VERGNE

BY: _____
TITLE

BY: _____
JASON COLE, MAYOR

ATTEST:

ATTEST:

BY: _____
TITLE

BY: _____

Sworn to and subscribed to before me, a Notary Public, this _____ day of _____, 2024, by _____, the _____ of Lessee and duly authorized to execute this instrument on Lessee's behalf.

Notary Public

My Commission Expires: _____



City of La Vergne

5093 Murfreesboro Road • La Vergne, TN 37086

Phone: (615) 793-6295 • Fax: (615) 793-6025

Website: www.LaVergneTN.gov

M E M O

DATE: FEBRUARY 27, 2024

TO: BOARD OF MAYOR AND ALDERMEN

FROM: BRUCE RICHARDSON

RE: SENIOR CITIZENS ADVISORY COMMITTEE

Senior Citizen's Advisory Committee
Appointed by Mayor; Confirmed by Council - 4 Year Terms

Name	Appointed:	Term Expires:
Steve Noe - Chairman	November 2018	Term of Office
Rick Autery	May 2018	February 28, 2025
Frankie Brooks	November 2023	April 30, 2027
Laura Davidson	September 2022	December 31, 2025
Roger French	January 2019	April 30, 2027
Tabitha Howard	December 2022	December 31, 2026
Mary Jane Skinner	February 2004	January 31, 2024

The term for Mary Jane Skinner expired at the end of January. She would like to stay on this committee. We have been advertising this position on Channel 3 and social media, but have not received any other applications.

Current Applicant:

- Mary Jane Skinner



City of La Vergne

5093 Murfreesboro Road • La Vergne, TN 37086

Phone: (615) 793-6295 • Fax: (615) 793-6025

Website: www.LaVergneTN.gov

M E M O

DATE: JANUARY 30, 2024

TO: BOARD OF MAYOR & ALDERMEN

FROM: BRUCE RICHARDSON

RE: STORMWATER APPEALS AND ADVISORY BOARD

<u>Stormwater Appeals and Advisory Board</u>		
Appointed by Mayor, Confirmed by City Council - 4 Year Terms		
Name	Appointed	Term Expires
Earl Garvin Jr. - Chairman	May 2008	December 31, 2025
Vacant (Meghan DeBeaord)		December 31, 2026
Vacant (John "Wade" Dever)		December 31, 2024
Vacant (Chuck Dillon)		December 31, 2027
Jeff Moss	May 2022	December 31, 2026
Mary Jane Skinner	February 2006	December 31, 2024
Dennis Waldron	December 2020	Term of Office

We have three vacancies on this committee due to resignations. We have been advertising these positions on Channel 3 and Social Media, but we have not received any applications. If we do not receive any applications by Tuesday, February 6, 2024, I will remove this item from the agenda.