



**TOWN OF SMYRNA
TOWN COUNCIL WORKSHOP
September 25, 2025
Town Hall
5:00 PM**



Heather Kent, Public Information Officer- "Town of Smyrna Branding Update"

Proposed Consent Agenda (Items #1-12)

Items for Discussion

Public Comment.

Note: The Town's Public Comment Period shall be reserved for those citizens that have signed up to address the Town Council, or a Board or Committee, at least 24 hours in advance of the meeting, pursuant to the Town's Public Comment Policy. Speakers are limited to 3 minutes. Additional comments may be submitted in writing.

1. Approval of the terms of, and authorization for the Mayor to execute, an agreement with Motorola Solutions via a State Contract relative to the purchase of radios and related communications equipment and software for the Fire Department.
2. Approval of the terms of, and authorization for the Mayor to execute, amendment #1 with Kimley-Horn for right-of-way and landscape services for the new section of sidewalk along Old Nashville Highway between St. Lukes and St. Matthews.
3. Approval of the terms of, and authorization for the Mayor to execute, amendment #1 to the agreement with Kimley-Horn relative to the Enon Springs Road Sidewalk Project for additional boundary survey and right-of-way design.
4. Approval of the terms of, and authorization for the Mayor to execute, a contract with Barge Solutions for a corridor study of Industrial Boulevard from Sam Ridley to the west connection of Teams Boulevard.
5. Approval of the terms of, and authorization for the Mayor to execute, an agreement with Universal Linen for the Smyrna Event Center.
6. Approval of the terms of, and authorization for the Mayor to execute, a contract with the Tennessee Department of Tourist Development's Tourism Enhancement Grant for FY 25, in the amount of \$41,000.
7. Approval of the terms of, and authorization for the Mayor to execute, an agreement with Three Boys Consulting, LLC relative to the Waste Water Treatment Plant Metal Storage Building at the Sludge Haul Site.
8. Approval of the terms of, and authorization for the Mayor to execute, a 1-year contract extension relative to banking services with First Horizon Bank.
9. Approval of a list of surplus items to be sold through online auction with GovDeals.
10. Approval of the terms of, and authorization for the Mayor to execute, a Memorandum

of Understanding with the City of Murfreesboro, the City of LaVergne and Rutherford County to jointly fund a study exploring the benefits of consolidating emergency dispatch services into a unified communications center.

11. Approval of the terms of, and authorization for the Mayor to execute, an agreement with NashComm to encrypt all Police Department radios and the communications division.
12. Approval of the terms of, and authorization for the Mayor to execute, the proposal for the update to the Comprehensive Plan.
13. Consideration of an Ordinance amending the text of the Smyrna Municipal Zoning Ordinance Article IV, Section 4.075, and Article V, Sections 5.051.1, 5.051.2, 5.051.3, 5.051.4, 5.051.5, and 5.051.6 regarding the required minimum building setbacks for detached accessory structures. Second Reading.
14. Consideration of an Ordinance amending the text of the Smyrna Municipal Zoning Ordinance Article V, Section 5.052.4 relative to the addition of the use Tourist Home to the Uses Allowed by Right in the C-4 Neighborhood Service Business District. Second Reading.
15. Consideration and approval of new and revised Smyrna Police Department policies: "Unmanned Aircraft Systems (Drones)" Policy Number: 2-59, "Appearance, Uniform and Equipment" Policy Number: 3-7 and "Procedures for Handling the Mentally Ill" Policy Number: 2-32.
16. Consideration of an Ordinance amending Smyrna Municipal Code Title 15, Chapter 6, Section 622 relative to Modified Public Transportation Vehicles.
17. Other.



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 1.
Department: Fire Department
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, an agreement with Motorola Solutions via a State Contract relative to the purchase of radios and related communications equipment and software for the Fire Department.

Fiscal Impact:

\$134,947.07 as Budgeted in the FY 2025-2026 Capital Budget, Account Numbers 320-42200-943 and 320-42200-972

Contract Type:

One-Time Purchase

Contract Term (if applicable):

One-Time Purchase via Tennessee State Contract #21424.

Background:

The Smyrna Fire Department requests approval to utilize allocated FY 2025-2026 capital budget funding for the purchase of communications and safety equipment from Motorola Solutions. This purchase includes a combination of mobile radios, portable radios, and in-car video systems designed to strengthen emergency communications, improve situational awareness, and ensure greater accountability.

Specifically, the capital purchase includes enhanced APX 6500 mobile radios and APX N70 portable radios, both equipped with advanced features such as Wi-Fi capability and outside noise suppression software. These units will replace aging radios in frontline apparatus and enhance interoperability with regional partners during mutual aid and/or large-scale incidents. The radios are designed for rugged use, with submersible housings, long-lasting batteries, and accessories such as remote speaker microphones and chargers, providing firefighters with reliable tools for day-to-day operations.

In addition, the package includes two Motorola M500 video systems to be placed on our two newest apparatus. These systems feature multiple high-definition cameras, including forward-facing and cab-mounted units, capable of capturing high quality video even in low-light conditions. This technology enhances accountability, promotes transparency, and improves the department's ability to document emergency responses.

The total cost for the combined equipment, accessories, licensing, software subscriptions, programming, and applicable warranties is \$134,947.07. This equipment will be purchased utilizing state contract pricing, Contract #21424. Funding for this purchase has been allocated within various line items in the approved FY-2026 capital budget totaling \$153,100. This investment will provide Smyrna Fire personnel with modern, durable, and interoperable communications and video tools, strengthening both firefighter safety and service delivery to the community.

Summary:

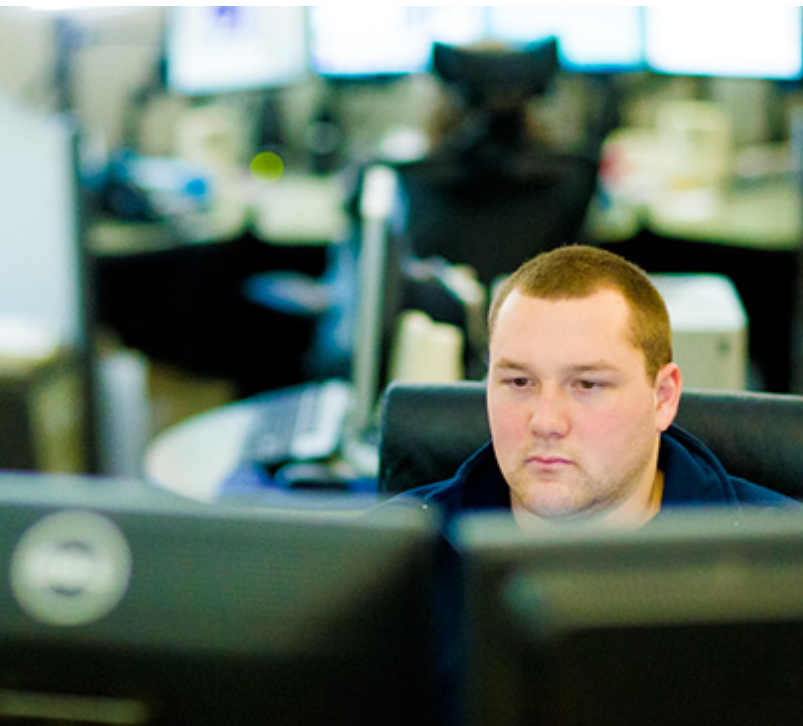
The Smyrna Fire Department seeks approval to use FY 2025-2026 capital budget funds to purchase Motorola mobile/portable radios and in-car video systems that enhance communication, safety, and accountability. The \$134,947.07 investment will be funded within the approved \$153,100 capital budget allocation.

Recommended Council Action:

Staff recommends approval to purchase communications equipment and related software and accessories from Motorola Solutions via state contract.

Attachments:

1. Motorola Quote



SMYRNA, TOWN OF

Budget for 2026 Fire - Smyrna portables

08/07/2025

08/07/2025

SMYRNA, TOWN OF
315 S LOWRY ST
SMYRNA, TN 37167

RE: Motorola Quote for Budget for 2026 Fire - Smyrna portables

Dear Brian Goss,

Motorola Solutions is pleased to present SMYRNA, TOWN OF with this quote for quality communications equipment and services. The development of this quote provided us the opportunity to evaluate your requirements and propose a solution to best fulfill your communications needs.

This information is provided to assist you in your evaluation process. Our goal is to provide SMYRNA, TOWN OF with the best products and services available in the communications industry. Please direct any questions to Lance Marrow at lance@nashvillecomm.com.

We thank you for the opportunity to provide you with premier communications and look forward to your review and feedback regarding this quote.

Sincerely,

Lance Marrow

Motorola Solutions Manufacturer's Representative

Billing Address:
SMYRNA, TOWN OF
315 S LOWRY ST
SMYRNA, TN 37167
US

Quote Date:08/07/2025
Expiration Date:09/16/2025
Quote Created By:
Lance Marrow
lance@nashvillecomm.com

End Customer:
SMYRNA, TOWN OF
Brian Goss
brian.goss@townofsmyrna.org
6156366965

Contract: 21424 - TENNESSEE
AGREEMENT: STATE OF TENNESSEE

Summary:

Any sales transaction resulting from Motorola's quote is based on and subject to the applicable Motorola Standard Terms and Conditions, notwithstanding terms and conditions on purchase orders or other Customer ordering documents. Motorola Standard Terms and Conditions are found at www.motorolasolutions.com/product-terms.

Line #	Item Number	Description	Qty	Term	List Price	Sale Price	Ext. Sale Price
	APX™ N70	APX N70XE					
1	H35UCT9PW8AN	PORTABLE RADIO APX N70 7/800 MODEL 4.5	8		\$5,365.00	\$3,862.80	\$30,902.40
1a	QA09016AA	ADD: LTE FOR VERIZON LTE SERVICE	8		\$0.00	\$0.00	\$0.00
1b	QA09030AB	ADD: MOTOROLA APX HOSTED RADIOCENTRAL*	8		\$0.00	\$0.00	\$0.00
1c	H499KC	ENH: SUBMERSIBLE (DELTA T)	8		\$177.00	\$127.44	\$1,019.52
1d	QA09000AG	ADD: DIGITAL TONE SIGNALING	8		\$177.00	\$127.44	\$1,019.52
1e	QA09001AM	ADD: WIFI CAPABILITY	8		\$353.00	\$254.16	\$2,033.28
1f	QA09006AA	ADD: ADAPTIVE NOISE SUPPRESSION	8		\$177.00	\$127.44	\$1,019.52
1g	G996AU	ADD: PROGRAMMING OVER P25 (OTAP)	8		\$118.00	\$84.96	\$679.68
1h	QA01427AM	ALT: APX N70 XE HOUSING GREEN	8		\$30.00	\$21.60	\$172.80
1i	Q629BD	SOFTWARE LICENSE ENH: AES ENCRYPTION AND ADP	8		\$560.00	\$403.20	\$3,225.60



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	Term	List Price	Sale Price	Ext. Sale Price
1j	QA05100AA	EHN: STD 1 YR WARRANTY APPLIES	8		\$0.00	\$0.00	\$0.00
1k	QA02006AG	ADD: APX N70 XE M4.5 RUGGED RADIO	8		\$824.00	\$593.28	\$4,746.24
1l	H869DB	SOFTWARE LICENSE ENH: MULTIKEY	8		\$388.00	\$279.36	\$2,234.88
1m	H38DA	ADD: SMARTZONE OPERATION	8		\$1,412.00	\$1,016.64	\$8,133.12
1n	Q173CA	ADD: SMARTZONE OMNILINK	8		\$0.00	\$0.00	\$0.00
1o	Q361CD	ADD: P25 9600 BAUD TRUNKING	8		\$353.00	\$254.16	\$2,033.28
1p	Q806CH	ADD: ASTRO DIGITAL CAI OPERATION	8		\$607.00	\$437.04	\$3,496.32
1q	QA00580BA	ADD: TDMA OPERATION	8		\$530.00	\$381.60	\$3,052.80
1r	QA09113AA	ADD: BASELINE RELEASE SW	8		\$0.00	\$0.00	\$0.00
1s	QA01648AA	ADD: HW KEY SUPPLEMENTAL DATA	8		\$6.42	\$4.62	\$36.96
2	PSV03S02465A	APX DMS PROVISIONING PD3*	1		\$0.00	\$0.00	\$0.00
3	PSV01S02944A	PROVISIONING SUPPORT	1		\$0.00	\$0.00	\$0.00
4	LSV01S03082A	RADIOCENTRAL PROGRAMMING	8	5 YEARS	\$160.20	\$160.20	\$1,281.60
5	SSV01S01406A	APX NEXT SMARTCONNECT SUBSCRIPTION	8	5 YEARS	\$720.00	\$720.00	\$5,760.00
6	PMNN4818A	BATT IMPRES 2 LIION TIA4950 IP68 3650T	8		\$270.00	\$202.50	\$1,620.00
	APX™ NEXT	APX NEXT MULTI					
7	H55TGT9PW8AN	PORTABLE RADIO APX NEXT; ALL-BAND MODEL 4.5	2		\$8,818.00	\$6,348.96	\$12,697.92
7a	QA09016AA	ADD: LTE FOR VERIZON LTE SERVICE	2		\$0.00	\$0.00	\$0.00
7b	QA01648AA	ADD: HW KEY SUPPLEMENTAL DATA	2		\$6.42	\$4.62	\$9.24
7c	Q629BD	SOFTWARE LICENSE ENH: AES ENCRYPTION AND ADP	2		\$560.00	\$403.20	\$806.40
7d	QA09030AB	ADD: MOTOROLA APX HOSTED RADIOCENTRAL *	2		\$0.00	\$0.00	\$0.00
7e	Q806CH	ADD: ASTRO DIGITAL CAI OPERATION	2		\$607.00	\$437.04	\$874.08



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Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800

Line #	Item Number	Description	Qty	Term	List Price	Sale Price	Ext. Sale Price
7f	QA09001AM	ADD: WIFI CAPABILITY	2		\$353.00	\$254.16	\$508.32
7g	H38DA	ADD: SMARTZONE OPERATION	2		\$1,412.00	\$1,016.64	\$2,033.28
7h	QA05100AA	EHN: STD 1 YR WARRANTY APPLIES	2		\$0.00	\$0.00	\$0.00
7i	QA09113AA	ADD: BASELINE RELEASE SW	2		\$0.00	\$0.00	\$0.00
7j	Q361CD	ADD: P25 9600 BAUD TRUNKING	2		\$353.00	\$254.16	\$508.32
7k	Q173CA	ADD: SMARTZONE OMNILINK	2		\$0.00	\$0.00	\$0.00
7l	QA00580BA	ADD: TDMA OPERATION	2		\$530.00	\$381.60	\$763.20
7m	G996AP	ADD: PROGRAMMING OVER P25 (OTAP)	2		\$118.00	\$84.96	\$169.92
7n	H869DB	SOFTWARE LICENSE ENH: MULTIKEY	2		\$388.00	\$279.36	\$558.72
8	PSV03S02465A	APX DMS PROVISIONING PD3*	1		\$0.00	\$0.00	\$0.00
9	PSV01S02944A	PROVISIONING SUPPORT	1		\$0.00	\$0.00	\$0.00
10	NNTN9216A	PORTABLE RADIO BATTERY IMPRES 2 LI-ION IP68 4400T	2		\$248.05	\$186.04	\$372.08
11	SSV01S01406A	APX NEXT SMARTCONNECT SUBSCRIPTION	2	5 YEARS	\$720.00	\$720.00	\$1,440.00
12	LSV01S03082A	RADIOCENTRAL PROGRAMMING	2	5 YEARS	\$160.20	\$160.20	\$320.40
13	PMMN4154BBLK	XVE500 DIV 1 REMOTE SPEAKER MIC, BLACK WITH KNOB, UL	2		\$800.00	\$600.00	\$1,200.00
Product Services							
14	LSV00Q00202A	DEVICE PROGRAMMING	10		\$121.43	\$121.43	\$1,214.30
15	PMMN4173A	XVE500M DIV 1 REMOTE SPEAKER MICROPHONE, HIGH IMPACT GREEN WITH KNOB, UL, GCAI MINI	8		\$800.00	\$600.00	\$4,800.00
16	PMPN4604A	CHARGER, DESKTOP SINGLE UNIT IMPRES 2 FAST, US/NA	8		\$221.64	\$166.23	\$1,329.84
17	NNTN9199A	CHARGER, DESKTOP SINGLE UNIT IMPRES 2 FAST, US/NA	2		\$181.43	\$136.07	\$272.14

Grand Total **\$102,345.68(USD)**



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Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800

Notes:

- The Pricing Summary is a breakdown of costs and does not reflect the frequency at which you will be invoiced.
- Additional information is required for one or more items on the quote for an order.

Motorola's quote (Quote Number: _____ Dated: _____) 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 the following Motorola's Standard Terms of use and Purchase Terms and Conditions govern the purchase of the Products which is found at <http://www.motorolasolutions.com/product-terms>.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.

Customer

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

- 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.



Line #	Item Number	Parametric Data
1a	QA09016AA	ENDUSERT = FIRE PROTECTION SERVICES
1b	QA09030AB	Incomplete
1s	QA01648AA	ASKHOMID = 02A5
2	PSV03S02465A	Incomplete
3	PSV01S02944A	TEMAILAR = Alan.Mcclain@tn.gov,CUSTNAME = Allan, McClain,SYSTEMID = 02A5
7	H55TGT9PW8AN	ASKHOMID = 02A5,SYSTEMID = 02A5
7a	QA09016AA	ENDUSERT = FIRE PROTECTION SERVICES
7b	QA01648AA	ASKHOMID = 02A5
7d	QA09030AB	Incomplete
8	PSV03S02465A	Incomplete
9	PSV01S02944A	TEMAILAR = Alan.Mcclain@tn.gov,CUSTNAME = Allan, McClain,SYSTEMID = 02A5



APX N70 PORTABLE RADIO SOLUTION DESCRIPTION

OVERVIEW

The APX N70 offers affordable, next generation communications for without compromising P25 interoperability or voice and data quality. It offers a durable design with “pick-up-and-go” functionality, optimizing ease-of-use and focused communications in almost all environments.

DURABLE AND EASY TO USE

The APX N70 enhances operations with a full color transfective glass display with touch technology for easy operation with gloves on. The touchscreen includes a high velocity user interface with large touch targets, shallow menu hierarchy, home screen information at a glance, and access to integrated apps. Additionally, the N70 offers extended battery life, a shorter antenna, and Bluetooth compatibility with audio accessories, promoting efficient communications between first responders.

ESSENTIAL AND SECURE P25 COMMUNICATIONS

The APX N70 is certified compliant with P25 standards and supports digital and analog trunking, FDMA and TDMA, and Integrated Voice and Data. P25 communications over the N70 are safe and secure—it offers software and hardware encryption, single- and multi key encryption, and P25 Authentication, protecting communications during daily operations.



Reliable Connectivity

Using the APX N70 lets first responders stay connected across disparate networks. It can be equipped with LTE, Wi-Fi®, Bluetooth®, and GPS features, bringing future-ready applications, services, and best-in-class connectivity to everyday users. APX N70 radios support 7/800 MHz frequency bands across radio systems with minimal intervention by the radio user.

Managing and Provisioning Devices

APN N70 provides users greater awareness and faster radio management through Customer Programming Software (“CPS”), Radio Management (“RM”), or the Radio Central programming. These tools transform accurate data into smarter action by enabling dispatchers and network managers to keep radios in the field, make informed operational decisions, and, above all, protect first responders' focus and safety.

Customer Programming Service

CPS is a proprietary, Windows-based application used to configure APX subscriber radios in offline situations. The CPS application offers drag-and-drop, clone-wizard, and basic import/export functions that allow for the addition of new



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software and feature enhancements. APX N radios can be programmed one-at-a-time on a local PC, via secure USB port connection, with TLS-PSK based encryption. Once loaded, subscriber radios are read, and edited, and codeplugs and templates can be saved and duplicated to program other fleet radios.

Radio Management

Batch Programming is available through the RM software for simultaneous programming and upgrading throughout the radio fleet. With Batch Programming, up to 16 radios can be programmed at once over a Wi-Fi connection. This reduces programming time and ensures that the radio fleet is always up-to-date and ready-to-use in the field.

Radio Central

Radio Central Programming streamlines the APX N70 out-of-the-box experience with a few simple steps. Users will power on the device and view a boot-up animation. Status bar icons on the front display indicate when a connection is made and an update download is initiated. If the APN N70 device is being started for the first time, a "peek-in" device management notification will indicate that the default configuration is detected. When the update download is complete, the device reboots and installs the update. When the install is complete, the device goes back to the full home screen and notifies the user that the update is complete. From power on to provisioning, the process takes less than a minute. For Encryption and Authentication users, a KVL needs to be connected to the radio to use those services.

APX N70 also features Touchless Key Provisioning ("TKP"), leveraging Radio Central and Key Management Facility to add encryption keys remotely. This streamlined, one-time process reduces the time and effort spent enabling encryption. TKP delivers the initial encryption keys to APN N70 radios. Users can provision encryption on one radio or on batches of radios, further speeding up the encryption process for radio fleets.

The figure below illustrates APX N70's faster provisioning process.

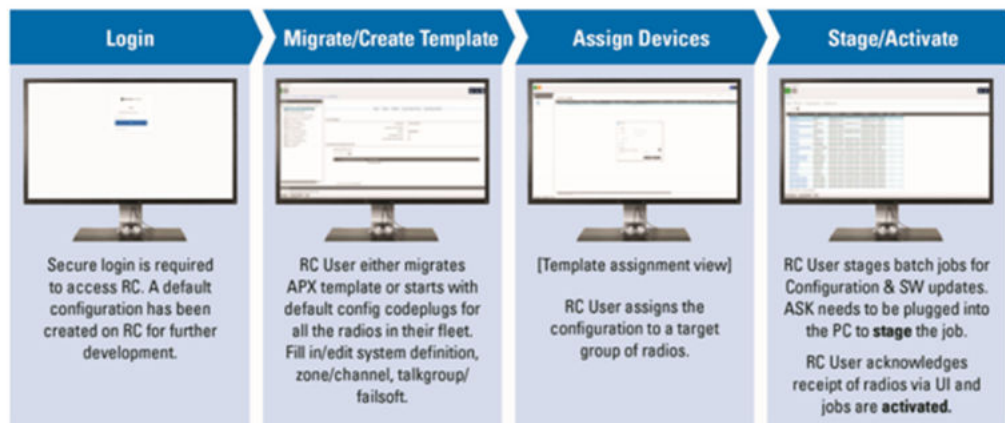


Figure 1: APX N70 Provisioning via Radio Central





Purchase Order Checklist NA OM

Marked as PO/ Contract/ Notice to Proceed on Company Letterhead (PO will not be processed without this)
PO Number/ Contract Number
PO Date
Vendor = Motorola Solutions, Inc.
Payment (Billing) Terms/ State Contract Number
Bill-To Name on PO must be equal to the <i>Legal</i> Bill-To Name
Bill-To Address
Ship-To Address (If we are shipping to a MR location, it must be documented on PO)
Ultimate Address (If the Ship-To address is the MR location then the Ultimate Destination address must be documented on PO)
PO Amount must be equal to or greater than Order Total
Non-Editable Format (Word/ Excel templates cannot be accepted)
Tax Exemption Status
Signatures (As required)

NOTE: When an email order is submitted a confirmation is sent from Motorola AutoNotify referencing a **case number**.

Once checklist is complete, order still must go through **Order Validation/Credit Approval**



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 2.
Department: Public Works
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, amendment #1 with Kimley-Horn for right-of-way and landscape services for the new section of sidewalk along Old Nashville Highway between St. Lukes and St. Matthews.

Fiscal Impact:

The original contract amount is \$110,700. This amendment is for an additional \$16,500 for a total contract amount of \$127,200. These funds will be taken out of GL Account Number 320-43100-945 (New Sidewalks). There was \$750,000 budgeted in this account.

Contract Type:

Contract Change Order /Amendment

Contract Term (if applicable):

This is an open contract with no completion date requirement.

Background:

When Old Nashville Highway was widened and a sidewalk was installed along most of it, this section (St. Luke to St. Michael) had some significant grade changes, making it challenging to install a sidewalk. Therefore, no sidewalk was installed. We have had many complaints about this lack of sidewalk connection. Therefore, this project includes the design of a retaining wall to support a sidewalk. This change order includes additional right-of-way work and basic landscape design to replace trees and the fence of most of the lots that back up to Old Nashville Highway between St. Luke and St. Michael would lose.

Summary:

This change order includes preparing legal descriptions of right-of-way areas to be acquired for eight (8) properties, as well as basic landscape design to replace trees and the fence that most of the lots backing up to ONH between St. Luke and St. Michael would lose.

Recommended Council Action:

Staff recommends the Town Council give the Mayor the authority to sign the addendum.

Attachments:

1. ONH Saints Sidewalks - Amendment 01-2025-08-15
2. Kimley Horn Sidewalk Design- Old Nashville (St. Lukes to St. Michaels)

**AMENDMENT NUMBER 01 TO THE AGREEMENT BETWEEN CLIENT AND KIMLEY-HORN
AND ASSOCIATES, INC.**

This is Amendment number 01 dated August 15, 2025 to the agreement between Town of Smyrna ("Client") and Kimley-Horn and Associates, Inc. ("Consultant") dated December 12, 2023 ("the Agreement") concerning Old Nashville Highway Sidewalks, from St. Michael's Lane to St. Luke's Lane (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

The Agreement is amended to include services to be performed by Consultant for compensation as set forth below in accordance with the terms of the Agreement, which are incorporated by reference.

The services currently authorized to be performed by Consultant in accordance with the Agreement and previous amendments, if any, shall be modified as followed:

Task 3 – Right-of-Way Design Services

Task 3.3 – Right-of-Way Services Coordination

Consultant will prepare legal descriptions of right-of-way areas to be acquired for up to eight (8) properties. This task does not include the preparation of right-of-way acquisition exhibits.

Task 3.4 – Conceptual Landscaping Exhibit

Consultant will prepare a conceptual landscaping exhibit that illustrates replacement options for fencing and trees affected by right-of-way acquisition and construction activities associated with the project.

Task 3 Deliverables:

1. Legal Descriptions for right-of-way acquisition on up to eight (8) properties
2. Conceptual Landscaping Exhibit

Task 4 – Final Design Services

Task 4.4 – Landscape Plan

Following the right-of-way acquisition phase, Consultant will prepare a landscape plan for the replacements of fencing and trees agreed upon between the Client and affected property owners. Consultant will prepare landscape layout, landscape notes, and landscape details sheets to provided standard planting notes, installation details, and the plant material schedule. Consultant will make one (1) set of consolidated revisions to the landscape plan based on comments from the Client.

For the services set forth above, Client shall pay Consultant the following compensation:

Kimley-Horn will perform the services in the tasks above for the total lump sum fee as summarized below.

	Original Fee	Amendment 01	Revised Fee
Task 1 – Project Management	\$7,300	\$0	\$7,300
Task 2 – Existing Conditions Survey	\$12,900	\$0	\$12,900
Task 3 – Right of Way Services	\$42,900	\$11,500	\$54,400
Task 4 – Final Design Services	\$38,800	\$5,000	\$43,800
Task 5 – Utility Coordination	\$8,800	\$0	\$8,800
Total Maximum Labor / Expense Fee:	\$110,700	\$16,500	\$127,200

CLIENT:

TOWN OF SMYRNA, TENNESSEE

By: _____

Title: _____

Date: _____

CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

By:  Christopher D. Rhodes

Title: Senior Vice President

Date: August 15, 2025



October 9, 2023

Mr. Tom Rose
Town of Smyrna
315 S. Lowry Street
Smyrna, Tennessee 37167

**RE: *Old Nashville Highway
From St. Michaels Lane to St. Lukes Lane
Sidewalk Improvements
Smyrna, Tennessee***

Dear Mr. Rose:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "the Consultant") is pleased to submit this letter agreement (the "Agreement") to the Town of Smyrna ("the Client" or "the Town") for providing professional survey and design phase services for the referenced project.

PROJECT UNDERSTANDING

It is our understanding that the Town of Smyrna is interested in the implementation of new sidewalk along Old Nashville Highway. The proposed sidewalk improvements will begin at St. Michaels Lane and end at St. Lukes Lane. The project shall install one 5' sidewalk behind curb and gutter on the west side of Old Nashville Highway.

Our Scope of Services, Fee, and Schedule are as follows:

SCOPE OF SERVICES

Task 1 – Project Management

This task will consist of the following project management activities:

- Project Coordination – coordination with the Town to provide updates, coordinate project reviews, and other activities to help the Town be generally informed of the progress of the project. Up to two (2) hours of Kimley-Horn staff per month are assumed as part of the scope of services to provide this on-going coordination.
- Project Review Meetings – consists of scheduling, setting the agenda, and producing meeting minutes for up to two (2) review meetings at project milestones (right-of-way and construction). It is assumed that up to two (2) Kimley-Horn staff will be attending each meeting. Up to five (5) hours of Kimley-Horn staff are assumed for the preparation, travel, and attendance of each meeting. These project meetings are to be in person, unless otherwise determined prior to the meeting.

- **Project Meetings** - consists of scheduling, setting the agenda, and producing meeting minutes for up to six (6) project meetings as needed throughout the project. It is assumed that up to two (2) Kimley-Horn staff will be attending each meeting. Up to two (2) hours of Kimley-Horn staff are assumed for the preparation and attendance of each meeting. These project meetings are to be virtual, unless otherwise determined prior to the meeting.
- **Project Administration** - administrative and accounting activities related to the day-to-day management of the project. Up to one (1) hour of Kimley-Horn staff per month is assumed as part of the scope of services to provide this on-going coordination.

The budget for this task was developed with an assumed schedule of up to 8 months. A total of forty six (46) Kimley-Horn staff hours are provided in this task. If additional effort is needed and/or the project schedule is extended, these efforts will be considered additional services beyond the scope of this contract.

Task 2 – Existing Conditions Survey

Task 2.1 – Field Survey

Kimley-Horn, by using a surveying subconsultant, shall prepare a topographic field survey along the western side of Old Nashville Highway between St. Michaels Lane and St. Lukes Lane. It is assumed that the survey that was previously prepared for the Old Nashville Sidewalk Improvements project may be used for this project and be supplemented with additional information.

The topographic field survey will be based on the latest version of the TDOT Survey Manual and performed to TDOT Survey standards. The survey will be delivered to Kimley-Horn by the surveyor in Microstation format. The missing elements in the survey that will need to be supplemented will consist of, but is not limited to, the following elements:

- Right-of-way lines, private property lines, and existing easements within the survey corridor. The right-of-way and easement locations will be based on found property corner monuments and/or deed research of ownership records.
- Property acquisition table with Tract Numbers, Property Owners, Tax Map number, Parcel Number, Deed Document Reference, and Total Acreage in Microsoft Excel format, following the TDOT Survey Acquisition Table Template.

It is assumed that a total of thirteen (13) Tracts will need to be located to supplement the existing survey. It is also assumed that only one site visit will be required for the survey subconsultant to acquire the parcel information for each property. If additional site visits are required, these additional site visits will be considered additional services beyond the scope of this contract.

Task 2.2 – Survey Verification

Kimley-Horn will verify the field survey provided by the surveying subconsultant and combine the new information provided with the previous survey completed for the Old Nashville Sidewalk Improvements project.

Task 2 Kimley-Horn Deliverables:

1. MicroStation file with topographic survey of project corridor (one electronic copy, MicroStation v8i DGN format) to the Client
2. Right-of-Way Acquisition table (one electronic copy, Microsoft excel format)
3. Signed survey exhibit(s) (24" x 36") (one electronic copy, PDF format)

Task 3 – Right-of-Way Design Services

Task 3.1 – Right-of-Way Design Plans

Upon completion of Task 2, Kimley-Horn will prepare right-of-way design plans in accordance with TDOT's Roadway Design Guidelines and current Town of Smyrna design standards. The plans will be prepared to conform to TDOT's current MicroStation and Geopak CAD standards and will provide appropriate detail to support right-of-way and easement acquisition. The plans will consist of the following sheets:

- Title Sheet and Index
- Roadway Typical Sections
- Right-of-Way Notes
- Property Map and Right-of-Way Acquisition Table
- Present Layout
- Right-of-Way Layout
- Proposed Layout
- Mainline Profiles
- Erosion Prevention and Sediment Control Plans
- Traffic Control Plan
- Roadway Cross Sections

Task 3.3 – Right-of-Way Plans Submittal and Review

Kimley-Horn will submit Right-of-Way design plans to the Town for review and comment. Kimley-Horn will meet with the Town to discuss the comments. Following the review meeting, Kimley-Horn will revise the plans based on the comments received and direction from the review meeting. Kimley-Horn will document the comments and decisions in meeting minutes that will be distributed to all attendees of the review meeting.

Task 3.3 – Right-of-Way Services Coordination

The Town of Smyrna be responsible for all activities associated with the acquisition of right-of-way and easements for this project. Any ROW acquisition assistance by Kimley-Horn may be added to this contract as an additional service. Right of way exhibits and legal descriptions are not included in this scope, but can be included as an additional service if needed by the Town for right of way acquisition.

Task 3 Kimley-Horn Deliverables:

1. Right-of-Way plans package (PDF Format)

Task 4 – Final Design Services

Task 4.1 – Final Design Plans

Upon receiving approval to proceed from the Town, Kimley-Horn will prepare final construction plans for the project. The plans are anticipated to consist of the following sheets:

- Title Sheet
- Index and Standard Drawings
- Estimated Roadway Quantities
- Roadway Typical Sections
- General Notes
- Detail Sheets
- Property Map and Right-of-Way Acquisition Table
- Present Layout
- Right-of-Way Layout
- Proposed Layout
- Mainline Profiles
- Erosion Prevention and Sediment Control Plans
- Traffic Control Plans
- Roadway Cross Sections

Task 4.2 – Final Design Submittal

Kimley-Horn will submit draft construction plans to the Town for review and comment. Kimley-Horn will meet with the Town to discuss the Town's comments and coordinate the revisions received. Following the review meeting, Kimley-Horn will revise the plans based on the comments received. The Final Construction plans will be signed and sealed by a State of Tennessee licensed Professional Engineer.

Task 4.3 – Final Design Permitting

With a land disturbance greater than 1.0 acre, the owner will be required by the State of Tennessee to obtain a Notice of Coverage (NOC) from the Tennessee Department of Environment and Conservation (TDEC). Kimley-Horn will assist the client in preparing the Notice of Intent (NOI) application, preparing a Stormwater Pollution Prevention Plan (SWPPP), and submitting the application and supporting documentation to the Tennessee Department of Environment and Conservation (TDEC) in an attempt to obtain Notice of Coverage (NOC) under the Construction General Permit (CGP). Kimley-Horn will address one round of comments from TDEC and resubmit. All permitting fees are to be paid directly by the City.

No additional permits through the State of Tennessee or the United State (US) Army Corps of Engineers are expected to be necessary. Should additional permits be required, they will be considered an additional service. Should site conditions arise that require an individual permit rather than the general permit, this can be provided as an additional service.

Kimley-Horn and Associates, Inc. has no control over the actions of jurisdictional agencies or other parties. Accordingly, professional opinions as to the status of permits and the probability and timeframe for approvals are made solely on the basis of professional experience and available data. Kimley-Horn does not guarantee that the outcome of the permits will not vary from its opinions or that all issues that may impact the permitting process have been investigated.

Task 4 Deliverables

- Final sealed plans for the City submittal (PDF format)
- Final sealed plans for bidding (PDF format)

Task 5 – Utility Coordination

Task 5.1 – Preliminary Utility Coordination

Upon receiving a notice to proceed, Kimley-Horn will provide a notification to the potentially affected utility owners along the project corridor. The notification to each utility owner will consist of project map and a letter requesting that the utility company review the project map to determine if they own facilities within the project limits. The letter will request a written response from each utility.

Task 5.2 – Final Utility Coordination

Upon completion of Task 3, Kimley-Horn will submit the Right of Way Plans to the identified utility owners within the project limits. The submittal to each utility owner will consist of an electronic set of plan drawings (PDF format) and a letter requesting that the utility company review the potential impacts of the proposed project to their facilities. The letter will request relocation plans from each utility and will also request that the utility company identify any private utility easements that fall within the project limits but are not shown on the Preliminary plans.

Kimley-Horn will prepare for and host a utility coordination meeting as part of this task. Known impacted utility companies will be invited to attend a coordination meeting to discuss potential utility relocations within the project limits. Kimley-Horn will document the discussions and decisions made during the meeting and distribute to the meeting attendees. Utility Owners will be responsible for identifying utility conflicts within the project limits and the design and relocation of their utilities.

Kimley-Horn will not perform any utility relocation design services as part of this task. It is assumed that each utility owner will design, provide plans for, and construct their utility relocations.

Task 5 Deliverables

- Utility Coordination Notification Letter with Project Map to each known Utility Owner within the project corridor (PDF format)
- Utility Coordination Request Letter with approved Right-of-Way plans to each known Utility Owner within the project corridor (PDF format)

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Environmental Permitting
- Geotechnical Services
- Traffic Analysis
- Stream and Wetland Mitigation
- Construction Phase Services
- Right-of-Way Acquisition Services
- Opinion of Probable Cost
- Bid Phase and/or Pre-Construction Services
- Construction Phase Services
- Utilities Design
- Others as requested by the Client

SCHEDULE

Once given notice to proceed via a signed copy of this letter agreement, Kimley-Horn will complete the services listed in Tasks 1-5 based upon a mutually agreed upon schedule.

FEE AND BILLING

Kimley-Horn will perform the Scope of Services in Tasks 1-5 for a total lump sum fee as summarized below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Task 1 – Project Management	\$7,300
Task 2 – Existing Conditions Survey	\$12,900
Task 3 – Right of Way Services	\$42,900
Task 4 – Final Design Services	\$38,800
Task 5 – Utility Coordination	\$8,800
Tasks 1-5, Total Lump Sum Fee (inclusive of direct expenses):	\$110,700

Fees and expenses will be invoiced monthly based, as applicable, upon the percentage of services performed or actual services performed and expenses incurred as of the invoice date. Payment will be due within 25 days of your receipt of the invoice.

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to **The Town of Smyrna**.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please provide the following information:

____ Please email all invoices to Tom.Rose@TownofSmyrna.org

____ Please copy _____

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute this Agreement in the spaces provided below, retain one copy, and return one to us. We will commence services only after we have received a fully executed agreement.

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We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



Drake Danely, PE
Vice President

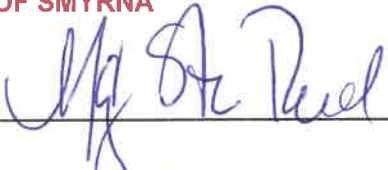


Ben Vondenbrink, P.E.
Project Manager

Attachment – Standard Provisions

Agreed to this 9th day of October, 2023.

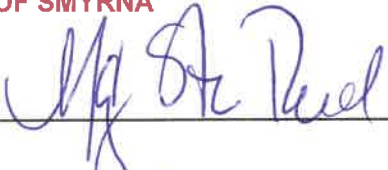
TOWN OF SMYRNA

Signed:  _____

(Date)

(Print or Type Name)

Title:


12/12/2023
Mary Esther Reed
Mayor

**KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS**

1) Kimley-Horn's Scope of Services and Additional Services. Kimley-Horn will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by Kimley-Horn, Kimley-Horn will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay Kimley-Horn for any Additional Services an amount based upon Kimley-Horn's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

2) Client's Responsibilities. In addition to other responsibilities herein or imposed by law, the Client shall:

- a. Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- b. Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
- c. Provide Kimley-Horn all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which Kimley-Horn may rely upon.
- d. Arrange for access to the site and other property as required for Kimley-Horn to provide its services.
- e. Review all documents or reports presented by Kimley-Horn and communicate decisions pertaining thereto within a reasonable time so as not to delay Kimley-Horn.
- f. Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
- g. Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
- h. Give prompt written notice to Kimley-Horn whenever the Client becomes aware of any development that affects Kimley-Horn's services or any defect or noncompliance in any aspect of the project.

3) Period of Services. Unless otherwise stated herein, Kimley-Horn will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that Kimley-Horn does not control. If such delay or suspension extends for more than six months, Kimley-Horn's compensation shall be renegotiated.

4) Method of Payment. Client shall pay Kimley-Horn as follows:

- a. Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by Kimley-Horn and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after Kimley-Horn's transmittal of its invoice, Kimley-Horn may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
- b. If the Client relies on payment or proceeds from a third party to pay Kimley-Horn and Client does not pay Kimley-Horn's invoice within 60 days of receipt, Kimley-Horn may communicate directly with such third party to secure payment.
- c. If the Client objects to an invoice, it must advise Kimley-Horn in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
- d. If Kimley-Horn initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at Kimley-Horn's normal hourly billing rates, of the time devoted to such proceedings by its employees.
- e. The Client agrees that the payment to Kimley-Horn is not subject to any contingency or condition. Kimley-Horn may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of Kimley-Horn to collect additional amounts from the Client.

5) **Use of Documents.** All documents and data prepared by Kimley-Horn are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of Kimley-Horn's documents, or any reuse of the documents without written authorization by Kimley-Horn will be at the Client's sole risk and without liability to Kimley-Horn, and the Client shall indemnify, defend and hold Kimley-Horn harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. Kimley-Horn's electronic files and source code remain the property of Kimley-Horn and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by Kimley-Horn, the hardcopy shall govern.

6) **Intellectual Property.** Kimley-Horn may use or develop its proprietary software, patents, copyrights, trademarks, trade secrets, and other intellectual property owned by Kimley-Horn or its affiliates ("Intellectual Property") in the performance of this Agreement. Unless explicitly agreed to in writing by both parties to the contrary, Kimley-Horn maintains all interest in and ownership of its Intellectual Property and conveys no interest, ownership, license to use, or any other rights in the Intellectual Property to Client. Any enhancements of Intellectual Property made during the performance of this Agreement are solely owned by Kimley-Horn and its affiliates. If Kimley-Horn's services include providing Client with access to or a license for Kimley-Horn's (or its affiliates') proprietary software or technology, Client agrees to the terms of the Software License Agreement set forth at <https://www.kimley-horn.com/khts-software-license-agreement> ("the License Agreement") which terms are incorporated herein by reference.

7) **Opinions of Cost.** Because Kimley-Horn does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. Kimley-Horn cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Kimley-Horn's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

8) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. Kimley-Horn shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by Kimley-Horn as a result of such termination.

9) **Standard of Care.** The standard of care applicable to Kimley-Horn's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by Kimley-Horn's performance of services, and it is agreed that Kimley-Horn is not a fiduciary with respect to the Client.

10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and Kimley-Horn, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of Kimley-Horn and Kimley-Horn's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of Kimley-Horn or Kimley-Horn's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by Kimley-Horn under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section shall require the Client to indemnify Kimley-Horn.

11) Mutual Waiver of Consequential Damages. In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

12) Construction Costs. Under no circumstances shall Kimley-Horn be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Kimley-Horn shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before Kimley-Horn has issued final, fully approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.

13) Certifications. All requests for Kimley-Horn to execute certificates, lender consents, or other third-party reliance letters must be submitted to Kimley-Horn at least 14 days prior to the requested date of execution. Kimley-Horn shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which Kimley-Horn does not have actual knowledge, or that would cause Kimley-Horn to violate applicable rules of professional responsibility.

14) Dispute Resolution. All claims arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

15) Hazardous Substances and Conditions. Kimley-Horn shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Kimley-Horn's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. Kimley-Horn will notify the Client of unanticipated hazardous substances or conditions of which Kimley-Horn actually becomes aware. Kimley-Horn may stop affected portions of its services until the hazardous substance or condition is eliminated.

16) Construction Phase Services.

a. If Kimley-Horn prepares construction documents and Kimley-Horn is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against Kimley-Horn in any way connected thereto.

b. Kimley-Horn shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Kimley-Horn have any authority or responsibility to stop or direct the work of any contractor. Kimley-Horn's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by Kimley-Horn. Kimley-Horn neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

c. Kimley-Horn is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and Kimley-Horn for all claims and liability arising out of job site accidents; and that the Client and Kimley-Horn shall be made additional insureds under the contractor's general liability insurance policy.

17) No Third-Party Beneficiaries; Assignment and Subcontracting. This Agreement gives no rights or benefits to anyone other than the Client and Kimley-Horn, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and Kimley-Horn. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Kimley-Horn, without the written consent of Kimley-Horn. Kimley-Horn reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If Kimley-Horn exercises this right, Kimley-Horn will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

18) **Confidentiality.** The Client consents to the use and dissemination by Kimley-Horn of photographs of the project and to the use by Kimley-Horn of facts, data and information obtained by Kimley-Horn in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, Kimley-Horn shall use reasonable care to maintain the confidentiality of that material.

19) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements, or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by Kimley-Horn. If Client requires Kimley-Horn to register with or use an online vendor portal for payment or any other purpose, any terms included in the registration or use of the online vendor portal that are inconsistent or in addition to these terms shall be void and shall have no effect on Kimley-Horn or this Agreement. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 3.
Department: Public Works
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, amendment #1 to the agreement with Kimley-Horn relative to the Enon Springs Road Sidewalk Project for additional boundary survey and right-of-way design.

Fiscal Impact:

The original contract amount is \$358,000. This amendment is for an additional \$47,000 for a total contract amount of \$405,000. This fiscal year there is \$200K in the budget under GL Account Number 320-43102-904. These funds will be used to complete Design and ROW on the project.

Contract Type:

Contract Change Order /Amendment

Contract Term (if applicable):

There is no end date on the contract.

Background:

The project consists of design services for the rehabilitation and addition of sidewalks, landscaping, and crosswalks along both sides of Enon Springs Road from Old Nashville Highway to Hazelwood Drive. The project also includes rehabilitation and addition of sidewalks, landscaping, and crosswalks along the West side of Hazelwood Drive from Enon Springs Road to Todd Lane, and new sidewalks along both sides of Mason Tucker Road from Enon Springs Road to the entrance of Hilltop Rosenwald Park. The project is funded through the Transportation Alternative Program (TAP) as a TDOT Locally Managed Program. During design, some slope issues were identified, which will cause grading on private property outside existing easements. Therefore, additional ROW and easements are required on 17 tracts.

Summary:

Amendment #1 includes additional Field Survey, Data Collection, and Right-of-Way Design.

Field Survey and Data Collection

During the preliminary design, several drainage structures and culverts were discovered to be impacted by the proposed sidewalk design, requiring drainage structure improvements or culvert extensions. The consultant will perform additional field survey

to determine pipe inverts and adjacent structure connectivity information.

During the preliminary design, seventeen (17) tracts were identified needing right-of-way, slope easement, or construction easement acquisition. The consultant will search for property corners and collect property deed information to develop property boundaries for the impacted tracts. A right-of-way acquisition table will be developed for the 17 tracts, which will detail the total tract area, right-of-way, and easements to be acquired, and remaining tract areas.

Right-of-Way Design

The consultant will design the required drainage structure modifications and culvert extensions identified during the preliminary design. The consultant will also produce the necessary right-of-way detail sheets and sidewalk longitudinal profile sheets.

Recommended Council Action:

Staff recommends the Council approve the Mayor to sign the agreement.

Attachments:

1. Enon Springs Sidewalks - Amendment 01-2025-08-28
2. Kimley Horn Agmt- Enon Sidewalk Improvement_Signed

**AMENDMENT NUMBER 01 TO THE AGREEMENT BETWEEN CLIENT AND KIMLEY-HORN
AND ASSOCIATES, INC.**

This is Amendment number 01 dated August 28, 2025 to the agreement between Town of Smyrna ("Client") and Kimley-Horn and Associates, Inc. ("Consultant") dated November 9, 2022 ("the Agreement") concerning Enon Springs Road Sidewalks (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

The Agreement is amended to include services to be performed by Consultant for compensation as set forth below in accordance with the terms of the Agreement, which are incorporated by reference.

The services currently authorized to be performed by Consultant in accordance with the Agreement and previous amendments, if any, shall be modified as followed:

Task 2 – Field Survey and Data Collection

Task 2.2 – Field Survey

During the preliminary design, several drainage structures and culverts were discovered to be impacted by the proposed sidewalk design, requiring drainage structure improvements or culvert extensions. Consultant will perform additional field survey to determine pipe inverts and adjacent structure connectivity information.

Task 2.3 – Boundary Survey

During the preliminary design, seventeen (17) tracts were identified needing right-of-way, slope easement, or construction easement acquisition. Consultant will search for property corners and collect property deed information in order to develop property boundaries for the impacted tracts. A right-of-way acquisition table will be developed for the 17 tracts which will detail the total tract area, right-of-way and easements to be acquired, and remaining tract areas.

Task 5 – Right-of-Way Design

Consultant will design required drainage structure modifications and culvert extensions identified during the preliminary design. Consultant will also produce necessary right-of-way detail sheets and sidewalk longitudinal profile sheets.

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For the services set forth above, Client shall pay Consultant the following compensation:

Kimley-Horn will perform the services in the tasks above on a lump sum basis as summarized below.

Task	Original Fee	Amendment 01	Revised Fee
Task 1 – Project Management	\$23,100	\$0	\$23,100
Task 2 – Existing Conditions Survey	\$130,300	\$32,000	\$162,300
Task 3 – NEPA Documentation	\$96,400	\$0	\$96,400
Task 4 – Preliminary Design Services	\$62,100	\$0	\$62,100
Task 5 – Right-of-Way Design Services	\$54,000	\$15,000	\$69,000
Task 6 – Utility Coordination	\$13,000	\$0	\$13,000
Total Maximum Labor / Expense Fee:	\$358,000	\$47,000	\$405,000

Kimley-Horn will not exceed the total lump sum fee shown without authorization from the Town of Smyrna. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

CLIENT:

TOWN OF SMYRNA, TENNESSEE

By: _____

Title: _____

Date: _____

CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

_____

By: Christopher D. Rhodes

Title: Senior Vice President

Date: August 28, 2025

September 2, 2022

Mr. Tom Rose, PE
Town of Smyrna
315 South Lowry Street
Smyrna, Tennessee 37167

**Re: Professional Services Agreement
Enon Springs Road
Sidewalk Improvement Project
Smyrna, Tennessee**

Dear Mr. Rose:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the Town of Smyrna ("Client") for providing professional design services for the reference project. A detailed description of our Scope of Services is as follows:

PROJECT UNDERSTANDING

The project will consist of design services for the rehabilitation and addition of sidewalks, landscaping, and crosswalks along both sides of Enon Springs Road from Old Nashville Highway to Hazelwood Drive in Smyrna Tennessee. The project also includes rehabilitation and addition of sidewalks, landscaping, and crosswalks along the West side of Hazelwood Drive from Enon Springs Road to Todd Lane, and new sidewalks along both sides of Mason Tucker Road from Enon Springs Road to the entrance of Hilltop Rosenwald Park. Existing sidewalks, curb ramps, and pedestrian crossings will be upgraded to achieve Americans with Disabilities Act (ADA) and Public Right-of-Way Accessibility Guidelines (PROWAG) compliance. The Town of Smyrna's ADA Self-Evaluation and Transition Plan, in addition to field survey data, will be utilized to identify non-compliant pedestrian facilities along the corridor. This project will be funded through the Transportation Alternative Program (TAP) as a TDOT Locally Managed Program, in addition to a local match.

It is assumed this project will not include profile adjustments, and associated roadway improvements on Enon Springs Road, Hazelwood Drive, Mason Tucker Drive, or the associated side roads to correct non-compliant crosswalk slopes. These roadway improvements are beyond the scope of work for this sidewalk improvements project.

It is assumed this project will not include roadway improvements, such as new curb or a closed drainage network, along Mason Tucker Road.

SCOPE OF SERVICES

Task 1 – Project Management

This task will consist of the following project management activities:

- Project Coordination – coordination with the Town and TDOT to provide updates, coordinate project reviews, and other activities to help the Town and TDOT be generally informed of the progress of the

project. Up to three (3) hours of Kimley-Horn staff per months are assumed as part of the scope of services to provide this on-going coordination.

- Project Review Meetings – consists of scheduling, setting the agenda, and producing meeting minutes for up to two (2) review meetings at project milestones (preliminary and right-of-way). It is assumed that up to two (2) Kimley-Horn staff will be attending each meeting. Up to five (5) hours of Kimley-Horn staff are assumed for the preparation, travel, and attendance of each meeting. These project meetings are to be in person, unless otherwise determined prior to the meeting.
- Project Meetings – consists of scheduling, setting the agenda, and producing meeting minutes for up to ten (10) project meetings as needed throughout the project. It is assumed that up to two (2) Kimley-Horn staff will be attending each meeting. Up to three (3) hours of Kimley-Horn staff are assumed for the preparation and attendance of each meeting. These project meetings are to be virtual, unless otherwise determined prior to the meeting.
- Project Administration – administrative and accounting activities related to the day-to-day management of the project. Up to one (1) hour of Kimley-Horn staff per months are assumed as part of the scope of services to provide this on-going coordination.

The budget for this task was developed with an assumed schedule of up to 24 months. A total of one hundred thirty (130) Kimley-Horn staff hours are provided in this task. If additional effort is needed and/or the project schedule is extended, these efforts will be considered additional services beyond the scope of this contract.

Task 1 Kimley-Horn Deliverables:

1. Meeting agendas and minutes for meetings outlined above (electronic copy of each, Adobe PDF format) to the Town and all meeting attendees.

Task 2 – Field Survey and Data Collection

Task 2.1 - Data Collection

Kimley-Horn will perform a site visit to review the existing conditions along the corridor and to collect digital photography to assist with the NEPA Documentation, public involvement, and design efforts in later tasks.

Task 2.2 - Field Survey

Through the use of a surveying subconsultant, a field survey will be performed using Mobile LiDAR and then supplemented RTK, Total Station, and terrestrial laser scanning to determine assets missed by the Mobile LiDAR. Survey information gathered for the project will adhere to the TDOT Survey Manual, be performed in MicroStation and Geopak V8i file format, and shall be tied to the State Plane Coordinate System using the Tennessee Geodetic Reference Network (TGRN) and referencing local benchmarks.

The survey limits are defined as follows:

- Enon Springs Road – beginning at the intersection of Old Nashville Highway and continuing east to the intersection of Hazelwood Drive. The survey corridor will be from the centerline to 10 feet beyond the edge of the existing sidewalk or 25 ft beyond the back of curb, whichever is greater.
- Hazelwood Drive – beginning at the intersection of Enon Springs Road and continuing south to the intersection of Todd Lane. The survey corridor will be from the centerline to 10 feet beyond the edge of the existing sidewalk or 25 ft beyond the back of curb, whichever is greater.
- Mason Tucker Road - beginning at the intersection of Enon Springs Road and continuing north to the entrance of Hilltop Rosenwald Park. The survey corridor will be from the centerline to 10 feet beyond the edge of the existing sidewalk to the east and 25 ft beyond the back of curb to the west.

In addition, the topographic field survey will consist of the following elements:

- Roadway Assets (Curb & Gutter, Striping, utilities, etc.)
 - Roadway Topography
- Existing Sidewalks
- Existing topography within the survey boundary
- Existing sidewalk ramps and sidewalk curb cuts sufficient to verify ADA compliance
- Existing Right of Way boundaries

Task 2 Kimley-Horn Deliverables:

1. Microstation file with topographic survey of project corridor (one (1) electronic copy, Microstation v8i DGN format) to the Client.
2. Existing topographic surface TIN file.

Task 3 – National Environmental Policy Act (NEPA) Documentation

Given the nature of the proposed project and the assumptions that: 1) the proposed improvements may require over one acre of right-of-way and/or easements (permanent or temporary); and 2) portions of the proposed improvements may occur within undisturbed ground, the NEPA document is a likely candidate for classification as a D-List Categorical Exclusion (D-List CE). This determination can only be made; however, by the Tennessee Department of Transportation (TDOT) in cooperation with the Federal Highway Administration (FHWA). If another level of NEPA document is required by TDOT and/or FHWA other than the preparation of a D-List CE, this effort will be considered Additional Services beyond this scope of services.

One Build Alternative and the No-Build Alternative will be studied. The NEPA document will be based on functional plans or on preliminary plans (20-30 percent complete) as defined on Page 4-5 of the TDOT's *Local Government Guidelines for the Management of Federal and State-Funded Transportation Projects* (March 2018).

Task 3.1 – TDOT Environmental Division Coordination

Kimley-Horn will maintain direct contact and function as a liaison with the designated representative of the TDOT Environmental Division.

Task 3.2 – Development of Purpose and Need

Kimley-Horn will prepare a "Purpose and Need" statement for the environmental document.

Task 3.3 – Agency Coordination

Kimley-Horn will prepare and send initial coordination letters as well as associated project mapping and plans to TDOT for coordination with the following federal and state agencies:

- U.S. Fish and Wildlife Service (USFWS)
- Tennessee Wildlife Resource Agency (TWRA)
- Tennessee Department of Environment and Conservation (TDEC)

Task 3.4 – Public Involvement

It is assumed that no public involvement activities will be required for the proposed project. If any public involvement activities are deemed necessary, this effort will be considered Additional Services beyond this scope of services.

Task 3.5 – Environmental Technical Studies

Preliminary project mapping and concept layouts will serve as the study area limits for the environmental technical studies outlined below.

Ecology – Environmental Boundaries Survey

Kimley-Horn's subconsultant, Civil & Environmental Consultants, Inc. (CEC), will provide an Environmental Boundaries Report (EBR) in accordance with Tennessee Department of Transportation (TDOT) standards. As part of the preparation of the EBR, CEC will perform a jurisdictional waters determination and endangered species review as outlined below.

■ **Jurisdictional Waters Determination**

- CEC will provide a Waters of the U.S. Determination (i.e. streams and wetlands) for the project area. In performing the jurisdictional determinations, the 1987 *Corps of Engineers Wetlands Delineation Manual* and the 2012 *Regional Supplement: Eastern Mountains and Piedmont Region*, Version 2.0, will be closely followed to establish a description of the soils, plants and hydrologic conditions of the project area. CEC will perform the following tasks:
 1. Using the 1987 *Corps of Engineers Wetland Delineation Manual* and the 2012 *Regional Supplement: Eastern Mountains and Piedmont Region*, Version 2.0 delineate potential wetlands located in the proposed area.
 2. Complete the Corps of Engineers Wetland Data Forms for each wetland/upland sampling site.
 3. Using a Trimble® GeoXT GPS Unit, map the wetland boundaries (if present) to determine area, and log lat./long. of each soil pit along with hue, value and chroma of the soil using a standard Munsell® Color Chart.
 4. Submit wet weather conveyance and stream determinations as a Qualified Hydrologic Professional to TDEC.
 5. Prepare a summary report describing the findings that contains water resources form, the routine wetland determination data forms, Hydrologic Determination forms, Habitat Assessment forms, Tennessee rapid assessment methodology forms, a photo summary, and delineation map.

■ **Endangered Species Review**

CEC will perform initial consultation with the TDEC Division of Natural Areas (DNA) to identify the likelihood of presence of threatened and endangered species along the proposed corridor and whether the project would adversely affect listed species or designated critical habitat. CEC will review the project area and determine the presence or absence of potential habitat for listed species identified by the DNA during the initial consultation.

Once the Environmental Boundaries Survey, and the jurisdictional waters determination and endangered species review as described above, is complete, the report will be submitted to TDOT for review and comment. The results of the EBR will be incorporated directly into the NEPA document.

Assumptions: It is assumed that no individual plant or animal species survey will be conducted as part of this proposed scope of services and cost estimate. If the Client, TDOT, or another state and/or federal agency requests a species survey, these services can be provided, but will be considered Additional Services beyond this scope of services.

Floodplains

Floodplains and floodways in the project area will be identified only, through the review of National Flood Insurance Rate Maps (FIRMs). All FIRMs specific to the project area will be compiled and the relevant floodplains and floodways information will be provided as part of the NEPA document.

Section 4(f) – Recreational Resources

With the identification of two potential Section 4(f) resources within the project area (Hilltop Rosenwald Park and Old Rock School Park-Library) a Section 4(f) De Minimis Finding Checklist developed by TDOT will need to be completed for the proposed project. The Consultant will prepare the Section 4(f) De Minimis Finding Checklist for the project and submit it to Town of Smyrna/TDOT for initial review. Once the initial review has been completed by Town of Smyrna/TDOT, the Section 4(f) De Minimis Finding Checklist will be submitted to FHWA for final approval.

In order for the proposed project to receive a De Minimis Finding the following criteria must be met:

- Complete the Section 4(f) De Minimis Finding Checklist for a recreational resource.
- Inform the Official with Jurisdiction (OWJ) of the intent to make a De Minimis impact finding. In case of this project, it is assumed that the OWJ is Town of Smyrna.
- Obtain written concurrence from the OWJ of the De Minimis finding.
- Provide the public with the opportunity to review and comment on the effects of the project on the Section 4(f) property via a legal announcement and map in the local newspaper.

Assumptions: A “will not adversely affect the activities, features, or attributes” determination from Town of Smyrna is anticipated for this project as well as a Section 4(f) De Minimis Determination from the FHWA. If TDOT, FHWA or the OWJ request the preparation of either a Programmatic Section 4(f) Evaluation or an Individual Section 4(f) Evaluation, an addendum to this scope of services and cost estimate will be required.

The Town of Smyrna will be responsible for the coordination and fees associated with the publication of the public notice and map in the local newspaper and any additional websites.

Deliverables by the Consultant:

1. Section 4(f) De Minimis Finding Checklist (electronic copy in Adobe PDF format)
2. Section 4(f) language for incorporation by the Consultant into the NEPA document (electronic copy in Adobe PDF format)
3. Public notice with project location map (electronic copy in Adobe PDF format)
4. Official with Jurisdiction notification letter and approval letter (electronic copy in Adobe PDF format)

Cultural Resources – Historic/Architectural (above-ground) Resources

Given that a portion of the proposed project connects to Old Nashville Highway, which follows the alignment of the Dixie Highway and the Trail of Tears National Historic Trail, the Consultant's subconsultant, Richard Grubb and Associates, Inc. (RGA), will be responsible for preparing a Historic Architecture Resources Survey to document and evaluate potential project effects to all National Register of Historic Places (NRHP)-listed and NRHP-eligible historic architecture resources in the area of potential effect (APE) per the criteria of adverse effects set forth in Section 106 regulations. Additionally, measures to avoid, minimize, or mitigate unavoidable adverse effects will be evaluated.

Once the Historic Architecture Resources Survey is complete, the draft report will be submitted to TDOT for review and comment. TDOT will submit the draft report to the TN-SHPO for review. Following the receipt of comments, RGA will finalize the Historic Architecture Resources Survey and the results will be incorporated directly into the NEPA document.

Assumptions: If additional coordination with TDOT and/or the Tennessee State Historic Preservation Office (TN-SHPO) is required or if additional historic architecture documentation is needed past the preparation of the Historic Architecture Resources Survey previously mentioned, this work can be completed by RGA, but will be considered Additional Services beyond this scope of services.

Cultural Resources – Historic/Architectural (below-ground) Resources

Due to the presence of undisturbed areas within portions of the project limits, the Consultant's subconsultant, RGA, will be responsible for conducting a Phase I Archaeological Survey to identify historic and prehistoric archaeological sites within the project's anticipated APE. The results of the Phase I Archaeological Survey will be presented in a report that meets the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation* (1983) and complies with the *Tennessee SHPO Standards and Guidelines for Archaeological Resource Management Studies* (October 2018) and the Tennessee Department of Transportation's Phase I Archaeological Survey Scope of Work (2021), if applicable. This work will be performed pursuant to Section 106 of the National Historic Preservation Act (NHPA), as amended.

Once the Phase I Archaeological Survey is complete, the draft report will be submitted to TDOT for review and comment. TDOT will submit the draft report to the TN-SHPO for review. Following the receipt of comments, RGA will finalize the Phase I Archaeological Survey and the results will be incorporated directly into the NEPA document.

Assumptions: There will be no Phase II Testing. If required, this work can be completed in accordance with the Additional Services clause to this agreement.

If a Memorandum of Agreement is needed to confirm agreed upon mitigation measures for the Build Alternative, it will be conducted in accordance with the Additional Services clause of this agreement.

If Phase III work, data recovery is necessary, it can be included in accordance with the Additional Services clause of this agreement.

Hazardous Materials

The Consultant will complete a desktop review of available hazardous materials databases available through TDEC and the Environmental Protection Agency (EPA) to determine whether the proposed project area has the potential to contain hazardous materials that may be impacted by the project. This information along with all relevant TDEC and EPA database mapping for the project area will be incorporated into the Agency Coordination documentation for the TDOT Hazardous Materials Section to review and provide further recommendations as to whether additional studies may be necessary.

Assumptions: It is assumed that no Phase I Environmental Site Assessment (ESA), Phase II ESA, or Asbestos Containing Materials (ACM) surveys will be conducted as part of this proposed scope of services and cost estimate. If the Client, TDOT, or another state and/or federal agency requests additional hazardous materials studies, these services can be provided, but will be considered Additional Services beyond this scope of services.

Environmental Justice

The Consultant will complete an Environmental Justice (EJ) analysis, in conformance with Executive Order 12898 and FHWA Order 6640.23 (December 2, 1998). The analysis will consider the composition of the affected area, to determine whether minority and low-income populations are present in the area affected by the proposed project, and if so whether there may be disproportionately high and adverse human health or environmental effects on minority and low-income populations.

Baseline data will be collected for minority and low-income populations using U.S. Census data. The data will consist of race, color, national origin, and level of income of overall population, as well as the existence of any minority or low-income populations or communities. Potential areas of EJ populations will be displayed using Geographic Information System (GIS) mapping.

The EJ analysis will be limited to desktop research only and will be documented in an EJ Memorandum. No fieldwork will be completed. If a disproportionately high and adverse effect on a minority population or a low-income population is revealed, the analysis will show how the effects are distributed within the affected project area. If potential mitigation measures or potential community outreach efforts are identified by TDOT or FHWA, these services can be provided, but will be considered Additional Services beyond this scope of services.

Assumptions: No fieldwork will be required.

Environmental Technical Information to be provided by TDOT

The TDOT Environmental Division will be responsible for providing the following environmental technical information:

- Air Quality
- Noise
- Native American Consultation

Following receipt of the above listed environmental technical information from the TDOT Environmental Division, Kimley-Horn will review and incorporate the information/data into the NEPA document.

Additional Services – Environmental Technical Studies

The following environmental technical studies can be completed but will be considered Additional Services beyond this scope of services:

- Conceptual Stage Relocation Plan
- Ecology – Threatened and Endangered Species Surveys (included but no limited to Bat Presence of Absence Surveys)
- Detailed Floodplain Analysis
- Air Quality Analysis
- Noise Technical Report
- Farmland Coordination and Farmland Analysis
- Programmatic Section 4(f) Evaluation, and/or Individual Section 4(f) Evaluation
- Section 6(f) Documentation
- Phase II Archaeological Survey and Phase III Testing
- Phase I or Phase II Environmental Site Assessments and Asbestos Containing Materials Surveys
- Detailed Environmental Justice Analysis

Task 3.6 – Document Preparation and Approval

The purpose of this task is to develop the NEPA documentation, consistent with the requirements of the FHWA guidance as outlined in FHWA Technical Advisory T6640.8A, *Guidance for Preparing and Processing Environmental and Section 4(f) Documents* as well as the *Tennessee Environmental Procedures Manual* (June 2011 edition) and TDOT's *Local Government Guidelines for the Management of Federal and State-Funded Transportation Projects* (March 2018).

Following completion of the NEPA document by the Consultant, the document will be submitted to the Client for review and comment. Kimley-Horn will then revise the NEPA document based on the Client's comments. Once the Client approves the NEPA document, the document will be submitted to the TDOT Environmental Division/FHWA for initial review and subsequent approval.

Task 3 Kimley-Horn Deliverables:

1. Agency Coordination Package (electronic copy in Adobe PDF format)
2. Environmental Boundaries Report (electronic copy in Adobe PDF format)
3. Recreational Section 4(f) De Minimis Documentation (electronic copy in Adobe PDF format)
4. Historic Architecture Resources Survey (electronic copy in Adobe PDF format)
5. Phase I Archaeological Survey (electronic copy in Adobe PDF format)
6. Environmental Justice Memorandum (electronic copy in Adobe PDF format)
7. Draft NEPA document for the Client's review (electronic copy in Adobe PDF format)
8. Draft NEPA document for TDOT/FHWA review (electronic copy in Adobe PDF format)
9. Final NEPA document for TDOT/FHWA review and approval (electronic copy in Adobe PDF format)

Task 4 – Preliminary Design

Task 4.1 – Preliminary Design

Upon receiving notice to proceed with the PE-NEPA Phase from TDOT, Kimley-Horn will prepare a preliminary design in accordance with TDOT's Roadway Design Guidelines and current Town of Smyrna design standards. The preliminary plans will be prepared to conform to TDOT's current MicroStation and Geopak CAD standards. The plans will consist of the following sheets:

- Title Sheet with index
- Typical Sections
- Present Layout
- Proposed Layout
- Mainline Profile
- Driveway Profiles
- Preliminary Signing and Marking
- Roadway Cross Sections

Task 4.2 – Preliminary Design Submittal and Review

Kimley-Horn will submit preliminary plans to TDOT and the Town for review and comment. Kimley-Horn will meet with the Town to discuss the Town's comments. Following this review meeting, Kimley-Horn will revise the plans based on the Town's comments and comments from TDOT.

Task 4.3 – Preliminary Engineer's Opinion of Probable Construction Cost

Kimley-Horn will prepare an opinion of the probable construction cost of the proposed improvements. Kimley-Horn will utilize the current version of the Cost Estimate Tool provided by TDOT's Strategic Transportation Investments Division to prepare preliminary cost estimate.

Because Kimley-Horn does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. Kimley-Horn cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Town wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Kimley-Horn's services required to bring costs within any limitation established by the Town will be paid for as Additional Services.

Task 4 Kimley-Horn Deliverables:

1. Preliminary Plans package (electronic copy, Adobe PDF format)
2. Preliminary Engineer's Opinion of Probable Construction Cost (one electronic copy, Adobe PDF format)

Task 5 – Right-of-Way Design Services

Task 5.1 – Right-of-Way Plans

Upon receiving notice to proceed with the ROW Phase from TDOT, Kimley-Horn will prepare right-of-way design plans in accordance with TDOT's Roadway Design Guidelines and current Town of Smyrna design standards. The plans will consist of the following sheets:

- Title Sheet
- Index with Standard Drawings
- Estimated Roadway Quantities
- Typical Sections
- Detail Sheets
- Right-of-Way Notes, Utility Notes and Utility Owners
- Present Layout
- Proposed Layout
- Mainline Profile
- Driveway Profiles
- Traffic Control Plan
- Signing and Marking
- Roadway Cross Sections

Task 5.2 – Right-of-Way Plans Submittal and Review

Kimley-Horn will submit right-of-way plans to TDOT and the Town for review and comment. Kimley-Horn will meet with the Town to discuss the Town's comments. Following this review meeting, Kimley-Horn will revise the plans based on the Town's comments and comments from TDOT.

Task 5.3 – Acquisition Plats (Additional Service)

Kimley-Horn will prepare exhibits for the required right-of-way and easements on the project for the impacted properties. Legal Descriptions will be provided for each property anticipated to require easement or right-of-way acquisitions.

This task and its associated scope and fee will be further refined after completion of the Right-of-Way plans. At that time the number of properties where right-of-way and easement acquisition is acquired will be determined and a more accurate scope and fee can be composed.

Task 5 Kimley-Horn Deliverables:

1. Right-of-Way Plans package (electronic copy, Adobe PDF format)

Task 6 – Utility Coordination

Task 6.1 – Preliminary Utility Coordination

Upon completion of Task 4 above, Kimley-Horn will provide early notification to the potentially affected utility owners along the project corridor. Kimley-Horn will request utility owner information from the TDOT Regional Utility Coordinator. Each utility owner will be provided the project location, project limits, project description, and federal and state project identifiers and given two (2) sixty-day notices and one (1) ten-day notice to indicate if they own facilities within the project area. Kimley-Horn will submit preliminary plans to utility companies known to have facilities within the project limits. The submittal to each utility owner will consist of an electronic set of plan drawings (PDF format) and a letter requesting that the utility company review the potential impacts of the proposed project to their facilities. The letter will request a written response from each utility.

Kimley-Horn will prepare for and host a utility coordination meeting as part of this task. Known impacted utility companies will be invited to attend a coordination meeting to discuss potential utility relocations within the project limits. Kimley-Horn will document the discussions and decisions made during the meeting and distribute to the meeting attendees. Utility Owners will be responsible for identifying utility conflicts within the project limits and the design and relocation of their utilities.

Task 6.2 – Right-of-Way Phase Utility Coordination

Upon completion of Task 5, Kimley-Horn will submit the approved Right-of-Way plans to utility owners identified in Task 6.1. The submittal to each utility owner will consist of an electronic set of plan drawings (PDF format), information detailing any design changes made during Right-of-Way design, and a letter requesting that the utility company review the potential impacts of the proposed project to their facilities and prepare more detailed utility relocation plans. Kimley-Horn will coordinate with utility owners during this phase to help facilitate the development of the relocation plans.

Kimley-Horn will prepare for and host a second utility coordination meeting as part of this task. Known impacted utility companies will be invited to attend a coordination meeting to discuss utility relocations within the project limits. Kimley-Horn will document the discussions and decisions made during the meeting and distribute to the meeting attendees.

Kimley-Horn will not perform any utility relocation design services as part of this task. It is assumed that each utility owner will design, provide plans for, and construct their utility relocations.

Task 6 Kimley-Horn Deliverables:

1. Utility Coordination Notification Letter with Project Map (electronic copy, Adobe PDF format) to each known Utility Owner within the project corridor
2. Utility Coordination Request Letter with Preliminary Plans (electronic copy, Adobe PDF format) to each known Utility Owner within the project corridor
3. Utility Coordination Request Letter with approved Right-of-Way Plans (electronic copy, Adobe PDF format) to each known Utility Owner within the project corridor

Additional Services

Any services not specifically provided for in the above scope, as well as any changes in the scope the Town requests, will be considered Additional Services and will be performed at our then-current hourly rates or an agreed upon lump sum value. Additional Services Kimley-Horn can provide consist of, but are not limited to, the following:

- Final Design Services
- NEPA Document Re-Evaluation
- Traffic Signal design
- Landscape/Streetscape design
- Environmental Permitting
- Right-of-Way Acquisition Services
- Bid phase and/or Pre-construction services
- Construction Phase Services
- Design services should the Project Understanding be modified from the assumptions documented in this Scope of Services
- Professional services should the project scope exceed those documented in this Scope of Services
- Attendance at meetings outside of those scoped above
- Others as requested by the Client

INFORMATION PROVIDED BY CLIENT

Kimley-Horn shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives.

SCHEDULE

Kimley-Horn will provide our services as expeditiously as practicable with the goal of meeting a mutually agreed upon schedule.

Please note that Kimley-Horn has no control over internal FHWA and TDOT review processes as they relate to environmental approvals and the issuances of notices to proceed from the Local Programs office.

FEE AND EXPENSES

Kimley-Horn will perform the services in Tasks 1 - 6 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Task 1 – Project Management	\$23,100
Task 2 – Existing Conditions Survey	\$130,300
Task 3 – NEPA Documentation	\$96,400
Task 4 – Preliminary Design Services	\$62,100
Task 5 – Right-of-Way Design Services	\$54,000
Task 6 – Utility Coordination	\$13,000
Tasks 1 – 6, Total Lump Sum Fee:	\$358,000

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Kimley-Horn will perform the services described in Additional Services on a lump sum basis, dependent upon the type of Additional Services requested. Effort associated with Additional Services will not be performed without authorization from the Town.

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to Town of Smyrna.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

____ Please email all invoices to _____

____ Please copy _____

If you want us to proceed with the services, please have an authorized person sign this Agreement below and return to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete, and return with the signed copy of this Agreement. Failure to supply this information could result in delay in starting work on your project.

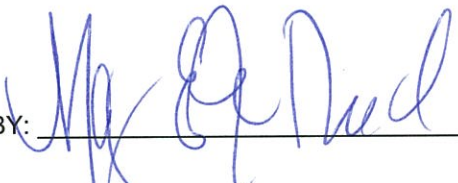
We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

ACCEPTED:

TOWN OF SMYRNA

BY:  _____

TITLE: Mayor _____

DATE: 11/9/2022 _____

KIMLEY-HORN AND ASSOCIATES, INC.



BY: Zachary J. Dufour, P.E. _____

TITLE: Vice President _____

DATE: September 2, 2022 _____

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the Town of Smyrna, Tennessee, (hereinafter referenced as "Town") and Kimley-Horn & Associates, Inc. (hereinafter referenced as "KH"), who mutually agree as follows:

DECLARATIONS. Town desires to retain KH to provide professional consulting services for the Enon Springs Sidewalk Improvements., (hereinafter referenced as "Project"). KH shall provide for the following:

- 1. SCOPE OF SERVICES.** Provide planning and engineering services in accordance with accepted practice.
- 2. COMPENSATION AND METHOD OF PAYMENT.** KH shall be compensated not to exceed \$358,000.
- 3. OTHER TERMS AND CONDITIONS.** This Agreement shall also be subject to the description described in the proposed scope of work contained in the document attached as Exhibit A hereto, which terms and conditions are incorporated herein by reference.

The Town Council Approved this Agreement on the 9th Day of November, 20212.

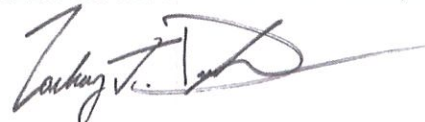
TOWN OF SMYRNA

BY: 

TITLE: Mayor

DATE: 11/9/2022

KIMLEY-HORN AND ASSOCIATES, INC.

BY: 
BY: Zachary J. Dufour, P.E.

TITLE: Vice President

DATE: September 2, 2022

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

ARTICLE 1. SERVICES. KH will:

- 1.1 Act for Town in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with standards of competent planners and engineers using the standards in the industry:
- 1.2 Consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the Town.

ARTICLE 2. TOWN'S RESPONSIBILITIES. Town, or its authorized representative, will:

- 2.1 Provide KH with all information regarding the Project, which is available to, or reasonably obtainable by, the Town that is relative to the work being done under the agreement.
- 2.2 Designate, in writing, the sole Project representative to coordinate with and direct KH including all contact information.
- 2.3 Guarantee to KH that it has the legal capacity to enter into this contract and that sufficient monies are available to fund KH's compensation.

ARTICLE 3. GENERAL CONDITIONS.

- 3.1 KH, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities customarily vested in other professionals or agencies participating in the Project.
- 3.2 KH shall be responsible for the negligent acts or omissions of any subconsultant involved in the Project and is acting upon written instruction issued by KH.
- 3.3 Neither Town nor KH may assign or transfer its duties or interest in this Agreement without written consent of the other party. However, nothing in this Article shall prevent KH from engaging independent entities, associates, and subcontractors to assist in the performance of the Services at KH's cost.
- 3.4 **INDEMNIFICATION.** KH agrees to indemnify and hold Town harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by KH's negligent act, error or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of KH and Town, they shall be borne by each party in proportion to its own negligence.
- 3.5. **SURVIVAL.** The terms and conditions of this paragraph shall survive completion of this services agreement.

ARTICLE 4. TERMINATION BY THE TOWN. The Town may terminate this Agreement in accordance with the following terms and conditions:

- 4.1 **Termination for Convenience.** The Town may, when in the interests of the Town, terminate performance under this Agreement with KH, in whole or in part, for the convenience of the Town. The Town shall give written notice of such termination to KH specifying when termination becomes effective. KH shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and KH shall stop work when such termination becomes effective. KH shall also terminate outstanding orders and subcontracts for the affected work. KH shall settle the liabilities and claims arising out of the termination of

subcontracts and orders. The Town may direct KH to assign KH's right, title and interest under termination orders or subcontracts to the Town or its designee. KH shall deliver to the Town such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as KH has in its possession or control. When terminated for convenience, KH shall be compensated as follows:

1. KH shall submit a termination claim to the Town specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Town. If KH fails to file a termination claim within 3 months from the effective date of termination, the Town shall pay the KH the amount the Town deems KH is due.
2. The Town and the KH may agree to the compensation, if any, due to KH hereunder.
3. Absent agreement to the amount due to KH, the Town shall pay KH the following amounts:
 - a. Contract costs for labor, materials, equipment and other services accepted under this Agreement through the percentage of work performed;
 - b. Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating KH's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that KH would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

The total sum to be paid KH under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

4.2 Termination for Cause. If KH does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the Town, in addition to any other rights it may have against KH or others, may terminate the performance of KH, in whole or in part at the Town's sole option, and assume possession of the work completed at that time and may complete the work.

In such case, KH shall only be paid for all services rendered and expenses incurred to the effective date of termination. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of KH is terminated by the Town for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such

termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

4.3 Termination for Non-Appropriation. The Town may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.

4.4 The Town's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

ARTICLE 5. SCOPE OF SERVICES. KH shall provide the Services as described in Attachment A, SCOPE OF SERVICES or as described in paragraph 1 of the Agreement.

5.1 By mutual agreement, this contract and scope can be amended by the parties. The scope and fee for any additional tasks or services under such amendment shall be mutually negotiated and agreed to in writing prior to beginning such additional tasks or services.

ARTICLE 6. SCHEDULE.

6.1 TIME OF THE ESSENCE. The parties agree that TIME IS OF THE ESSENCE with respect to the parties' performance of all provisions of the Agreement. The services to be performed shall commence upon notification from the Town and formally communicated to KH. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that KH does not control.

Notwithstanding any other provision of this Agreement, KH shall not have liability for or be deemed in breach because of delays caused by any factor outside of its reasonable control, including but not limited to natural disasters, adverse weather, or acts of the Client, third parties, or governmental agencies.

6.2 Should Town request changes in the scope, extent, or character of the Project, the time of performance of KH 's services and compensation shall be adjusted equitably.

ARTICLE 7. MISCELLANEOUS PROVISIONS.

7.1 EQUAL EMPLOYMENT OPPORTUNITY. In connection with this Agreement and the Project, the Town and KH shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. The Town and KH will take affirmative action to ensure that contractor used for the Project does not discriminate against any employee and employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising;

layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.

7.2 NO THIRD PARTY RIGHTS CREATED. Town and KH each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to their successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement. The Services provided for in this Agreement are for the sole use and benefit of Town and KH. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the KH.

ARTICLE 8. EXTENT OF AGREEMENT.

8.1 APPLICABLE LAW/CHOICE OF FORUM AND VENUE. This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum and venue shall be exclusively in the courts of Rutherford County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

8.2 ENTIRE AGREEMENT. This Agreement, including these terms and conditions, represent the entire Agreement between Town and KH for this Project and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by written instrument signed by Town and KH.

ARTICLE 9. SURVIVAL.

The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Contract, agreement or other document to which it may accompany or incorporate by reference or which subsequently may be modified, unless expressly excepted from this Article upon consent of both parties.



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 4.
Department: Public Works
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, a contract with Barge Solutions for a corridor study of Industrial Boulevard from Sam Ridley to the west connection of Teams Boulevard.

Fiscal Impact:

The contract amount is \$58,600. There is \$16,000 in the Public Works Line Item for Architects and Engineers to hire outside consultants for certain jobs. A budget amendment will be required and presented at a later date.

Contract Type:

Original Contract

Contract Term (if applicable):

No time limit.

Background:

As identified in the Safe Streets For All Safety Audit, Industrial Blvd has had several side-swipe accidents around the intersections of Industrial and Team and Industrial and Movie Row, with continued growth in this area and increasing traffic volumes, as well as recently proposed commercial redevelopment projects, the Public Works Department would like to evaluate this section of Industrial from Sam Ridley to Team Blvd (West connection) for access management to improve traffic safety.

Summary:

This corridor study will evaluate existing conditions of Industrial Blvd and project 5 years of future growth to determine needed access management projects.

Recommended Council Action:

Staff recommends Council approve the Mayor to sign the contract with Barge Solutions.

Attachments:

1. Town of Smyrna_Industrial Boulevard Corridor Study_Scope & fee

September 8, 2025

Mr. Tom Rose
Public Works Director
Town of Smyrna
315 South Lowry Street
Smyrna, Tennessee 37167
Tom.rose@townofsmymrna.org

RE: Industrial Boulevard from Sam Ridley Parkway (SR-266) to Team Boulevard (west) Corridor Study
Smyrna, Tennessee

Dear Mr. Rose:

Barge Design Solutions, Inc. (Barge) encloses the details of our proposed scope of work for the corridor study of Industrial Boulevard from Sam Ridley Boulevard (SR-266) to Team Boulevard (west) in Clarksville, Tennessee.

This proposal was prepared based on our understanding of the study corridor. If we have not fully addressed your project requirements or if you have any other questions regarding the proposal, please let us know as soon as possible by calling (615) 252-4265.

Sincerely,

Barge Design Solutions, Inc.



Rachel Back, PE
Vice President, Client Service
Leader

cc: Mr. Brad Waldschmidt, PE
Ms. Teresa Neal, Project Manager

Barge Design Solutions, Inc. (Barge) will provide the following scope of services for Town of Smyrna for the Industrial Drive Corridor Study. The scope of work is presented in the following elements:

- I. Project Description
- II. Scope of Services
- III. Project Schedule
- IV. Compensation
- V. Additional Services

I. PROJECT DESCRIPTION

The Town of Smyrna completed their *Safe Streets and Roads for All (SS4A) Safety Action Plan* (Safety Action Plan) in April 2025. The SS4A report identified a high injury network that included Industrial Boulevard. The Town of Smyrna desires to have a corridor plan that includes recommendations focused on improving safety on Industrial Boulevard from Sam Ridley Parkway to Team Boulevard (west). The following represents Barge's project understanding:

- Recommendations pertaining to traffic operations, safety, and access management will be provided
- Alternative scenarios that incorporate a new roadway connection along Sam Ridley Parkway (SR-266) between I-24 and Industrial Boulevard will not be provided.

II. SCOPE OF SERVICES

For Barge to complete a corridor study for Industrial Boulevard, the scope of services is described in the following tasks.

Task 1 – Project Management

Barge will prepare a Project Management Plan outlining the responsibilities and tasks to manage the project including meetings, invoicing, and scheduling. A summary of the tasks to be performed include:

- Schedule kick-off meeting between Barge and Town of Smyrna following receipt of a fully executed agreement.
 - Prepare data needs list and schedule for submittals and completion
- Manage invoicing, scheduling, and resource management.
- Establish schedule and means for progress updates
- Adhere to the Barge Quality Program and the Quality Program Manual (QPM).

Deliverables:

1. Schedule and facilitate kick-off meeting – data needs list and schedule
2. Progress updates via email or virtual meetings (monthly)

Task 2 – Data Collection

To evaluate the operations and safety issues on Industrial Boulevard, data will need to be collected to understand existing conditions along the corridor. The data collection shall include:

- Obtaining the counts collected from a study prepared for the Town of Smyrna for a fast food restaurant on Industrial Boulevard at the following intersections:
 - Sam Ridley Parkway (SR-266) at Industrial Boulevard – signalized
 - Industrial Boulevard at Team Boulevard (east) – unsignalized
 - Industrial Boulevard at Driveway for Movie Row – unsignalized
 - Industrial Boulevard at Driveway for Hickory Falls Restaurant – unsignalized
 - Industrial Boulevard at Townpark Drive – signalized
 - Industrial Boulevard at Team Boulevard (west) – signalized
- Using a sub consultant, Barge will collect turning movement counts during the AM, MD, and PM peak hours during a typical weekday when school is in session for at the following intersections:
 - Sam Ridley Parkway (SR-266) at Chaney Road
 - Sam Ridley Parkway (SR-266) at Potomac Place
- Perform a site visit to verify the posted speed limits, intersection geometry, and signal phasing/sequencing.
- Obtain existing signal timings from Town of Smyrna.
- Review TDOT's AASHTOWare Safety online crash database to download historical crash data along Industrial Boulevard between Sam Ridley Parkway (SR-266) and Team Boulevard (west). Crashes that occurred between 01/01/2024 and 06/30/2025 will be considered for this study. This is intended to enhance the *Safety Action Plan* which evaluated the 5-year period between 01/01/2019 and 12/31/2023.
- Review the *Safety Action Plan* (dated 05/07/2025) pertaining to the Industrial Boulevard corridor.
- Review the *Fast Food Restaurant Traffic Impact Study* (dated 06/12/2025) and the *Industrial Blvd – Improvement Alternatives Evaluations Memorandum* (dated 08/19/2025).
- Review the *Town of Smyrna Mobility Study*
- Town of Smyrna will provide additional approved studies expected to add traffic to the corridor.

To perform this task, Barge assumes that Town of Smyrna will:

- Provide existing counts at the intersections listed above
- Provide existing signal timings.
- Provide the documents referenced above for review

Task 3 – Preliminary Analysis

Using the data collected, Barge will conduct operational and safety analysis of the corridor by performing the following:

Operational Analysis

Barge will develop Synchro 12 and SimTraffic models representing existing conditions of the corridor. The models will incorporate the existing traffic control, laneage, and traffic volumes at the intersections along the corridor for the following peak traffic times:

- AM peak hour (1 model)
- Midday peak hour (1 model)
- PM peak hour (1 model)

To perform analysis of the traffic in the 5-year Horizon, Barge will determine an annual growth rate to be applied to the corridor and coordinate with Town of Smyrna for agreement and approval. The annual growth rate will be applied to the existing traffic volumes resulting in the Horizon year traffic volumes. Synchro 12 and SimTraffic models will be developed incorporating the Horizon year volumes with the existing traffic control and laneage. The same peak traffic times will be modeled:

- AM peak hour (1 model)
- Midday peak hour (1 model)
- PM peak hour (1 model)

The Measures of Effectiveness (MOEs) will be reported for all the models and will include Level of Service (LOS), average vehicle control delay, and 95th percentile vehicle queue length.

Safety Analysis

Barge will collect the crash data for the study corridor from AASHTOWare for the time of 1/1/2024 to 6/30/2025. The data will be used to calculate the segment and intersection crash rates. It is anticipated that the corridor will be divided in up to three segments for crash rate calculations and up to 5 intersection crash rates will be determined.

Based on the results of the operational analysis and safety analysis, Barge will identify up to 3 alternative scenarios for improving safety and operations. The alternatives are anticipated to consider:

- Restricted turning movements along Industrial Boulevard
- Additional right turn movement from Chaney Road to Sam Ridley Parkway (SR-266)
- Adjustments of signal phasing/sequencing and/or timings
- Additional connectivity through private land parcels between Industrial Boulevard and Team Boulevard

Barge will prepare a memorandum summarizing the operational and safety analysis conducted and present design alternative scenarios for Industrial Boulevard. Barge will submit the draft memorandum to Town of Smyrna and schedule a meeting to discuss the alternatives. The intent of the meeting is to discuss any questions about the existing and horizon year analysis under existing conditions and determine the three (3) alternative scenarios to be analyzed in the following task.

Deliverables

1. Existing Conditions Technical Memorandum with up to 3 alternative scenarios
2. Meeting to discuss the findings and select future alternatives

Task 4 – Alternative Scenario Analysis

Using the alternative scenarios resulting from Task 3, Barge will analyze up to three alternative scenarios. Operational analysis will be performed using Synchro 12 and SimTraffic for the weekday morning (AM), midday (MD), and afternoon (PM) peak hours using the Horizon Year traffic volumes. For comparison of the scenarios, the same MOE's used in the existing analysis will be taken from the models.

Barge will prepare a memorandum summarizing the operational analysis conducted for the three (3) design alternative scenarios for Industrial Boulevard.

To present the analysis of the alternative scenarios, Barge will prepare a technical memorandum summarizing the MOEs of each one. Exhibits and figures that illustrate the proposed cross sections for each alternative scenario will be developed using Streetmix or similar software.

After submitting the memorandum, Barge will schedule a meeting with the Town of Smyrna to discuss the alternatives and determine the preferred alternative scenario.

Deliverables

1. Alternative Scenario Technical Memorandum with up to 3 future alternative scenarios
2. Meeting to discuss the findings

Task 5 – Reporting

After the Alternative Scenario Coordination described in Task 4, Barge will prepare a corridor study summarizing tasks 2-4. The report will consist of text, tables, and exhibits/figures explaining the analysis and three scenarios analyzed. The report will conclude with recommendations.

Deliverables:

1. Draft Industrial Drive Corridor Study
2. Final Industrial Drive Corridor Study

III. ADDITIONAL SERVICES

Additional services requested by the Town of Smyrna, beyond the tasks identified within the Scope of Services, can be performed by Barge with an appropriate adjustment in fees.

IV. PROJECT ASSUMPTIONS AND EXCLUSIONS

The following items are not anticipated to be required at this time and are therefore specifically excluded from the scope. These services may be added on request as an extra service.

- Additional data collection
- Additional intersections for evaluation
- Additional iterations of review/comment
- Any additional services not specified within the Scope of Services
- Any Quality Control/Quality Assurance program beyond Barge QAQC process.
- Public outreach
- Schedule is dependent upon the timely review of memorandums by the Town of Smyrna and availability of the Town of Smyrna for coordination

V. SCHEDULE

The Scope of Services will be performed within a timeframe that is mutually agreeable between Barge and the Town of Smyrna.

VI. CLIENT RESPONSIBILITIES

1. Provide signal timings for all signalized intersections.

2. Provide studies, including trip assignment, for all approved developments expected to generate trips on Industrial Boulevard.
3. Provide the horizon year for analysis
4. Provide reports to be reviewed including In-and-Out burger traffic study, memorandum prepared by Kimley Horne regarding the access management, transportation and mobility plans, and the Town of Smyrna Safety Plan.

VII. COMPENSATION

The Scope of Services will be performed for the following **lump sum** compensation.

Task	Description of Work	Fee
1	Project Management	\$2,285.00
2	Data Collection	\$8,090.00
3	Preliminary Analysis	\$15,700.00
4	Alternative Scenario Analysis	\$22,175.00
5	Reporting	\$8,850.00
---	Expenses (including Subconsultant for Traffic Data Collection – 2 intersections)	\$1,500.00
TOTAL		\$58,600.00

VIII. CLOSURE

The Project Description, Scope of Services, and Compensation represent the proposed Professional Services.

We appreciate the opportunity to assist the Town of Smyrna and look forward to working with the Town.



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 5.
Department: Event Center
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, an agreement with Universal Linen for the Smyrna Event Center.

Fiscal Impact:

For fiscal year 25-26, it is budgeted for \$18,500.

Contract Type:

Original Contract

Contract Term (if applicable):

Background:

The Town issued a public bid for linen services for the Event Center. One response from Universal Linen was received. The Smyrna Event Center has been using Universal Linen Services for almost 10 years. The services they provide have been crucial for all the events hosted at the Smyrna event center. They make a weekly delivery of all the supplies, plus, if we book a late event, they can assist us with late bookings.

Summary:

Universal Linen Services offers a reliable, high-quality linen solution backed by decades of industry experience, allowing the Smyrna event center to trust and rely on their services.

Recommended Council Action:

Staff recommends that the council and Mayor approve the terms of the agreement with Universal Linen services.

Attachments:

1. Linen Service Agreement
2. 2025_Universal Linen bid



EXTENSION AGREEMENT

This Agreement is made and entered into on this 11 day of January, 2024, by and between **Universal Linen** (the "Bidder") and the Town of Smyrna, Tennessee, a Tennessee municipal corporation (the "Town") for the purpose of Linen Service for Event Center.

WHEREAS, pursuant to the terms of an Agreement, dated **October 12, 2021** by and between the Bidder and the Town, the Bidder agreed to provide certain products and/or services to the Town, all in accordance with the terms of the Bid Documents (as defined in the Original Agreement);

WHEREAS, pursuant to the terms of the Bid Documents, upon mutual agreement, the Original Agreement may be renewed for up to a maximum of two additional one-year periods under and upon the same price, terms, and conditions as set forth in the Bid Documents; and

WHEREAS, the parties now desire to renew the Original Agreement for an additional one-year period, in accordance with the terms set forth in the Bid Documents.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree to renew and extend the Original Agreement for an additional one-year period, beginning **October 31, 2023** and ending **October 30, 2025** subject to the following terms and conditions:

1. **Extension of Original Agreement & Incorporation of Supporting/Related Documents:** All provisions of the Original Agreement which do not conflict with a provision contained in this extension agreement, the quotation/bid for the provision of products or services previously submitted by bidder, and all terms of the invitation to submit quotations are incorporated herein by reference as if set forth at length verbatim. The original agreement shall remain in full force and effect for an additional period of one (1) year commencing on the date of expiration fixed for the original agreement.

2. **Severability.** This agreement constitutes the product of negotiations of the parties hereto and any enforcement hereof will be interpreted in a neutral manner and not more strongly against any party based upon the source of the draftsmanship of this Agreement. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall continue to be fully effective.

3. Limitation of Liability. The Town of Smyrna shall not be liable for any loss, claim, expense or damage caused by, contributed to by or arising out of the acts or omission of Bidder or third parties, whether negligent or otherwise.

4. Warranties. The Bidder warrants to the Town that all materials and equipment furnished under this Extension Agreement will be new, unless otherwise specified, and that all work will be of good quality, free from faults and defects, suitable for the purpose for which the materials and equipment are furnished, and in conformance with the Agreement. If it does not perform as warranted, Bidder shall use all commercially reasonable efforts to correct the product(s) so that it operates in all material respects in conformity with the written representations of Bidder. If Bidder cannot correct the product(s) within a reasonable period of time, Bidder shall refund the purchase price of the product(s). All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.

5. Software Deadline, Testing and Acceptance: If applicable to the Original Agreement, software provided by Bidder during any extension covered under this Extension Agreement, shall be installed for the purposes of testing, as stated herein below, no later than one hundred twenty (120) days from the effective date of this Extension Agreement unless the parties, in writing, set a different specific date. In Addition, software provided by Bidder to the Town is subject to inspection and testing to verify that the software conforms to its written specifications and to ensure it meets the Town's needs. The Town shall have seven (7) business days after the software is installed to perform testing of the software using the Town's data. The Town shall provide Bidder with written notice of acceptance or rejection of the software five (5) business days or less after the end of the testing period. If the Town does not provide timely written notice of acceptance or rejection to Bidder, the software shall be deemed to be accepted by the Town. If the software is rejected, the Town may, at its sole discretion, either (1) return the software and receive a refund of all fees paid with respect thereto, or (2) allow Bidder to repair or replace the software, without charge, in a timely manner. In the event the Town elects to allow the Bidder to repair or replace the software, the Town shall have an additional (7) business days in which to accept or reject the software as laid out hereinabove.

6. Use of The Town's Logo or Name: Bidder shall not use the Town's name or any logo in marketing or publicity materials or for marketing or publicity purposes without the prior written authorization from the Town. Bidder shall not issue, publish, or divulge any materials developed or used in the performance of the Original Agreement or this Extension Agreement or make any statement to the media relating to the Original Agreement or this Extension Agreement without the prior written consent of the Town.

7. Indemnification. The parties hereto agree that Bidder shall indemnify the Town for any and all claims of negligence, tortious conduct or otherwise unlawful acts committed by Bidder in the performance of their obligations under the terms of this Extension agreement, including any and all attachments or exhibits thereto and Bidder agrees to pay any and all costs associated with the enforcement of the terms of this indemnity agreement by the Town, including, but not limited to, court costs, civil judgments, assessments or any other reasonable fees associated therewith. This clause shall survive the expiration or termination of this Extension Agreement and shall remain in full force and effect until the expiration of any applicable statute of limitation. In addition, Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private or public entities and, therefore, prohibits an agreement by the Town to indemnify a third party or agree to a limitation of liability provision.

8. Non-Appropriation: Bidder acknowledges that the Town is a governmental entity, and the validity of this Extension Agreement is based upon the availability of public funding under its authority. In the event the Town fails to appropriate funds or make monies available for any fiscal year covered by the term of this Extension Agreement for services to be provided, this Extension Agreement shall be terminated on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to the Town, and such termination shall not be a breach of the Original Agreement or this Extension Agreement, and any unused payment made to Bidder shall be returned to the Town.

9. Tax Exemption: As a tax-exempt entity, the Town shall not be responsible for sales or use taxes incurred for products or services. The Town shall supply Bidder with its Sales and Use Tax Exemption Certificate upon Bidder's request. Bidder shall bear the burden of providing its suppliers with a copy of the Town's tax exemption certificate and Bidder shall assume all liability for such taxes, if any, that should be incurred.

10. Attorney Fees. The parties hereto agree that the Town shall be in no event liable for any attorney's fees which Bidder may incur due to breach of the Original Agreement or this Extension Agreement by either party; and further, the Town shall not acquiesce to any term in any document that indicates or infers the Town may or shall be responsible for the Attorney's fees of another party or the Bidder's attorney fees.

11. Failure to perform. The parties agree, in the event Bidder fails to perform any obligation set out in this Extension Agreement, the Town shall be reimbursed by Bidder for any and all expenses associated with having to obtain a new provider to finish out the contracted term, including, but in no way limited to, any charges/fees, which are above and beyond the amount the Town would have paid to Bidder to complete the same task; provided, however, that if the failure, by its nature, is one that can be cured, the Bidder shall have fifteen (15) business days after receipt of written notice from the Town to cure said failure to perform.

12. Unilateral Modification of Agreement Not Permitted: Bidder may make unilateral changes to its Privacy Policy, provided any such changes are subject to the provisions of this Extension Agreement, but shall not materially alter the use of the service or reduce the level of protection provided to the Town at the time of the execution of the Original Agreement. Except as provided in the preceding sentence, notwithstanding anything in this Extension Agreement to the contrary, any change to this Extension Agreement made by Bidder that is not in writing and

that is not properly executed by the signatures of authorized representatives of the parties hereto, including attestation by the Town's Clerk and approved as to form by the Town Attorney are subject to the terms and conditions of this Extension Agreement.

13. Changes to Terms: Except as provided in Paragraph No. 12 above pertaining to Bidder's Privacy Policy, Bidder shall provide the Town written notice, sent in care of Town Attorney's Office, Smyrna, Tennessee, 315 South Lowry Street, Tennessee 37167, of any proposed change to this Extension Agreement at least ninety (90) days prior to being effective to the Town. The Town shall have thirty (30) days after receiving the written notice to terminate this Extension Agreement, and such cancellation shall not be a breach of this Extension Agreement. Bidder will refund to the Town any payment made by the Town to Bidder equal to the difference between the number of months the payment was intended for and the number of months remaining on this Extension Agreement that the fee was intended to cover.

14. Mediation. The Town may, at its option, require the attempted resolution of any dispute arising under this Extension Agreement by mediation prior to the filing of any lawsuit or other claim. Should any dispute arise, Bidder shall provide the Town notice of any intent to file suit by certified mail. The Town shall notify the Bidder of its intent to exercise its right to mediation within thirty (30) days of receiving such notice. If the Town does not exercise its right to mediation, Bidder may file suit. Any mediator selected under this clause shall be agreed upon by the parties and the costs of such mediation shall be divided and paid equally between the parties.

15. No Presumption Against Drafter: The parties are both business entities having substantial experience with the subject matter of this Extension Agreement, and each has fully participated in the negotiation and drafting of this Extension Agreement. Accordingly, this Extension Agreement shall be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences shall be drawn from the fact that the final, duly executed Extension Agreement differs in any respect from any previous draft hereof.

16. Governing Law. This Extension Agreement shall be deemed to have been executed and delivered within the State of Tennessee, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of Tennessee. The parties agree that all obligations of the parties are performable in Smyrna, Tennessee.

17. Choice of Forum and Venue. The parties' choice of forum and venue shall be exclusively in the courts of Rutherford County, Tennessee or the United States District Court, for the Middle District of Tennessee. The parties hereby waive their right to a jury trial. Any provision of the Extension Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

18. Conflicting Provisions: Should a provision within this Extension Agreement conflict with a provision within in the Original Agreement, the provision of this Extension Agreement shall govern.

IN WITNESS WHEREOF, the undersigned have executed this Extension Agreement on the date set forth above.

TOWN OF SMYRNA, TENNESSEE:

By: _____
MARY ESTHER REED, MAYOR

BIDDER:

By: Sergio Farinas
Title: President

ATTEST:

AMBER HOBBS, TOWN CLERK

SECTION II - SPECIFICATIONS

Quoted prices will include delivery charges, service charges, surcharges, travel or environmental charges, etc. If the vendor starts billing other fees this would breach the contract. Any comments, exceptions or additional charges must be specified in "Specification Compliance" section of bid document.

1. Pick-up and delivery of laundered, ironed and wrinkle free linens shall be on a weekly schedule as mutually agreed upon by the Event Center staff and the vendor.
2. Linen pickup and delivery shall be made through service area behind building at the Smyrna Event Center.
3. Linen delivery personnel will be appropriately attired or in uniform when entering the facility.
4. Delivery time will be outside of peak service windows (11:00AM – 1:00PM) and not later than 4:00PM.
5. Linen company will provide soiled storage bags and 6 racks to accommodate weekly usage levels.
6. It is a priority that the vendor has the ability to provide a wide variety of napkin colors.
7. The Event Center will be billed on a weekly basis. Vendor must submit a sample invoice. (Attached)
8. At seasonal periods additional inventory may be requested by Event Center Manager. Fees to be charged at quoted rate and inventory reduced per request.
9. Acceptable advance notice for special orders will be 5 business days or less.
10. Ability to adjust contacted weekly minimums within a 30 days window.
11. Vendors may be asked to submit samples of items quoted.
12. Vendor to supply the Event Center staff with weekly in and out check sheets to keep permanent record for proof of delivery of clean linens and pick up of soiled linens.
13. The vendor will be required to replace all items that become worn or discolored due to normal wear and tear, or defective workmanship, at no additional cost to the Town of Smyrna. The vendor will be responsible for the removal of stains from linens or mending of items to the level of industry standard serviceability with approval of the Town, or replacement with new linens at no additional cost to the Town of Smyrna. The Town of Smyrna will be responsible for the replacement cost of damaged linens due to abuse.
14. Automatic renewal clause – This agreement will automatically renew at the end of each term for a further term of 5 years unless either party gives the other written notice of

termination at least 30 days prior to the end of the relevant term.

REFERENCES

Company	Address	Contact	Phone
Town of Smyrna	315 South Lowry Street		
Maggiando's	3106 West End Ave, Nashville	Paige	615-514-0270
The Norma Company	4427 Murphy Rd, Nashville	Will	615-463-0133

INSURANCE REQUIREMENTS

The Vendor shall purchase and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Vendor, its agents, representatives, employees or subcontractors.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE

1. Workers Compensation

Workers Compensation insurance shall be in compliance with the State of Tennessee and shall be statutory. Employers Liability shall be included with a minimum limit of \$500,000 per accident/per disease/per employee.

2. Commercial General Liability

Commercial General Liability insurance shall have a minimum limit per occurrence of \$1,000,000 and a minimum general aggregate of \$2,000,000. It shall include completed operations, product liability and personal injury liability insurance.

3. Automobile Liability

Automobile Liability Insurance shall have a minimum combined single limit per occurrence of \$1,000,000. This insurance shall include third-party bodily injury and property damage liability for owned, hired, borrowed and non-owned automobiles.

B. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to the Town of Smyrna. The Vendor shall be responsible for all deductibles and self-insured retentions.

C. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

- The Town, its elected and appointed officials, agents, employees and volunteers shall be named as an additional insured as regards negligence by the vendor.
- The Vendor's insurance shall be primary as respects the Town, its elected and appointed officials, agents, employees and volunteers. Any insurance or self-

SECTION III - PRICE QUOTATION

ITEM DESCRIPTION	DIMENSIONS	MINIMUM WEEKLY USAGE	UNIT PRICE	COST PER ITEM
Bar Towel Ribbed* ✓		120	.126	\$15.12
Inventory Rebuild - Bar Towel ✓		2	1.32	\$2.64
Rectangle Tablecloths* ✓	52" x 114"	120	1.05	\$126.00
Banquet Tablecloths* ✓	91" x 91"	120	1.25	\$150.00
Banquet Tablecloths* ✓	85" x 85"	120	1.05	\$126.00
Bibbed Aprons*		10	.294	\$2.94
Inventory Rebuild - Apron		1	3.65	\$3.65
White Napkins*		200	.07	\$14.00
Inventory Rebuild - Napkin		2	1.88	\$3.76
Wet Mops		5	1.32	\$6.60
Floor Mat Custom LOGO	3' x 5'	2	3.75	\$7.5
WEEKLY TOTAL				\$458.21

* White Linens: Tablecloths, napkins and bar towels 65% cotton / 35% polyester.

Special Orders

Round Tablecloth 90" \$ 20.00

Round Tablecloth 120" \$ 25.00

Colored Napkin \$.075

Disclose repair, damage and loss costs policy:

Damaged or loss items above rebuild quantities
billed separately at replacement costs.



AGREEMENT

This Agreement is made and entered into as of this 9th day of September, 2025, by and between Universal Linen Service LLC, a Kentucky Limited Liability Company (the "Bidder") and the Town of Smyrna, Tennessee, a Tennessee municipal corporation (the "Town") for the purpose of provide linen rental & laundry service.

WHEREAS, the Bidder has submitted a quotation for the provision of certain products and/or services to the Town, all in accordance with the terms of the Invitation to Submit Quotations attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit A (the "ISQ"), and which Proposal from the Bidder is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit B (the "Quotation"); the ISQ and the Quotation, together with any and all ancillary documents thereto, shall be collectively referred to herein as the "Bid Documents"; and

WHEREAS, the Town now desires to accept the Bidder's quotation, in accordance with the terms set forth in such Bid Documents.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned do hereby agree as follows:

1. Acceptance of Bid Documents. The terms of the Bid Documents, as incorporated herein by reference, are hereby accepted by the parties hereto. The Bidder hereby agrees to provide the goods and/or services contemplated by such Bid Documents in accordance with the terms set forth therein. The Town hereby accepts the Bidder's quotation to provide the goods and/or services contemplated by such Bid Documents in accordance with the terms set forth therein.

2. Entire Agreement. This Agreement, including the exhibits and any other documents referred to herein or therein, which form a part hereof, contains the entire understanding of the parties with respect to its subject matter. There are no restrictions, agreements, promises, warranties, covenants or undertakings other than those expressly set forth herein or therein. This Agreement supersedes all prior written or oral agreements and understandings between the parties with respect to its subject matter and may not be altered, modified or amended, in whole or in part, except by the express written authorization and consent of the parties hereto.

3. Severability. This agreement constitutes the product of negotiations of the parties hereto and any enforcement of hereof will be interpreted in a neutral manner and not more strongly against any party based upon the source of the draftsmanship of this Agreement. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall continue to be fully effective.

4. Limitation of Liability. The Town of Smyrna shall not be liable for any loss, claim, expense or damage caused by, contributed to or arising out of the acts or omission of Bidder or third parties, whether negligent or otherwise.

5. Warranties. The Bidder warrants to the Town that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects, suitable for the purpose for which the materials and equipment are furnished, and in conformance with the Agreement. If it does not perform as warranted, Bidder shall use all commercially reasonable efforts to correct the product(s) so that it operates in all material respects in conformity with the written representations of Bidder. If Bidder cannot correct the product(s) within a reasonable period of time, Bidder shall refund the purchase price of the product(s). All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.

6. Software Deadline, Testing and Acceptance: If applicable to the Agreement, software provided by Bidder shall be installed for the purposes of testing, as stated herein below, no later than one hundred twenty (120) days from the effective date of this Agreement unless the parties, in writing, set a different specific date. In Addition, software provided by Bidder to The Town is subject to inspection and testing to verify that the software conforms to its written specifications and to ensure it meets The Town's needs. The Town shall have seven (7) business days after the software is installed to perform testing of the software using The Town's data. The Town shall provide Bidder with written notice of acceptance or rejection of the software five (5) business days or less after the end of the testing period. If the Town does not provide timely written notice of acceptance or rejection to Bidder, the software shall be deemed to be accepted by The Town. If the software is rejected, The Town may, at its sole discretion, either (1) return the software and receive a refund of all fees paid with respect thereto, or (2) allow Bidder to repair or replace the software, without charge, in a timely manner. In the event The Town elects to allow the Bidder to repair or replace the software, The Town shall have an additional (7) business days in which to accept or reject the software as laid out hereinabove.

7. Use of The Town's Logo or Name: Bidder shall not use The Town's name or any logo in marketing or publicity materials or for marketing or publicity purposes without the prior written authorization from The Town. Bidder shall not issue, publish, or divulge any materials developed or used in the performance of this Agreement or make any statement to the media relating to this Agreement without the prior written consent of The Town.

8. Indemnification. The parties hereto agree that Bidder shall indemnify The Town for any and all claims of negligence, tortious conduct or otherwise unlawful acts committed by Bidder in the performance of their obligations under the terms of this agreement, including any and all attachments or exhibits thereto and Bidder agrees to pay any and all costs associated with the enforcement of the terms of this indemnity agreement by The Town, including but not limited to, court costs, civil judgments, assessments or any other reasonable fees associated therewith. This clause shall survive the expiration or termination of this Agreement and shall remain in full force and effect until the expiration of any applicable statute of limitation. In addition, Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private or public entities and, therefore, prohibits an agreement by The Town to indemnify a third party or agree to a limitation of liability provision.

9. Non-Appropriation: Bidder acknowledges that The Town is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under its authority. In the event The Town fails to appropriate funds or make monies available for any fiscal year covered by the term of this Agreement for services to be provided, this Agreement shall be terminated on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to The Town, and such termination shall not be a breach of the Agreement, and any unused payment made to Bidder shall be returned to The Town.

10. Tax Exemption: As a tax-exempt entity, The Town shall not be responsible for sales or use taxes incurred for products or services. The Town shall supply Bidder with its Sales and Use Tax Exemption Certificate upon Bidder's request. Bidder shall bear the burden of providing its suppliers with a copy of The Town's tax exemption certificate and Bidder shall assume all liability for such taxes, if any, that should be incurred.

11. Attorney Fees. The parties hereto agree that The Town shall be in no event liable for any attorney's fees which Bidder may incur due to breach of this Agreement by either party; and further, The Town shall not acquiesce to any term in any document that indicates or infers The Town may or shall be responsible for the Attorney's fees of another party or the Bidder's attorney fees.

12. Boycott of Israel. The Bidder certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in Tenn. Code Ann. § 12-4-119.

13. Failure to perform. The parties agree, in the event Bidder fails to perform any obligation, other than with regards to the date of delivery, set out in this Agreement, the Town shall be reimbursed by Bidder for any and all expenses associated with having to obtain a new provider to finish out the contracted term, including, but in no way limited to, any charges/fees, which are above and beyond the amount the Town would have paid to Bidder to complete the same task; provided, however, that if the failure, by its nature, is one that can be cured, the Bidder shall have fifteen (15) business days after receipt of written notice from the Town to cure said failure to perform. The parties hereby agree, unless a specific date of delivery is provided in this Agreement or other bid documents, all deliveries shall be made to the Town no later than ninety (90) days from the date of order. The parties further agree that if Bidder, in good faith, is not able to meet this ninety (90) day deadline of delivery due to forces beyond his, her or its control, that were unforeseeable at the time of signing this contract, then this entire Agreement shall be voidable at the sole discretion of the Town. Should the Town elect to void this Agreement due to Bidder's good faith inability, due to forces beyond his, her or its control, and which were unforeseeable at the time of signing this Agreement to meet the delivery deadline, then neither party shall be deemed to have breached this Agreement, and Bidder shall return all monies, within seven (7) business days, paid by the Town for the products/items that could not be delivered in the allotted time.

14. Unilateral Modification of Agreement Not Permitted: Bidder may make unilateral changes to its Privacy Policy, provided any such changes are subject to the provisions of this Agreement but shall not materially alter the use of the service or reduce the level of protection provided to the Town at the time of the execution of this Agreement. Except as provided in the preceding sentence, notwithstanding anything in this Agreement to the contrary, any change to this Agreement made by Bidder that is not in writing and that is not properly executed by the signatures of authorized representatives of the parties hereto, including attestation by The Town's Clerk and approved as to form by the Town Attorney are subject to the terms and conditions of this Agreement.

15. Changes to Terms: Except as provided in Paragraph No. 13 above pertaining to Bidder's Privacy Policy, Bidder shall provide The Town written notice, sent in care of Town Attorney's Office, Smyrna, Tennessee, 315 South Lowry Street, Tennessee 37167, of any proposed change to this Agreement at least ninety (90) days prior to being effective to The Town. The Town shall have thirty (30) days after receiving the written notice to terminate this Agreement, and such cancellation shall not be a breach of this Agreement. Bidder will refund to The Town any payment made by The Town to Bidder equal to the difference between the number of months the payment was intended for and the number of months remaining on this Agreement that the fee was intended to cover.

16. Price Assurance: Unless specifically stated in this Agreement or other bid documents, the bid price shall be valid for the full term of this Agreement. If the Bidder, specifically states that he, she or it cannot honor the bid price for the full term of this Agreement; then this Agreement is voidable at the sole discretion of the Town, if at any time during the full term of this Agreement, Bidder requests to raise the bid

price. If the Town elects to void this Agreement, at its sole discretion, it shall not be deemed to be a breach of the contract by either party.

17. Confidentiality. The Town, as a Tennessee Municipal Corporation is subject to the Tennessee Open Records Act, set out in T.C.A. §10-7-503 et seq; therefore, this Agreement and all documents or materials, in any format, including, but not limited to paper, electronic or virtual, that are public records pursuant to law, are not confidential and are subject to disclosure. The Town will respond to all proper Open Records Requests in the time allowed by law, without any requirement to disclose such request to Bidder or provide Bidder with notice or the time to obtain a protective order. The Town does not have the burden of establishing that information is not confidential information or that its release is authorized to release the records. This section 16 serves to meet such burden and authorization of disclosure.

18. Mediation. The Town may, at its option, require the attempted resolution of any dispute arising under this Agreement by mediation prior to the filing of any lawsuit or other claim. Should any dispute arise, Bidder shall provide the Town notice of any intent to file suit by certified mail. The Town shall notify the Bidder of its intent to exercise its right to mediation within thirty (30) days of receiving such notice. If the Town does not exercise its right to mediation, Bidder may file suit. Any mediator selected under this clause shall be agreed upon by the parties and the costs of such mediation shall be divided and paid equally between the parties.

19. No Presumption Against Drafter: The parties are both business entities having substantial experience with the subject matter of this Agreement, and each has fully participated in the negotiation and drafting of this Agreement. Accordingly, this Agreement shall be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences shall be drawn from the fact that the final, duly executed Agreement differs in any respect from any previous draft hereof.

20. Governing Law. This Agreement shall be deemed to have been executed and delivered within the State of Tennessee, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of Tennessee. The parties agree that all obligations of the parties are performable in Smyrna, Tennessee.

21. Choice of Forum and Venue. The parties' choice of forum and venue shall be exclusively in the courts of Rutherford County, Tennessee or the United States District Court, for the Middle District of Tennessee. The parties hereby waive their right to a jury trial. Any provision of the Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth above.

TOWN OF SMYRNA, TENNESSEE

By: _____
Name: Mary Esther Reed
Title: Mayor

ATTEST:

Amber Hobbs, Town Clerk

BIDDER:

By: Mike McCombs
Title: Sales Territory Rep

ATTEST:



Universal Linen Service, LLC
 1807 Commerce Road
 Louisville, KY 40208
 (502) 635-1507 Tel
 (502) 635-8796 Fax
 www.universallinen.com

DELIVERY CONTACT:

SHIP TO:

Smyrna Town Centre
 100 East Sam Ridley Parkway
 Smyrna, TN 37167

BILL TO:

Smyrna Town Centre
 315 South Lowry Street
 Smyrna, TN 37167

615-459-4444 ex 2602

FEDERAL TAX ID 01-0701868

ROUTE	CUST.	STOP	DAY	INVOICE DATE	INVOICE NO.	SERVIC	TERMS A/R NO.	MISCELLANEOUS INSTRUCTIONS					
83	205582	40	W	8/27/2025	4147068	CHG	204931						
ID	SOIL COUNT		INV. ADJ.	INVEN	ITEM CODE	ITEM	INDIVIDUAL NAME	QTY. BILLE	UNIT PRICE	AMOUNT	CR CD	ADJUST.	WK CD
2					BT00RB		BAR TOWEL	90	0.1651	20.14			
					BT00RB		REBUILD INV - BAR TOWEL	4	1.3200				
					TC14WH		52X114 WHITE TABLECLOTH	120	1.3762	165.14			
					LBAGBLU		BAG LINEN	20					
					STCALG		STORAGE CART/LG						
					WETMOP		WET MOP	2	1.7303	3.46			W
					WMHAND		WET MOP HANDLE						W
					NAMAIZE		NAPKIN MAIZE		0.0958				
					NABLAC		NAPKIN BLACK		0.0958				
					TC85BK		85X85 BLACK TABLECLOTH		1.3108				
					NAPRED		NAPKIN RED		0.1587				
					NAHUGR		NAP FOREST GREEN		0.1587				
					NANAVY		NAPKIN NAVY		0.0958				
					MA35LO		3X5 CUSTOM LOGO	3	4.8237	14.47			W
					NACAPK		NAP PINK		0.0958				
					NASEAFM		NAPKIN SEAFOAM		0.0958				
					TC14BL		52X114 BLACK TABLECLOTH		1.7151				
					NABURG		NAP BURGUNDY		0.0958				
					NAWEDGW		NAPKINS WEDGEWOOD		0.0952				
					TC91BK		TC BK 91X91		2.0790				
					APBIBK	OSFA	APRON BLACK	10		7.51			
					APBIBK	OSFA	REBUILD INV - APRON BLACK	1	3.6500				

CUSTOMER RESPONSIBLE FOR LOST OR DAMAGED MERCHANDISE

PACKAGE/HANDLING	\$6.77
TAX	
INVOICE TOTAL	217.49
ADJUSTMENTS	
PLEASE PAY	\$217.49
AMOUNT PAID	(217.49)
BALANCE	\$0.00

Ns 8/27/2025 3:19:38PM

RECEIVED BY
 SIGNATURE ABOVE INDICATES THAT SERVICE MEETS OR EXCEEDS
 REQUIREMENTS IN A SIGNED SERVICE CONTRACT BETWEEN OUR



SERVICE AGREEMENT

Universal Linen Service, LLC
1807 Commerce Road
Louisville KY 40208
(502) 635-1507 Tel
(502) 635-8796 Fax
www.universallinen.com

Customer Smyrna Town Centre	Street & Number 100 Sam Ridley Pkwy E		City Smyrna	State TN	Zip 37167
Phone Number (615) 459-4444	Account No.	Contract No.	Route and Day(s)	For Internal Approvals	

The above-named customer (hereafter called Customer) agrees to rent weekly from Universal Linen Service (hereafter called Supplier) all of their garment & linen service requirements and all other items subsequently requested by Customer and furnished by Supplier during the Term of this agreement upon the conditions outlined below:

				Weekly Usage/PAR Total				
Description	Item #	Type/Color/Size	Charge	Deliveries			Total	Automatic Replacement %
				1	2	3		
Bar Towel Ribbed		White	\$0.1260	120			120	1.5
52x114 TC		White	\$1.0500	120			120	
91x91 TC		White	\$1.2500	120			120	
85x85 TC		White	\$1.0500	120			120	
Bibbed Aprons		White	\$0.2940	10			10	1
Napkins		White	\$0.0700	200			200	1
Napkins		Color	\$0.0750					1

Regulatory Compliance: \$7.95 per delivery - Package/Handling Min: \$4.50 or 3.9% - Prep Charge: \$1.95 - Automatic Replacement - Napkins, Aprons and Terry Products or as listed.

All items will be cleaned and maintained by Supplier. The Customer will pay the unit price times the quantity of each linen item delivered (Customer established weekly par level). The weekly minimum invoiced quantity will be 60% of the average of the first four weeks of service or \$75 whichever is higher (\$90 for every other week). The weekly service garment charge for any individual leaving the employ of Customer will be terminated after all items issued to that individual, or the value of same, have been returned to Supplier, except garments with direct embroidery which would be purchased at lost replacement values.

In the event of garments & linens being lost, stolen, or destroyed by fire, stains, adhesives, gross neglect, or otherwise ruined (none of these will be considered as normal wear), Customer will pay for said damage at the above loss replacement value.

Prices for above service are guaranteed for one full year from the date of Customer's acceptance below. This service agreement is effective as of the date of execution below and shall remain in effect for 60 months from the date of installation and through any renewals (the "Term"). The agreement shall be automatically renewed for the same period of time unless either party notifies the other, to the contrary, in writing, at least sixty days and no more than one hundred twenty days in advance of the expiration of the then current term. Supplier is granted a right of first refusal to meet any bona fide competitive bid to continue to provide weekly rental services at the end of the Term. Upon each anniversary date of this agreement, the Supplier will automatically increase the prices in effect by the amount of the increase in the Consumer Price Index for the previous twelve months or 7% whichever is higher. Customer may choose any given year to forgo the increase by extending the contract for an additional 12 months. The Customer agrees to pay the supplier a charge of \$75.00 for special, weekend, and holiday deliveries due to the shortage of items caused by the Customer.

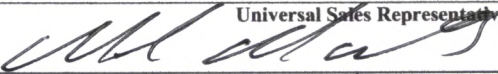
The Supplier guarantees to deliver the highest quality textile weekly rental service at all times. Any complaints about the quality of the service which have not been taken care of in the normal course of business must be sent by registered letter to the Supplier's General Manager. If the Supplier then fails to resolve any material complaint in a reasonable period of time the Customer may terminate this agreement provided all rental items are returned to the Supplier in good and usable condition, except garments with direct embroidery which would be purchased at the replacement values listed above.

Customer may terminate this agreement prior to the end of the Term, provided the Customer pays by certified check 60% of the weekly service charge for the unexpired term, and the value of all the garments & linens in inventory at the then-current loss replacement charge (the "Liquidated Damages"), within thirty (30) days of termination. Further, Customer shall be responsible for payment of all outstanding invoices. Customer acknowledges the Liquidated Damages amount is a reasonable estimate of Supplier's damages and is not a penalty.

This agreement shall benefit and bind Supplier and Customer and their respective heirs, successors, and assigns. This agreement shall continue should the Customer move to another location within Supplier's service area. No modification of this Agreement or waiver of any provision hereof shall be binding upon the parties hereto, unless in writing and executed by Customer and an authorized representative of Supplier.

Customer represents that it is free to make this agreement and that on its effective date it will not be bound by any other service agreement for the same services. The person signing this agreement represents that they are an Authorized Representative of Customer. Should any legal dispute of this contract arise over the terms or performance of this agreement, the party deemed or adjudged to be the breaching party shall pay the prevailing party's attorney's fees and costs. Customer consents to the jurisdiction and venue of the courts of Jefferson County, Kentucky with respect to any action arising out of this agreement.

PAYMENT TERMS: 10th E.O.M. or C.O.D. - L.P.C. 1.5% - A.P.R. 18.0% - Supplier may discontinue service due to customer's failure to comply with TERMS. Customer shall at that time be responsible for all outstanding invoices and 60% of the weekly service charge for the unexpired term of the Service Agreement.

Proposed Installation Date	Universal Sales Representative (Signature) 		
Authorized Representative (Signature)	Please Print Name	Title	Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/15/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Higginbotham Insurance Agency, Inc.
1700 Eastpoint Parkway
Louisville KY 40223

License#: 2081754
UNIVLIN-01

CONTACT NAME: Kallie Brawand

PHONE (A/C, No, Ext): 502-244-1343

FAX (A/C, No):

E-MAIL ADDRESS: KBrawand@higginbotham.net

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: The Travelers Indemnity Co of America

25666

INSURER B: Travelers Property Casualty Insurance Company

36161

INSURER C: The Travelers Indemnity Company

25658

INSURER D:

INSURER E:

INSURER F:

INSURED
Universal Linen Services, LLC
1807 Commerce Road
Louisville KY 40208

COVERAGES

CERTIFICATE NUMBER: 1342774467

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:		6304X355533	1/15/2025	1/15/2026	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY		8104X357526	1/15/2025	1/15/2026	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$		CUP4X364578	1/15/2025	1/15/2026	EACH OCCURRENCE \$ 7,000,000 AGGREGATE \$ 7,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	UB00A8069681	1/15/2025	1/15/2026	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

Town of Smyrna
315 South Lowry Street
Smyrna TN 37167

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 6.
Department: Grants
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, a contract with the Tennessee Department of Tourist Development's Tourism Enhancement Grant for FY 25, in the amount of \$41,000.

Fiscal Impact:

\$41,000

Contract Type:

Original Contract

Contract Term (if applicable):

Background:

The Tennessee Department of Tourist Development allocates annual grants called the Tennessee Tourism Enhancement Grant, which helps government entities in the state create or repair tourism opportunities. The Town of Smyrna, TN applied for this grant requesting \$41,000 to repaint the interior of the Event Center and purchase new AV equipment, including recessed speakers and supporting amplification equipment. The Town was awarded the grant on September 7, 2025. Because Smyrna is not in a fiscally distressed county based on the Tennessee Department of Economic and Community Development's Performance Metrics of Distressed Counties, the Tourism Enhancement Grant requires a 50% match from the Town. The total amount of funding provided by the state is \$20,500.

Summary:

The Event Center is replacing outdated and inoperable equipment. The AV equipment is several years old and needs to be replaced. There are multiple areas requiring painting over the interior of the ballrooms, dining halls, bathrooms, and the main lobby. This new grant contract would help Smyrna residents save tax dollars by having these repairs subsidized by the great State of Tennessee.

Recommended Council Action:

Staff recommends approving the terms of, and authorization of this Tourism Enhancement Grant Contract.

Attachments:

1. Tourism Enhancement Grant Contract

**GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TOURIST DEVELOPMENT
AND
TOWN OF SMYRNA**

This grant contract ("Grant Contract"), by and between the State of Tennessee, Department of Tourist Development, hereinafter referred to as the "State" or the "Grantor State Agency" and Town of Smyrna, hereinafter referred to as the "Grantee," is for the provision of the Tourism Enhancement grant provides grant funding to allow communities to enhance existing tourism assets and for planning and development of new tourism assets, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # 0000001718

A. SCOPE OF SERVICES AND DELIVERABLES:

- A.1. The Grantee shall provide the scope of services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.
- A.2. Definitions. For the purpose of this Grant Contract, definitions shall be as follows and as set forth in the Grant Contract:
- a. Historic Village, means a settlement or collection of buildings that are preserved to represent a specific period in history.
- A.2. The Grantee shall utilize grant funds to complete the following activities within the Term as more particularly described in Attachment A, Detailed Scope of Services.
- a. Grant Categories.
 - (1) Improvement to public tourism infrastructure;
 - (2) Upgrade to public tourism infrastructure; or
 - (3) Construction of a new tourism attraction project.
 - b. Grant Performance. Biannually, Grantee shall attend a virtual meeting with State to report on the status of the project funded as well as the overarching project, if applicable.
- A.3. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. A final report will take the place of the annual report for the final year of the Term. This report must be received by the State prior to final reimbursement to Grantee.
- The Grantee shall submit annual and final reports to the State. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.
- A.4. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Grantee's duties, responsibilities, and performance hereunder, these items shall govern in order of precedence below.

- a. this Grant Contract document with any attachments or exhibits (excluding the items listed at subsections b. and c., below);
- b. the State grant solicitation with instructions as may be amended, if any;
- c. the Grantee's approved project (Attachment A) incorporated to elaborate supplementary scope of services specifications.

B. TERM OF CONTRACT:

- B.1. This Grant Contract shall be effective on July 1, 2025 ("Effective Date") and extend for a period of twenty-four (24) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Grantee prior to the Effective Date.
- B.2. Renewal Options. This Grant Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to two (2) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.
- B.3. Term Extension. It is understood and agreed that the State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) 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.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Twenty Thousand Five Hundred Dollars (\$20,500.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment A is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.
- C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

Email: Andi.Grindley@tn.gov and cc: Tourism.Grant@tn.gov

Subject Line: Round 8 Tourism Enhancement Grant – [Insert Partner Name] Reimbursement

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
 - (1) Invoice/Reference Number (assigned by the Grantee).
 - (2) Invoice Date.
 - (3) Invoice Period (to which the reimbursement request is applicable).
 - (4) Grant Contract Number (assigned by the State).
 - (5) Grantor: Department of Tourist Development.
 - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
 - (7) Grantee Name.
 - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
 - (9) Grantee Remittance Address.
 - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
 - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
 - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
 - ii. The amount reimbursed by Grant Budget line-item to date.
 - iii. The total amount reimbursed under the Grant Contract to date.
 - iv. The total amount requested (all line-items) for the Invoice Period.
 - b. The Grantee understands and agrees to all of the following.
 - (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
 - (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.
 - (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount by up to twenty percent (20%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.
- C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within ninety (90) days of the Grant Contract end date, in form and substance acceptable to the State.
- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
 - b. The State shall not be responsible for the payment of any invoice submitted to the State after the grant disbursement reconciliation report. The State will not deem any Grantee

costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.

- c. The Grantee's failure to provide a final grant disbursement reconciliation report to the State as required by this Grant Contract shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the State pursuant to this Grant Contract.
 - d. The Grantee must close out its accounting records at the end of the Term in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.
- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Central Procurement Office Policy Statement 2013-007 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.
- a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
 - b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.
- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.
- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.
- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The State:

Andi Grindley, Outreach Projects Coordinator
 Department of Tourist Development
 312 Rosa L. Parks Ave. 13th Fl.
 Nashville, TN 37243
 Email Address: Andi.Grindley@tn.gov
 Telephone # 615-487-5867

The Grantee:

Dennis Molina, Grant Coordinator
 Town of Smyrna
 315 S. Lowry Street
 Smyrna, TN 37167
 dennis.molina@townofsmymrna.org
 615-267-5409 ext. 2130

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the

termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.11. HIPAA Compliance. As applicable, the State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.
 - b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.
- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of

Tennessee.” All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

- D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.
- The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.
- In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.
- The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.
- The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.
- Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.
- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.18. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.
- 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”) (accessible through the Edison Supplier portal).

When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

- D.19. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.327 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term “equipment” shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds ten thousand dollars (\$10,000.00).

- D.20. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.21. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.22. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.23. Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations

directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.

- D.24. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.
- D.25. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
- D.26. State Interest in Equipment. The Grantee shall take legal title to all equipment purchased totally or in part with funds provided under this Grant Contract, subject to the State's equitable interest therein, to the extent of its pro rata share, based upon the State's contribution to the purchase price. The term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds ten thousand dollars (\$10,000.00).

As authorized by the Tennessee Uniform Commercial Code, Tenn. Code Ann. Title 47, Chapter 9 and the "Tennessee Motor Vehicle Title and Registration Law," Tenn. Code Ann. Title 55, Chapters 1-6, the parties intend this Grant Contract to create a security interest in favor of the State in the equipment acquired by the Grantee pursuant to the provisions of this Grant Contract. A further intent of this Grant Contract is to acknowledge and continue the security interest in favor of the State in the equipment acquired by the Grantee pursuant to the provisions of this program's prior year Grant Contracts between the State and the Grantee.

The Grantee grants the State a security interest in all equipment acquired in whole or in part by the Grantee under this Grant Contract. This Grant Contract is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Grantee hereby grants the State a security interest in said equipment. The Grantee agrees that the State may file this Grant Contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Grantee agrees to execute and deliver to the State, upon the State's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant Contract in such form as the State may require to perfect a security interest with respect to said equipment. The Grantee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the State may reasonably require. Without the prior written consent of the State, the Grantee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment or motor vehicles, including replacements and additions thereto. Upon the Grantee's breach of any covenant or agreement contained in this Grant Contract, including

the covenants to pay when due all sums secured by this Grant Contract, the State shall have the remedies of a secured party under the Uniform Commercial Code and, at the State's option, may also invoke the remedies herein provided.

The Grantee agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant Contract. The Grantee shall maintain a perpetual inventory system for all equipment purchased with funds provided under this Grant Contract and shall submit an inventory control report which must include, at a minimum, the following:

- a. Description of the equipment;
- b. Manufacturer's serial number or other identification number, when applicable;
- c. Acquisition date, cost, and check number;
- d. Fund source, State Grant number, or other applicable fund source identification;
- e. Percentage of state funds applied to the purchase;
- f. Location within the Grantee's operations where the equipment ~~or motor vehicles~~ is used;
- g. Condition of the property or disposition date if Grantee no longer has possession;
- h. Depreciation method, if applicable; and
- i. Monthly depreciation amount, if applicable.

The Grantee shall tag equipment with an identification number which is cross referenced to the equipment item on the inventory control report. The Grantee shall inventory equipment annually. The Grantee must compare the results of the inventory with the inventory control report and investigate any differences. The Grantee must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

The Grantee shall submit its inventory control report of all equipment purchased with funding through this Grant Contract within thirty (30) days of its end date and in form and substance acceptable to the State. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Grantee shall notify the State, in writing, of any equipment loss describing the reasons for the loss. Should the equipment be destroyed, lost, or stolen, the Grantee shall be responsible to the State for the pro rata amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

Upon termination of the Grant Contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant Contract, the Grantee shall request written approval from the State for any proposed disposition of equipment purchased with Grant funds. All equipment shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

- D.27. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- D.28. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.

- D.29. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.30. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.31. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.32. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.33. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with the requirements of this Grant Contract and applicable state and federal law. All material, information, and data regardless of form, medium or method of communication, that the Grantee will have access to, acquire, or is provided to the Grantee by the State or acquired by the Grantee on behalf of the State shall be regarded as "Confidential Information." The State grants the Grantee a limited license to use the Confidential Information but only to perform its obligations under the Grant Contract. Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required under

state or federal law or otherwise authorized in writing by the State. Grantee shall take all necessary steps to safeguard the confidentiality of such Confidential Information in conformance with the requirements of this Grant Contract and with applicable state and federal law.

As long as the Grantee maintains State Confidential Information, the obligations set forth in this Section shall survive the termination of this Grant Contract.

- D.35. State Sponsored Insurance Plan Enrollment. The Grantee warrants that it will not enroll or permit its employees, officials, or employees of contractors to enroll or participate in a state sponsored health insurance plan through their employment, official, or contractual relationship with Grantee unless Grantee first demonstrates to the satisfaction of the Department of Finance and Administration that it and any contract entity satisfies the definition of a governmental or quasigovernmental entity as defined by federal law applicable to ERISA.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.

IN WITNESS WHEREOF,

TOWN OF SMYRNA:

GRANTEE SIGNATURE

DATE

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

TENNESSEE DEPARTMENT OF TOURIST DEVELOPMENT:

MARK EZELL, COMMISSIONER

DATE

ATTACHMENT A

GRANT BUDGET				
The Grant Budget line-item amounts below shall be applicable only to expense incurred during the following				
Applicable Period: BEGIN: 7/1/2025 END: 6/30/2027				
	EXPENSE OBJECT LINE-ITEM CATEGORY ¹	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
	Professional Fee, Grant & Award ²	\$20,500.00	\$20,500.00	\$41,000.00
	Capital Purchase ²	0.00	0.00	0.00
	GRAND TOTAL	\$20,500.00	\$20,500.00	\$41,000.00

¹ Each expense object line-item is defined by the U.S. OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart E Cost Principles (posted on the Internet at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E>) and CPO Policy 2013-007 (posted online at <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-.html>).

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

ATTACHMENT A CONT.

GRANT BUDGET LINE-ITEM DETAIL:

PROFESSIONAL FEE, GRANT & AWARD	AMOUNT
Funding towards renovations and improvements at Smyrna Event Center. Eligible expenses include and A/V system, paint, refinishing, and labor and installation.	\$20,500.00
TOTAL	\$20,500.00

CAPITAL PURCHASE	AMOUNT
TOTAL	



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 7.
Department: Utilities
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, an agreement with Three Boys Consulting, LLC relative to the Waste Water Treatment Plant Metal Storage Building at the Sludge Haul Site.

Fiscal Impact:

The bids were opened August 18, 2025, with three bidders. The low bid was from Three Boys Consulting for \$70,441.00

Contract Type:

Original Contract

Contract Term (if applicable):

Background:

The WWTP owns a portion of Holbrook farm, where sludge from de-watering is spread during the summer months instead of being taken to the landfill or Southeastern Compost, saving the cost of dumping. There is a spreader truck and backhoe at the farm that is exposed to weather with no shelter. This storage building allows for this equipment to be stored out of the weather and also gives us a tool room.

Summary:

The installation of a pole barn-style metal storage building measuring 30' x 60' x 15' (Width x Length x Wall Height) with a 6" thick stone floor. The metal building contains three (3) sides with the fourth side remaining open for equipment and personnel access. The building also includes a 12' x 12' x 8' enclosed space with ¾" plywood and a 4" thick concrete slab foundation to be used as a toolroom. Installation includes all labor, materials, furnishing, and site work.

Recommended Council Action:

Staff recommends council approval for a contract with Three Boys Consulting, LLC.

Attachments:

1. Three Boys Consulting dba The Barn Store

2. 2025_8_19 Bid Tab- Metal Storage Bldg at Sludge Haul Site



LEGAL NOTICE INVITATION TO SUBMIT QUOTATIONS

The Town of Smyrna will accept quotations on a 36' x 60' x 15' (Width x Length x Height) metal storage building complete with a 12' x 12' x 8' (Length x Width x Wall Height) enclosed space with concrete slab foundation. Bidders shall submit sealed quotations in the format specified in the invitation to submit quotations no later than **2:00p.m. CST on August 19, 2025** which time the bids will be publicly opened and read aloud. No bid may be withdrawn after the scheduled closing time for a period of 90 days. Bidding documents may be obtained at Smyrna Town Hall, 315 S. Lowry, Smyrna, TN during regular business hours or www.townofsmyrna.org. Quotations should be mailed or hand delivered to:

Sierra Lowry
Smyrna Town Hall
Sealed Bid – WWTP Sludge Haul Site Metal Storage Building
August 19, 2025 @ 2:00p.m.
315 South Lowry Street
Smyrna, TN 37167

The Town of Smyrna will not discriminate in the purchase of all goods and services on the basis of race, color, religion, sex, national origin, age, disability or any other lawfully protected classification.

All Bidders must be licensed Contractors in the State of Tennessee in strict accordance with State regulations. Bidders shall place their bid in an envelope showing the bidder's name, license number, expiration, and that part of classification applying to the bid in accordance with Tennessee Contractor's License Law Section 62-6-119. Please refer to State Licensing Board <https://www.tn.gov/commerce/regboards/contractor> for all applicable licensing laws.

Verbal quotations or quotations received after the closing date will not be accepted. The Town of Smyrna reserves the right to reject any and all bids, to waive technicalities or informalities and to accept any bid deemed to be in the best interest of the Town.

BY: Sierra Lowry
Finance Director

TO BE RUN: August 5, 2025

TABLE OF CONTENTS

		PAGE
SECTION I	General Information	3
SECTION II	Specifications	4
SECTION III	Price Quotations	11
	Required Forms	12-23
SECTION IV	Specifications Compliance	24
EXHIBIT 1		

SECTION I - GENERAL INFORMATION

- A. The Town of Smyrna will accept quotations for the installation of a pole barn style metal storage building measuring 30' x 60' x 15' (Width x Length x Wall Height) with 6" thick stone floor. The metal building shall contain three (3) sides with the fourth side remaining open for equipment and personnel access. The building shall also include a 12' x 12' x 8' enclosed space with ¾" plywood and 4" thick concrete slab foundation to be used as a toolroom. The quotations for this installation shall include all labor, materials, furnishing and site work.

Billing address:

Smyrna Town Hall
315 South Lowry Street
Smyrna, TN 37167

Include one of the following on invoice:

- Attn: 1. Wastewater Plant – Keith Weatherly
2. Wastewater Plant – Leland Noble

Questions regarding the project should be directed to Mark Parker

Mark.parker@townofsmymrna.org or by phone at 615-355-5711.

PROJECT LOCATION:

Sludge Haul Site
1433 E Jefferson Pike
Murfreesboro, TN 37130

- B. The Town of Smyrna reserves the right to reject any and all bids, to waive technicalities or informalities and to accept any bid deemed to be in the best interest of the Town. No bid may be withdrawn after the scheduled closing time for a period of 90 days.
- C. The bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully address the full intent and meaning of each aspect of the specifications. A copy of required certifications and / or license should be attached to the bid document.
- D. Sections III, IV and Contract Agreement shall be completed and included as an integral part of each bidder's proposal. Successful bidder will be expected to enter into a contract Agreement with the Town of Smyrna. Agreement shall be signed and attested (but not dated) by the proper business representative and submitted with the bid proposal.
- E. Successful bidder will be expected to enter into a contract Agreement with the Town of Smyrna. Agreement shall be signed and attested (but not dated) by the proper business representative and submitted with the bid proposal.
- F. Freight shall be paid by vendor and should be included in bid to include pick-up and delivery of equipment to the project location.
- G. The Town is a tax-exempt organization.
- H. The Town reserves the right to select the bid that is in the best interest of the Town.
- I. Mail is delivered after 11:00 a.m. Monday through Friday.

J. Bid quotations must be submitted on the Town's quotation page(s). No exceptions.

K. Tennessee General Contractor's License Law

Bidding will be in accordance with the Tennessee General Contractor's Licensing Law. Bidders on construction in the amount of \$25,000.00 or more must be licensed contractors as required by the Contractor's Licensing Act of 1976 (Rev. 1986), Public Chapter No. 822 of the General Assembly of the State of Tennessee. Bids greater than \$25,000 shall contain the following information: the bidder's name, license number, expiration date, and that part of classification applying to the bid on the outside of the sealed bid in accordance with T.C.A. § 62-6-119. Bids not conforming with this provision shall be disqualified.

L. By submission of this bid, each bidder/proposer and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to T.C.A. § 12-12-106 Iran Divestment Act. For reference purposes, the list is currently available online at: [State of TN Debarred Vendors.pdf](#)

SECTION II – SPECIFICATIONS FOR METAL BUILDING

SCOPE OF WORK:

This project is intended to allow for storage of equipment and materials used by the Town's personnel. The project scope is based on the criteria below or equivalent:

1. Site Preparation:

- Grade the designated spot for the building.

2. Building Supports:

- Construct min 2-ft diameter x 4-ft footers with 4,000 psi concrete for all building posts. Footers to be steel reinforced per code and structural design requirements. All posts are to be 6x6 treated lumber.
- Rough opening between posts along front entrance of building are to be spaced 15-ft apart.

3. Interior Tool Room:

- Prepare a 12-ft x 12-ft area in the back left corner of the building site with gravel and moisture barrier. See "Concrete Pad with Turn Down" detail in attached exhibit.
- Pour 4-in thick, 4,000 psi concrete slab with 12-in x 8-in turn down, reinforced with Welded Wire Fabric (WWF) sheets 6x6-W2.9xW2.9.
- Use 2"x4" studs, 2"x6" overhead joists and ¾-inch plywood to frame and cover the tool room.
- Install a 36-in metal door with a lock.

4. Building Structure:

- Size: 30-ft wide by 60-ft long with 15-ft high walls (eave height).
- Wind loads: design to meet all building codes
- Posts: 6x6 treated lumber
- Top/Bottom Plate: 2x8 treated lumber
- Girts: 2x6 @ 2' OC
- Purlins: 2x4 @ 2' OC
- Truss: 30' clear span A@ 4' OC at 4/12 pitch (wooden)

5. Building Siding and Roofing:

- Metal: 36-in width at 26-gauge side and roof.
- Install metal siding on three (3) sides of the frame.
- Install metal roofing.
- Colors to be selected by Owner.

6. Building Flooring:

- Compact subbase and place geotextile fabric and top
- Place a minimum of four (4) inches of 2-in stone one top of the geotextile fabric.
- Place a minimum of two (2) inches of crusher run stone on top of the 2-in stone.

GENERAL REQUIREMENTS:

1. Contractor is responsible for locating all utilities in the work area and is responsible for repair to any damaged utilities or facilities.
2. Contractor is responsible for clean-up of any debris or damage from their work on the project.
3. Contractor to perform all site grading, excavation, cleanup, and seeding and straw. No additional payment will be made for rock breaking or hammering.
4. Contractor shall perform due diligence to visit site and verify site conditions.
5. The Owner will perform final inspection before last invoice is paid. Any problems will be communicated to the contractor.

CONSTRUCTION TO INCLUDE:

- A. Labor
- B. Materials and furnishings
- C. Installation
- D. Site work
- E. Excavation (unclassified)

QUALITY ASSURANCE

- A. Fabricate members in accordance with standard industry practice.

QUALIFICATIONS

- A. Contractor shall have proper licensing for work
- B. Contractor shall be responsible for all materials, whether furnished by themselves or a subcontractor, and proper storage of the same.

REGULATORY REQUIREMENTS

- A. Contractor shall be responsible for compliance with all applicable building codes and ordinances covering the work.

- B. Contractor shall cooperate with regulatory agencies or authorities to provide data as requested.
- C. Contractor to obtain and pay for all building permits and inspections as required by Rutherford Count, including stamped engineered drawings.
- D. Contractor to verify all requirements with Owner prior to bid.

PRE-CONSTRUCTION MEETING

- A. The meeting will convene no later than one week prior to commencing work.

CERTIFICATIONS

- A. Certifications shall be tendered upon request.

WARRANTY

- A. One (1) year warranty is required to cover workmanship and installation defects that appear within the period.

BONDS

- A. The successful contractor shall furnish 100% surety bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract. The bond must be written by a surety or insurance company listed on the U.S. Department of the Treasury financial management service list of approved bonding companies at the time the bond is provided. The surety or insurance company must be licensed to do business as a surety or insurer with the State of Tennessee. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the Owner.

INSURANCE REQUIREMENTS

The Contractor shall purchase and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE

1. Workers Compensation

Workers Compensation insurance shall be in compliance with the State of Tennessee and shall be statutory. Employers Liability shall be included with a minimum limit of \$500,000 per accident/per disease/per employee.

2. Commercial General Liability

Commercial General Liability insurance shall have a minimum limit per occurrence of \$1,000,000 and a minimum general aggregate of \$2,000,000. It shall include completed operations, product liability and personal injury liability insurance.

3. Automobile Liability

Automobile Liability Insurance shall have a minimum combined single limit per occurrence of \$1,000,000. This insurance shall include third-party bodily injury and property damage liability for owned, hired, borrowed and non-owned automobiles.

B. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to the Town of Smyrna. The Contractor shall be responsible for all deductibles and self-insured retentions.

C. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The Town, its elected and appointed officials, agents, employees and volunteers shall be named as an additional insured as regards negligence by the contractor.
- b. The Contractor's insurance shall be primary as respects the Town, its elected and appointed officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the Town of Smyrna shall be excess and noncontributory of the Contractor's insurance.

2. Workers Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Town, its elected and appointed officials, agents, employees and volunteers for losses arising from work performed by the Contractor for the Town of Smyrna.

3. All Coverages

- a. Coverage shall not be canceled, suspended, or voided by either party (the Contractor or the insurer) or reduced in coverage or in limits except after 30 days written notice has been given to the Town of Smyrna. Ten-day written notice of cancellation is acceptable for non-payment of premium. Notifications shall comply with the standard cancellation provisions in the Contractor's policy.
- b. Neither the acceptance of the completed work nor the payment thereof shall release the Contractor from the obligations of the insurance requirements or indemnification agreement.
- c. The insurance companies issuing the policies shall have no recourse against the Town of Smyrna for payment of premiums or for assessments under any form of the policies.
- d. Replacement certificates, policies or endorsements shall be provided to the Town for any such insurance expiring prior to the completion of services.
- e. Any failure of the Contractor to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its elected and appointed officials, agents, employees and volunteers.

D. ACCEPTABILITY OF INSURERS

All required insurance shall be provided by a company or companies licensed to conduct business in the State of Tennessee. Insurance shall be underwritten by insurers with an A.M. Best Company ratings no less than an A.

E. VERIFICATION OF COVERAGE

The Contractor shall furnish the Town with Certificates of Insurance reflecting proof of required coverage. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. **The Certificates are to be received and approved by the Town before work commences and upon any contract renewal thereafter.**

Upon failure of the Contractor to furnish, deliver and maintain such insurance as requested, this contract, at the election of the Town, may be suspended, discontinued or terminated. Failure of the Contractor to purchase and/or maintain any required insurance shall not relieve the Contractor from any liability or indemnification under the contract.

The Certificate of Insurance naming the "Town of Smyrna" as **Additional Insured** shall be addressed to the attention of:

Town of Smyrna
Department of Safety & Risk Management
ATTN: Henry Urbina
315 S Lowry St
Smyrna, TN 37167

It can also be submitted electronically to henry.urbina@townofsmyrna.org. The subject line has to indicate the name of the project.

The Town reserves the right to request complete certified copies of all required insurance policies at any time.

F. SUBCONTRACTORS

Contractor shall include all subcontractors as insureds under its policies OR shall be responsible for verifying and maintaining the Certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The Town of Smyrna reserves the right to request copies of subcontractor's Certificates at any time.

G. WORKERS' COMPENSATION INDEMNITY

In the event Contractor is not required to provide or is exempt from providing workers' compensation coverage, the parties hereby agree that Contractor, its owners, agents and employees will have no cause of action against, and will not assert a claim against the Town of Smyrna, its elected and appointed officials, agents, employees and volunteers, under any circumstances. The parties also hereby agree that the Town of Smyrna, its elected and appointed officials, agents, employees and volunteers shall in no circumstance be, or considered as, the employer or statutory employer of Contractor, its owners, agents and employees. The parties further agree that Contractor is a wholly independent contractor and is exclusively responsible for its employees, owners, and agents. Contractor hereby agrees to protect, defend, indemnify and hold the Town of Smyrna, its elected and appointed officials, agents, employees and volunteers harmless from any such assertion or claim that may arise from the performance of this contract.

HOLD HARMLESS AND INDEMNITY REQUIREMENT:

Contractor shall indemnify and hold harmless, to the maximum extent permitted by law, the Town of Smyrna and its officers, agents, employees, volunteers, from and against any and all liability, damages, losses, (whether in contract or in tort, including personal injury, accidental death or property damage, and regardless, of whether the allegations are false, fraudulent or groundless), and costs (including reasonable attorney's fees, litigation, arbitration, mediation, appeal expenses) which in whole or in part are caused by the negligence, recklessness or intentional wrongful misconduct of the Contractor and persons employed by or utilized by the Contractor in Contractor's performance of this Agreement.

The contractor further agrees to protect, defend, and save the Town, its elected and appointed officials, agents, employees and volunteers while working in the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind of character, including the cost of their defense, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death or damage to property arising out of services performed or omissions of services or in any way resulting from the acts of omissions of the contractor and/or its agents, employees, subcontractors, representative of the Town under this agreement.

Pursuant to Tennessee Attorney General Opinion 93-01, the Town will not indemnify, defend or hold harmless in any fashion the Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that the Contractor may provide.

SMYRNA BUSINESS LICENSE

Compensation of more than \$100,000 from contracts performed in one county by a contractor described in Tenn. Code Ann. § 67- 4-708(4)(A) will be sourced to that county and the tax from such contracts will be distributed to that county. Compensation of \$100,000 or less from contracts performed in one county by such person will be sourced to the county of the person's domicile or location. If the person does not have a domicile or location in Tennessee, such compensation will be earmarked and allocated to the state's general fund.

For purposes of distribution of the municipal business tax provided for in Tenn. Code Ann. § 67-4-705, receipts will be sourced to the municipality in which the person's established physical location, outlet, or other place of business is located. Receipts from sales made by persons operating from an established physical location, outlet, or other place of business in one municipality who extend their operations outside the boundaries of the municipality without establishing a physical location, outlet, or place of business outside the boundaries of the municipality will be sourced to the municipality in which the person's established physical location, outlet, or other place of business is located.

If the person has no established physical location, outlet, or other place of business in the state, then such receipts will not be subject to the municipal business tax. Receipts from all taxable sales of any services or tangible personal property by a provider of video programming services will be sourced to the municipality where the property or service is received by the customer regardless of whether or not the provider has a physical location, outlet, or other place of business in that municipality. Compensation of more than \$100,000 from contracts performed in one municipality by a contractor described in Tenn. Code Ann. § 67- 4-708(4)(A) will be

sourced to that municipality and the tax from such contracts will be distributed to that municipality.

Compensation of \$100,000 or less from contracts performed in one municipality by such person will be sourced to the municipality of the person's domicile or location. If the person does not have a domicile or location in Tennessee, such compensation will not be subject to the municipal business tax. *(from Tennessee Business Tax Guide/ Tenn. Dept. of Revenue 2019)*

SECTION III - PRICE QUOTATION

I. Installation of 30' x 60' Metal Storage Building with 12' x 12' Enclosed Toolroom

Lump Sum Cost for Complete Project

\$ 70,441.00



AGREEMENT

This Agreement is made and entered into as of this _____ day of _____, 20____, by and between Three Boys Consulting, General Contractor (the "Bidder") and the Town of Smyrna, Tennessee, a Tennessee municipal corporation (the "Town") for the purpose of WWTP Sludge Hall site metal storage Building

WHEREAS, the Bidder has submitted a quotation for the provision of certain products and/or services to the Town, all in accordance with the terms of the Invitation to Submit Quotations attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit A (the "ISQ"), and which Proposal from the Bidder is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit B (the "Quotation"); the ISQ and the Quotation, together with any and all ancillary documents thereto, shall be collectively referred to herein as the "Bid Documents"; and

WHEREAS, the Town now desires to accept the Bidder's quotation, in accordance with the terms set forth in such Bid Documents.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned do hereby agree as follows:

1. Acceptance of Bid Documents. The terms of the Bid Documents, as incorporated herein by reference, are hereby accepted by the parties hereto. The Bidder hereby agrees to provide the goods and/or services contemplated by such Bid Documents in accordance with the terms set forth therein. The Town hereby accepts the Bidder's quotation to provide the goods and/or services contemplated by such Bid Documents in accordance with the terms set forth therein.

2. Entire Agreement. This Agreement, including the exhibits and any other documents referred to herein or therein, which form a part hereof, contains the entire understanding of the parties with respect to its subject matter. There are no restrictions, agreements, promises, warranties, covenants or undertakings other than those expressly set forth herein or therein. This Agreement supersedes all prior written or oral agreements and understandings between the parties with respect to its subject matter and may not be altered, modified or amended, in whole or in part, except by the express written authorization and consent of the parties hereto.

3. Severability. This agreement constitutes the product of negotiations of the parties hereto and any enforcement of hereof will be interpreted in a neutral manner and not more strongly against any party based upon the source of the draftsmanship of this Agreement. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall continue to be fully effective.

4. Limitation of Liability. The Town of Smyrna shall not be liable for any loss, claim, expense or damage caused by, contributed to or arising out of the acts or omission of Bidder or third parties, whether negligent or otherwise.

5. Warranties. The Bidder warrants to the Town that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects, suitable for the purpose for which the materials and equipment are furnished, and in conformance with the Agreement. If it does not perform as warranted, Bidder shall use all commercially reasonable efforts to correct the product(s) so that it operates in all material respects in conformity with the written representations of Bidder. If Bidder cannot correct the product(s) within a reasonable period of time, Bidder shall refund the purchase price of the product(s). All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.

6. Software Deadline, Testing and Acceptance: If applicable to the Agreement, software provided by Bidder shall be installed for the purposes of testing, as stated herein below, no later than one hundred twenty (120) days from the effective date of this Agreement unless the parties, in writing, set a different specific date. In Addition, software provided by Bidder to The Town is subject to inspection and testing to verify that the software conforms to its written specifications and to ensure it meets The Town's needs. The Town shall have seven (7) business days after the software is installed to perform testing of the software using The Town's data. The Town shall provide Bidder with written notice of acceptance or rejection of the software five (5) business days or less after the end of the testing period. If the Town does not provide timely written notice of acceptance or rejection to Bidder, the software shall be deemed to be accepted by The Town. If the software is rejected, The Town may, at its sole discretion, either (1) return the software and receive a refund of all fees paid with respect thereto, or (2) allow Bidder to repair or replace the software, without charge, in a timely manner. In the event The Town elects to allow the Bidder to repair or replace the software, The Town shall have an additional (7) business days in which to accept or reject the software as laid out hereinabove.

7. Use of The Town's Logo or Name: Bidder shall not use The Town's name or any logo in marketing or publicity materials or for marketing or publicity purposes without the prior written authorization from The Town. Bidder shall not issue, publish, or divulge any materials developed or used in the performance of this Agreement or make any statement to the media relating to this Agreement without the prior written consent of The Town.

8. Indemnification. The parties hereto agree that Bidder shall indemnify The Town for any and all claims of negligence, tortious conduct or otherwise unlawful acts committed by Bidder in the performance of their obligations under the terms of this agreement, including any and all attachments or exhibits thereto and Bidder agrees to pay any and all costs associated with the enforcement of the terms of this indemnity agreement by The Town, including but not limited to, court costs, civil judgments, assessments or any other reasonable fees associated therewith. This clause shall survive the expiration or termination of this Agreement and shall remain in full force and effect until the expiration of any applicable statute of limitation. In addition, Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private of public entities and, therefore, prohibits an agreement by The Town to indemnify a third party or agree to a limitation of liability provision.

9. Non-Appropriation: Bidder acknowledges that The Town is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under its authority. In the event The Town fails to appropriate funds or make monies available for any fiscal year covered by the term of this Agreement for services to be provided, this Agreement shall be terminated on the last day of the fiscal year for which funds were appropriated or monies made available for such purposes without liability to The Town, and such termination shall not be a breach of the Agreement, and any unused payment made to Bidder shall be returned to The Town.

10. Tax Exemption: As a tax-exempt entity, The Town shall not be responsible for sales or use taxes incurred for products or services. The Town shall supply Bidder with its Sales and Use Tax Exemption Certificate upon Bidder's request. Bidder shall bear the burden of providing its suppliers with a copy of The Town's tax exemption certificate and Bidder shall assume all liability for such taxes, if any, that should be incurred.

11. Attorney Fees. The parties hereto agree that The Town shall be in no event liable for any attorney's fees which Bidder may incur due to breach of this Agreement by either party; and further, The Town shall not acquiesce to any term in any document that indicates or infers The Town may or shall be responsible for the Attorney's fees of another party or the Bidder's attorney fees.

12. Boycott of Israel. The Bidder certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in Tenn. Code Ann. § 12-4-119.

13. Failure to perform. The parties agree, in the event Bidder fails to perform any obligation, other than with regards to the date of delivery, set out in this Agreement, the Town shall be reimbursed by Bidder for any and all expenses associated with having to obtain a new provider to finish out the contracted term, including, but in no way limited to, any charges/fees, which are above and beyond the amount the Town would have paid to Bidder to complete the same task; provided, however, that if the failure, by its nature, is one that can be cured, the Bidder shall have fifteen (15) business days after receipt of written notice from the Town to cure said failure to perform. The parties hereby agree, unless a specific date of delivery is provided in this Agreement or other bid documents, all deliveries shall be made to the Town no later than ninety (90) days from the date of order. The parties further agree that if Bidder, in good faith, is not able to meet this ninety (90) day deadline of delivery due to forces beyond his, her or its control, that were unforeseeable at the time of signing this contract, then this entire Agreement shall be voidable at the sole discretion of the Town. Should the Town elect to void this Agreement due to Bidder's good faith inability, due to forces beyond his, her or its control, and which were unforeseeable at the time of signing this Agreement to meet the delivery deadline, then neither party shall be deemed to have breached this Agreement, and Bidder shall return all monies, within seven (7) business days, paid by the Town for the products/items that could not be delivered in the allotted time.

14. Unilateral Modification of Agreement Not Permitted: Bidder may make unilateral changes to its Privacy Policy, provided any such changes are subject to the provisions of this Agreement but shall not materially alter the use of the service or reduce the level of protection provided to the Town at the time of the execution of this Agreement. Except as provided in the preceding sentence, notwithstanding anything in this Agreement to the contrary, any change to this Agreement made by Bidder that is not in writing and that is not properly executed by the signatures of authorized representatives of the parties hereto, including attestation by The Town's Clerk and approved as to form by the Town Attorney are subject to the terms and conditions of this Agreement.

15. Changes to Terms: Except as provided in Paragraph No. 13 above pertaining to Bidder's Privacy Policy, Bidder shall provide The Town written notice, sent in care of Town Attorney's Office, Smyrna, Tennessee, 315 South Lowry Street, Tennessee 37167, of any proposed change to this Agreement at least ninety (90) days prior to being effective to The Town. The Town shall have thirty (30) days after receiving the written notice to terminate this Agreement, and such cancellation shall not be a breach of this Agreement. Bidder will refund to The Town any payment made by The Town to Bidder equal to the difference between the number of months the payment was intended for and the number of months remaining on this Agreement that the fee was intended to cover.

16. Price Assurance: Unless specifically stated in this Agreement or other bid documents, the bid price shall be valid for the full term of this Agreement. If the Bidder, specifically states that he, she or it cannot honor the bid price for the full term of this Agreement; then this Agreement is voidable at the sole discretion of the Town, if at any time during the full term of this Agreement, Bidder requests to raise the bid price. If the Town elects to void this Agreement, at its sole discretion, it shall not be deemed to be a breach of the contract by either party.

17. Confidentiality. The Town, as a Tennessee Municipal Corporation is subject to the Tennessee Open Records Act, set out in T.C.A. §10-7-503 et seq; therefore, this Agreement and all documents or materials, in any format, including, but not limited to paper, electronic or virtual, that are public records pursuant to law, are not confidential and are subject to disclosure. The Town will respond to all proper Open Records Requests in the time allowed by law, without any requirement to disclose such request to Bidder or provide Bidder with notice or the time to obtain a protective order. The Town does not have the burden of establishing that information is not confidential information or that its release is authorized to release the records. This section 16 serves to meet such burden and authorization of disclosure.

18. Mediation. The Town may, at its option, require the attempted resolution of any dispute arising under this Agreement by mediation prior to the filing of any lawsuit or other claim. Should any dispute arise, Bidder shall provide the Town notice of any intent to file suit by certified mail. The Town shall notify the Bidder of its intent to exercise its right to mediation within thirty (30) days of receiving such notice. If the Town does not exercise its right to mediation, Bidder may file suit. Any mediator selected under this clause shall be agreed upon by the parties and the costs of such mediation shall be divided and paid equally between the parties.

19. No Presumption Against Drafter: The parties are both business entities having substantial experience with the subject matter of this Agreement, and each has fully participated in the negotiation and drafting of this Agreement. Accordingly, this Agreement shall be construed without regard to the rule that ambiguities in a document are to be construed against the draftsman. No inferences shall be drawn from the fact that the final, duly executed Agreement differs in any respect from any previous draft hereof.

20. Governing Law. This Agreement shall be deemed to have been executed and delivered within the State of Tennessee, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of Tennessee. The parties agree that all obligations of the parties are performable in Smyrna, Tennessee.

21. Choice of Forum and Venue. The parties' choice of forum and venue shall be exclusively in the courts of Rutherford County, Tennessee or the United States District Court, for the Middle District of Tennessee. The parties hereby waive their right to a jury trial. Any provision of the Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth above.

TOWN OF SMYRNA, TENNESSEE

BIDDER:

By: _____
Name: Mary Esther Reed
Title: Mayor

By: Austin Christian
Title: Owner

ATTEST:

Amber Hobbs, Town Clerk

ATTEST:



TOWN OF SMYRNA

TITLE VI COMPLIANCE SURVEY

The Town of Smyrna intends to fully comply with the Tennessee Department of Transportation's policy regarding TITLE VI of the CIVIL RIGHTS ACT of 1964; 49 CFT, PART 21; related statutes and regulations to the end that no person shall be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Transportation on the grounds of race, color, gender, age, disability or national origin.

Please complete the following information:

NAME OF COMPANY: Three Boys Consulting LLC
NAME OF OWNER/CONTRACTOR: Austin Christian
ADDRESS OF OWNER/CONTRACTOR: 4400 Coler Ferry Road Ballantyne TN
COUNTY: Sumner
TYPE OF SERVICES PROVIDED: General Contractor - Detached Accessory Structures
CONTRACT: _____

OWNER/CONTRACTOR (Race/Gender)

White Male	<u>1</u>
White Female	<u>1</u>
African-American Male	_____
African-American Female	_____
Hispanic Male	_____
Hispanic Female	_____
Native American Male	_____
Native American Female	_____
Asian-American Male	_____
Asian-American Female	_____
Other _____ Male	_____
Other _____ Females	_____

EMPLOYEES (Number in each category)

White Males	<u>20</u>
White Females	<u>4</u>
African-American Males	<u>1</u>
African-American Females	_____
Hispanic Males	<u>2</u>
Hispanic Females	_____
Native American Males	_____
Native American Females	_____
Asian-American Males	_____
Asian-American Females	_____
Other _____ Males	_____
Other _____ Females	_____



TOWN OF SMYRNA CONSTRUCTION CONTRACT CERTIFICATE OF NON-DISCRIMINATION

As Bidder, Contractor, or Subcontractor on Town of Smyrna Construction or Other Project,

1. the undersigned states that he does not discriminate against any subcontractor, employee or applicant for employment on the grounds of race, color, religion, sex, national origin, age, disability or any other lawfully protected classification, if awarded a contract for this project, agrees in performance of work:
2. not to discriminate against any subcontractor, employee, or applicant for employment on the grounds of race, color, religion, sex, national origin, age, or disability:
3. to maintain payrolls of laborers and mechanics employed on this contract until 90 days after final release and final payment by the Town;
4. require a similar certificate to be executed by each subcontractor at the time a subcontractor is executed under the contract with the requirement that such subcontractor agrees to require a similar certificate of requirement on any lower tier of subcontractors.

Contractor's Name

John Christian

Date

8/18/25

Signature

John Christian

Title

owner

Printed or typed name and title



AFFIDAVIT

STATE OF TENNESSEE DRUG-FREE WORKPLACE AFFIDAVIT

COUNTY OF Sumner OF PRIME BIDDER

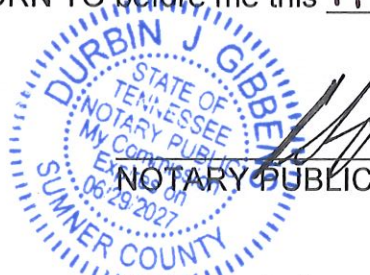
NOW COMES AFFIANT, who being duly sworn, deposes and says:

1. He/She is the principal officer for Three Boys Consulting LLC;
2. That the bidding entity has submitted a bid to the Town of Smyrna for the construction of WWTP Sludge Haul Site Metal Storage Building
3. That the bidding entity employs no less than five (5) employees;
4. That Affiant certifies that the bidding entity has in effect, at the time of submission of its bid to perform the construction referred to above, a drug-free workplace program that complies with §50-9-113, *Tennessee Code Annotated*.
5. That this affidavit is made on personal knowledge.

Further Affiant saith not.

AFFIANT

SUBSCRIBED AND SWORN TO before me this 19th day of August, 20 25



NOTARY PUBLIC

My Commission expires: 6-29-27

50-9-113. State and local government construction contracts.

- (a) Each employer with no less than five (5) employees receiving pay who contracts with the state or any local government to provide construction services or who is awarded a contract to provide construction services or who provides construction services to the state or local government shall submit an affidavit stating that such employer has a drug-free workplace program that complies with this chapter, in effect at the time of such submission of a bid at least to the extent required of governmental entities. Any private employer that certifies compliance with the drug-free workplace program, only to the extent required by this section, shall not receive any reduction in workers' compensation premiums and shall not be entitled to any other benefit provided by compliance with the drug-free workplace program set forth in this chapter. Nothing in this section shall be construed to reduce or diminish the rights or privileges of any private employer who has a drug-free workplace program that fully complies with this chapter. For purposes of compliance with this section, any private employer shall obtain a certificate of compliance with the applicable portions of the Drug-free Workplace Act from the department of labor and workforce development. No local government or state governmental entity shall enter into any contract or award a contract for construction services with an employer who does not comply with the provisions of this section.
- (b) For the purposes of this section, "employer" does not include any utility or unit of local government. "Employer" includes any private company and/or corporation.
- (c) If it is determined that an employer subject to the provisions of this section has entered into a contract with a local government or state agency and such employer does not have a drug-free workplace pursuant to this section, such employer shall be prohibited from entering into another contract with any local government or state agency until such employer can prove compliance with the drug-free workplace program pursuant to this section. If the same employer again contracts with any local government or state agency and does not have a drug-free workplace program pursuant to this section, then such employer shall be prohibited from entering into another contract with any local government or state agency for not less than three (3) months from the date such violation was discovered and verified and shall be prohibited from entering into another contract until such employer complies with the drug-free workplace program pursuant to this section. If the same employer for a third time contracts with any local government or state agency and does not have a drug-free workplace program pursuant to this section, then such employer shall be prohibited from entering into another contract with any local government or state agency for not less than one (1) year from the date such violation was discovered and verified and shall be prohibited from entering into another contract until such employer complies with the drug-free workplace program pursuant to this section.
- (d) A written affidavit by the principal officer of a covered employer provided to a local government at the time such bid or contract is submitted stating that the employer is in compliance with this section shall absolve the local government of all further responsibility under this section and any liability arising from the employer's compliance or failure of compliance with the provisions of this section.

[Acts 2000, ch.918, §§ 1,2.]



TOWN OF SMYRNA CONSTRUCTION CONTRACT

CERTIFICATE OF NON-ILLEGAL IMMIGRANT USE

As Bidder, Contractor, or Subcontractor on Town of Smyrna Construction Project,

1. the undersigned states that he does not knowingly utilize the services of **illegal immigrants** in the performance of a contract for goods or services entered into with the Town of Smyrna;
2. and will not knowingly utilize the services of any subcontractor who will utilize the services of **illegal immigrants** in the performance of the contract;
3. If any person who contracts to supply goods or services to the Town of Smyrna or who submits a bid to contract to supply goods or services to the state or other state entities, is discovered to have knowingly utilized the services of **illegal immigrants** in the performance of the contract to supply goods or services to the Town of Smyrna, the Town of Smyrna shall declare that person to be prohibited from contracting for or submitting a bid for any contract to supply goods or services to the Town of Smyrna for a period of one (1) year from the date of discovery of the usage of **illegal** immigrant services in the performance of a contract to supply goods or services to the Town of Smyrna

Contractor's Name

Ashli Christian

Date

8/18/25

Signature

Ashli Christian

Title

owner

Printed or typed name and title



TOWN OF SMYRNA CONSTRUCTION CONTRACT

CERTIFICATE OF NON-COLLUSION

As Bidder, Contractor, or Subcontractor on Town of Smyrna Construction or Other Project:

the undersigned hereby declares that no person or party other than the undersigned has any interest whatever in the submitted bid proposal, that it is without any connection or collusion with any person or persons making or having made any proposal for the same work and without any previous understanding with such person or persons as to relative prices, obviating competition, and that it is made in good faith.

Contractor's Name

Austin Christian

Date

8/12/25

Signature

Austin Christian

Title

Owner

Printed or typed name and title

SECTION IV - SPECIFICATIONS COMPLIANCE

Unless otherwise noted, all quotations for the WWTP Storage Building Project shall be in complete accordance with the specifications detailed herein.

Bidders shall note in the space provided below any exceptions or deviations in any way from the specifications of any section of this ISQ. Bidders should provide complete detail of exceptions or deviations.

Proposal Exceptions

Section	Brief Description
<u>Building Structure</u>	<u>trusses 5' centers to match with posts</u>
<u>Building supports</u>	<u>2'x2' froters</u>
<u>Tool Room</u>	<u>2'x1' tumdown</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

By signature below, vendor acknowledges any quotation to be in full compliance with all aspects of each section of the ISQ not noted above. The undersigned hereby declares that no person or party other than the undersigned has any interest whatever in this proposal, that it is without any connection or collusion with any person or persons making or having made any proposal for the same work and without any previous understanding with such person or persons as to relative prices, obviating competition, and that it is made in good faith.

Three Boys Consulting
COMPANY

Ashley Christen
REPRESENTATIVE NAME

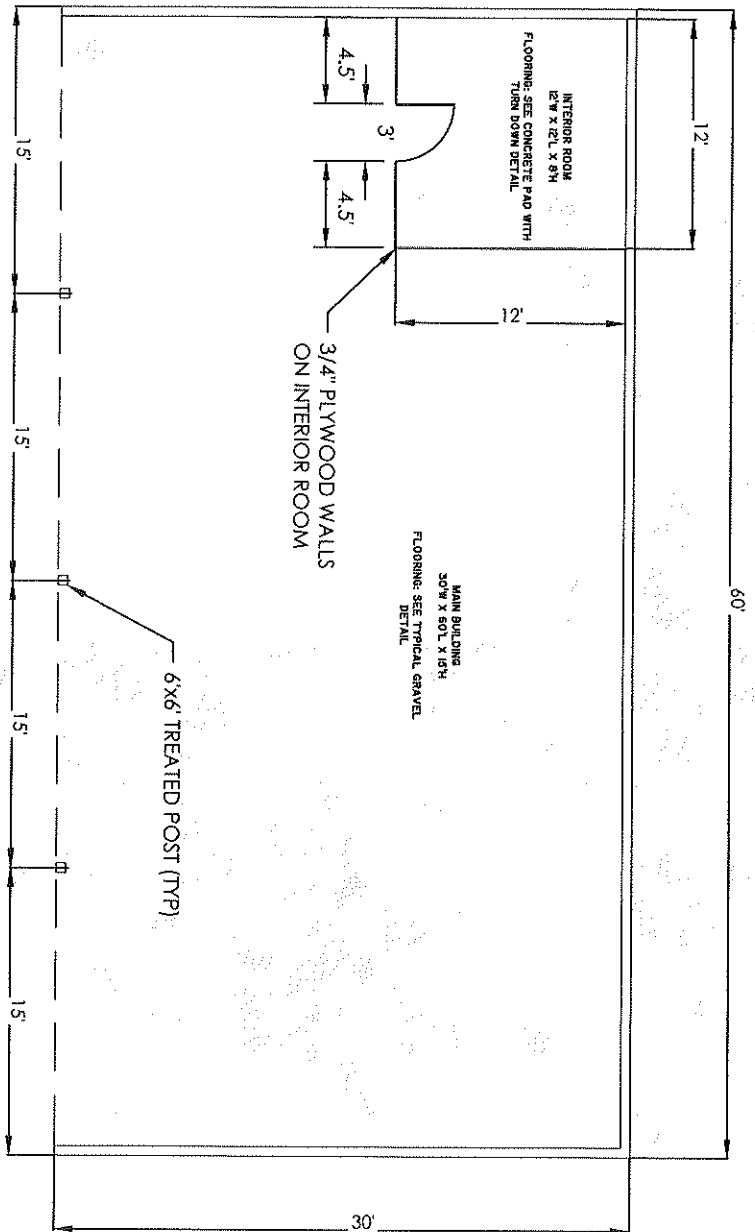
Ashley Christen
SIGNATURE

615-675-4970
TELEPHONE NUMBER

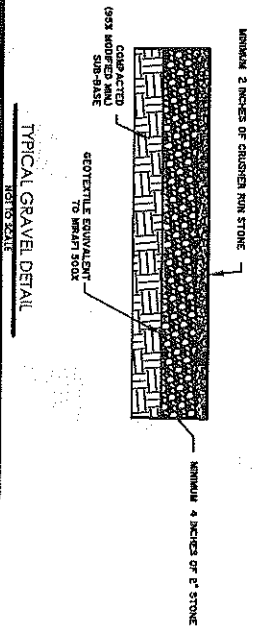
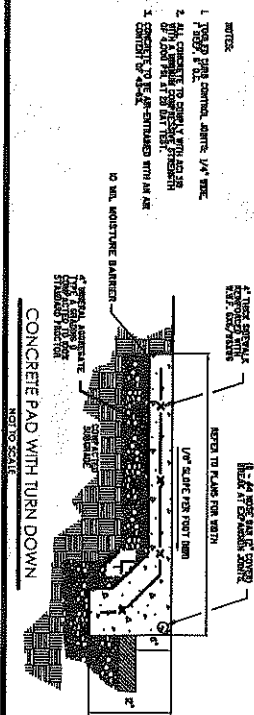
owner
REPRESENTATIVE TITLE

austn.cetnebamstore.com
E-MAIL ADDRESS





PLAN VIEW
NOT TO SCALE



SLUDGE SITE POLE BARN

EXHIBIT 1

CLIENT:

TOWN OF SMYRNA

LOCATION: SMYRNA, TN 37167

DATE: 6/25/2025

JOB NUMBER: J-28299.0018

DRAWN BY: O.E.

REVIEWED BY: JRC

SHEET:

SCALE: 1" = 10'

THOMAS & HUTTON

502 Hazelwood Drive
Smyrna, TN 37167 • 615.220.5800

www.thomasandhutton.com



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/12/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Powell & Meadows Insurance Agency, Inc.
P. O. Box 1
Carthage TN 37030

License#: 4140
THRBOYS-01

CONTACT**NAME:****PHONE**
(A/C, No, Ext): 615-735-1111**FAX**

(A/C, No):

E-MAIL**ADDRESS:****INSURER(S) AFFORDING COVERAGE****NAIC #****INSURER A:** Selective Ins Co of America

12572

INSURER B:**INSURER C:****INSURER D:****INSURER E:****INSURER F:**

INSURED
Three Boys Consulting LLC DbA The Barn Store
660 Cole Ferry Rd
Gallatin TN 37066

COVERAGES**CERTIFICATE NUMBER:** 233254221**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:			S 2689739	3/5/2025	3/5/2026	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			S 2689739	3/5/2025	3/5/2026	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$			S 2689739	3/5/2025	3/5/2026	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ \$
A	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC 9108857	3/5/2025	3/5/2026	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Town of Smyrna
315 S. Lowry St.
Smyrna TN 37167

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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METAL STORAGE BUILDING AT WWTP SLUDGE HAUL SITE BID TAB
AUGUST 19, 2025 @ 2:00 P.M.

	Three Boys Consulting	Industrial Facilities Solutions	Core Construction Group		
Lump Sum Cost for Complete Project	\$70,441	\$79,777	\$95,000		

ATTENDEES / COMPANY:

Shirley Lewis
Kyle Gill
Keith Weatherly
Mohamed Mbarak
Beth Davis
Stephanie Pritham-Marrow

Town of Smyrna
Town of Smyrna
Town of Smyrna
Core Construction Group LLC
Town of Smyrna
Town of Smyrna



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 8.
Department: Finance
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, a 1-year contract extension relative to banking services with First Horizon Bank.

Fiscal Impact:

First Horizon estimates the interest rate modification in this 1-year extension to earn the Town of Smyrna an additional \$1 million between November 2025 and November 2026. Interest earned in the consolidated bank account is allocated to various funds based on month-end balances. The \$17.5 million reserve outlined in the 2021 contract ensures the Town does not pay any additional fees.

Contract Type:

Contract Renewal

Contract Term (if applicable):

1 year, with an additional 1-year extension option

Background:

The contract with First Horizon originated from a fully executed Request for Proposals in July 2021. A 3-member committee selected First Horizon after completing a 2-step evaluation process. The first step evaluated banks on governmental experience, the ability to meet Town of Smyrna's needs, implementation processes & timeline, as well as general understanding of the proposal. The second step evaluated banks based on pricing. First Horizon's pricing structure was based on a \$17.5 million reserve in a non-interest bearing account to offset monthly banking charges and other service fees. Our remaining funds would earn interest tied to the Fed Funds Rate with a floor and no ceiling. The 2021 contract, which was approved at the November 9, 2021 Council meeting, outlined terms for 4 years and included the option for two additional 1-year extensions.

Summary:

The Town's 4-year banking services contract with First Horizon is set to expire in November 2025. This contract allows for two 1-year extension options. Approval of this 1-year contract extension includes an interest rate modification to Fed Funds Lower - 1.15%. This modification is estimated to earn an additional \$1 million in interest revenue during the period of November 2025 thru November 2026. Considering the time and

resources required to implement a new service provider, opting into this extension is in the best interest of the Town. First Horizon successfully submitted winning proposals in the 2009, 2013, and 2021 evaluation periods.

Recommended Council Action:

Staff recommends approving this extension.

Attachments:

1. 2025 FHB 1-year Extension Agreement
2. 2021 First Horizon Banking Services Agreement
3. 2021 Evaluation Summary

July 1, 2025

Sierra Lowry
Finance Director
Town of Smyrna
315 S Lowry St, Smyrna TN 37167

Re: Contract Extension

Dear Sierra,

Thank you for the opportunity to continue to support the Town of Smyrna.

Per our discussion, I am confirming the one-year contract extension between First Horizon and the Town of Smyrna. The extension will be effective November 1, 2025, through November 1, 2026, as a one-year extension.

As part of our current contract, this will be one of two extensions. The second extension is planned for 2026-2027.

With this extension, there will be an interest rate modification to Fed Funds Lower – 1.15% effective upon receipt of this signed agreement through the sated extension date. All other banking services and aspects of the original contract including retaining at least \$17.5MM of non-interest-bearing accounts will remain as based on the 2021 Contract.

The Town of Smyrna has a very rich history and contributes heavily to our beloved Rutherford County. Here at First Horizon, we have also enjoyed pouring into our community and are so thankful to have deep roots connected to our community's success.

First Horizon is proud to continue providing banking services to the Town of Smyrna.

As you review, please don't hesitate to reach out with any questions. I look forward to hearing from you soon.

Sincerely,



Yolanda S. Greene
Rutherford County Market President

Accepted By:

Date:

Mary Esther Reed
Mayor
Town of Smyrna

615-995-7692 Office
615-887-5116 Mobile
ygreene@firsthhorizon.com



Yolanda S. Greene
Rutherford County Market President

615-995-7692 Office
615-887-5116 Mobile
ygreene@firsthorizon.com



AGREEMENT

This Agreement is made and entered into as of this 9th day of November, 2021, by and between First Horizon Bank (the "Bidder") and the Town of Smyrna, Tennessee, a Tennessee municipal corporation (the "Town") for the purpose of banking services.

WHEREAS, the Bidder has submitted a quotation for the provision of certain products and/or services to the Town, all in accordance with the terms of the Request for Proposals attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit A (the "RFP"), and which Proposal from the Bidder is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit B (the "Quotation"); the RFP and the Quotation, together with any and all ancillary documents thereto, shall be collectively referred to herein as the "Bid Documents"; and

WHEREAS, the Town now desires to accept the Bidder's quotation, in accordance with the terms set forth in such Bid Documents.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned do hereby agree as follows:

1. Acceptance of Bid Documents. The terms of the Bid Documents, as incorporated herein by reference, are hereby accepted by the parties hereto. The Bidder hereby agrees to provide the goods and/or services contemplated by such Bid Documents in accordance with the terms set forth therein. The Town hereby accepts the Bidder's quotation to provide the goods and/or services contemplated by such Bid Documents in accordance with the terms set forth therein.

2. Entire Agreement. This Agreement, including the exhibits and any other documents referred to herein or therein, which form a part hereof, contains the entire understanding of the parties with respect to its subject matter. There are no restrictions, agreements, promises, warranties, covenants or undertakings other than those expressly set forth herein or therein. This Agreement supersedes all prior written or oral agreements and understandings between the parties with respect to its subject matter and may not be altered, modified or amended, in whole or in part, except by the express written authorization and consent of the parties hereto.

3. Attachments. This Agreement contains the following attachments.

Treasury Management Master Agreement
Treasury Management Client Profile
Account Reconciliation Program Service Description
ACH Service Description
Check Positive Pay Service Description
Treasury Management General Terms and Conditions
Lockbox Services Description

Remote Deposit Capture Service Description
Wire Transfer Service Description

4. Severability. This agreement constitutes the product of negotiations of the parties hereto and any enforcement of hereof will be interpreted in a neutral manner and not more strongly against any party based upon the source of the draftsmanship of this Agreement. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall continue to be fully effective.

5. Limitation of Liability. The Town of Smyrna shall not be liable for any loss, claim, expense or damage caused by, contributed to by or arising out of the acts or omission of Bidder or third parties, whether negligent or otherwise.

6. Warranties. The Bidder warrants to the Town that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects, suitable for the purpose for which the materials and equipment are furnished, and in conformance with the Agreement. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.

7. Indemnification. The parties hereto agree that Vendor shall indemnify The Town for any and all claims of negligence, tortious conduct or otherwise unlawful acts committed by Vendor in the performance of their obligations under the terms of the original agreement or this addendum to agreement and Vendor agrees to pay any and all costs associated with the enforcement of the terms of this indemnity agreement by The Town, including but not limited to court costs, civil judgments, assessments or any other reasonable fees associated therewith. This clause shall survive the expiration or termination of the original contract or this addendum to agreement and shall remain in full force and effect until the expiration of any applicable statute of limitation. In addition, The Town is prohibited by Tennessee law, as a political subdivision of the State of Tennessee, to agree to indemnify any private or public Vendor or contracting party and all reference to the local government providing indemnification shall be null and void by attaching signature to this addendum.

8. Attorney Fees. The parties hereto agree that The Town shall be in no event liable for any attorney's fees which Vendor may incur due to breach of the original agreement or this addendum agreement by either party; and further, The Town shall not acquiesce to any term of the original contract/agreement that indicates or infers The Town may or shall be responsible for the fees of another party or the Vendor's attorney fees.

9. Failure to perform. The parties agree, in the event Bidder fails to perform any obligation set out in this Agreement, the Town shall be reimbursed by Bidder for any and all expenses associated with having to obtain a new provider to finish out the contracted term, including, but in no way limited to, any charges/fees which are above and beyond the amount the Town would have paid to Bidder to complete the same task; provided, however, that if the failure, by its nature, is one that can be cured the Bidder shall have fifteen (15) business days after receipt of written notice from the Town to cure said failure to perform.

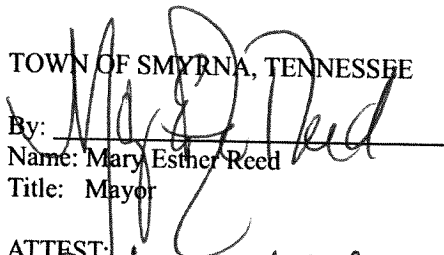
10. Mediation. The Town may, at its option, require the attempted resolution of any dispute arising under the original contract or this addendum to agreement by mediation prior to the filing of any lawsuit or other claim. Should any dispute arise, Vendor shall provide the Town notice of any intent to file suit by certified mail. The Town shall notify the Vendor of its intent to exercise its right to mediation within thirty (30) days of receiving such notice. If the Town does not exercise its right to mediation, Vendor may file suit. Any mediator selected under this clause shall be agreed upon by the parties and the costs of such mediation shall be divided and paid equally between the parties.

11. Governing Law. This Agreement shall be deemed to have been executed and delivered within the State of Tennessee, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of Tennessee.

12. Applicable Law / Choice of Forum and Venue. The parties' choice of forum and venue shall be exclusively in the courts of Rutherford County, Tennessee. Any provision of the Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth above.

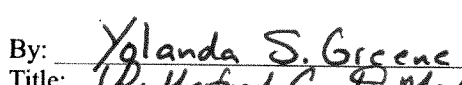
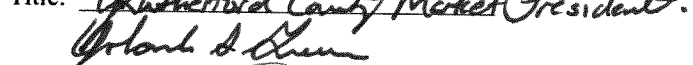
TOWN OF SMYRNA, TENNESSEE

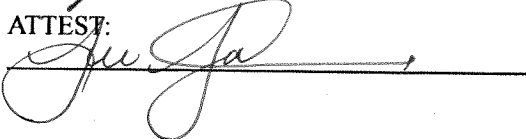
By: 
Name: Mary Esther Reed
Title: Mayor

ATTEST:

Dianne Waldron, Town Clerk

BIDDER:

By: 
Title: 
Yolanda S. Greene

ATTEST:


TREASURY MANAGEMENT MASTER AGREEMENT



This Treasury Management Master Agreement ("TMMA") is made as of the _____ day of _____, 20____ (the "Effective Date") and entered into by and between First Horizon Bank ("Bank") and the customer, _____, including any subsidiaries or affiliates as may be identified on the Treasury Management Client Profile ("Client Profile") incorporated herein. The customer and any such subsidiaries or affiliates are collectively referred to as "Client," and collectively, the Bank and Client may be referred to as the "Parties."

WHEREAS, Bank provides a variety of treasury management services ("Services") to customers; and

WHEREAS, Client desires Bank provide to Client such Services as Client may request from time to time and which will be reflected in Set-up and/or Maintenance Forms and as described in Service Descriptions (together, the "Service Documents").

THEREFORE, in consideration of the payments to be made and services to be provided hereunder, the promises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Bank and Client agree as follows:

Bank shall provide to Client and Client shall receive from Bank, all upon the terms and conditions immediately following ("General Terms and Conditions"), the Services specified in the Service Documents. Accordingly, Client agrees to be bound by the General Terms and Conditions. In addition, for the Services provided to Client, Client agrees to be bound by the appropriate individual Service Documents for the Service(s) being provided for Client. The term of this TMMA shall commence on the Effective Date and end upon the expiration or termination of all Services.

Bank may provide to Client and Client may receive additional Services hereunder upon mutual agreement and by completion of appropriate Service Documents. For any new Services elected by Client, the Effective Date of such Service(s) shall commence as of the date of the Service Documents identifying the new Service(s) except as otherwise mutually agreed to by the Parties.

The General Terms and Conditions, Client Profile, Service Documents and all amendments and addenda thereto, are incorporated herein and deemed part of this TMMA.

IN WITNESS WHEREOF, each of the Parties has caused this TMMA to be executed on its behalf as of the date first above written.

Client

Signature: _____

Printed Name: _____

Title: _____

First Horizon Bank

Signature: _____

Printed Name: _____

Title: _____

TREASURY MANAGEMENT CLIENT PROFILE



GENERAL CLIENT INFORMATION

☐ New Profile

☒ Updated Profile

 INTERNAL USE ONLY
 Master PI Tracking #:

Client's Full Legal Name (Must match Master Agreement): Town of Smyrna		Date of TMMA: 11/09/2021	Tax Identification Number (TIN): 62-6012665
Street Address: 315 South Lowry Street	City: Smyrna	State: TN	Zip: 37167
Mailing Address (if different than above):	City:	State:	Zip:

PRIMARY CONTACT INFORMATION

The person designated as Primary Contact will receive any notices as provided in the General Terms and Conditions.

Primary Contact Name: Rex S. Gaither		Primary Contact Title: Assistant Town Manager	
Street Address: 315 South Lowry Street	City: Smyrna	State: TN	Zip: 37167
Primary Mailing Address (if different than above):	City:	State:	Zip:
Primary Contact Telephone Number: 615-459-9742 extension 2172		Primary Contact Email Address: rex.gaither@townofsmymrna.org	

SUBSIDIARIES AND/OR AFFILIATES

If additional subsidiaries or affiliates of Client are subject to TMMA, complete the following:

Full legal name of entity	Relationship to Client (please check)			Tax Identification Number (TIN):
	Subsidiary	Affiliate	Client's % ownership	

INDIVIDUALS AUTHORIZED TO REQUEST, NEGOTIATE, AND EXECUTE SERVICE DOCUMENTS ON BEHALF OF CLIENT

Listed below are the names of individuals authorized to request, negotiate and execute Service Documents on the terms and conditions set forth in the Service Documents, and to act on behalf of the Client on all matters relating to the Services for any of the legal entities bound by this agreement unless restricted authority is noted below. Each individual is authorized to designate authorized representatives from time to time. Bank may rely on the authorities designated herein until notified otherwise in writing.

Name of Authorized Signer	Restricted Authority		Define Restricted Authority by Tax ID
Rex S. Gaither	Yes ☐	No ☒	
Sierra Nolen	Yes ☐	No ☒	
	Yes ☐	No ☐	
	Yes ☐	No ☐	

AUTHORIZED SIGNER

Signature must be executed by a person listed on a Certified Resolution of the Company's Board of Directors or a comparable document on file which designates such person as authorized to negotiate bank Services on behalf of all the legal entities bound by this agreement.

Signature:	Date: 11/9/2021
Printed Name: Rex S. Gaither	Title: Assistant Town Manager
Telephone Number: 615-459-9742 ext. 2172	Email Address: rex.gaither@townofsmymrna.org

BANK ACKNOWLEDGMENT

All requests must be acknowledged by the Relationship Manager or Treasury Management Sales Officer.

Signature:	Date:
Printed Name:	Title:

ACCOUNT RECONCILIATION PROGRAM

Service Description



This Service Description applies to the Account Reconciliation Service (Service") provided by Bank to Client.

Bank offers "Account Reconciliation Services" and Client desires to utilize the Account Reconciliation Services for the "Account(s)" designated in the ARP Set-up Form, upon the terms and conditions as set forth below and as the same may be amended from time to time.

1. FULL RECONCILIATION SERVICES.

Bank shall match daily the Client's cumulative "Check Issue File" with Bank's own records of checks paid. At the end of the Reconciliation Period, Bank will provide all the reconciliation reports to the Client, along with an electronic output file, if requested.

2. SECURITY PROCEDURES.

Bank shall issue to Client a password to enable Client to transmit Check Issue File to Bank's computer system, and Bank shall issue one or more personal identification number(s) ("PIN(s)") to be used by Client in order to verify to Bank the authenticity of the Check Issue File. Client shall maintain the confidentiality of the password and PIN(s) and shall immediately notify Bank in writing in the event the confidentiality thereof has been compromised or Client believes may be compromised. Bank shall be entitled to conclusively presume, and rely upon the presumption, that all information contained in the Check Issue File received by Bank which includes a PIN assigned to Client constitutes accurate information describing checks that have been validly issued by Client. Bank reserves the right to implement any additional security procedure at any time, or on a case-by-case basis, but the absence of any additional verification procedure, or any failure to follow any additional verification procedure, shall not affect the foregoing presumption.

3. CHECK ISSUE FILES.

Client shall transmit to Bank Check Issue Files for checks issued on Accounts designated on the ARP Set-up Form. Each Check Issue File shall include a listing of the check number and account number which was MICR-encoded on each check, and the dollar amount of each check, for each check issued by Client, or on Client's behalf, on the Account(s) since Client's most recent Check Issue File was transmitted to Bank. Client will use a secure method of file delivery that is mutually agreeable to both parties. Check Issue Files received by Bank by 6:30 PM Central Time on a business day will be processed the same day. Check Issue Files received by Bank after 6:30 PM Central Time will be processed the next business day. For purposes of ARP Services, "business day" means Monday through Friday, excluding federal holidays and any other days the Bank does not process Issue Files and/or conduct substantially all its other banking business.

4. BANK PROCESSING OF CHECK ISSUE FILES.

On the evening of each business day, Bank shall process the Check Issue File generated from the transmittal of the most recent Check Issue File and add the new check issue information (check number, account number, and dollar amount) to the existing history of checks issued on the Account(s), and checks paid on the Account(s), which history is maintained in Bank's account reconciliation system. When checks on the Account(s) are presented to Bank for payment, Bank shall compare the check number, account number, and dollar amount on the checks that are presented with the check number, account number, and dollar amount of checks described in the account reconciliation system data in order to identify any checks for which such data on the checks does not entirely match such data in the account reconciliation system ("Suspect Items"). Bank will research and correct Suspect Items.

If Client sends a daily file (and the last file of the month is sent on the first business day of the following month), all the files will be included on the reconciliation. Any files sent after the first business day of the following month will be included in the next reconciliation unless Client informs Bank in writing that its last file is sent by a specific day of each month.

5. TESTING.

Client understands that a four-week lead-time for testing is required to begin Full Reconciliation services. Partial and Deposit Reconciliation services take one week to be established. All services will start at the beginning of the next Reconciliation Period (statement cycle) after the four-week and one-week periods described above.

6. DOCUMENTS.

The Client's use of this service depends upon all documents being magnetically pre-numbered ("encoded") in the proper location.

7. PARTIAL RECONCILIATION SERVICES.

Bank will provide a report listing all the checks paid for the Reconciliation Period. An electronic output file will also be provided to the Client, if requested on Set-up Form.

8. DEPOSIT RECONCILIATION SERVICES.

Bank will provide a report listing all the deposits posted for the Reconciliation Period. An electronic output file will also be provided to the Client, if requested on Set-up Form.

9. IMAGE VIEWER.

Bank will provide image viewer software on CD ROM or via software download that will allow the client to view images of all items (paid checks, deposits and items deposited). Bank will provide these images on CD ROM or Image File on a schedule as indicated by Client on the ARP Set-up form.

This Service Description applies to the ACH services ("ACH Services") provided by Bank to Client.

1. TRANSACTION REQUESTS

Client desires to transfer or receive daily funds from time to time by requesting that Bank transmit debit and credit entries through the Automated Clearinghouse Association ("ACH"), referred to herein as "Transactions." Bank may from time to time agree to accept Transaction requests, and in such case the Transaction shall be governed by the terms and conditions set forth herein or incorporated herein by reference, and, except as specifically modified by the TMMA or this Service Description, Client's account(s) shall be subject to the terms and conditions of the Bank's Depositor Agreement and any other written agreements affecting Client's account(s). In the event Client has agreed, or hereafter does agree, to the terms of the Wire Transfer Service Description in connection with the TMMA, this Service Description shall nevertheless govern with respect to ACH Services. Further descriptions of services provided, processes and security procedures are described in ACH Services Application attached hereto and incorporated by reference.

2. AUTHORIZED TRANSACTION REQUESTS

Under any of the following circumstances, Bank shall be conclusively entitled to deem each Transaction request to be authorized by, and binding upon, Client: (i) if the Transaction request is made by Client or its actual or apparent agent; or (ii) if the Transaction request is issued in the name of Client and verified pursuant to a security procedure agreed upon between Bank and Client, as reflected in the ACH Services Application hereto, which is incorporated herein by reference; or (iii) if Bank reasonably believes that the Transaction request was given or authorized by a representative of Client; or (iv) in the event Client utilizes the services of a third party to make Transaction requests in connection with payroll processing, cash concentration, or other functions, provided the Transaction request is issued in the name of Client and Bank reasonably believes that the Transaction request was given or authorized by a representative of such third party or was verified pursuant to a security procedure agreed upon between such third party on Client's behalf and Bank; (v) if Client utilizes the ACH Services by instructing Bank to accept telephonic, electronic or other Transaction request to send debit entries to deposit account(s) of Client customer(s) for credit to Client (or to revoke same), Bank may treat such requests as authorized by Client if the request is accompanied by the account number(s) or code(s) Client has assigned to its customer(s); or (vi) if a Transaction request qualifies for Same Day ACH processing in accordance with NACHA Operating Rules and is received by Bank prior to established deadlines, and the Transaction request specifies an effective entry date that is on or before the current banking date, the Transaction will be processed as a same day transaction and subject to additional fees and charges.

3. CLIENT WARRANTIES AND INDEMNITIES

As to each Transaction request authorized (or deemed to have been authorized pursuant to Section 2 hereof) by Client, Client shall be deemed to warrant to Bank each of the following: (i) that the Transaction request is authorized in accordance with the valid authorization (which remains in full force and effect) of the account holder(s) of the account which is to be debited or credited in connection with the Transaction; (ii) such authorization has been obtained either: (A) in the form of a writing signed by the account holder(s), or (B) in the form of an authorization statement furnished to the account holder(s) by Client, either in advance or at the time a particular transaction is authorized, which includes provisions as to the method for revocation thereof, and the account holder has furnished authorization to Client for the Transaction and Client has authenticated such authorization by means of a digital signature or code authentication procedure; (iii) that a copy or record of such authorization shall be retained by Client throughout the authorization period and for at least two years thereafter, and a copy of the authorization record shall be furnished by Client promptly upon request by Bank and/or the account holder; (iv) that the account holder shall be promptly notified by Client in the event an entry previously made may be and is (in accordance with NACHA rules) reversed at Client's request; (v) that each Transaction request is in the correct amount and conforms to all applicable laws and regulations, and Client is bound without limitation to the operating rules of the National Automated Clearing House Association ("NACHA Operating Rules") as amended from time to time, in the case of ACH transactions, and with all procedures established by Bank in connection with the services contemplated by the TMMA or this Service Description; (vi) that none of the files are "pass-through" files, i.e. a balanced file without settlement entries occurring through an account at Bank; (vii) Client is not initiating transactions as a Third-Party Service Provider or Third-Party Sender for other legal entities; (viii) that none of the Transaction requests relate in any way to high-risk activities, processing for which is prohibited by Bank, including online payment processors, certain credit repair services, mail order telephone order (MOTO) companies, online gambling operations, businesses located offshore or adult entertainment businesses; and (ix) that Bank's initiation or execution of each Transaction request in accordance with its terms shall not give rise to any claim or defense which may be asserted by any account holder or other person against Bank. Client warrants and agrees

that not only has it complied with and will comply with all rules and laws governing ACH transactions, but it will not originate transactions that violate any laws of the United States including those giving rise to OFAC sanctions. Client further agrees that it will provide financial information on itself on at least an annual basis and agrees that Bank may, with reasonable notice to Client, audit Client's compliance with NACHA rules and all other terms of this Service Description. Client hereby agrees to indemnify and hold harmless Bank, its affiliates, and the directors, officers, employees, and agents of each of them from and against any and all liability, loss, claims, demands, expenses (including without limitation attorneys' fees and litigation costs) or fines imposed by NACHA or any other regulatory body arising in connection with breach of any of the foregoing warranties, including without limitation any damages or expenses sustained by bank based upon an indemnity agreement between Bank and another financial institution or other third party, or arising in connection with any action or inaction by Bank in accordance with Client's instructions.

4. HOLDS OR OTHER CREDIT MITIGATION

Client acknowledges that Bank shall have the right to implement holds or other reasonable credit mitigation processes if (i) in the opinion of Bank, credit quality has become impaired; (ii) Client generates higher than the industry average level of returns (as defined by NACHA); or (iii) Client improperly uses Standard Entry Classes as defined by NACHA. Client further acknowledges that Bank in its discretion may require pre-funding for ACH credits, holds for future debit returns and/or reserve accounts. Upon termination of the ACH Services, Bank may require originators of debit entries to maintain certain balances for a reasonable period of time after ceasing debit originations.

5. PROVISIONAL SETTLEMENT; RETURNS

Client acknowledges that ACH debit entries may be returned by the receiving institution for insufficient funds or other reasons. In addition, the NACHA rules provide that consumers have a lengthy period of time in which to cause ACH debit entries to be returned or charged back for reason of alleged lack of authorization. Any credit or consideration given by Bank to Client with respect to any Transaction request shall be deemed provisional, and Bank shall be entitled to revoke same without prior notice in the event the Transaction is returned, rejected, revoked or charged back to Bank. In the event a Transaction is returned or charged back for reason of alleged lack of authorization, Client may promptly submit to Bank such proof of authorization as Client may have with a request that Bank forward such proof to the receiving institution for its consideration. However, Bank's chargeback to Client of the disputed Transaction will remain final unless the receiving institution determines to accept the charge based on Client's proof of authorization. In the event an entry is returned for correction, Client agrees to make said correction before transmitting subsequent live entry to the receiver. Client agrees not to originate a Transaction where authorization has been revoked. In the event a return entry or Notification of Change (NOC) sent to Client is in error, Client will notify Bank within one business day of entry receipt.

6. EXECUTION OF TRANSFER REQUEST

Bank shall have no obligation to accept and execute a Transaction request, despite any custom or practice to the contrary, and shall be entitled to make a decision on a case-by-case basis for each request. Bank is authorized, but shall have no obligation, to execute a Transaction request even though same may bring about or increase Client overdrafts, and no custom or practice of creating overdrafts shall obligate Bank to create others or to provide notice to Client of any change in such custom or practice. Bank may reject or delay origination of any Transaction at any time without prior notice, despite any custom or practice to the contrary, for, among other reasons, Bank's belief that the Transaction may cause Bank to violate any regulatory or internal risk control program or any applicable law or regulation.

7. INVESTMENT ADVISOR DISCLAIMER

Client understands that Bank is not an investment advisor and is not acting as a fiduciary to Client with respect to Transfer Requests, including International ACH Transactions. Client bears the sole risk of any and all market fluctuations in any currency traded or fees associated with these trades pursuant to the terms of the TMMA or this Service Description. Bank may pass through to Client any such charges imputed.

8. GENERAL

Client and Bank acknowledge and agree as follows: (i) Except as otherwise specifically provided herein, any notice required in connection with the TMMA, this Service Description or the services provided hereunder may be given orally, in writing, or by electronic transmission pursuant to facilities established between the parties, if applicable; (ii) Client acknowledges that any receiving, paying, or drawee institution receiving a Transaction initiated or executed hereunder may debit or credit an account based solely on the account number, without reference to any discrepancy in the account name, and Client shall be solely responsible for any error resulting from its failure to furnish correct and complete information with each Transaction request, including without limitation the correct account number(s); (iii) Bank may, but shall have no obligation to, electronically record telephone conversations between Client and Bank; (iv) No attempt by Client to revoke any Transaction request will be binding on Bank unless Bank actually receives complete and accurate notice thereof by such means as Bank may instruct and Bank has a reasonable opportunity to act thereon prior to release of the Transaction by Bank; (v) Client agrees Bank is authorized to investigate, obtain and exchange reports and information regarding Client and individuals signing on behalf of Client, with credit agencies and others Bank

believes to have a legitimate business need for such reports; (vi) Client shall implement appropriate security measures to safeguard the confidentiality of all security codes, numbers or other access devices and procedures which may be furnished or adopted in connection with the TMMA or this Service Description and shall notify Bank immediately, and promptly confirm such notice in writing, upon discovery that the security thereof has been or may have been compromised, or that a Transaction has been conducted in error or without Client's authorization; (vii) Client shall retain data on file adequate to permit remaking of entries for five (5) business days following the date of their transmittal to Bank as provided herein and shall provide such data to Bank upon request; and (viii) Client acknowledges that Bank may, from time to time, need to temporarily suspend processing of a Transaction for greater scrutiny or verification against the Office of Foreign Asset Control (OFAC) Specially Designated Nationals list, and that this action may affect settlement and/or availability.

9. DISCLAIMER OF WARRANTIES

BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. LIMITATION OF LIABILITY

Without limiting the generality of Section 5 of the General Terms and Conditions, Bank's liability with respect to loss of Client funds by reason of Bank's error shall not exceed the amount of funds transferred by Bank in error, reduced by the sum of (i) the amount of any benefit Client derived by reason of such error, and (ii) the amount of any recovery which Bank could have effected had Client promptly notified Bank of such error on the date Client discovered, or reasonably should have discovered, same. Except as provided herein, Bank shall not be liable for damages, losses, expenses, demands, or claims of any type or amount, regardless of whether the cause of action is asserted in tort, in contract, as a breach of statutory or other legal duty, or otherwise.

CHECK POSITIVE PAY

Service Description



This Service Description applies to the Check Positive Pay Service ("Service") provided by Bank to Client.

1. SERVICE.

Depository account clients will prepare an electronic listing of all new checks issued by such clients ("Check Issue File") and transmit such Check Issue File to Bank before such checks are presented to Bank for payment. Bank then can compare such information with checks that are presented for payment and identify potentially suspect items which might be forgeries or unauthorized items. Client desires to utilize the Check Positive Pay Services for the "Account(s)" designated in the ARP Set-up Form, upon the terms and conditions as set forth below and as the same may be amended from time to time.

2. SECURITY PROCEDURES.

Bank shall issue to Client a password to enable Client to transmit Check Issue File to Bank's computer system, and Bank shall issue one or more personal identification number(s) ("PIN(s)") to be used by Client in order to verify to Bank the authenticity of the Check Issue File. Client shall maintain the confidentiality of the password and PIN(s) and shall immediately notify Bank in writing in the event the confidentiality thereof has been compromised or Client believes may be compromised. Bank shall be entitled to conclusively presume, and rely upon the presumption, that all information contained in a Check Issue File received by Bank which includes a PIN assigned to Client constitutes accurate information describing checks that have been validly issued by Client. Bank reserves the right to implement any additional security procedure at any time, or on a case-by-case basis, but the absence of any additional verification procedure, or any failure to follow any additional verification procedure, shall not affect the foregoing presumption.

3. CHECK ISSUE FILES.

Client shall transmit to Bank Check Issue Files for checks issued on Accounts designated on the ARP Set-up Form. Each Check Issue File shall include a listing of the check number and account number which was MICR-encoded on each check, and the dollar amount of each check, for each check issued by Client, or on Client's behalf, on the Account(s) since Client's most recent Check Issue File was transmitted to Bank. Client will use a secure method of file delivery that is mutually agreeable to both parties. Check Issue Files received by Bank by 6:30 PM Central Time on a business day will be processed the same day. Check Issue Files received by Bank after 6:30 PM Central Time will be processed the next business day. Check Issue Files should be sent to Bank the business day prior to issuing the checks. For purposes of Check Positive Pay Services, "business day" means Monday through Friday, excluding federal holidays and any other days the Bank does not process Check Issue Files and/or conduct its other banking business.

4. BANK PROCESSING OF CHECK ISSUE FILES.

On the evening of each business day, Bank shall process the Check Issue File generated from the transmittal of the most recent Check Issue File and add the new check issue information (check number, account number, dollar amount, and if Client so elects, payee's name) to the existing history of checks issued on the Account(s), and checks paid on the Account(s), which history is maintained in Bank's account reconciliation system. When checks on the Account(s) are presented to Bank for payment, First Horizon Bank shall compare the check number, account number, and dollar amount MICR-encoded on the checks that are presented with the check number, account number, and dollar amount of checks described in the account reconciliation system data in order to identify any checks for which such data on the check does not entirely match such data in the account reconciliation system ("Suspect Items").

- (a) Payee Name Verification. Client may also elect to use payee name verification under which, in addition to check number, account number and dollar amount, the payee's name may be used for comparison of names on checks described in the account reconciliation system. Bank will be obligated to validate the payee name on checks if the payee name was included in the Check Issue File prior to check presentment for any period of time 'payee name verification' is requested by the Client and provided by the Bank. If Client does not submit the payee name for verification, then the payee name will not be used as a means of identifying checks in the account reconciliation system. Bank shall have no obligation to take note of any information (other than payee's name, check number, account number and dollar amount) which may appear on the check. Payee name verification will not be available for the verification of checks converted and electronically presented to Client's account via ACH described in paragraph (b) below as check images will not be available.

(b) ACH Verification. Client authorizes verification of checks via conversion and electronic presentation to Client's account via ACH. In using this feature Client authorizes Bank to validate corporate checks presented to Bank via ACH with an entry class code of "ARC" (Accounts Receivable Entry), "POP" (Point-of-Purchase Entry), "BOC" (Back Office Conversion), or future ACH entry class codes that represent check conversion, against the Client's Check Issue File as previously described, with items not matching information in Client's Check Issue File (account number, check number and check amount) being referred to Client under the procedures outlined in (d) below.

(c) Over-the-counter presentments. Client authorizes Bank to refuse payment of any Suspect Item (including any check validly issued and outstanding) which is presented for payment over-the-counter. To minimize the incidence of nonpayment of validly issued and outstanding checks, Client shall use its best efforts to refrain from delivering or sending checks to payees for one business day after Client transmits the Check Issue File to Bank by the deadline specified in Section 3 hereof.

(d) Other presentments. For checks that are presented for payment by means other than over-the-counter payment, Bank shall notify Client by 9:00 AM Central Time on a business day, via e-mail or by such alternate means as may be agreed by the parties in writing, that each such check which is a Suspect Item is available for review through the Access Service as "Access Service" is defined in the Business Banking Online Agreement between Client and Bank. Client shall log in to the Access Service, and complete its review and approval of each Suspect Item for which Client authorizes payment by 2:00 PM Central Time of the same business day. Bank shall be entitled to return unpaid any Suspect Item for which Bank fails to receive such payment authorization notification from Client by the foregoing deadline, regardless of any practice or course of dealing, if any, to retain any Suspect Items past such notification deadline. Bank shall be entitled to pay any Suspect Item for which an authorized representative of Client notifies Bank to make payment. Client appoints each of the persons listed on the ARP Set-up Form as authorized representatives for purposes of furnishing such payment authorizations to Bank, and Bank may rely on the authority of such persons until Bank receives specific written notice revoking such appointment. Client shall add to its next Check Issue File all Suspect Items which are paid pursuant to the instructions of an authorized representative.

5. CHECK PRINT LAYOUT SPECIFICATIONS.

Bank provides Client with the check print layout specifications in order to obtain the best read rate for Payee Name capture. If Client fails to follow Bank's requirements and the acceptable read rate drops below 85%, then Bank may in its discretion impose higher fees. Before implementing such fees, Bank will notify Client and give Client 30 days to correct the deficiency. Client understands that there may be delays in exception reporting if the acceptable read rate drops below the aforementioned 85%.

1. SERVICES

Client agrees to purchase, and Bank agrees to provide the Services as designated in the Service Documents, or any supplements thereto, by Client now and in the future subject to the fees, charges and such other terms and conditions described in this TMMA as such may be amended by Bank in the future.

2. GENERAL RULES AND REGULATIONS APPLICABLE

Client acknowledges that all business deposit accounts of Client maintained at Bank which are required for Bank to provide the Services are subject to the Bank Depositor Agreement and any other written agreements applicable to those accounts. Inconsistencies between this TMMA and the Bank Depositor Agreement shall be controlled and governed by this TMMA.

3. FEES AND CHARGES

In consideration of the Services provided hereunder, Client agrees to pay Bank's prevailing fees and charges in effect from time to time, which will be recouped by applying accumulated earnings credits through Account Analysis, if applicable. Otherwise, Client authorizes Bank to charge Client's accounts for same. In either event, Client agrees to reimburse Bank upon demand if such charges are not paid when due. Bank reserves the right to increase the fees and charges or to impose additional fees and charges with notice to the Client.

4. EXPENSES

Expenses that are reasonably necessary to enable Bank to provide and Client to receive any of the Services may be paid initially by the Bank. Client agrees that it will be responsible for, and will reimburse Bank for, all such actual Expenses incurred by Bank.

5. BANK'S DUTIES; LIMITATION OF LIABILITY; FORCE MAJEURE

The Bank's duties and responsibilities are limited to those described in this TMMA, the Bank Depositor Agreement and any other related agreements. The Bank will exercise ordinary care in performing its obligations under this TMMA and will be responsible for any loss sustained by the Client only to the extent that such loss is caused solely by the Bank's gross negligence or willful misconduct. In any case, liability will extend only to the resulting direct loss, and not to any consequential, indirect damages, including without limitation any incidental, special or exemplary damages, even if Bank has been specifically advised of the possibility of such damages, or for attorneys' fees, or to any loss resulting from any delay in the performance or failure to perform or adequately perform any of its other responsibilities under this TMMA which is caused by accidents, strikes, flood, fire, war, riot, equipment breakdown or mechanical failure, acts or failures to act by the Client or by third parties; acts of God or any other cause or causes which are unavoidable or beyond the Bank's reasonable control. In no event shall Bank be liable for any indirect damages.

6. INDEMNIFICATION

Client will indemnify and hold Bank harmless from and against all liability, claims, losses, damages of any and every kind, suits, costs and/or expenses, including attorneys' fees, incurred by Bank as a result of the performance by Bank of the obligations of Bank in providing the Services, other than those arising out of the gross negligence or willful misconduct of Bank. The provisions of this section will survive the termination of this TMMA.

7. TERMINATION

Except as otherwise provided in any of the Service Documents, any Service may be terminated at any time by either Bank or Client by giving not less than thirty (30) days prior written notice of such termination to the other party. Notwithstanding the foregoing, Bank may terminate any Service with such termination to be effective immediately upon notice to Client if (i) the Client fails to comply with the terms of this TMMA, including but not limited to the failure to pay any fees, charges or expenses when due; (ii) Client has a voluntary or involuntary petition in bankruptcy filed with respect to it, makes an assignment for the benefit of creditors or a receiver or similar authority is charged with administering its assets, or if in Bank's opinion,

the financial condition of Client is impaired; (iii) required to do so pursuant to any law, regulation or supervisory/regulatory agency, or (iv) if Client's deposit account with Bank, which account is required for Bank to provide the Services, is closed in accordance with the Bank Depositor Agreement, or is made subject to levy, garnishment, attachment or similar process or is overdrawn. No termination of this Agreement shall impair or affect the rights, obligations or remedies of either party which may have arisen or accrued prior to the effective date of such termination.

8. COOPERATION

Bank and Client shall cooperate in good faith in resolving any problems or difficulties experienced by Bank in the performance of Bank's obligations under this TMMA.

9. ASSIGNMENT

This TMMA may not be assigned by Client in whole or in part without the prior written consent of Bank. This TMMA may be assigned in whole or in part by Bank without the prior written consent of Client.

10. SUCCESSORS AND ASSIGNS

All covenants and agreements contained in this TMMA made by or on behalf of the respective parties to such agreements shall bind their respective successors and assigns and shall inure to the benefit of their respective successors and assigns.

11. ENTIRE AGREEMENT

Subject to the provisions of paragraph 2, this TMMA supersedes and acts to rescind all prior agreements between the parties with regard to the specific services that are the subject matter of this TMMA. Client agrees that it has not relied on any statements, representations, agreements, or warranties except as expressed in this TMMA. This TMMA can only be modified or amended by mutual written agreement of the parties.

12. MODIFICATIONS

Bank reserves the right to modify from time to time the terms of this TMMA and any Services selected upon written notice to the Client. Notwithstanding the foregoing, Bank may modify or change any procedure, fee or charge established in connection with a Service from time to time upon oral or written notice to Client. In the event such modifications are not acceptable to Client, Client has the option of terminating this Agreement and use of the Services contemplated hereunder in accordance with paragraph 6 hereof. Client shall be deemed to have approved and ratified such modifications until Bank receives Client's written notice of termination.

13. JURISDICTION AND VENUE

The parties agree that this TMMA is entered into in the state and county in which Bank maintains its offices and may only be enforced by an action filed in the United States Court or the state court of general jurisdiction with jurisdiction for Bank. The parties hereby submit to the exclusive jurisdiction and venue of such courts for all purposes in connection with this TMMA.

14. SEVERABILITY

If any part of this TMMA is determined to be invalid, illegal or unenforceable for any reason, such provisions shall not invalidate or render unenforceable any other provisions of this TMMA, including, but not limited to, any transactions with respect to Services selected by Client, it being the intention of the parties that the TMMA be given its broadest possible effect. To the extent permitted by applicable law, the parties hereto waive any provision of law which prohibits or renders unenforceable any provision hereof, and to the extent that such waiver is not permitted by applicable law, the parties intend that such provision be interpreted as modified to the minimum extent necessary to render such provision enforceable.

15. AUTHORIZATION

Each party represents and warrants to the other that it has the power and authority to enter into this TMMA on behalf of itself and of its affiliates and subsidiaries, if and as applicable, and to abide by the terms hereof. In addition, Client agrees to provide Bank with sufficient documentation evidencing authority of the individual executing this TMMA on its behalf to do so.

16. INTERPRETATION

The parties agree that the parties have carefully reviewed this TMMA and that the normal rule of construction to the effect that any ambiguities be resolved against the drafting party shall not be employed in the interpretation of this TMMA. The section headings contained in this TMMA are for reference purposes only and shall not affect the interpretation of this TMMA.

17. NON-WAIVER

No delay or omission by either party to exercise any right or power shall impair such right or power or be construed to be a waiver. A waiver by either party of any covenant to be performed by the other or any breach by the other shall not be construed to be a waiver of any succeeding breach or of any other covenant.

18. FINANCIAL RECORDS

Client understands that Bank may, from time to time, request Client's audited and consolidated financial statements (or if unavailable, statements certified by Client's chief financial officer as true and fairly representing Client's financial condition as of the dates thereof), and Client agrees to provide Bank with such statements within 30 days following receipt of such request.

19. GOVERNING LAW

This TMMA shall be construed and interpreted in accordance with, and the rights granted in this TMMA shall be governed by Federal law and the provisions of the laws of the State in which Client's business deposit account is located, conflict of law principles notwithstanding.

20. CONFIDENTIALITY

Except as expressly agreed in writing by the parties, Bank will safeguard, and hold confidential from disclosure to non-affiliated entities, all data relating to Client's business submitted by or on behalf of Client to Bank pursuant to this TMMA, to the same extent that Bank safeguards data relating to its own business, unless such data is otherwise available to the public or is already in Bank's possession and was rightfully obtained by it from others, in which case Bank will bear no responsibility for disclosures thereof or with respect thereto, whether inadvertent or otherwise.

21. NO THIRD PARTY RIGHTS

Unless otherwise provided, the provisions of this TMMA are for the exclusive benefit of the parties hereof; provided, however, that with respect to any software licensed by Bank from a third party, such third party shall be a third party beneficiary to this Agreement solely for the purposes of enforcing Client's representations and covenants as they apply to the third party's software.

22. SOFTWARE PROVIDED IN CONNECTION WITH PERFORMANCE OF SERVICES

Bank may supply Client with certain software owned or licensed by Bank to be used by Client in connection with the performance of the Services. Client agrees that any software provided under this TMMA shall not be modified, altered, ended, recompiled, disassembled, reverse engineered or used for any purpose other than those directly connected to the performance of the Services.

Notwithstanding any other provision of this TMMA, Bank shall defend with counsel of its own choice and at its own expense any claim brought against Client that any software supplied by Bank infringes upon any United States copyright, and Bank shall pay any costs, damages, and reasonable attorney's fees finally awarded against Client on any such action, provided that (a) Client promptly notifies Bank of any claim and reasonably cooperates with Bank in the handling of such claim, and (b) Bank shall have sole control of the defense or settlement of such claim.

Client agrees not to remove, and shall include on any copy made, any proprietary rights or copyright notice placed on or within any software owned or licensed by Bank. Client also agrees to execute any license agreement required by Bank with respect to any software provided in connection with the performance of the Services. In the event of any conflict between the provisions of this Section 22 and any such license agreement, the terms of the license agreement shall control.

All software, specifications, tapes or other media, programs and procedures supplied by Bank and used in connection with the performance of the services, will be and remain the sole property of Bank. Client shall return such materials to Bank promptly upon request, and shall be responsible for any damages to any such materials incurred in shipping and usage other than normal wear and tear.

23. DISCLAIMER OF WARRANTIES

BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH SERVICES PROVIDED UNDER THIS MASTER AGREEMENT, OR ANY SERVICE(S) INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

24. INTERNET GAMBLING; ILLEGAL ACTIVITY

Bank may, but is not required to, deny authorization for any internet gambling or illegal transactions. Client agrees not to use the Services or any of its bank accounts related thereto for internet gambling or any illegal activity. Client agrees that use of the Services or any of Client's bank accounts for internet gambling or any illegal activity will be deemed an action of default and/or breach of contract and, in such event, the Services and/or any of the related bank accounts may be terminated at Bank's discretion. Client further agrees that should such use occur, Client waives any right to sue Bank for such use or any activity directly or indirectly related to it, and Client agrees to indemnify and hold Bank harmless from any suits, legal action, or liability directly resulting from such use.

This Service Description applies to the remittance processing services (“Lockbox Services”) provided by Bank to Client.

1. CLIENT OBLIGATIONS

- (a) Client will establish and maintain one or more non-interest bearing demand deposit account(s) (the “Account(s)”), at Bank for the deposit of remittance receipts.
- (b) Prior to commencement of services, Client will furnish to Bank such data, authorizations, and other information, forms and documents as Bank may request and Client shall do so in sufficient time to enable Bank to perform its preparation and testing functions. All data and information furnished to Bank by Client, its agents and employees shall be in form acceptable to Bank, which shall include a Set-up Form, the terms of which are incorporated herein. Once Client formulates a remittance document and a return envelope approved by Bank, no change may be made to either document without obtaining Bank’s prior review and written approval with respect to any change in any aspect of the remittance documents or envelopes, including without limitation paper weight, color, size, ink, and location of information on a document. Client shall afford Bank reasonable time to respond to such change and to perform any appropriate testing to confirm that such change will not create processing problems or additional costs.
- (c) Client understands that the Lockbox Services will be performed generally by the use of automated equipment, that the equipment will not function properly to perform the Lockbox Services if Client fails to comply with such obligations and specifications required by Bank, and that any such failure may degrade quality and timeliness of the Lockbox Services, in addition to increasing expenses for Bank and per item pricing for Client. Bank shall promptly notify Client of such failure to comply, and Client shall be given a reasonable period of time to correct such non-compliance.
- (d) If Client is a “covered entity” as defined under the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”), Client shall notify Bank prior to the commencement of the Lockbox Services if the performance of such Services by Bank shall include the creation, receipt, use or disclosure of protected health information as defined in HIPAA, so that Bank may enter into a written business associate agreement with Client. Client further agrees that after the effective date of the Lockbox Services, if there is any change to the Lockbox Services that causes the Bank to create, receive, use or disclose protected health information, Client shall notify Bank in writing by submitting a Change in Procedure at least thirty (30) days in advance of such proposed change so that Bank may determine if the requested change can be accommodated, and, if so, enter into a written business associate agreement with Client.

2. SERVICES

The Lockbox Services will consist of remittance processing services and the deposit of checks into the Accounts established for Client. The Bank may provide optional data entry and image services to Client as requested on the Set-up Form, or in any written amendment to the TMMMA or this Service Description as mutually agreed to by the parties. Remittances as agreed upon by the Bank and the Client can be received through Bank’s financial centers (“Financial Centers”) or obtained from a designated post office box (“Box”) owned or controlled by Bank. Effective on the commencement date Bank will provide a unique address for directing mailed remittance documents, either a Box or department number within a Box, collect the contents of the Box at such times as Bank may establish, open envelopes or other contents of the Box, remove and inspect the remittances, items and enclosures, and handle the remittances, items and enclosures as provided herein. An acceptable item (or “Check”) is one which conforms with the following:

- (a) Payee. The name of the payee on the item shall be one of the names, or a reasonable variation thereof, identified by Client on such forms as Bank may require, but Client may authorize Bank to deposit all items addressed to Client’s Box or otherwise received for processing through Bank’s financial centers.
- (b) Date. All undated Checks will be processed by Bank as hereinafter provided. Postdated checks will be deposited unless otherwise indicated on Bank’s forms and agreed upon by Bank.
- (c) Amount. Either a written or numerical amount shall be given; but if both are provided and they differ, Bank will use the amount supported by accompanying documents (Retail Lockbox only). If these conditions are not met, the item will be processed for the written amount.

(d) Signature. The item must bear the drawer's signature or indicate the drawer's name. If there is no signature, but the drawer's name is included on the item, Bank will affix a stamp impression requesting the drawee bank to contact the drawer for authority to pay the item.

(e) Alterations or Restrictions. Checks bearing restrictive notations such as "Payment in Full", "Balance on Account", or "Final Settlement" will be deposited, unless noted on the Set-up Form.

(f) Drafts. All signed sight drafts or payable through drafts of one thickness of paper with MICR numbers will be handled in the same manner as other items. All other drafts will either be processed on a collection basis or forwarded to the Client as Bank deems appropriate.

(g) Cash. Client will instruct each remitter to pay by check, money order, cashier's check or debit or credit card only. Bank will process and deposit all cash received; however, Bank will assume no liability for cash mailed by Client's remitter beyond such cash as is actually received and receipted for by Bank.

Notwithstanding anything contained herein to the contrary, Bank's only obligation shall be to utilize ordinary care in processing and depositing acceptable items and Bank shall have no liability for the processing or deposit of any item which does not conform to the foregoing standards.

3. ACCESS TO SERVICES; SECURITY

Client will be issued a confidential User ID and Password to access Bank's optional lockbox services available online, including but not limited to, online image archive, Lockbox Exception Module, Low Volume Lockbox and online reports ("Access Services"). Bank may require that Client designate a Primary User having authority to administer and maintain all User ID's and Passwords and account activity levels. Client may designate the particular accounts each Authorized Representative of Client may access through the Access Service. Client also may designate whether Client's Authorized Representative has access through the Access Service for information reporting purposes only or other functions which Client has arranged, or does arrange, to utilize through the Access Service. Client acknowledges that the User ID and Password procedures and the multiple Authorized Representative activity level options described above constitute commercially reasonable security procedures. Client agrees to safeguard the confidentiality of all User ID's and Passwords and to provide them only to Client's Authorized Representatives, and Client agrees to notify Bank immediately if client believes that the confidentiality of any such information may have become compromised. Client authorizes Bank to execute all instructions Bank receives with a valid User ID and Password before client notifies us of unauthorized use and Bank has a reasonable opportunity to act upon Client's notice. Client agrees that Bank has no obligation to obtain verification from a second person of an instruction entered with Client's User ID and Password unless Client has followed our procedures to establish a verification procedure for such instructions. Except for complying with any verification procedure which Bank offers and which Client has selected according to our set-up procedures, Bank will have no obligation to review or monitor for any reason instructions or transactions conducted with Client's User ID and Password. Client agrees to promptly review deposit transactions and other records Bank makes available to Client, whether in electronic or paper form, and to promptly report any discrepancy to Bank.

4. PROCESSING

Acceptable items shall be processed and deposited as received in the following manner:

(a) Coupons (Retail Lockbox only). Client will provide its customers ("Customer") with Remittance Coupons ("Coupons") that comply with Bank's document specifications. Upon receipt Bank will utilize Optical Character Recognition ("OCR") technology to compare the amount on the Coupon with the amount of the Check.

(b) Endorsement. Bank will apply an endorsement to each Check reflecting credit to the named payee.

(c) Deposits. Except for Checks eligible for conversion as provided in (h) below, each item shall be processed and deposited to such Account(s) of Client at Bank as indicated on the Set-up Form, at which time Client shall become a depositor of Bank with respect to those items, and the collection of such items shall be governed by the Uniform Commercial Code as adopted in the State of Tennessee, the bank's Depositor Agreement, and this Service Description. Any inconsistencies between this Service Description and First Horizon Bank Depositor Agreement shall be controlled and governed by the TMMA and this Service Description.

(d) Remittance Material Disposition. All statements, invoices, correspondence and other papers accompanying such items as well as copies of the processed Checks (applicable to Wholesale Lockbox only) and deposit ticket(s) shall be destroyed by Bank or delivered to Client in the customary manner of Bank, or in such other manner as may be specified in the Set-up Form or agreed to by Bank.

(e) Record Maintenance. Bank will maintain an image record of each item deposited. Such record will be retained by Bank in accordance with Bank's record retention schedule in order to reconstruct any specific deposit by means of duplicate photocopies should the need arise and as requested by Client (subject to the payment of Bank's then prevailing charge for such service).

(f) Stop File (Retail Lockbox only). If applicable, Client will provide a stop file transmission to Bank (indicate periodic time frame on the Set-up Form). Bank will rely on the stop file to compare, by means of computer processing, and determine Coupon(s) which Client desires to be forwarded to Client without deposit. Bank will have no obligation to make manual comparisons and Client understands that identification of Coupons on the stop file must be accurate and consistent with Bank's software. Bank has no obligation to avoid depositing of checks when either OCR coupons or stop file is not in compliance with Bank's specifications. Bank will continue to rely on the most current stop file successfully received in the event Client fails to transmit a new stop file by the time specified in the Set-up Form.

(g) Opt-out Files (Retail Lockbox only). If applicable, Client will provide an opt out file transmission to Bank should the Client choose to use Accounts Receivable Conversion services as indicated on the Set-up Form and further described in (h) below. Bank will rely on the opt-out file to compare, by means of computer processing, and determine what Checks are eligible for check conversion. Bank will have no obligation to make manual comparisons and Client understands that identification of Coupons on the opt-out file must be accurate and consistent with Bank's software. Bank has no obligation to avoid check truncation when either OCR coupons or the opt-out file is not in compliance with Bank's specifications. Bank will continue to rely on the most current opt-out file successfully received in the event Client fails to transmit a new opt-out file by the time specified in the Set-up Form.

(h) Accounts Receivable Conversions ("ARC"). If Client elects to use ARC services, Checks received for deposit to Client's account with Bank may be converted to an ACH transaction for collection whereby the amount of the check, routing number, account number and check serial number are transmitted to the financial institution. Client represents and warrants to Bank that Client has given notice to each of its Customers who make payments to the Box that payments received by check will be processed electronically and Customer has not given notice to Client to opt out of this process. In the event any Customer has opted out of the process, Client shall add Customer to the opt-out file transmitted to Bank. Client further represents and warrants that, with regard to ACH transactions as contemplated by this Agreement, it agrees to abide by and is in compliance with rules of the National Automated Clearinghouse Association ("NACHA") as amended from time to time.

(i) Unprocessable Items. All items which are not acceptable shall not be processed, but shall be returned to the Client along with statements, invoices, correspondence, and other papers accompanying such item. Such items and papers shall be delivered in the customary manner of Bank or in such other manner as may be specified in the Set-up Form.

(j) Transmissions. If applicable, Bank may agree to provide Client data and image transmission files as specified in the Set-up Form.

(k) Lockbox Exception Module. An optional Access Service that enables Client to review and decide exception transactions online. Client and Bank will establish mutually agreeable processing deadlines for exception transactions. With regard to exception transactions that have not been reviewed online and decided by Client in accordance with Bank's online instructions and within the established deadline, no funds will be deposited and the remittance transaction shall be delivered to Client in the customary manner of Bank, or in such other manner as may be specified in the Set-up Form.

(l) Daily Reports. Daily reports shall be available online (Retail Lockbox only), or shall be delivered with optional image files to Client in the customary manner of Bank, or in such other manner as may be specified in the Set-up Form.

(m) Financial Centers. For over-the-counter payment transactions received through Bank's financial centers, the Client agrees to the following processing instructions to qualify payment transactions:

- (i) All payment transactions must be by check or cash and include a coupon with the check or cash;
- (ii) The payment transaction must be a balanced payment containing one check or the exact amount of cash per coupon; no multiple check or document transactions will be accepted at the teller window;
- (iii) Only "payments in full" will be accepted;
- (iv) Payments subject to late fees will not be accepted;
- (v) Payments received over the counter will be processed through the Bank's lockbox operations area ("Lockbox Ops") for deposit the next business day;

- (vi) Payment transactions will be receipted at the time of presentment
- (vii) Remittance transactions will be made available the next business day through the Bank's online lockbox image archive;
- (viii) The actual remittance documentation will be held for 120 days and then securely destroyed;
- (ix) Additional business requirements to qualify payment transactions must be submitted in writing and agreed to by all parties.

(n) Low Volume Lockbox. An optional Access Service designed for Clients that receive up to 200 monthly transactions as described in this section (n). The service is restricted to a basic deposit only lockbox process with imaging and online access to all remittance documentation and daily reports. No other special processing or optional services will apply outside of what has been described for this service. For a Low Volume Lockbox, the Client agrees to the following processing instructions to qualify payment transactions:

- (i) A transaction will be considered a Check with remittance documentation attached, or miscellaneous correspondence received with a Check;
- (ii) All transactions received through the lockbox will be imaged;
- (iii) Remittance transactions and daily reports will be made available the next business day through the Bank's online lockbox image archive;
- (iv) Payments will be processed each business day and deposited by 4 p.m. CT;
- (v) All remittance documentation will be imaged through the lockbox process. The Bank will securely store and destroy remittance documentation after thirty (30) days;
- (vi) Monthly transaction volume that exceeds the established 200 transaction threshold will be assessed a premium charge;
- (vii) Special pricing associated with the Low Volume Lockbox service is restricted to the processing requirements outlined herein. Any additional business requirements or services requested must be submitted in writing and agreed to by all parties and are subject to additional fees. At Client's election, monthly fees for the Low Volume Lockbox service can be direct charged to Client's Account.

5. HEALTHCARE REMITTANCE MANAGER ("HRM SERVICES")

(This paragraph applicable only to Clients using HRM Services).

The HRM Services offered by Bank automate the capture and passage of paper and electronic files of explanation of benefits ("EOBs") for faster, more accurate claim posting into Client's patient accounting or practice management system. The HRM Services are available to Client using Bank's Access Services as described in Section 3 of this Service Description. The HRM Services can include all of the following features, which will be made available for Bank's fees and charges in effect from time to time: (i) electronic claims submission using Client's ANSI 837 claims files to match against remittance data received electronically from payers or through image capture of paper EOBs received through the lockbox; (ii) electronic remittance management with re-associated ANSI 835 remittance file for auto-posting of payments back to Client's patient accounting system; (iii) conversion of paper EOBs to ANSI 835; (iv) payer enrollment; (v) reporting; (vi) data archiving of Client transaction data up to seven years; (vii) explanation of payment ("EOP") claims information capture including detailed and summary capture of claims data from images; and (viii) initial training for HRM Services (on-site training subject to additional charges) and customer support. Prior to commencement of the HRM Services, Client acknowledges that it must designate the selected services and provide Bank with all necessary data and information on Bank's project Set-up Form for the use in the development of a project plan the terms of which will be agreed to in writing by Client and Bank. In the event Client requests Bank to perform services in addition to the HRM Services described in the project plan or customized enhancements to such services ("New HRM Services"), and Bank agrees to perform, such New HRM Services shall be agreed to in writing, attached hereto as an amendment to the Service Description. Client acknowledges and agrees that Bank is providing Client with access to the HRM Services, which are being provided to Client by an unaffiliated third party healthcare clearinghouse pursuant to a master agreement between the third party provider and the Bank

6. RETURN ITEMS

Items deposited to the Client's Account(s) which are returned unpaid because of "insufficient funds" or "uncollected funds", or the like, will be debited from Client's Account(s). Bank will charge the Client for the amount of the item by debiting Client's Account(s) and send the item with debit advice to the address stated for receipt of statement. If Client selects redeposit option as indicated on the Set-up Form, Bank will redeposit item only once, without notice of return to Client, and only with respect to items returned for reason of "insufficient funds" or "uncollected funds". The charge for returned items will be at Bank's then prevailing rate. If

alternative return requirements are desired, such requirements shall be set forth in the Set-up Form.

7. ITEMS MAILED TO CLIENT

Remittances which are sent directly to Client may be forwarded to the lockbox processing site and handled in accordance with the terms of the TMMA and this Service Description.

8. FOREIGN CURRENCY

Canadian items are processed at face value with subsequent corrections to Client's Account(s) for exchange rate charges and fees. All other items drawn in foreign currency will be processed on a collection basis only. Credit will be posted upon receipt of paid collections less all applicable fees and charges.

9. RELEASES

The Client agrees that the Bank shall not be liable to the Client for any error of judgment, or for any act done or step taken or omitted in good faith, or for any mistake in fact or law, or for anything which it may do or refrain from doing in connection with the TMMA or this Service Description, except for gross negligence or willful misconduct. In addition, with respect to all claims or controversies raised by third parties, the Client agrees to reimburse and indemnify the Bank for, and hold it harmless against any loss, liability, claim or controversy of any kind arising out of or in connection with the performance by the Bank of its duties and obligations under this Agreement as well as the cost and expense, including but not limited to reasonable attorney's fees, of defending against any claim or liability arising out of or relating to the TMMA and this Service Description.

10. FEES

In addition to any fees or expenses provided for in the General Terms and Conditions, Bank reserves the right to assess without further notice a surcharge for excess OCR rejects if the rate of rejects exceeds four percent (4%) during a month.

11. TERMS

The Lockbox Services may be terminated by either party for convenience with written notice of termination furnished to the other party at least ninety (90) days in advance of the effective date of termination. Also, either party may terminate the Lockbox Services at any time in the event that the other party materially breaches its obligations, including failure by Client to make any payment when due hereunder, provided, however, that written notice of intention to terminate, and the reasons therefore, shall be given in advance, along with a thirty (30) day opportunity to cure such breach. Bank may immediately terminate the Lockbox Services upon written notice to Client in the event of Client's breach of any other agreement or obligation with Bank, or Client's insolvency or Bank's reasonable concern as to Client's financial prospects. In the event that Client shall fail to utilize the Lockbox Services described for a period of three (3) months, Bank may deem the Lockbox Services terminated. No termination of the Lockbox Services shall effect the rights or obligations of either party which may have arisen or accrued prior to such termination or expiration.

REMOTE DEPOSIT CAPTURE

Service Description



This Service Description applies to the electronic check deposit service provided by Bank to Client.

1. General. The terms and provisions of this Service Description provide for use by the Client of Bank's remote deposit capture services ("Services") for the collection of checks by creating a digitized image of each check and truncate the original check for the electronic transmission of a file to Bank where the image may be used to create a "Substitute Check" as that term is defined under federal law, or other electronic representation that is processed for collection through the Federal Reserve or other clearinghouses, or directly to the paying institution, collectively referred to herein as "Transactions." To access the Services, Client must be enrolled in and agree to the terms and conditions of Bank's Business Banking Online service. Bank may from time to time agree to accept Transactions from Client, or its actual or apparent agent in the event that Client utilizes the lockbox services of a third party for the collection and processing for deposit checks and other items, and in such case the Transactions shall be governed by the terms and conditions set forth herein or incorporated herein by reference, and, except as specifically modified by this Service Description, Client's account(s) shall be subject to the terms and conditions of the Bank's Depositor Agreement, the Business Banking Online Agreement and any other written agreements affecting Client's account(s).

Additional services made available through the Bank's remote deposit capture service may be described in attachments. Client and Bank shall presently and from time to time in the future designate which of the listed services shall be applicable to Client. Client acknowledges that Bank's remote deposit capture services are merely a method of deposit and check collection services and that the Service Description shall terminate automatically upon termination of such deposit account services or other banking services to which the Service Description relates.

2. File Processing. Upon receipt of the transmitted file, Client can monitor online the status of the file as either released or acknowledged. A file may be suspended due to Client's transmission errors, including but not limited to, duplicity, missing items, or exceeding deposit thresholds. If the file or an item is suspended, Bank may reject the entire file or reject any item(s) and process the remainder of the file with an adjustment advice to Client for the item(s) that could not be processed.

3. Authorized Transactions. Under any of the following circumstances, Bank shall be conclusively entitled to deem the Transactions to be authorized by, and binding upon, Client: (i) if the Transactions and the electronic transmission of a file are made by Client or its actual or apparent agent, or (ii) if Bank reasonably believes the Transactions and the electronic transmission of a file were sent by an authorized representative of Client, or (iii) in the event Client utilizes the services of a third party for lockbox or other similar services to facilitate the processing of Transactions, provided that the Transactions and the electronic transmission of a file are in the name of Client and Bank reasonably believes that the Transactions and transmission of a file by such third party are sent on behalf of Client.

4. Representations and Warranties of Client regarding check image Transactions. As to the Transactions transmitted to Bank, Client represents and warrants to Bank that: (i) the preparation and presentment of the Transactions comply with the terms and conditions set forth in this Service Description and the Desk Side User Guide; (ii) Client has good title to each check and no defense of any party to the check is good against Client; (iii) the digital image of the check transmitted to Bank is a sufficient copy that is a true, correct and accurate image that represents all the information on the front and back of the original check at the time the original check was truncated, subject to any electronic endorsement added to the check image by Client prior to transmission to Bank, so that a Substitute Check created from the image will satisfy legal equivalence requirements and the image has not been altered in any manner by Client or any third party acting on behalf of Client; (iv) Client, or any third party acting on behalf of Client, has reviewed and confirmed that the transmission of MICR line information is identical in all respects to the original check and that the encoded check amount is accurate; (v) Client understands that any message text or other information client elects to add to the check image transmitted to Bank may cause the depository bank's endorsement not to be legible which may result in the delayed return of the Substitute Check or electronic representation if it is not paid; (vi) the original check, or a paper or electronic representation, has not previously been deposited for collection with Bank or any other financial institution, and no depository bank, drawee, drawer, or endorser will be asked to pay a check that it already has paid; (vii) Client will retain the original check, or in the event Client utilizes the lockbox services of a third party or other similar services that the third party will retain the original check, until final settlement of the Transaction and for such additional period as may be required in the event of a disputed

truncated or Substitute Check, including claims that the Substitute Check or electronic representation does not satisfy legal equivalence requirements, so that the original check can be processed for collection; (viii) Client, and any third party acting on behalf of Client, shall adopt commercially reasonable procedures to safeguard all original checks transmitted to Bank until the checks are destroyed; (ix) Client understands that the appearance of the original check and the use of certain background colors, decorative images and choices in ink on the original check may affect the ability to produce a readable digital image of the check or the creation of a Substitute Check that meets legal equivalence requirements which may require the original check to be processed for collection, and (x) Client has no knowledge or notice of information to indicate that the transaction is fraudulent; (xi) Client's warranties to Bank for Transactions apply to the same extent as if Client had deposited an original paper check with Bank; (xii) Client assumes all encoding, transfer, presentment and other warranties of Bank; (xiii) that Client will ensure that the identification of previous truncating and reconverting Banks are preserved and that the substitute checks meet the requirements for legal equivalency under Federal Reserve Regulation CC when redepositing substitute checks.

5. **Ineligible Items.** Unless Bank specifically agrees otherwise in writing, Client may not use the Services to deposit: (a) checks payable to a third party without verification or guarantee of third-party endorser; (b) demand drafts or remotely created checks (checks lacking the original signature of the drawer); (c) checks that are irregular in any way (e.g., where the numerical and written amounts are different); (d) checks that have previously been returned stop payment or account closed; (e) checks that are postdated or more than six (6) months old; (f) checks drawn on a foreign bank or payable in a foreign currency; (g) checks payable to "Cash"; or (h) any substitute check that has not been handled in the collection process. Our processing of any of the checks described above shall not obligate us to continue that practice, and Bank may stop doing so without cause or prior notice. Bank may refuse any check for deposit, with or without cause, or may elect to take a check on a collection basis only.

6. **Returned Checks.** Any returned checks delivered by Bank to Client will be in the form of a Substitute Check. For further collection purposes, Client must redeposit the Substitute Check and not the original item. Rescanning the original item for subsequent collection will only be permitted if the returned reason is for poor image quality.

7. **Provisional Settlement; Returns.** Client acknowledges that Transactions may be returned by the receiving institution for insufficient funds or other reasons, including claims or returns that the Substitute Check or electronic representation does not meet legal equivalence requirements under federal or other applicable law. In addition, Client acknowledges that Bank will have no responsibility for the return of Transactions due to improper endorsement or any error associated with Client's use of an electronic endorsement added to a check image transmitted to Bank, or the delayed return of a Substitute Check that includes any message text or other information added by Client in the depository bank endorsement area. Any credit or consideration given by Bank to Client with respect to any Transactions shall be deemed provisional, and Bank shall be entitled to revoke same without prior notice in the event one or more Transactions are rejected or returned to Bank for any reason.

8. **Equipment.** Client may select terminals and other equipment ("Equipment") for use in processing Transactions either from a vendor referred by Bank ("Referred Equipment Vendor") or from another vendor of Client's choosing ("Other Equipment Vendor") provided that any such Other Equipment Vendor and the Equipment sold/leased by it shall have been first approved by Bank. Bank's right to approve Client's use of an Other Equipment Vendor or Referred Equipment Vendor (collectively the "Third-Party Vendors") is intended solely for the benefit of Bank; and no such approval or consent shall be construed as a representation or warranty by Bank regarding the ability of such other vendor to provide Equipment or services meeting Client's needs. Bank reserves the right to revoke its consent to the use of any Equipment at any time. Notwithstanding any consent or recommendation by Bank to Client regarding Equipment or Third-Party Vendors, the selection and use of any thereof shall be strictly at the Client's risk. Bank shall not be responsible to Client for any equipment provided by a third party vendor, nor have liability for the malfunction of any equipment used by Client for the processing of Transactions. Client agrees to have trained personnel perform routine maintenance on scanners in accordance with the manufacturer's recommendations.

9. **Bank provided Equipment.** If Client elects on the Set-up Form for the Services to use Bank provided Equipment, the terms of this Paragraph 9 shall apply in lieu of Paragraph 8.

A. Equipment Furnished. Bank will provide Client with such terminals and other items of equipment (collectively the "Equipment") as are necessary for Client to create a digitized image of checks for the electronic transmission of a file to Bank. Client agrees to hold Bank harmless from any and all damages that may occur during installation and or use of the Equipment. Bank or its agent will instruct Client as to installation, operation and use of Equipment. Client understands that any Equipment furnished, other than sold to the Client, under the provisions of this Service Description is the property of bank and agrees not to remove any Equipment from its original place of installation without the prior written consent of Bank. Client further agrees to protect Bank's ownership of Equipment against all claims of creditors of Client.

After installation, Client agrees to indemnify Bank against any and all damages to or losses of Equipment for any reason, including fire, theft, or other causes. If any Equipment is lost, stolen, damaged or destroyed, Client shall pay Bank the then current replacement cost and any applicable shipping expenses to the Equipment's location.

B. Use and Return of Equipment. Client and its employees and agents shall use and operate the Equipment in accordance with the terms of the Service Description and with any operating guidelines or instructions supplied by Bank from time to time. Bank will maintain the Equipment in serviceable condition, providing service during hours to be determined by Bank and Client. For any Equipment service or repair, Client should direct all inquiries as follows: Business Service Center, 1555 Lynnfield, Bldg. C, Memphis, Tennessee 38119 or by telephone at (888) 382-4968. Bank shall promptly, at its sole discretion, repair or replace all malfunctioning Equipment, such repair and replacement to be at Client's expense. Bank will have the right during reasonable business hours to enter upon Client's premises for the purpose of confirming the existence, condition and proper maintenance of Equipment. Client agrees to surrender the Equipment to Bank's employees or agents upon request, F.O.B. at the address specified for notice to the Bank under this Service Description or as the Bank may otherwise instruct, in the same condition as when the Equipment was delivered to Client, normal wear and tear excepted. **In the event Client terminates the Services during the initial two-year period of the Services, Bank shall have the right to recoup costs for Equipment and, if necessary, shall have the right of offset to recoup such costs.** Client shall be liable to the Bank for the value, as determined by the Bank, of any Equipment that is not returned in such condition at the termination of the Service Description, together with any costs and expense incurred by the Bank in obtaining possession of the Equipment, including reasonable attorney fees; and Bank shall have the right to charge Client's account(s).

C. Equipment Use for Transactions Only. Equipment provided by Bank is expressly for use in the transmittal of Transactions to Bank and/or Client's storage of scanned checks. Any reliance by Client on the Equipment for applications outside those supported by Bank is strictly at Client's risk.

10. **Software.** Bank may select software and related user materials ("Software") for use in Bank's remote deposit capture services and the processing of Transactions. From time to time, modifications or updates to the Software may be available. Customer agrees to adopt such updates or modifications as they become available. Client acknowledges that any Software supplied by Bank for use in Transactions, including, but not limited to, any Software created or modified by Bank to be specific to Client's environment is the property of Bank or a third party from whom Bank may have licensed rights in Software and that Bank claims and reserves all rights and benefits therein afforded under copyright and other laws. Client's license of and permission to use the Software is non-exclusive and nontransferable, and it extends only to Client's own use of such Software for the purpose of processing Transactions as set forth in this Service Agreement. Bank's Software may not be used to process transactions with or through any other party without the express written consent of Bank, and may not be exported in contravention of U.S. or foreign export laws. Client further acknowledges that Bank's Software contains confidential information and trade secrets, which Bank has entrusted to Client in confidence. Client shall protect Bank's property and its interest in the trade secrets contained in the Software by controlling access to the Software, permitting none of its employees nor any other person not an employee or agent of Bank to examine, alter, attach, add to, modify, decode, reverse engineer, transcribe, extract or reproduce, in whole or in part, the Software in any way. Without limiting the generality of the foregoing, Client specifically agrees that it will not delete, mask or obscure any proprietary notices, which Bank places on any Software.

11. **Hours of Operation.** The Client can use the Service to transmit Check information 24 hours a day, seven days a week, except when the system is unavailable due to needed maintenance or system outages. Bank will use commercially reasonable means to notify Client of scheduled maintenances or system outages. Deposit information received on or after the Service cutoff hour (which Bank may change from time to time) or on a Saturday, Sunday, state banking or federal holiday, may be deemed received by Bank as of the next business day. The Bank is not responsible for the unavailability of the Service or any damages that may result from its unavailability. If the Service is not available for any reason or a Check cannot be processed by means of the Service, Client may deposit the Checks directly with the branch of account.

12. **Examinations and Inspections.** Bank or its agent shall have the right, upon reasonable advance notice and during normal business hours, to examine the records of Client and Client's internal processes and controls related to this Service Description, including but not limited to, Client's accounts receivable cycle and data security policy. In the event Bank's examination and inspection identifies weaknesses in Client's internal processes or controls related to the Services, Client agrees to implement any commercially reasonable recommendations by Bank to cure such deficiency.

13. **Limitation of Remedies.** Notwithstanding the provisions of Section 5 of the General Terms and Conditions, Bank's liability to Client is to correct any data in which (and to the extent that) errors have been made by Bank's personnel, or by malfunction of Bank's Software or Equipment which are not due to the Client's error, acts or omissions. However, the expense to Bank of correcting such data shall constitute Bank's only responsibility in connection with such errors or

in connection with any other performance or nonperformance by Bank under this Service Description. In the event that Bank undertakes to correct any error caused by a Third-Party Vendor or any other third party acting on behalf of Client, Bank shall not have any liability with respect thereto. Bank shall have no responsibility or liability whatsoever for errors or omissions caused by any Client or third party providing services, software or equipment to Client for use in Transactions.

14. Termination. If Bank terminates this Service Description for any reason as provided for in Section 6 of the General Terms and Conditions, Bank or its agent shall have the right to enter Client's premises to secure and retrieve all original checks or items which Client has previously transmitted the digital image of such check or item to Bank for deposit. Termination of this Service Description for any reason whatsoever shall in no manner impair or affect either party's rights, obligations, or remedies in connection with Transactions requested or initiated prior to the effective date of such termination, and the provisions of this Service Description survive termination with respect to such Transactions.

This Service Description applies to the wire transfer and money transfer services (“Services”) provided by Bank to Client.

WHEREAS, from time to time, Client desires Bank to honor requests made by means other than check for transfers of funds to and from Client’s account(s) (“Transfer Requests”);

WHEREAS, Client recognizes that Transfer Requests pose special risks for which Bank is unwilling to assume liability; and

WHEREAS, Bank is willing to receive and act upon such instructions subject to the following terms and conditions.

NOW, THEREFORE, the parties hereto agree as follows:

1. AUTHORIZATION.

Client hereby authorizes Bank to honor, execute and charge to Client’s account(s) any and all Transfer Requests made by (i) any person authorized to so act on Client’s behalf; or (ii) any person purporting to act on Client’s behalf (whether or not authorized by Client) provided that Bank observes the authentication procedures set forth in Section 2 hereof. All such Transfer Requests shall be deemed authentic for the purposes of this Service Description.

2. AUTHENTICATION PROCEDURES.

(a) Telephone Transfer Requests. Client will furnish to Bank on the Set-up Form for the Services in the section of the form for Telephone Wire Authorization, the names of, and any limitations placed on the authority of, those persons (“Authorized Representatives”) designated by Client to authorize (and, where applicable, to verify) telephonic Transfer Requests. Bank will assign to each Authorized Representative a personal identification number (PIN), which is to be furnished to Bank when making telephonic Transfer Requests. Client may request assignment of substitute PINs or other security codes at any time in order to maintain the integrity of the authentication procedures. Client will furnish to Bank in writing the name of the person designated by Client (“Designated Representative”) to receive and distribute authorization and security code information to the appropriate Authorized Representatives.

(b) Online Transfer Requests. To initiate online Transfer Requests, Client must be enrolled in and agree to the terms and conditions of Bank’s Business Banking Online Agreement (“BBOL Agreement”) and to restrict use of all online Transfer Requests for business or commercial purposes. Client shall designate in writing on the Set-up Form for the Services in the section of the form for Business Banking Online Wire Authorization, a Primary User as that term is defined in the BBOL Agreement and any limitations placed on the authority of the Primary User to authorize Transfer Requests or to grant other authorization entitlements to Client’s Authorized Representatives. The Primary User shall have the sole responsibility to designate through Bank’s online service Client’s additional Authorized Representatives to authorize (and, where applicable, to verify) online Transfer Requests.

(c) Client agrees that Bank will be entitled to rely conclusively upon the authenticity of all telephonic Transfer Requests which include the PIN of Client’s Authorized Representative and the authenticity of all online Transfer Requests by an Authorized Representative using a valid User ID and Password. Bank shall have no duty to obtain further verification of any telephonic Transfer Request unless Security Feature is selected on the Set-up Form for the Services in the section of the form for Telephone Wire Authorization, reflects Client’s selection of additional verification procedures, as set forth thereon, and Bank shall have no duty to obtain further verification of online Transfer Requests unless Client selects additional verification procedures provided for using the BBOL service.

(d) If Client desires to transfer funds on a repetitive basis to other account(s) of Client or of third parties and completes the section of the Set-up Form for a Repetitive /Template Wire, Bank may assign a repetitive request number to Client for all telephonic Transfer Requests. Client then shall include the repetitive request number with all such Transfer Requests, and all Transfer Requests pursuant to such repetitive request number will be considered repetitive Transfer Requests. Bank’s implementation of any Transfer Request in accordance with these procedures shall in no event be deemed negligence.

(e) In its discretion, Bank may impose verification procedures in addition to those described in Section 2 (c) for any Transfer Request, but it shall have no duty to do so, nor shall any duty be implied by course of dealing or otherwise.

3. CLIENT'S RESPONSIBILITIES.

Client shall be responsible for the following:

- (a) Safeguarding the confidentiality of all authorization and security code information furnished to, or selected by, Client for use in connection with the initiation or verification of Transfer Requests. Client understands that disclosure (whether intentional or unintentional) of such information may result in fraudulent transfers from Client's account(s) for which Bank will have no responsibility;
- (b) Establishing appropriate procedures and controls for setting user limits for initiating telephonic and online Transfer Requests. Client acknowledges that limits for telephonic Transfer Requests and online Transfer Requests are set at the account or company level and Transfer Requests by the same Authorized Representative initiating both telephonic and online Transfer Requests are not aggregated to determine if an Authorized Representative has exceeded an individual user limit.
- (c) Establishing procedures and controls for creation, maintenance and use of templates in the Online Transfer Request module.
- (d) Furnishing complete and accurate information for each Transfer Request and, in the case of online Transfer Requests, furnishing such information in the precise manner and format prescribed in the written procedures explaining the operation of the online wire transfer service (the "User Guide") furnished to Client. Client acknowledges that any administrative messages or comments conveyed with a Transfer Request shall be for its own internal reference and shall not be binding on Bank or alter the pertinent details of such request. Client further acknowledges that failure to comply strictly with such procedures may delay or prevent implementation of Transfer Request(s) or result in transfers from Client's account(s) to unintended beneficiaries. Client understands that where a Transfer Request identifies the beneficiary by reference to an identifying or account number and also by name, the destination bank to which the transfer order is transmitted may credit the payment based solely on the number and ignore any discrepancy in the name;
- (e) Verifying directly through the BBOL service (with respect to online Transfer Requests) that such Transfer Requests have been released by Bank for transmission to the Federal Reserve wire system (the "FED") or any other money transfer system, including but not limited to SWIFT. Bank shall have no duty to notify Client that any Transfer Request has not been, or will not be, released by Bank for transmission to the FED or other money transfer system due to incomplete or inaccurate information, inaccurate format, or any other reason. Any notice which Bank may give from time to time shall not establish, by course of dealing or otherwise, any duty to notify with respect to other transactions. Client acknowledges that Transfer Requests which are not made in the precise format prescribed in the User Guide may be released for transmission to the FED or other money transfer system, even though such Transfer Requests may be rejected by the FED or other money transfer system due to Client's failure to comply with format requirements or for other reasons. Bank will endeavor to notify Client of the FED's or other money transfer system's rejection of any Transfer Request as promptly as practicable after Bank receives actual notice of such rejection;
- (f) Providing sufficient funds on deposit with Bank for implementation of each Transfer Request. Bank shall have no obligation to honor any Transfer Request which would exceed the balance of Client's immediately available funds; provided however, that Client shall be liable for any amount which Bank elects to transfer in excess of such balance;
- (g) Examining each business day the daily transfer advice furnished to Client by Bank for each Transfer Request and notifying Bank immediately (and confirming such notice promptly in writing) of any unauthorized, incorrect or delayed transfers reflected in such advices. Client acknowledges that time is of the essence in reviewing transfer advices and reporting discrepancies in order to prevent or limit loss by reason of unauthorized, erroneous, or delayed transfers, and compliance with this requirement is a condition precedent to any recovery against Bank for its alleged error or negligence in connection with such Transfer Request;
- (h) Paying Bank's fees and charges in effect from time to time for the services provided hereunder. Client shall also reimburse Bank for any actual expenses to execute, cancel or amend any Transfer Request or perform any related act that Client may request. Bank is not held responsible for fees taken by intermediary banks that may deduct its charges, if any, from the amount of the Transfer Request.
- (i) Safeguarding all draft stock provided by Bank for the issuance and printing of Foreign Drafts at Client's designated locations.
- (j) Client acknowledges that access to SWIFT data supplied by Bank for use when initiating online Transfer Requests is the data and property of a third party from whom Bank has licensed rights to the data. Client's use of the data is non-exclusive and nontransferable, and it extends only to Client's use of such data for the purpose of processing Transfer Requests as set forth in this Agreement. Client is prohibited from downloading the data, integrating any data into a commercial directory or database product, or sublicensing the data to any third party.
- (k) Designating on the Set-up Form for the Services in the section of the form for Business Banking Online Wire Authorization or the section for Telephone Wire Authorization, whether Client elects to establish an international wire block. Any Client electing to place an international wire block agrees that all Transfer Requests shall include the country as part of the beneficiary information, and that a user of the online wire transfer services will not have access to initiate or release international wires when this service is selected. Client further acknowledges that providing the beneficiary's country accurately is solely Client's responsibility.

4. BANK RESPONSIBILITIES.

Bank shall be responsible for the following:

- (a) Transmitting promptly and accurately Transfer Requests made in accordance with Sections 2 and 3 hereof. Bank will endeavor to transmit Transfer Requests on the day received, when received before the Bank's applicable cut-off hour, or on such later date as may be specified in the Transfer Request, but Client agrees that Bank shall not incur liability for delay in transmitting a Transfer Request if Bank acted in good faith. Bank may transmit on any subsequent day any Transfer Request received after the applicable cut-off hour, (or which for other reason cannot be implemented on the day received) without notice to, or further request, by Client.
- (b) Furnishing to those Clients who have arranged for the online wire transfer services, and updating as appropriate, a User Guide explaining the operation of the online wire transfer service and containing written procedures prescribing the formatting of Transfer Requests.
- (c) Furnishing, or making available to, Client all transfer advices transmitted or received by Bank on Client's instructions as provided on the Set-up Form for the Services for Notifications in BBOL Wire Authorization and Telephone Wire Authorization sections; and
- (d) Providing Clients who have arranged for the online wire transfer service online access to information concerning incoming transfers.
- (e) Furnishing to Clients who have arranged for issuance of Foreign Drafts at Client's designated locations draft stock for printing Foreign Drafts.

5. LIMITATION OF LIABILITY, INDEMNITY.

This Section 5 of the Services Description supersedes Sections 5 and 6 of the General Terms and Conditions.

- (a) Bank shall not be liable for any damage, loss, expense, or cause of action (whether such action is based on contract, tort, or any other form of action) arising out of any of the following:
 - (i) The insolvency, negligence, misconduct, or mistake or fault of any correspondent, transferee, destination or other bank, any funds recipient or any other person or entity to which or through which any Transfer Request is made, forwarded, or implemented, nor for loss or interception in transit; or
 - (ii) Any claim that a Transfer Request deemed authentic pursuant to Section 1 hereof was in fact unauthorized. Bank shall be deemed to have exercised due care in accepting all such Transfer Requests; or
 - (iii) Any claim made under any of the circumstances set forth below that a Transfer Request was not transmitted or implemented promptly or accurately:
 - 1) Where Client failed to comply with any of the responsibilities or conditions set forth in Subsections 3 (b), (c), (d), (e), (f), (g) or (k) hereof; or
 - 2) Where Bank delayed transmission of a Transfer Request in a good faith effort to secure further verification of its authenticity; or
 - 3) Where occasioned by cause beyond Bank's reasonable control, including without limitation, act of God or governmental authority, any natural disaster, fire, flood, storm, strike, civil commotion or labor unrest, act of terrorism, riot, malfunction or interruption of communications, computer, or transmission facilities, nonperformance by Bank's vendors, or errors or acts by any third party.
 - (iv) Any claim made that a Transfer Request was not transmitted where Bank, or any third party acting on behalf of Bank, rejects any Transfer Request or to freeze or block assets in any amount or to terminate Client's account pursuant to the Bank's obligations under any regulations promulgated by the Office of Foreign Assets Control of the U.S. Treasury Department or pursuant to the Bank's obligations under any other domestic or international laws applicable to the Transfer Request, including but not limited to, the Bank Secrecy Act.
- (b) Except as otherwise set forth in this Subsection, Bank's liability for claims for damages or other compensation as a result of Bank's unexcused delay or error in transmitting a Transfer Request shall not exceed an amount equal to interest on the funds at the federal funds rate paid by Bank on each day the error remains uncorrected, but in no event to exceed a period of two weeks. If Bank's unexcused error results in the transfer of funds to a transferee who has no claim to them, Bank's liability shall not exceed the lesser of the funds so transferred and not recovered and Client's actual loss. In no event shall Bank be liable for any exemplary, special, or consequential damages, including without limitation damages in the nature of legal expenses or loss of anticipated profits, regardless of whether Bank has been notified that such damages may or will be incurred.
- (c) Client agrees to indemnify and hold harmless Bank, its affiliates, and the directors, officers, and employees of each from and against all claims of Client or any other person arising out of, or in connection with, any action or inaction for which Bank would not be deemed liable pursuant to subsection 5(a) hereof.

6. FOREIGN EXCHANGE TRANSFERS.

- (a) Foreign Currency and Draft Services. Client may provide Bank with a Transfer Request to purchase and sell non-U.S. currencies ("FX Transfer") by telephone, or through Bank's BBOL service or such other computer-initiated service for delivery of such currencies (each a "Contract"), or Client may request Bank to issue on Bank's designated printers at designated locations, drafts in U.S. Dollars or in foreign currencies ("Foreign Drafts"). FX Transfers and Foreign Drafts are subject to the terms and conditions of this Services Description, the BBOL Agreement and any other written agreements affecting Client's account(s).
- (b) Finality of Contracts. Client may request that Bank amend or cancel a Contract, but Bank will have no obligation to do so and will determine in its sole discretion whether or not to do so. In the event Bank amends or cancels a Contract at Client's request, Bank will not be obligated to act on similar requests with respect to any other Contract or with respect to the same Contract at a later time. Client understands that if Bank agrees to amend or cancel a Contract at Client's request, Bank may do so by establishing a new Contract which offsets the Contract to be amended or canceled. The establishment of a new contract to offset an existing contract may result in a financial loss to the Client.
- (c) Foreign Drafts. Foreign Drafts should be presented to the bank on which it is drawn ("the Drawee") within 6 months from the date of Foreign Draft. If not presented, the Drawee may refuse to pay because of delay. Bank will not be liable for the Drawee bank's failure or refusal to pay the Foreign Draft for any reason, including delayed presentation. Client assumes all payment risks. If a Foreign Draft is payable in a currency other than that of the country indicated as the place of payment, the Drawee will pay it at the Drawee's buying rate for that currency on the date the Drawee pays the Foreign Draft unless the person presenting the Draft makes separate arrangements with the Drawee and pays any applicable charges. If for any reason the Drawee bank fails to pay the Foreign Draft, or the Foreign Draft is stopped, canceled or otherwise negotiated, Bank shall make refunds only upon surrender of the Foreign Draft, properly endorsed, to Bank, or Bank's recovery from the Drawee the amount of the Foreign Draft, less any charges and expenses. Refund will be at Bank's buying rate of the currency for which the Foreign Draft is drawn, calculated at the date of the refund.
- (d) No Investment Advice; Risk of Market Fluctuations. Client understands that Bank is not an investment advisor and is not acting as a fiduciary to Client with respect to Transfer Requests, including FX Transfers or Foreign Drafts. Bank does not give, and Bank disclaims, all investment advice with respect to any Contract or any amendment of a Contract. Client bears the sole risk of any and all market fluctuations in any currency traded pursuant to the terms of this Agreement or any Contract. Bank will convert the amount to be transferred to the currency of a designated foreign government or intergovernmental organization ("Foreign Currency") at the Bank's rate for exchange in effect on the date the Order is executed.

7. MISCELLANEOUS.

- (a) Modifications to Transfer Requests. Subject to the provisions of Paragraph 6, Client's attempted revocation or amendment of any Transfer Request shall not be binding on Bank unless received in such time and manner as to afford Bank a reasonable time to act thereon prior to transmission or release of the transfer.
- (b) Telephone Recordings. Bank is authorized, but not obligated, to electronically record telephone instructions received from Client.
- (c) Authorized Representative. Bank shall be entitled to rely upon the authority of those persons designated by Client as Authorized Representative(s) or designated Representative until such time as Bank actually receives written notice to the contrary and has a reasonable opportunity to act thereon.
- (d) Non-waiver. Notwithstanding the provisions of Section 17 of the General Terms and Conditions, no provision of this Services Description shall be deemed to have been waived by Bank unless such waiver is set forth in a writing executed on behalf of Bank and which specifically refers to this Services Description.
- (e) Relation to other services. Nothing contained in this Agreement is to be construed to affect the authority which any officer, employee, or agent of Client may presently have with respect to signing checks drawn on Client's account(s).
- (f) Compliance with Laws. Client acknowledges that Transfer Requests under the Services Description may not be used in violation of the laws of any country or of the United States, including sanctions laws administered by the Office of Foreign Asset Controls.

**TOWN OF SMYRNA
BANKING SERVICES
EVALUATION SUMMARY**

CRITERIA	FIRST HORIZON	SYNOVUS	PINNACLE FINANCIAL PARTNERS
A. PRICING - NET COST	101	100	60
B. TN GOVERNMENTAL EXPERIENCE OF VENDOR, FINANCIAL, REFERENCES, ALL OTHER	30	21	26
C. ABILITY TO MEET NEEDS	45	45	40
D. IMPLEMENTATION PROCESS	45	25	33
E. COMPLETENESS AND UNDERSTANDING OF PROPOSAL	58	28	41
TOTALS	279	219	200



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 9.
Department: Finance
Date: September 25, 2025**

Subject:

Approval of a list of surplus items to be sold through online auction with GovDeals.

Fiscal Impact:

Contract Type:

Contract Term (if applicable):

Background:

The Town seeks permission to conduct an online auction to sell surplus items.

Summary:

A list is attached of items to be declared surplus and will be sold at auction. The items are no longer needed. The list includes traffic lights, cubicles, desks and a van. The auction will be advertised in the Murfreesboro Post, on the website and Channel 3. All the surplus items will be sold through GovDeals, an online auction company.

Recommended Council Action:

Staff seeks authorization to conduct an auction of Council-approved items.

Attachments:

1. Surplus List- October Auction 2025

List of items for surplus October, 2025

Department	Items
Parks	Stainless steel sink
Judicial	L shape desk
	Console table
HR	Arm Curl Bar
Codes	Two large cubicle stations
	Six cubicle stations
	Plant stand
	Wood desk
	Light gray used in cubicle
Police	2004 Ford Econoline 1FBSS31L14HA29600 mileage 101,709
	Two 6' tables
	One 6' gray
Fire	C-4040 camera
	HP scanner
	Lexmark typewriter
	RCA camcorder
BGM	Traffic lights 4 – 3 head, 1 - 5 head
	2 traffic Control cabinets
	Traffic lights 1 black 3 head, 1 black 5 head
	8 traffic lights 1-4 head, 5-3 head, 2-2 head
	1 traffic control cabinet
	2 -pedestrian lights



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 10.
Department: Legal
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, a Memorandum of Understanding with the City of Murfreesboro, the City of LaVergne and Rutherford County to jointly fund a study exploring the benefits of consolidating emergency dispatch services into a unified communications center.

Fiscal Impact:

Maximum of \$35,000

Contract Type:

Original Contract

Contract Term (if applicable):

This memorandum of understanding establishes a four-way partnership between the Town of Smyrna, the City of Murfreesboro, the City of LaVergne and Rutherford County to jointly fund a study exploring the efficiency and benefits of unifying their currently separate public safety emergency dispatch services for police, fire, and emergency medical services. Each party will contribute up to \$35,000 (one-third of the total cost) toward hiring a consultant to analyze current dispatch operations, assess potential cost savings and operational efficiencies, evaluate the impact on service delivery and response times, and provide implementation recommendations for establishing a unified dispatch center. The City of Murfreesboro will enter into the professional service agreement with the selected consulting firm, while a steering committee with representatives from each jurisdiction will oversee the study process. The goal is to determine whether consolidating these emergency communications centers could streamline communication between first responders and enhance efficiencies when dispatching calls for service.

Background:

Currently, multiple jurisdictions within Rutherford County operate their own public safety emergency communications centers. Recognizing the potential for increased efficiency and enhanced service delivery, the Parties will agree, if approved, to collaborate on a study that will evaluate the feasibility and benefits of unifying these services. The MOU would allow the Parties to share in the cost of study with a maximum cost of \$35,000 each. Purchasing guidelines will be followed once the MOU is executed by all parties.

Summary:

This memorandum of understanding creates a four-way partnership between the Town of Smyrna, the City of Murfreesboro, the City of LaVergne and Rutherford County to jointly fund a study exploring the benefits of consolidating their separate emergency dispatch services into a unified communications center. Each party will contribute up to \$35,000 toward hiring a consultant to analyze potential cost savings, operational efficiencies, and implementation recommendations for unifying police, fire, and EMS dispatch services across the three jurisdictions.

Recommended Council Action:

Staff recommends approval.

Attachments:

1. Memorandum of Understanding Unified Dispatch

Memorandum of Understanding
Between
The Town of Smyrna, the City of Murfreesboro, Rutherford County, and the City of
LaVergne
Regarding the Cost Sharing of a Study on Unifying Public Safety Emergency
Dispatch Services

1. Purpose

This Memorandum of Understanding (MOU) is entered into by and between the Town of Smyrna, the City of Murfreesboro, Rutherford County, and the City of La Vergne (collectively referred to as "the Parties") for the purpose of jointly funding a study to explore the efficiency and benefits of unifying the public safety emergency dispatch services, including police, fire, and emergency medical services, within their jurisdictions. The objective of this study is to assess the potential financial and operational advantages of establishing a unified dispatch center.

2. Background

Currently, each Party operates its own public safety emergency dispatch services. Recognizing the potential for increased efficiency and enhanced service delivery, the Parties have agreed to collaborate on a study that will evaluate the feasibility and benefits of unifying these services.

3. Scope of the Study

The study will include, but is not limited to, the following:

- Analysis of current dispatch service operations within each Party's jurisdiction.
- Assessment of potential cost savings and operational efficiencies through unification.
- Evaluation of the impact on service delivery and response times.
- Recommendations for implementation, including potential challenges and solutions.

4. Cost Sharing

The Parties agree to share equally in the cost of the study, with each Party contributing one-fourth of the total cost. The City of Murfreesboro will enter into a professional service agreement with the organization performing the study. The Town of Smyrna, the

City of Murfreesboro, Rutherford County, and the City of LaVergne will share in the costs, up to a maximum of \$35,000 each, subject to the approval of their respective governing bodies. The total estimated cost and specific financial commitments will be detailed in a subsequent agreement once a consulting firm is selected to conduct the study.

5. Selection of Consultant

The Parties will jointly select a qualified consulting firm to conduct the study. The selection process will be conducted in accordance with applicable procurement laws and regulations. The selected consultant will be responsible for providing a comprehensive report detailing the findings and recommendations of the study.

6. Governance

A steering committee will be established to oversee the study process. The committee will consist of representatives from each Party, appointed by their respective governing bodies. The committee will be responsible for coordinating the study, liaising with the consultant, and ensuring that the study objectives are met.

7. Duration

This MOU will be effective upon the date of the last signature and will remain in effect until the completion of the study and the submission of the final report, unless terminated earlier by mutual agreement of the Parties.

8. Termination

Any Party may withdraw from this MOU upon providing 30 days written notice to the other Parties. In the event of withdrawal, the withdrawing Party will remain responsible for its share of any incurred costs up to the date of withdrawal.

9. General Provisions

- Amendments: This MOU may only be amended by written agreement signed by all Parties.
- Entire Agreement: This MOU constitutes the entire understanding between the Parties regarding the subject matter herein and supersedes all prior discussions or agreements.

10. Signatures

The Parties have executed this Memorandum of Understanding on the dates indicated below.

SIGNATURES APPEAR ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this day and of this year.

CITY OF MURFREESBORO

TOWN OF SMYRNA

Mayor Shane McFarland

Mayor Mary Ester Reed

Approved as to Form and Legality:

Approved as to Form and Legality:

Adam F. Tucker, City Attorney

Jeff Peach, Town Attorney

RUTHERFORD COUNTY

CITY OF LA VERGNE

Mayor Joe Carr

Mayor Jason Cole

Approved as to Form and Legality:

Approved as to Form and Legality:

Nicholas Christiansen, County Attorney

Evan Cope, City Attorney



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 11.
Department: Police Department
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, an agreement with NashComm to encrypt all Police Department radios and the communications division.

Fiscal Impact:

\$20,142.00

Contract Type:

Contract Term (if applicable):

Background:

Presently, all Police communications can be heard by the public. This is a safety concern and was recently highlighted during an active shooter incident.

Summary:

The quote from NashComm is to encrypt all Police radios and the communication division. Encryption will prevent individuals from receiving and listening to Police communications, specifically during sensitive operations and incidents. Encryption is vital to Officer safety, as it ensures that no one potentially listening to our communications could use that information to compromise an active incident. Encryption of radio frequencies for Public Safety is standard in most jurisdictions.

Recommended Council Action:

Staff recommends approval.

Attachments:

1. Encryption for Radios quote



Nashville Communications
330 Plus Park Boulevard
Nashville, TN 37217
Phone: 615-255-5670

QUOTATION

Page 1

108001302

Bill To:

Smyrna Police Dept
400 Enon Springs Road East
Smyrna, TN 37167

Ship To:

Smyrna Police Dept
400 Enon Springs Road East
Smyrna, TN 37167

Contact: James Scott
Contact #: 615-267-5014

Date: 07/28/2025		Customer Rep: Lance Marrow		Terms: Due upon Receipt	
Qty	Description	Unit Price		Extended	

Smyrna Subs Encryption Programming

1	Fleet Reprogramming	20,142.00	20,142.00
-Does not included any hardware upgrades (VPM) NashComm will work with Moto and State to try to get these replaced under current contract but cannot guarantee this on their behalf -Code plug must be agreed upon before programming -Single programming of all radios -Rate is for two techs at a not to exceed rate (2wks estimation)			

Subtotal : \$20,142.00
Tax : \$0.00
Total Quote : \$20,142.00

I submit I am a duly authorized employee of our organization, and my signature makes this a legal and binding document. My signature serves as a notice to proceed, proof of funds encumbered for the above order, agreement to payment terms, and this document will be in lieu of a Purchase Order.

Signature: _____

Print: _____

Date: _____



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 12.
Department: Planning
Date: September 25, 2025**

Subject:

Approval of the terms of, and authorization for the Mayor to execute, the proposal for the update to the Comprehensive Plan.

Fiscal Impact:

Contract Type:

Original Contract

Contract Term (if applicable):

Background:

The current Comprehensive Plan for the Town and the Urban Growth Boundary was adopted in December 2021. There was discussion at one of the joint Town Council/Planning Commission worksessions regarding a potential update to this plan a year or so ago, and staff asked to be able to finish the Mobility Plan first. Staff requested and Council approved \$200,000 in the FY 25-26 budget to fund an update to this plan.

Summary:

A request for proposals was issued on August 25 for firms to submit proposals to complete this plan update. A pre-proposal conference was held on September 8, and the proposals are due September 23. Staff is aware of at least ten firms that have expressed some level of interest in this project. Staff would like to have this contract placed on the agenda for the October 14 Council meeting with a recommendation to be made after the workshop. If, for some reason, we are not able to complete the contract and price negotiation prior to the meeting, we will pull the item and come back in November.

Recommended Council Action:

Staff recommends approval.

Attachments:

1. 2025 Comprehensive Plan RFP



LEGAL NOTICE

REQUEST FOR PROPOSALS FOR CONSULTANT SERVICES

The Town of Smyrna will accept proposals on consultant services for the development of an update to the adopted Comprehensive Plan for the Town and the surrounding Urban Growth Boundary. Interested and qualified consulting firms shall submit sealed proposals in the format specified in the Request for Proposals no later than 10:00 a.m. September 23, 2025. Proposals will be publicly opened and read aloud in the Town Hall main conference room. There will be an optional pre-proposal conference September 8, 2025 at 11:00 a.m. in the Town Hall main conference room. Proposal documents may be obtained at Smyrna Town Hall during regular business hours by contacting Kevin Rigsby, AICP, Town Planner, at 459-9742 ext. 2137 or www.townofsmyrna.org. Proposals should be mailed or hand delivered to:

Sierra Lowry
Smyrna Town Hall
Sealed Proposal on Comprehensive Plan Update
September 23, 2025 at 10:00 a.m.
315 South Lowry Street
Smyrna, TN 37167

Verbal proposals or proposals received after the closing date will not be accepted. The Town of Smyrna reserves the right to reject any and all proposals, to waive technicalities or informalities and to accept any proposal deemed to be in the best interest of the Town.

The Town of Smyrna will not discriminate in the purchase of all goods and services on the basis of race, color, religion, sex, national origin, age, disability or any other lawfully protected classification.

SUBMITTED BY: SIERRA LOWRY
FINANCE DIRECTOR

TO BE RUN: AUGUST 25, 2025

REQUEST FOR PROPOSALS

SMYRNA COMPREHENSIVE PLAN UPDATE TOWN OF SMYRNA, RUTHERFORD COUNTY

1.0 CONSULTANT QUALIFICATIONS

The Town of Smyrna is seeking proposals from firms and/or individuals capable of professional planning services required to complete an update to the comprehensive plan adopted in 2021 in Smyrna. The proposing firm and/or individuals shall have demonstrated experience and qualifications in the following areas:

Land Use Planning
Comprehensive Planning
Zoning

The qualifications listed here should be considered the minimum training and experience to be demonstrated.

2.0 BACKGROUND

The purpose of this Request for Proposals (RFP) is to enter into a services contract to provide Consultant Services for the completion of an update to the Comprehensive Plan for Smyrna adopted in 2021. The Town of Smyrna is one of the fastest growing cities in one of the fastest growing regions of the country, the Nashville Metropolitan Statistical Area. The population has grown from 25,569 in 2000 to 39,974 in 2010 to 53,070 in 2020. It is estimated that the population today is approximately 60,000. With this growth has come the inevitable growing pains. The Town wishes to update the adopted vision for how and where the expected continued growth can occur.

3.0 SCOPE OF SERVICES

The Scope of Services as described below defines the nature and extent of services that shall be provided by the Consultant to the Town of Smyrna in the completion of the plan. This is intended to represent the minimum set of services to be provided and may be adjusted per the consultant's specific approach and/or understanding of key planning issues for the Town.

A. Population and Socioeconomic Trends/Forecasts.

The Consultant shall make projections of key population and economic trends which may impact future development patterns and land uses in the study area based on a 20-year planning period.

B. Infrastructure Capabilities

The Consultant shall inventory and evaluate current transportation and utility elements and their capability to handle future growth.

C. Land Use and Zoning Patterns

The Consultant shall inventory existing land use patterns, identify areas or sites of historical or cultural significance, existing zoning patterns, and any other land use or zoning features which may impact the formulation of the plan.

D. Natural Environment

The Consultant shall assess the impact of existing environmental characteristics on the development of the plan, including soils, steep slopes, wetlands, drainageways, flood prone areas, and other natural areas.

E. Draft Plan

The Consultant shall prepare an analysis of key environmental, infrastructure, and planning issues and develop a draft Comprehensive Plan which shall include the following, at minimum:

- Introduction
- Inventory and Analysis of Key Issues
- Statement of Goals and Objectives
- Future Land Use Plan
- Utility Infrastructure Plan
- Public Safety Plan
- Implementation Strategies

F. Public Involvement

The Consultant shall conduct the necessary public meetings to ensure adequate community input into the planning process. A significant element of the proposal shall be the consultant's plan for community involvement in the planning process.

G. Final Plan

The Consultant shall prepare a final Comprehensive Plan incorporating the conclusions and revisions to the Draft Plan as recommended during the planning process. The final report is to include all necessary data, analyses and mapping to accurately convey the justifications for the Plan's conclusions and guidelines to be used by the Town in implementing the Plan's recommendations. The Consultant shall provide the Town with all reports, plans, and products produced for this project.

4.0 RESOURCES AVAILABLE TO THE CONSULTANT

Pertinent information which may be available for these studies includes, and will be provided by the Town of Smyrna as needed, the following:

1. Base maps;
2. Existing land use plans, policies, and regulations, including zoning, which apply to the study area;
3. Previously completed studies and plans, including the 2025 Mobility Plan, which is the Major Thoroughfare Plan and Bicycle and Pedestrian Plan for the Town; the 2021 Comprehensive Plan; the 2019 Downtown Revitalization Plan; and the 2015 Lowry Street Revitalization Plan.
4. Additional plans, policies, and regulations for the Urban Growth Boundary area which is currently not in the town limits may be available from Rutherford County.

5.0 CONSULTANT RESPONSIBILITIES

It is the Consultant's responsibility to review the adequacy of available information, and to provide additional data as needed. Specifically, the Consultant is expected to provide:

1. An inventory of existing land use and infrastructure in the study area;
2. Proposals for improvements in the study area;
3. Opportunities for meaningful citizen participation;
4. A minimum of three presentations to the Town of Smyrna Municipal Planning Commission and Town of Smyrna Council. Additional presentations as necessary may be required.
5. All reports, plans, and products produced for this project.

6.0 INSTRUCTIONS TO OFFERORS

6.1 PREPARATION OF PROPOSAL

Consultants are encouraged to submit their initial proposals as comprehensively as possible because proposals may be ranked without interviews.

Erasures, interlineations, or other modifications in the proposals shall be initialed in original ink by the authorized person submitting the proposal.

Periods of time, stated as number of days, shall be calendar days.

It is the responsibility of all offerors to examine the entire Request for Proposals package and seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing an offer confers no right of withdrawal after due time and date.

6.2 REQUIRED INFORMATION

The following items shall be submitted with each offer/proposal. Failure to include ANY of these items may result in a proposal being rejected.

1. Cover Letter: A cover letter from a principal in the firm submitting the proposal on behalf of their company or consortium. This letter shall agree to all terms and conditions in this RFP, and specifically include the following certifications:
 - a. No employee of the Town of Smyrna nor any member of the Town of Smyrna Council exercising any functions or responsibilities with respect to this project shall during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in any proceeds thereof.
 - b. The offering firm is not party to an outstanding lawsuit against the Town of Smyrna.
2. Copies: the original and three (3) copies (4 total) of the offer/proposal shall be submitted in an 8 ½" x 11" format, typewritten.
3. Corrections, amendments, and clarifications: Signed copies of all corrections, amendments, and clarifications to this RFP issued by the Town of Smyrna.
4. References: A minimum of five (5) references, complete with address and telephone number, of the governmental entities for whom the contractor has performed similar work.
5. Offer/Proposal: The proposal shall be arranged in the following order and shall adhere to the length standards as specified:

- a. Scope of Work/Study Approach –

A detailed summary of the approach the firm would use in the development of the study. It must be based on the General Scope outlined in Section 3.0 above, but provide additional detail on the process to be used in developing the plan. The responsibilities of any subcontracting firms will be clearly noted. No more than six (6) pages, single sided (or 3 pages 2-sided), may be devoted to Scope of Work/Study Approach.

- b. Statement of Experience

Data shall be provided on the offering firm's background and experience in planning, especially in developing comprehensive and land use plans. Similar information should be provided for subcontracting firms. No more than three (3) pages, single sided (1.5 page 2-sided), should be provided on the prime contracting firm's experience. No more than two (2) pages, single-sided (one page 2-sided) should be provided for each subcontracting firm.

A Resume/Vita of each individual with a key analytic or management role in the study (including subcontractors), his or her location and his or her time commitment for this project must be identified. No more than two (2) pages, single-sided (one page 2-sided) may be devoted to each individual.

c. Time Schedule for Project Completion

A time line/bar chart illustrating completion time for various tasks in the Scope of Work shall be provided. This chart should provide sufficient detail for an evaluation of the proposed project schedule. It should note the proposed public meetings and the formal presentations noted in the Scope of Services. It is the Town of Smyrna's hope to finish this project within 8 to 12 months of the notice to proceed.

d. Other Projects

The proposal must indicate other studies currently underway or likely to be undertaken during the study period by those with a principal role in this study, their role and their commitment (as a percentage of available time) to those other studies.

e. Other Information

The offeror may provide such additional information as they may desire in the final section of their response to the Request for Proposals. This information may be used by the Proposal Review Committee as background material to support the proposal. It will not be used in the formal scoring of the proposal.

6.3 INQUIRIES

Any information which may have been released by the Town of Smyrna or its staff prior to the issuance of this Request for Proposals shall be disregarded.

Requests for clarification should be directed to the person whose name appears on the title page. Questions should be submitted in writing prior when time permits. Any correspondence related to the Request for Proposals should refer to the appropriate Request for Proposals number, page, and paragraph number. However, the offeror should not place the Request for Proposals number on the outside of an envelope containing questions, since such an envelope may be identified as a sealed proposal and not opened until after the official request for Proposals due date and time.

Clarifications will be made at a pre-submittal conference, so that they will be available to all firms in attendance.

6.4 VERIFICATION OF INFORMATION

The Town of Smyrna staff may verify all information submitted as part of a proposal. Submission of information deemed to be inaccurate may result in a determination of non-responsibility of the Contractor by the Town of Smyrna, and a rejection of the proposal.

6.5 PROSPECTIVE OFFERORS CONFERENCE

A prospective offerors conference will be held on the date and time and at the place designated on the legal notice of this document, unless amended in writing by the Town of Smyrna. Attendance is not mandatory. The purpose of this conference will be to clarify the contents of the Request for Proposals in order to prevent any misunderstandings. Any doubt as to the requirements of this Request for Proposals or any apparent omission or discrepancy should be presented at this conference. The appropriate action will then be taken as necessary, and the Town of Smyrna may issue a written amendment to the Request for Proposals. Oral statement or instructions will not constitute an amendment to this Request for Proposals.

6.6 EXCEPTIONS

Any desired exceptions to the Scope of Services or terms and conditions of this Request for Proposals must be included in the proposal and must address the specific Request for Proposals paragraph where a conflict exists. An offeror's preprinted terms and conditions WILL NOT be considered as exceptions by the Town of Smyrna.

6.7 PROPOSAL OPENING

Proposals shall be received on the date and time and at the place designated on the legal notice of this document, unless amended in writing by the Town of Smyrna. All offers and any modifications and other information received in response to this Request for Proposals shall be shown only to authorized personnel having a legitimate interest in them or persons assisting the Town of Smyrna in the evaluation. A decision will be made within 30 days of the date received and publicly announced. After a contract award, the successful proposal and evaluation document shall be open for public inspection in accordance with Offeror's Rights.

6.8 LATE PROPOSALS

Late proposals will not be considered. Any offeror submitting a late proposal shall be so notified.

6.9 WITHDRAWAL OF PROPOSAL

At any time prior to the specified proposal due time and date an offeror (or designated representative) may withdraw a proposal.

6.10 AMENDMENT OF PROPOSAL

Receipt of a Request for Proposals Amendment or Clarification must be acknowledged by signing and returning the document to the Town of Smyrna with the proposal.

7.0 EVALUATION OF PROPOSALS

7.1 GENERAL

The proposals will be evaluated by a committee selected from Town of Smyrna staff. Award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the Town of Smyrna, taking into consideration the evaluation factors set forth below.

CRITERIA FOR PROPOSAL EVALUATION

Professional firms shall be evaluated on the following criteria. Each proposal will be ranked on a 1 to 10 scale for each of the evaluation criteria and multiplied by the weight factor. The scores on each factor will then be added to create the total score. The maximum score is 100.

WEIGHT	QUALIFICATION	STANDARD
3.0	Scope/Approach	Does the proposal reflect a thorough, thoughtful, creative approach to the task? Is there evidence of a clear understanding of the role of the requirements for preparing financially constrained plans?
2.5	Assigned Personnel	Do the persons who will be working on the project have the necessary skills?
2.5	Availability	Can the work be completed by the deadline? Is the project team available to attend meetings as required by the Scope of Services? Does the lead firm or its subs have other contracts that may cause a problem in completion?

2.0	Team Experience & Capabilities	Do the prime contractor and subs have a demonstrated working relationship? Are sufficient staff available to support key project personnel?
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7.2 PERSONAL INTERVIEWS

Based upon the evaluation of the written proposals, the offerors will be ranked in order of the ability to perform the work. The top-ranked firms may be interviewed by the evaluation committee. If interviews are conducted, the points will then be re-computed using the same criteria as stated above.

7.3 REFERENCE EVALUATION

Town of Smyrna staff will check references of all firms being interviewed using the following criteria:

CRITERION	STANDARD
Overall Performance	Would you hire this Professional/Firm again? Did they have the skills required by this project?
Timetable	Was the original Scope of Work completed within the specified time? Were deadlines met in a timely manner?
Completeness	Was the professional responsive to client needs? Did the professional anticipate problems? Were problems solved quickly and effectively?
Budget	Was the original Scope of Work completed within the project budget?
Job Knowledge	Was the firm fully versed in state-of-the-art thinking in the project area? Was there a good understanding of the interrelated nature of land use and transportation planning?
Questions	Any questions raised at the review committee meeting concerning the proposal.

7.4 CONSULTANT SELECTION

The Town of Smyrna staff shall provide a recommendation to the Town Council from the list of proposing firms. The Town Council shall make the final decision.

7.5 CONTRACT NEGOTIATION

Based on the information submitted and internal budgetary considerations, the Town of Smyrna may request adjustment of the submitted Scope of Work, if required. If negotiations cannot produce a contract, the Town Council can declare an impasse and open negotiations with the second ranked firm. If an agreement cannot be reached with the second ranked firm, contract negotiations are begun with the third ranked firm. This process continues until all interviewed firms are exhausted.

7.6 AWARD OF CONTRACT

Notwithstanding any other provision of this Request for Proposals, the Town of Smyrna expressly reserves the right to:

1. Waive any immaterial defect or informality, or
2. Reject any or all proposals, or portions thereof, or
3. Reissue a Request for Proposals, or
4. Modify the number and types of data to be collected to meet budgetary limitations, or
5. Cancel the solicitation.

7.7 OFFER AND ACCEPTANCE PERIOD

A response to a Request for Proposals is an offer to contract with the Town of Smyrna based upon the terms, conditions, scope of services, and specifications contained in this Request for Proposals. Proposals are an irrevocable offer for ninety (90) days after the proposal opening time and date.

7.8 OFFEROR'S RIGHTS

All materials submitted in response to this RFP become the property of the Town of Smyrna upon delivery to the Town and are to be appended to any formal documentation which would further define or expand the contractual relationship between the Town of Smyrna and the offeror.

8.0 MAJOR CONTRACT PROVISIONS

This section indicates the major terms and conditions a prospective offeror should be aware of in the development of a proposal. This list is not “all-inclusive” but contains the major provisions that might affect the development of a proposal.

8.1 PAYMENT

Payment will be made only after submission of proper invoices to the Town of Smyrna. The contract for this project is to be a fixed price type. Billing shall represent all work completed prior to the invoice date less a 10 percent retainage to be paid upon completion and acceptance of the project. The invoice shall identify the description work performed

at the contract rates, and individuals performing the services. Payment of any invoice shall not preclude the Town of Smyrna from making claim for adjustment on any service found not to have been in accordance with the contract.

8.2 TAXES

The Town of Smyrna is exempt from Federal Excise Tax, including the Federal Transportation Tax. Exemption certificates will be furnished upon request.

8.3 CONFLICT OF INTEREST

The Town of Smyrna reserves the right at any time to preclude offering a work assignment to a Contractor should a real, apparent or potential conflict of interest exist as determined by the Town of Smyrna.

8.4 PERFORMANCE STANDARDS

The Town of Smyrna relies upon the Contractor to provide services in accordance with a contract and the performance standards set for each work assignment. The Contractor agrees that time is of the essence, and that contractual commitments shall be met.

8.5 CANCELLATION

Failure to perform any or all of the terms, promises, and conditions of the contract, including the specifications, may be deemed a substantial breach thereof. Default may be declared any time if, in the opinion of the Town of Smyrna:

1. The Contractor fails to perform adequately the services required in the contract;
2. The Contractor attempts to impose on the Town of Smyrna service or workmanship which is an unacceptable quality;
3. The Contractor fails to make progress in the performance of the requirements of the contract, and/or gives the Town of Smyrna a positive indication that the Contractor will not or cannot perform to the requirements of the contract.

After notice of cancellation, the Contractor agrees to perform the requirements of the contract up to and including the date of cancellation, as though no cancellation had been made, and, notwithstanding other legal remedies which may be available to the Town of Smyrna because of the cancellation, agrees to indemnify the Town of Smyrna for its cost in procuring the services of a new Contractor.

The Town of Smyrna shall give the Contractor written notice of default. After receipt of such notice, the Contractor shall have five (5) days in which to cure such failure. In the event of the Contractor does not cure such failure, the Town of Smyrna may terminate the whole or any part of the contract without further consideration by so notifying the Contractor in writing.

8.6 CONTRACT TERMINATION

The Town of Smyrna may terminate the contract, in whole or in part, by written notice when it is deemed to be in the best interest of the Town of Smyrna. If the contract is so terminated, the Contractor will be compensated for work performed up to the time of the termination notification. In no event shall payment for such costs exceed the current contract price.

8.7 AVAILABILITY OF FUNDS

If moneys are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the Contractor may only be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of services delivered under the contract or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations available for such purposes.

8.8 CONFIDENTIALITY

1. The Contractor acknowledges that information disclosed to it concerning governmental operations during performance of a contract is confidential and/or proprietary to the Town of Smyrna and shall not be disclosed to third parties without the prior written consent of the Town of Smyrna.
2. The Contractor shall establish and maintain procedures and controls for the purpose of assuring that information in its records or obtained from the Town of Smyrna in carrying out its functions under the contract shall not be used in any manner inconsistent with this REQUEST FOR PROPOSALS nor disclosed to any person or entity without prior approval of the Town of Smyrna. The Town of Smyrna reserves the right to review such procedures to ensure acceptability. Persons requesting such information should be referred to the Town of Smyrna.
3. All proprietary information and all copies thereof shall be returned to the Town of Smyrna upon completion of the work for which it was obtained or developed.

8.9 REMOVAL OF CONTRACTOR'S EMPLOYEES

The Contractor agrees to utilize only experienced, responsible, and capable people in the performance of the work. The Town of Smyrna may require that the Contractor remove from the job project employees who endanger persons or property or whose continued employment on this study is inconsistent with the interest of the Town of Smyrna.

8.10 CONTRACT TERM

The term of any resultant contract shall commence on the date of notice to proceed, unless terminated, canceled, or extended as otherwise provided herein.

8.11 CONTRACT EXTENSION

The Town of Smyrna reserves the right to unilaterally extend the period of any resultant contract for thirty-one (31) days beyond the stated expiration date. In addition, by mutual written agreement, any resultant contract may be extended for supplemental periods up to a maximum of one hundred twenty (120) days.

8.12 INSURANCE

Without limiting its liability, the selected consultant shall maintain, during the life of the contract; Worker's Compensation Insurance, Comprehensive General Liability Insurance, Automobile Liability Insurance, and Consultant's Professional Liability Insurance. As part of the contract developed from this RFP, the consultant shall include a "Certificate of Insurance" as evidence of this coverage. The amounts of coverage shall be negotiated as part of the contract but shall generally be sufficient to protect the Town of Smyrna from liability as a result of this study. This coverage may not be canceled, reduced, or allowed to lapse without written notice to the Town of Smyrna.

8.13 ATTACHMENTS

The proposal shall contain an executed and notarized copy of Attachment A – Fair Employment Practice Statement and Attachment B – Contingent Fees Statement. The Original shall be included with the Original Proposal, and copies shall be included in all 3 copies of the proposal.

Attachment A

FAIR EMPLOYMENT PRACTICES STATEMENT

AFFIDAVIT

STATE OF _____)

COUNTY OF _____)

After being first duly sworn according to law, the undersigned (Affiant) states that he/she is the

_____ of

(Offeror) and that by its employment policy, standards and practices the Offeror does not subscribe to any

personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off

of any individual due to his/her race, creed, color, national origin, age, sex, or handicapping condition.

Further Affiant sayeth not.

By: _____

Title: _____

Address: _____

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

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

Attachment B
CONTINGENT FEES STATEMENT
AFFIDAVIT

STATE OF _____)

COUNTY OF _____)

In accordance with the State of Tennessee Procurement Code, it is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a government contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

After being first duly sworn according to law, the undersigned (Affiant) states that he/she is the

_____ of
_____ (Offeror) and that the Offeror has not
retained anyone in violation of the foregoing.

Further Affiant say not.

By: _____

Title: _____

Address: _____

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

Notary Public

My Commission Expires: _____



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 13.
Department: Planning
Date: September 25, 2025**

Subject:

Consideration of an Ordinance amending the text of the Smyrna Municipal Zoning Ordinance Article IV, Section 4.075, and Article V, Sections 5.051.1, 5.051.2, 5.051.3, 5.051.4, 5.051.5, and 5.051.6 regarding the required minimum building setbacks for detached accessory structures. Second Reading.

Fiscal Impact:

Contract Type:

Contract Term (if applicable):

Background:

Staff has discussed a potential change to the required minimum building setbacks for detached accessory structures over the last few months. We brought this as a discussion item at the last joint Planning Commission/Town Council worksession, and the discussion at the meeting was positive and staff was asked to bring it forward for consideration.

Summary:

Currently, detached accessory structures are allowed in all residential zoning districts but must be located in the side or rear yard and must be located at least 8 feet from any side or rear property line. The proposed amendments would change the required minimum distance to 5 feet. These amendments would also clarify that in any planned development (PUD) where residential uses are allowed on individual lots, the same requirement would apply. Staff has been enforcing the same requirement of 8 feet within PUDs and PRDs, but technically the Zoning Ordinance is silent on this issue. This would clarify that and treat all residential lots the same with regard to detached accessory structure setbacks. These amendments would make the Town's requirement consistent with the requirements of the City of Murfreesboro and Rutherford County.

The proposed amendments are attached with the language to be removed struck-through and the new language highlighted in yellow. The Planning Commission

reviewed these amendments and recommended approval 7 for, 0 against.

Recommended Council Action:

Staff recommends approval.

Attachments:

1. Ordinance #25-29-Municipal Zoning Ordinance- Minimum Setbacks
2. ZOA September 2025 Detached Accessory Structure Setback Requirements

TOWN OF SMYRNA, TENNESSEE
ORDINANCE NO. 25-29

AN ORDINANCE relative to the amendment of Town of Smyrna Municipal Zoning Ordinance to amend Article IV and Article V regarding minimum building setbacks for accessory structures and Article V regarding adding Tourist Homes in the C-4 District.

WHEREAS, in accordance with the Charter of the Town of Smyrna, Tennessee, Article 2, Section 2.01(22), Town Council shall have the power to define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers; and

WHEREAS, in accordance with the Charter of the Town of Smyrna, Tennessee, Article 2, Section 2.01(32), Town Council shall have the power to Plan for the orderly development of the community, including economic, physical, educational and cultural aspects, and to institute programs to effectuate such plans; and

WHEREAS, in accordance with the Charter of the Town of Smyrna, Tennessee, Article 2, Section 2.01(35), Town Council shall have the power to exercise and have all other powers, functions, rights, privileges and immunities granted by general law or necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the town and its inhabitants, and all implied powers necessary to carry into execution all powers granted in the Charter of the Town of Smyrna, Tennessee; and

WHEREAS, the Planning Commission has recommended this amendment to the Town of Smyrna Zoning Ordinance based upon its review; and

WHEREAS, the amendment is in agreement with the general plan for the Town; and

WHEREAS, it has been determined that the legal purposes for which zoning exists are not breached by the amendment; and

WHEREAS, it has been determined that there will not be an adverse effect upon any adjoining property owners and/or any such adverse effect is justified by the overwhelming public good or welfare; and

WHEREAS, it has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SMYRNA:

Section 1. That the Town of Smyrna Municipal Zoning Ordinance, Article IV and

Article V regarding minimum building setbacks for accessory structures and Article V regarding adding Tourist Homes in the C-4 District, be and hereby is amended as specified in Exhibit “A” attached hereto and incorporated herein by reference as if set forth at length verbatim, the health and welfare of the Town of Smyrna requiring it.

Section 2. This ordinance shall take effect immediately upon its adoption on second and final reading, the public health and welfare of the Town of Smyrna requiring it.

PASSED on first reading by the Town Council the ____ day of _____, 2025.

PASSED on second reading by the Town Council the ____ day of _____, 2025.

TOWN OF SMYRNA, TENNESSEE

MARY ESTHER REED, Mayor

ATTEST:

AMBER HOBBS, Town Clerk

ARTICLE V - ZONING DISTRICTS

5.051.1 R-1, Low-Density Residential District.

B. Uses Permitted:

In the R-1, Low-Density Residential District, the following uses and accessory uses are permitted:

1. Single-family detached dwelling.
2. Prefabricated dwelling.
3. Customary accessory buildings or structures, including private garages and noncommercial workshops, provided they are located in the side or rear yard and not closer than **five (5)** ~~eight (8)~~ feet to any lot line.
4. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.030.
5. Agricultural use.
6. Essential Public Transport, Communication and Utility Services.

5.051.2 R-2, Low-Density Residential District.

B. Uses Permitted:

In the R-2, Low-Density Residential District, the following uses and their accessory uses are permitted:

1. Single family detached dwelling.
2. Prefabricated dwelling.
3. Customary accessory buildings or structures, including private garages and noncommercial workshops, provided they are located in the side or rear yard and not closer than **five (5)** ~~eight (8)~~ feet to any lot line.
4. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.030.
5. Essential Public Transport, Communication and Utility Services.

5.051.3 R-3, Medium Density Residential.

B. Uses Permitted:

In the R-3, Medium Density Residential District, the following uses and their accessory uses are permitted:

1. Single family dwelling.
2. Prefabricated dwelling.
3. Customary accessory buildings or structures, including private garages and noncommercial workshops, provided they are located in the side or rear yard and not closer than **five (5)** ~~eight (8)~~ feet to any lot line.
4. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.030.
5. Essential Public Transport, Communication and Utility Services.

5.051.4 R-4, Medium-Density Residential District.

B. Uses Permitted:

In the R-4, Medium-Density Residential District, the following uses and their accessory uses are permitted:

1. Duplex dwelling.
2. Zero-lot line dwelling.
3. Single-family dwelling.
4. Prefabricated dwelling.
5. Board and rooming houses.
6. Customary accessory buildings including private garages and non-commercial workshops provided they are located in the side or rear yard and not closer than **five (5)** ~~eight (8)~~ feet to any lot line.
7. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.040.
8. Essential Public Transport, Communication, Government, and Utility Services

5.051.5 R-5, High-Density Residential District.

B. Uses Permitted:

In the R-5, High-Density Residential District, the following uses and their accessory uses are permitted:

1. Mobile homes on single lots.
2. Customary accessory buildings including private garages and non-commercial workshops, provided they are located in the side or rear yard and not closer than **five (5)** ~~eight (8)~~ feet to any lot line.
3. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.040.
4. Essential Public Transport, Communication, Government, and Utility Services.

5.051.6 R-6, High-Density Residential District.

B. Uses Permitted:

In the R-6 High-Density residential District, the following uses and their accessory uses are permitted:

1. Multi-family dwelling.
2. Board and rooming houses.
3. Customary accessory buildings including private garages and non-commercial workshops provided they are located in the side or rear yard and not closer than **five (5)** ~~eight (8)~~ feet to any lot lines.
4. Customary incidental home occupations as regulated in ARTICLE IV, SECTION 4.040
5. Essential Public Transport, Communications, Government, and Utility Service.

ARTICLE IV - SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS

4.075 **Building Spacing.**

- A. Minimum Building Spacing: Space between buildings shall comply with the fire code adopted by the Town Council.
- B. Minimum Distance to Side and Rear Property Line: The minimum distance between the building and the side and/or rear property shall comply with the fire code adopted by the Town Council.
- C. Perimeter requirements. If topographical or other barriers do not provide adequate privacy for existing uses adjacent to the planned development, the Planning Commission may impose either of the following requirements:
 - 1. Structures located on the perimeter of the planned development must be set back by a distance sufficient to protect the privacy and amenity of adjacent existing uses, if applicable.
 - 2. Structures located on the perimeter of the planned development must be permanently screened in a manner which is sufficient to protect the privacy and amenity of adjacent existing uses. Such screening should be suitably landscaped with grass and/or ground cover, shrubs and trees. (See definition of buffer strip).
- D. Additional requirements. If a side setback is requested in any planned development that is less than 10 (ten) feet, the construction materials required for the sides of any structure subject to that building setback shall be brick, stone, concrete siding, or other nonflammable masonry material. HVAC units for parcels subject to a side setback of less than 10 (ten) feet shall be located in the rear of the building or on the roof, if applicable.
- E. Within any planned development that allows for a residential use on an individual lot, customary accessory buildings including private garages and non-commercial workshops are allowed provided they are located in the side or rear yard and not closer than five (5) feet to any lot lines.



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 14.
Department: Planning
Date: September 25, 2025**

Subject:

Consideration of an Ordinance amending the text of the Smyrna Municipal Zoning Ordinance Article V, Section 5.052.4 relative to the addition of the use Tourist Home to the Uses Allowed by Right in the C-4 Neighborhood Service Business District. Second Reading.

Fiscal Impact:

Contract Type:

Contract Term (if applicable):

Background:

Staff has discussed a potential change to add Tourist Home to the Uses Allowed by Right in the C-4 district off and on for several months. We brought this as a discussion item at the last joint Planning Commission/Town Council worksession, and the discussion at the meeting was positive and staff was asked to bring it forward for consideration.

Summary:

This proposed amendment would add the use of Tourist Home to the Uses Allowed by Right in the C-4 Neighborhood Service Business District. Currently, this use is allowed within the C-1, C-2, C-3, C-5, and A-1 districts under the wider banner of transient habitation. The proposed amendment would add this specific use as a use allowed by right within C-4. I have attached the proposed amendment, as well as the definition of tourist home as defined by the Zoning Ordinance for everyone's information. The new language is highlighted in yellow.

The Planning Commission reviewed this amendment and recommended approval 6 for, 1 against.

Recommended Council Action:

Staff recommends approval.

Attachments:

1. Ordinance #25-29-Municipal Zoning Ordinance-Tourist Homes
2. ZOA Tourist Homes in C-4 September 2025

TOWN OF SMYRNA, TENNESSEE
ORDINANCE NO. 25-29

AN ORDINANCE relative to the amendment of Town of Smyrna Municipal Zoning Ordinance to amend Article IV and Article V regarding minimum building setbacks for accessory structures and Article V regarding adding Tourist Homes in the C-4 District.

WHEREAS, in accordance with the Charter of the Town of Smyrna, Tennessee, Article 2, Section 2.01(22), Town Council shall have the power to define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers; and

WHEREAS, in accordance with the Charter of the Town of Smyrna, Tennessee, Article 2, Section 2.01(32), Town Council shall have the power to Plan for the orderly development of the community, including economic, physical, educational and cultural aspects, and to institute programs to effectuate such plans; and

WHEREAS, in accordance with the Charter of the Town of Smyrna, Tennessee, Article 2, Section 2.01(35), Town Council shall have the power to exercise and have all other powers, functions, rights, privileges and immunities granted by general law or necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the town and its inhabitants, and all implied powers necessary to carry into execution all powers granted in the Charter of the Town of Smyrna, Tennessee; and

WHEREAS, the Planning Commission has recommended this amendment to the Town of Smyrna Zoning Ordinance based upon its review; and

WHEREAS, the amendment is in agreement with the general plan for the Town; and

WHEREAS, it has been determined that the legal purposes for which zoning exists are not breached by the amendment; and

WHEREAS, it has been determined that there will not be an adverse effect upon any adjoining property owners and/or any such adverse effect is justified by the overwhelming public good or welfare; and

WHEREAS, it has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SMYRNA:

Section 1. That the Town of Smyrna Municipal Zoning Ordinance, Article IV and

Article V regarding minimum building setbacks for accessory structures and Article V regarding adding Tourist Homes in the C-4 District, be and hereby is amended as specified in Exhibit “A” attached hereto and incorporated herein by reference as if set forth at length verbatim, the health and welfare of the Town of Smyrna requiring it.

Section 2. This ordinance shall take effect immediately upon its adoption on second and final reading, the public health and welfare of the Town of Smyrna requiring it.

PASSED on first reading by the Town Council the ____ day of _____, 2025.

PASSED on second reading by the Town Council the ____ day of _____, 2025.

TOWN OF SMYRNA, TENNESSEE

MARY ESTHER REED, Mayor

ATTEST:

AMBER HOBBS, Town Clerk

ARTICLE V - ZONING DISTRICTS

5.052.4 C-4, Neighborhood Service Business District.

B. Uses Permitted:

In the C-4, Neighborhood Service Business District, the following uses and their accessory uses are permitted:

1. Community Assembly.
2. Cultural and Recreational Services.
3. General Business Services.
4. Food and Beverage Service.
5. Professional Services – Medical.
6. Professional Services – Non-medical.
7. Financial, Insurance, Real Estate and Consultative Services, except alternative financial services.
8. General Personal Services.
9. Convenience commercial except for convenience markets where gas may be sold.
10. Antique and Second-Hand Merchandise Stores.
11. Book and Stationary Stores.
12. Florists.
13. Gift Shops.
14. Clothing and Accessory Stores.
15. Hobby, Toy, and Game Stores.
16. Religious Facilities.
17. Signs as regulated by Town ordinance.

18. Essential public transport, communication, and utility services.

19. Tourist home.

ARTICLE II - DEFINITIONS

2.020 Definitions.

TOURIST HOME: A residential building where lodging is furnished to transients for compensation, and containing not more than five (5) sleeping rooms for such transients.



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 15.
Department: Police Department
Date: September 25, 2025**

Subject:

Consideration and approval of new and revised Smyrna Police Department policies: "Unmanned Aircraft Systems (Drones)" Policy Number: 2-59, "Appearance, Uniform and Equipment" Policy Number: 3-7 and "Procedures for Handling the Mentally Ill" Policy Number: 2-32.

Fiscal Impact:

Contract Type:

Contract Term (if applicable):

N/A

Background:

UAS Drones policy

We did not have an active UAS (Drone) policy in place. In order to ensure we are operating any UAS (drone) properly in accordance with the FAA, we needed an established policy that specifically addressed usage, training and deployment of UAS (Drones) by our Department.

Appearance policy

As we proceed through the CALEA process, we will periodically need to update established policies to fall within CALEA guidelines and best practices. Supervisors and Administration had identified an issue with Officers wearing fixed blade knives on their person while on duty. I tasked our Professional Standards Division with identifying other Department's policy regarding carrying knives and what best practices were with CALEA. Professional Standards made revisions to our present policy that addressed what type of knife could be carried and what usage was allowable.

Procedures for handling the Mentally Ill

The revision to this policy became necessary after meeting with Rutherford County EMA (Ambulance service) personnel. Our previous policy required EMA personnel to be the primary when someone dealing with a mental health crisis needed to be transported.

EMA ambulance service supervision made us aware that they would no longer be the

primary on these transports unless there was a medical reason. Presently the TCA (Tennessee Code Annotated) aligns with EMA protocol and now with our revised policy.

Summary:

The Unmanned Aircraft System (Drone) policy is new. This policy details the department's operating procedure for deploying drones and how they are used. As you will see by the policy, there are strict guidelines that must be followed when operating drones. These guidelines are dictated by the FAA.

Revisions have been made to the Appearance, Uniform and Equipment policy to address the use of knives while on duty.

Revisions to the policy regarding Procedures for Handling the Mentally Ill concern when the Smyrna Police Department will transport a mental health consumer and when EMS will transport someone in distress due a mental health issue.

The revisions for both of these policies are highlighted.

Recommended Council Action:

Staff recommends approval.

Attachments:

1. Drone Policy (New)
2. 2-32 Procedures for Handling the Mentally Ill- Revised 9/11
3. 3-7 Appearance, Uniforms and Equipment (2)- Revised 9/11

Smyrna Police Department

Unmanned Aircraft Systems

Policy Number: 2-59

CALEA 41.1.3

Authority: Chief of Police



Amends/Supersedes:

Date of Inception: 06/02/2025

PURPOSE

This policy is intended to provide personnel who are assigned responsibilities associated with the deployment and use of small unmanned aircraft systems (UAS) with instructions on when and how this technology and the information it provides may be used for law enforcement and public safety purposes in accordance with law.

POLICY

Only duly trained and authorized personnel may use/deploy UAS when such use is appropriate in the performance of their official duties. Further, all UAS deployments shall conform to departmental policy and applicable law as will the collection and use of any audio/video recordings or other data originating from or generated by the UAS. All UAS training shall be documented and filed with the General Departmental Instructor.

This policy does not replace the rules and regulations of the Federal Aviation Administration (FAA) that control each and every UAS deployment and help ensure the safe operation of all aircraft. This policy is only intended to complement the direction provided by the FAA and the manufacturer's approved flight manual. In the event of a conflict between this policy and the aircraft manufacturer's approved flight manual, consideration should be given to the flight manual.

DEFINITIONS

Certificate of Waiver or Authorization (COA): A COA is an authorization issued by the FAA to a public operator for a specific UA activity. After a complete application is submitted, the FAA conducts a comprehensive operational, technical, and flight review. If necessary, provisions or limitations may be imposed as part of the approval to ensure the sUAS can operate safely within the National Airspace System.

Digital Multimedia Evidence (DME): Digital recordings of images, sounds, and associated data captured by the deployment of a UAS.

Federal Aviation Administration (FAA): The agency of the U.S. Department of Transportation that controls and regulates the use of airspace.

Federal Aviation Regulations (FAR): The rules issued by the FAA.

Part 107: The section of the FAR that addresses commercial (non-hobbyist) UAS operations.

Pilot in Command (PIC): The person having final authority and responsibility for the operation and safety of the flight. The PIC must have been designated as such before or during the flight and must hold the appropriate category, class, and type rating (if appropriate) for the conduct of the flight [CALEA 41.1.3a, b].

Small Unmanned Aircraft (sUA): An aircraft that is intended to navigate in the air without an onboard pilot. This aircraft is commonly referred to as an "Unmanned Aerial Vehicle (UAV)", "Remotely Piloted Aircraft (RPA)", "Remotely Operated Vehicle (ROV)", or "Drone."

Unmanned Aircraft Systems (UAS): Systems utilized weighing less than 55 pounds and are consistent with Federal Aviation Administration (FAA) regulations governing model aircraft.

UAS Coordinator: A person designated by the chief of police who is responsible for deployment and maintenance of the UAS. This supervisor will maintain all records associated with the use/deployment of the UAS and all records and certifications required by the Federal Aviation Administration (FAA).

UAS Flight Crewmember: A pilot, visual observer, payload operator or other person assigned duties associated with the operation of a UAS for the purpose of flight during a mission or training exercise.

UAS Pilot: A trained person exercising control over an unmanned aircraft during flight.

Visual Line of Sight (VLOS): Within sight of the observer, using only human vision unaided by any device other than corrective lenses.

Visual Observer (VO): A trained person serving as an assistant to the UAS pilot who maintains visual contact with the UAS.

I. UAS Personnel Selection and Retention

- A. Vacancies** - As vacancies occur requiring the addition of UAS personnel, written notice will be posted for a period of not less than one week notifying all officers of the requirements of the position and application process.
- B. Applications** - Any person who desires to apply may do so by making a written request directly to the UAS Coordinator. Members of the department who are on disciplinary probation, restricted duty service, or suspension from duty shall not be entitled to apply for a position with the team until such time as they are removed from such status unless specifically approved by the Chief of Police. Additionally, all applicants must have successfully completed at least one year of sworn law enforcement service with the Smyrna Police Department unless specifically approved by the Chief of Police based upon previous relevant experience.

Personnel File Review - Upon application, the applicant's personnel file will be reviewed with special attention directed to the applicant's previous background check, disciplinary actions,

commendations, firearms qualification scores, medical leave record, use of leave time and ratings on yearly performance evaluations.

C. Interview - All applicants successfully completing the previous requirements will be scheduled to attend an interview as needed to further the selection process. The interview board will include the UAS Coordinator and at least two additional supervisors or command staff members. Any current UAS personnel who attend the interview will be eligible to interview and vote on the applicant. The results of the personnel file review will be presented to the interviewing team members prior to each applicant's interview.

D. Appointment -

1. The UAS Coordinator shall have the sole authority to recommend an applicant's addition. The Chief of Police or their designee will have final authority to appoint an officer to this extra function [CALEA 41.1.3a].
2. All appointed persons shall serve a period of six months on appointment probation. During this time, the probationary appointee shall successfully complete initial training specified in this policy.
3. The UAS Coordinator shall have the authority to recommend termination of any member's appointment to this function at any time. The Chief of Police or their designee shall render the final decision. This decision shall not be subject to review, nor shall it be subject to departmental grievance procedures.

E. Roles and Responsibilities

1. **UAS Coordinator**- Appointed at the direction of the Chief of Police or their designee, the UAS Coordinator is directly responsible for UAS operations. This person is not required to be a pilot or VO but may hold any or all of those positions. The UAS Coordinator shall:
 - a) Ensure that all UAS operations are conducted safely and in compliance with FAA requirements.
 - b) Maintain all training, flight and maintenance records for each pilot and VO.
 - c) Serve as that primary point of contact with the FAA and monitor regulation changes.
 - d) Monitor and update the waivers as necessary.
2. **Pilot**- The UAS pilot's primary duty is the safe and effective operation of the UAS in accordance with FAA regulations, agency procedures, and the manufacturer's approved flight manual. Pilots operating under Part 107 must be certified accordingly [CALEA 41.1.3b]. Pilots have the final authority and responsibility for the safety and operation of all flights they undertake. A pilot will also be designated as a maintainer for the UAS [CALEA 41.1.3c].

Pilots/maintainers must:

- a) Attend mandatory training.
 - b) Demonstrate proficiency operating the UAS to the UAS Coordinator prior to operating outside of training.
 - c) Maintain the UAS and comply with all maintenance requirements and warnings from the manufacturer, the FAA and the department.
 - d) Document all maintenance, test flights and requested flights.
 - e) Configure aircraft for flight operations based on operational requirements.
3. **Visual Observer-** The use of a VO is not required by the FAA during Part 107 operations. Any individual can be trained to function as a VO. Pilots may serve as a VO without additional training. The following considerations apply to the VO function.
- a) Each VO must have been provided with sufficient training to communicate clearly to the pilot any turning instructions required to stay clear of conflicting traffic.
 - b) The VO is the primary operator of radio communications with patrol units as well as functioning as an observer for anything that may affect the pilot's primary duty. They advise the pilot of any imminent hazards including other aircraft, terrain, personnel, obstructions, and adverse weather conditions.
 - c) When the UAS is configured for two-person operation, the VO's primary duty is to operate the UAS equipment including cameras and FLIR.

F. Training

- 1. Before performing flight duties, pilots must have completed UAS training and obtain a FAA Part 107 certificate [CALEA 41.1.3b].
- 2. Before performing flight duties (other than training), pilots must have demonstrated proficiency operating the specific UAS.
- 3. To act as PIC of a mission, the pilot must be current on the aircraft type to be used. Currency is maintained by having performed at least three documented flight events (mission or training) within the previous 90 days. If currency is not maintained, the pilot will attend a training session prior to performing any flights outside of training [CALEA 41.1.3a, b].
- 4. Each VO must be provided sufficient training to communicate clearly to the pilot any turning instructions required to stay clear of conflicting traffic. VOs will receive training on rules and responsibilities described in:
 - o 14CFR91.111, Operating Near Other Aircraft.
 - o 14CFR91.113, Right-of-Way Rules.
 - o 14CFR91.155, Basic VFR Weather Minimums, cloud clearance, in-flight visibility.

o 14CFR91.17, Alcohol or Drugs. There are no flight currency requirements for a VO.

5. Refresher training will be conducted on an annual basis and may cover the following topics [CALEA 41.1.3b]: Aeromedical, Airspace Restrictions, Weather, FAA Regulations, Specifics of any Waivers, Aircraft Operations, Law Enforcement Specific Operations, Emergency Procedure, UAS Safety, UAS Maintenance and New Equipment.

II. PROCEDURES

A. Applicable State and Federal Regulations [CALEA 41.1.3a]

Operations will be conducted under the FAA Part 107 with a certificate(s) of waiver when required or under a FAA Certificate of Authorization. The Smyrna Police Department performs governmental functions of a political subdivision of the State of Tennessee. UAS owned by the police department are considered public aircraft as defined in Title 49 United States Code 40125. Qualified missions may be conducted as PAO. Each flight will be conducted under one (and only one) of these authorizing conditions. The PIC is solely responsible for determining the controlling factors for each flight and complying with the appropriate regulations and procedures.

B. Search Parameters

According to the Tennessee Code Annotated (TCA) Freedom from Unwarranted Surveillance (39-13-609), the use of a UAS to gather evidence constitutes a search. UAS shall not be used to conduct aerial surveillance in any criminal investigation unless:

1. Use is specifically authorized in a search warrant signed by a judge.
2. Used to counter a high risk of a terrorist attack by a specific individual or organization if the United States secretary of homeland security determines that credible intelligence indicates that there is such a risk.
3. Used to prevent imminent danger to life where there is reasonable suspicion that, under particular circumstances, immediate action is needed.
4. Used to provide continuous aerial coverage when law enforcement is searching for a fugitive or escapee or is monitoring a hostage situation.
5. Used to provide more expansive aerial coverage when deployed for the purpose of searching for a missing person.
6. Used to investigate motor vehicle accidents that occur within the traffic right-of-way or an area open to the public.
7. Used where a criminal offense has occurred on publicly owned property, as defined in TCA 6-54-127(b), or where the law enforcement agency has reasonable suspicion that a criminal offense has occurred on such property.
8. Used at the scene of a fire investigation.

9. The use of Forward Looking Infrared (FLIR) does not in and of itself does not constitute a search. However, any information gathered from such technology in regards to the interior of a home or private residence will be considered a search (Kyllo v. U.S. (533 U.S. 27 (2001))), and will require the issuance of a search warrant.

C. Requests

1. Requests for UAS support must be approved by a shift supervisor or higher departmental authority.
2. Once a UAS request has been approved, the shift supervisor should first contact any pilot who is already on duty. If none are working, an on-call pilot should be contacted.
3. It is the responsibility of the pilot contacted to make the final decision regarding deployment, based on the nature of the incident, environmental conditions, available resources and FAA regulations. If a supervisor disagrees with a pilot's decision, the UAS Coordinator should be contacted for a final decision.
4. Pilots and Visual Observers shall wear clothing that easily identifies them as police department personnel.

D. Equipment- In order to be ready for service, each UAS will include: [CALEA 41.1.3d]

1. A multipurpose camera affixed to the UAS.
2. A flight controller.
3. At least two rechargeable batteries.
4. A charging system for the batteries.

E. Operations

1. Pilots and VO personnel shall refer to the UAS manufacturer's recommendations for pre-flight and post-flight procedures and inspections.
2. The UAS will be operated in accordance with FAA regulations, Tennessee state law, SPD policy and the UAS manufacturer's flight manual.
3. Flight into thunderstorms or other severe weather as defined by the FAA is prohibited.
4. No aircraft will be operated during nighttime hours when the ceiling is less than 1,000 feet.
5. All UAS will be operated within VLOS of the pilot and VO at all times, unless a waiver has been issued to the contrary. The VO may be used to satisfy the VLOS requirement as long as the pilot always maintains VLOS capability.
6. During night operations, the use of an aircraft lighting beacon will be required.

7. In case of an in-flight emergency, the PIC is permitted to deviate from any rule of Part 107 to the extent necessary to meet that emergency.

F. Safety Considerations for Crew

1. Prior to flight operations, crew will conduct a map or photo review to identify any potential hazards.
2. Make on-the-spot corrections of unsafe conditions
3. Beware of size and momentum of the aircraft being operated at all times.
4. Ensure that sound flight principles and procedures are followed for all operations regardless of mission urgency.
5. Review aircraft mishaps and recommend corrective actions and preventive measures.
6. Comply with sound flight principles and safe practices during all flight operations.
7. Electronic messaging or texting is not permitted during flight operations.
8. Report hazards and unsafe conditions or acts to the UAS coordinator.
9. Should the UAS operator develop fatigue or sudden illness, the operation/flight shall be aborted as soon as practical.
10. In the event of a serious personal injury or property damage as a result of UAS operations, the UAS Pilot will file a report and contact the UAS Coordinator, who will ensure that the appropriate federal, state and local agencies are notified.

G. Maintenance

Any UAS that has undergone maintenance or alterations that affects the function or flight characteristics of the aircraft (e.g., replacement of a flight-critical component) must undergo a test flight prior to conducting further operations. This test flight shall be conducted in a manner so as to not pose an undue hazard to persons and property. This test flight will include at a minimum the following checks:

1. Preflight inspection
2. Start-Up Procedures
3. Electronics Systems Check
4. Low Altitude Hover Check
5. Flight Control Function Check
6. Altitude Control Function Check
7. Perform One Full Flight

8. Shutdown Procedures

9. Post Flight Inspection

H. Documentation and Reporting

1. Flight Log- All UAS flight time shall be accounted for and will be documented in the SPD records management system. in a flight log with the following minimum information:

- a) Date and time
- b) Location
- c) Purpose and Duration of Flight
- d) Aircraft Used
- e) Weather Conditions
- f) Pre Flight Inspection Comments
- g) Pilot Name

2. **Maintenance Log-** A maintenance log will be maintained on all aircraft, documenting the following:

- a) Any work performed other than battery charging.
- b) Firmware Updates.
- c) Logs will be retained for the lifetime of the aircraft, plus one year after disposal or destruction of the aircraft. If the aircraft is transferred or sold, the logs will be transferred to the new owner.

I. **Digital Media Evidence-** Due to the tremendous size of the digital files captured by the high resolution camera equipment on the UAS, it will be standard procedure not to record and store images while the aircraft is flying other than those specifically necessary for the mission or while conducting image capture training. All collection and storage of digital media evidence must comply with TCA 39-13-609.

III. Emergency Response Plan

During UAS operations, exigent circumstances may develop at any time. The primary concern in such incidents is the prevention of injury to persons on the ground and / or other users of National Airspace. Secondary concerns include protection of property. For UAS incidents causing serious personal injury or loss of consciousness and/or property damage in excess of \$500 (other than to the UAS), the UAS personnel involved shall take the following actions:

- A. Render first aid to any injured person(s).
- B. Notify the on-duty/scene supervisor.

- C.** Notify the FAA and National Transportation Safety Board (NTSB). The NTSB Response Operations Center number is 844-373-9922 or 202-314-6290. Prior to the arrival of the FAA and/or NTSB, ensure the UAS and its contents are moved only to the extent necessary to remove persons injured, protect the public from injury, and/or protect the wreckage from further damage.
- D.** Survey the extent of the damage to the UAS and/or other property.
- E.** Provide any additional assistance of information requested by the FAA or NTSB.
- F.** Notify the Chief of Police or designee.
- G.** Submit a detailed written report to the chain of command.

Smyrna Police Department

Procedures for Handling the Mentally Ill

Policy Number: 2-32

CALEA: 41.2.7

Authority: Chief of Police



Amends/Supersedes: 2-32 Procedures for Handling the Mentally Ill: 08/19/2020

Date of Revision: 6/06/2025

PURPOSE

The purpose of this order is to establish procedures and guidelines for officers in dealing with mentally ill persons. Officers frequently come into contact with persons displaying disruptive or abnormal behavior. It is the function of the mental health professionals, in such cases, to determine if treatment at a mental health facility is necessary. In cases where there is no violation of the law, or only minor violations of the law, and the individual demonstrates behavior that indicates he may be "mentally ill," it shall be the duty of the investigating officer(s) to take action in accordance with this policy.

POLICY

It shall be the policy of the Department that all personnel adhere to the provisions herein regarding the policy and procedures for interviewing and transporting mentally ill persons.

I. Part Definitions

- A. Mentally ill individual** - An individual who suffers from a psychiatric disorder; excluding an individual whose only mental impairment is an intellectual disability or autism.
- B. Crisis Intervention Officers (CIT)** - Officers who have received specialized training to identify and respond to mental health crises.
- C. Substantial likelihood of serious harm** - Where any one or more of the criteria listed in Article VI of this order exists (as defined in TCA § 33-6-501) and there is a substantial likelihood that such harm will occur unless the individual is taken into custody.
- D. Mobile Crisis Response Team (MCRT)** - A group of mental health professionals (available 24 hours a day, 365 days per year) accessible by the Department and healthcare staff, who are trained to assess the mental status of individuals afflicted with psychiatric disorders and not individuals who suffer solely from alcoholism or drug dependence. [41.2.7b]

Procedures for Handling the Mentally Ill

Date of Revision:

- E. Emergency Detention Form-** A document to be completed by the officer or on the officer's behalf (by healthcare professionals), to articulate the need for the detainment and transport of an individual who he / she determines to be mentally ill (TCA §33-6-401). This form is used in conjunction with the Certificate of Need to determine the best course of action for a mentally ill subject.
- F. Certificate of Need** - A document authorizing the admission and detainment of a mentally ill individual by a hospital or treatment resource for emergency diagnosis, evaluation and treatment under TCA § 33-6-404. Certificates of need are issued by a licensed physician, licensed clinical psychologist, licensed psychological examiner, licensed professional counselor, nurse practitioner or licensed/certified social worker.
- G.** The following examples of mental illness are to be referenced by Department personnel as a guide only. The degree to which symptoms exist varies within each individual according to the type and severity of mental illness. Symptoms of different mental illnesses include, but are not limited, to the following:
[41.2.7a]
1. Temporary or Permanent Memory Loss- This may be indicative of mental disturbance; however, the loss of memory should not be confused with loss of memory that often accompanies head injuries, certain medications or aging.
 2. Delusions - False beliefs that are not based on reality. They can cause a person to view the world from a unique or peculiar perspective. The individual will often focus on persecution (e.g., belief that others are trying to harm them) or grandeur (belief that they are a god, saint, famous person, or that they possess a special talent or beauty).
 3. Depression- A deep, long-standing feeling of sadness, hopelessness or uselessness.
 4. Hallucinations - Experiences or events that have no objective sources, but that are nonetheless real to the person (e.g. hears voices, or sees, smells, tastes or feels imaginary things).
 5. Manic Behavior - Exhibited by accelerated thinking and speaking, or hyperactivity.
 6. Confusion - An abnormal condition or state of mind in which a person has trouble understanding the environment and may react or respond to it inappropriately. The individual may exhibit an inability to think with customary speed or clarity, marked by a lack of focus of attention and disorientation.
 7. Anxiety - A state of panic or fright (e.g. may have trembling hands, dry mouth and sweaty palms; or may be frozen with fear).

8. Incoherence - A state that is exhibited when speech or thinking is essentially incomprehensible to others because words or phrases are joined together without a logical or meaningful connection.
 9. Extreme Paranoia - Can be exhibited when an individual believes that they are being harassed, persecuted or unfairly treated.
 10. Schizophrenia - A mental disorder characterized by "positive" and "negative" symptoms. Positive symptoms include delusions, hallucinations and disordered thinking (apparent from a person's fragmented, disconnected and sometimes nonsensical speech). Negative symptoms include social withdrawal, extreme apathy, diminished motivation and blunted emotional expression.
 11. Dementia - A problem in the brain that makes it hard for a person to remember, learn and communicate; eventually it becomes difficult for a person to take care of themselves. This disorder can also affect a person's mood and personality. This is an effect of someone suffering from Alzheimer's and other age-related issues. Many of these symptoms represent internal, emotional states that are not readily observable from outward appearance, but are noticeable in conversation with the individual.
- H. In addition to the aforementioned, some of the behaviors outlined below may also be a sign of mental illness. However, these behaviors can also be associated with cultural and personality differences or very stressful situations. The presence of these behaviors should not be treated as conclusive proof of mental illness. [41.2.7a]
1. Severe changes in behavioral patterns and attitudes;
 2. Unusual or bizarre mannerisms;
 3. Hostility toward or distrust of others;
 4. Withdrawn behavior and refusal to speak;
 5. Lack of cooperation;
 6. Tendency to argue;
 7. One-sided conversation; or
 8. Confused or nonsensical verbal communication.
- I. Officers should keep in mind that not all unusual behavior is an indicator of mental illness.

II. GUIDELINES FOR EFFECTIVE INTERACTIONS

- A.** Officers may come into contact with individuals with mental illnesses through a myriad of situations or circumstances (e.g. victims, witnesses or suspects). If a person exhibits symptoms of mental illness, expresses that they have a mental illness or requests accommodation for a mental illness, officers will need to modify routine practices and procedures, take more time or show sensitivity to extend the services or protections that would be extended to someone else in a similar circumstance.
- B.** Officers shall attempt to establish a credible relationship with the individual while maintaining the safety and security of all persons involved throughout the encounter. To assist in establishing this relationship, the following procedures should be observed:
 - 1. Remain calm and avoid overreacting;
 - 2. Be helpful, professional and non-judgmental;
 - 3. Indicate a willingness to understand and help;
 - 4. Speak simply and briefly, and move slowly;
 - 5. Remove distractions and disruptive people;
 - 6. Announce actions before initiating them, except where it may jeopardize personal safety or the safety of the person or others;
 - 7. Maintain distance;
 - 8. Try not to contradict what the subject is saying;
 - 9. Request backup if it appears that they are dealing with an individual who may be detained. [41.2.7c]

III. EVALUATION CONSIDERATIONS

- A.** To determine the mental status of an individual, officers may take into account everything they personally observe, all physical evidence and all things learned from witnesses or other persons supplying background information. As a practical matter, this type of investigation may be compared to the gathering of probable cause during the investigation of a crime. In this situation, however, the officer is weighing all the information gathered in an attempt to determine if the person is possibly a "mentally ill individual" and poses a "substantial likelihood of serious harm" to themselves or others. [41.2.7a]

IV. CRITERIA

- A.** Officers receiving a call for assistance on, or in any way becoming aware of, a situation involving a "mentally ill individual" will make such investigation as necessary to determine:

1. If the person in question is exhibiting articulable signs of mental illness. If that person poses a "substantial likelihood of serious harm" to themselves or others (based on the definition provided in TCA § 33-6-501). Officers are not qualified or required to make a mental or medical diagnosis of the individual. Officers are merely required to make a practical, common-sense decision, whether given all the facts and circumstances reasonably available to the officer, there is a reasonable basis for believing that the individual in question is a "mentally ill individual" and exhibits an immediate substantial likelihood that serious harm will occur unless the person is placed under involuntary treatment consistent with TCA §§ 33-6-401.
- B.** After an investigation, the officer and their supervisor shall determine if the situation necessitates custodial or non-custodial action as follows:
1. Non-custodial Action - If, after careful evaluation of the situation, with assistance from supervisory personnel and mental health professionals, the officer(s) determines that the individual in question is not a "mentally ill individual" or that the individual does not pose a "substantial likelihood of serious harm" to themselves or others, and where no criminal offenses have occurred, the officer(s) shall take no action, other than the offering of community resource information and completing the required department report. The officer(s) shall advise any inquiring persons that the individual in question does not fit the criteria for emergency calls requiring an officer to take custodial action regarding a mentally ill individual. The call shall be reviewed by the officer's supervisor.
 2. Custodial Action - If a determination is made that the individual in question is a "mentally ill individual" and that the individual poses an immediate "substantial likelihood of serious harm," the officer(s) is authorized by TCA § 33-6-402, to take that person into custody. The officer would then abide by the procedures listed in this policy and transport them to Stonecrest Medical Center for further examination by a mental health professional. No civil order or warrant is necessary. The officer(s) should be prepared to relate the facts and circumstances known to them to the examining medical professional in order to assist them in making an evaluation. In every instance of detainment and transport, the officer will complete an Incident Report (under 36-6-404 Certificate of Need for Emergency Treatment) and articulate the facts surrounding the incident and the reasoning for detainment as authorized in TCA § 33-6-401.

V. GENERAL GUIDELINES

- A.** Officers shall do the following when determining if an individual is mentally ill and requires custodial assistance:

1. Interview and observe the individual and make observations regarding mental status.
 2. Interview witnesses, family members and / or friends who may have information relevant to the situation.
 3. Request assistance from CIT-trained officers, if any are available at the time of the interaction.
 4. Notify and consult with an on-duty supervisor before transport. If the individual is in obvious need of medical attention (other than for mental illness) and an ambulance has not been dispatched, the officer shall notify an ambulance according to current departmental policy.
- B. The responding officer is primarily responsible for transporting the individual from the point of contact to Stonecrest Medical Center and transferring further care to hospital staff.
 - C. When an individual is transported to Stonecrest Medical Center by an officer, they are to be released to the MCRT or hospital staff. The officer may be required to remain and assist medical staff based on the individual's behavior. Individuals transported during the mental health evaluation process may be restrained at the officer's discretion, as dictated by officer and individual safety concerns. [41.2.7b]
 - D. Requests from a treatment facility to provide transportation to another treatment facility shall be directed to the Rutherford County Sheriff's Department unless otherwise directed by the Chief or their designee.
 - E. TCA § 33-6-407 states that the examining physician shall complete a Certificate of Need showing the factual foundation for the conclusions that the individual is mentally ill and poses an immediate substantial likelihood of serious harm to themselves or others, to include the Emergency Detention for Immediate Examination Form (Part 1). The transporting officer(s) has a right and duty to inspect these documents To ensure that the documents show the factual foundation for detaining the individual for evaluation and are otherwise properly completed.
 - F. If the individual has outstanding criminal warrants and requires a mental health evaluation, the officer shall, if possible, refrain from serving the warrants and notify their supervisor. The warrants should be served after the individual has been released by mental health professionals. Notification of the warrants shall be attached to the individual's documentation that goes to the treatment facility. The notification sheet should instruct employees at the treatment facility to contact the Department before releasing the individual.
 - G. If ambulance personnel transport an individual who has attempted suicide to a hospital, the officer shall investigate the incident and complete a report. Unless

directed by a department supervisor, the officer is not required to remain at the hospital once the investigation and report are complete.

- H. If, due to exigent circumstances, the individual cannot be transported to Stonecrest Medical Center, the MCRT may respond to a specific location. A department Supervisor shall cooperate with the MCRT when determining if any special response is required. [41.2.7b]

VI. SPECIFIC GUIDELINES [41.2.7c]

- A. After complying with the provisions listed above, officers shall adhere to the following:

- 1. Adult Provisions: If the individual requires medical clearance due to intoxication:

- a) The MCRT will be contacted by Stonecrest Medical Center personnel when the individual is medically cleared. The MCRT will then respond for a follow-up assessment, and a disposition will be determined at that time. [41.2.7b]
- b) If a Certificate of Need is signed after the follow-up evaluation, per TCA §§ 33-6-901 and 33-6-406, the Rutherford County Sheriff's Department shall transport the individual and accompanying documents to the designated facility.

- 2. Juvenile Provisions

- a) If a Certificate of Need is issued, per TCA § 33-6-901, the Rutherford County Sheriff's Department will transport the juvenile and papers to the designated facility.

- 3. Non-committal situations

- a) If the assessing mental health professional determines that an emergency admission is not required, and refuses to sign the Certificate of Need, if no criminal offense has been committed, the officer(s) shall release the individual. The officer shall offer to transport them back to the site where the individual was taken into custody; or, if possible, the officer shall transport the individual to an alternate site within reason (e.g. homeless shelter, consenting relative's house, etc.) as suggested by the mental health professional. Where appropriate, the officer(s) shall make an effort to notify any concerned friends or family members of the release.

VII. ASSISTANCE TO MENTAL HEALTH FACILITY PERSONNEL

- A. On the rare occasion when the Department transports to a mental health facility, the transporting officer(s) may be requested by mental health facility security

personnel to assist in escorting the individual to a secure or "lock-up" area. Where necessary, the officers(s) will provide such assistance but will not take control of the situation unless it is apparent that security personnel are unable to retain control. In no event will an officer be required to disarm themselves and check their weapon.

VIII. CONFLICTS OR UNUSUAL SITUATIONS

- A.** Should any situation arise that is not specifically covered by this order or should any conflict in procedures arise, either at the requesting medical facility or at a mental health facility, the transporting officer(s) will contact appropriate supervisory personnel immediately.

IX. TRAINING [41.2.8d, e]

- A.** The Department will provide entry level training and annual refresher training to all affected personnel. Such personnel include, but are not limited to, officers, detectives, supervisors and civilian staff who may come into contact with mentally ill people in the performance of their duties.

X. REVIEW

- A.** The Chief or their designee, with assistance from the Community Services Coordinator, shall conduct an annual review of this General Order and make any and all necessary revisions.

Smyrna Police Department

APPEARANCE, UNIFORMS AND EQUIPMENT

Policy Number: 3-7

CALEA 41.3.5, 22.1.6

Authority: Chief of Police

Amends/Supersedes: 3-7 Appearance, Uniforms and Equipment



Previous Revision: 11/13/2024

Date of Revision: 06/10/2025

PURPOSE

The purpose of this policy is to establish clear and concise standards governing the maintenance of a professional image by all members of the Smyrna Police Department.

POLICY

It is the policy of the department that all employees present themselves in such a manner as to command respect and instill public confidence. All employees should maintain a neat, clean and well-groomed professional appearance free from strong or unusual body odors. Uniforms and equipment shall be properly worn and maintained at all times.

Supervisors are tasked with ensuring that every officer complies with the standards outlined in this policy and with immediately correcting any discrepancies.

I. PROCEDURE

A. Clothing Allowance

1. The department makes available to each uniformed officer a clothing allowance to maintain their uniforms. This allowance may be used to purchase uniform shirts and trousers, as well as uniform shoes or boots. All other required equipment items are purchased by the department.
2. Employees assigned to the Criminal Investigation Division are provided a clothing allowance each year. This allowance is to be utilized to purchase appropriate clothing for the employee's particular duty assignment and to ensure proper attire for court appearances.

3. Male police officers authorized to wear civilian clothing on duty shall purchase with their clothing allowance, color-coordinated slacks, shirts, neckties, suits, dress belts, tactical pants, knit shirts with name and department insignia embroidered or shoes. Purchasing with their clothing allowance casual attire, such as denim jeans, work pants or tennis shoes is prohibited.
4. Female officers permitted to wear civilian clothing shall purchase with their clothing allowance the equivalent style attire, such as a dress, pantsuit, suit, pants, dress belts or blouse. Purchasing with their clothing allowance casual attire, such as denim jeans, work pants or tennis shoes is prohibited.
5. Exceptions will be made while assigned to Narcotics. The division commander is authorized to prescribe appropriate attire for the Narcotics Division.
6. Alterations deemed necessary by the division commander may be made to the duty uniform at no expense to the officer, with prior approval.
7. Employees at the rank of Captain or above do not have a department issued clothing allowance, but are expected to maintain a professional appearance. Duty uniforms will be furnished by the Town.

II. Uniforms/Equipment [22.1.6]

- A. All uniforms and equipment are to be kept clean, in good condition and must fit properly.
- B. Officers are to wear the authorized and appropriate uniform, Class A or B, for the work being performed, whether in a patrol function, court appearance, participation in a promotion board or formal ceremony.

1. Dress Uniform (Class A)

The following items constitute a Dress Uniform:

- a. Eight Pointed Hat w/ Hat Badge
- b. Long Sleeve Polyester Uniform Shirt, sleeves buttoned at full Length.

- (1) Tie, Dark Navy
- (2) Department Shoulder Patch on each sleeve.
- (3) Collar Insignia Silver "SPD" or appropriate rank designation (Lieutenant and above) Silver colored initial insignia "SPD" will be utilized by all uniformed officers below the rank of Sergeant. Gold colored insignias will be used for the rank of Sergeant and above. Collar Insignia is to be worn with the bottom corners of the insignia touching the stitched seams of the collar an equal distance from the point of the collar.
- (4) Chevrons, if applicable, for current responsibility as a Field Training Officer or the rank of Sergeant.
- (5) Service Stripes (hash marks) - Service stripes, indicators for length of service, may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The button of the service stripe shall be sewn one and one-half inches above the cuff seam. The stripes are to be worn on the left sleeve only. Each single service stripe hash mark denotes five (5) years of service in law enforcement, and is applicable to Sworn, and Professional Staff. Members are authorized to wear service strips at the completion of the fifth year of service.
- (6) Nameplate - worn above Right breast pocket, bottom of nameplate centered on, horizontal to and touching the top of the pocket.
- (7) Medals and pins that have been authorized by the Chief of Police may be worn on the Class A or B uniform. Examples of approved items are; Medal of Valor, Life Saving, Military Service/Veteran, FBI National Academy, Northwestern Staff and Command, SWAT, Traffic Officer, Crisis Intervention Team/CIT, Department approved medals are to be centered on and one quarter inch above the nameplate. Subsequent medals are stacked, evenly spaced.
- (8) Badge- Department issued metal badge is to be worn above the Left breast pocket.

c. Polyester uniform pants, hemmed so as to rest on the top of the foot with a slight break in the crease. Cargo pants are not permitted.

d. Duty Belt w/ Minimum to be worn as part of the "Class A" Dress Uniform

- (1) Inner Belt
- (2) Duty holster w/issued handgun
- (3) Ammo Pouch w/magazines

- (4) Handcuff case w/ handcuffs
- (5) Radio holder w/ radio
- (6) Appropriate keepers (if necessary)

e. Ballistic Vest (Concealed, under uniform shirt) **[41.3.5]**

f. Utility Knives- See Class B Uniform.

g. Black Leather Boots (capable of being polished to a shine).
Under shirts (black or white only). A complete "Class A" Dress Uniform is the appropriate and expected uniform for participation in promotional boards, funerals or when directed by supervisory personnel.

2. Duty uniform (**Class B**)

The Duty Uniform consists of many of the same basic items as the "Class A" uniform, however, is more flexible and utilitarian while maintaining a professional appearance.

a. Dark Navy Blue short or long sleeve shirt.
Officers may determine which shirt is appropriate for the season, and weather conditions. If the Officer chooses to wear a long sleeve shirt, sleeves must be worn and buttoned at full length at all times. Items to be worn on the Duty Uniform Shirt;

- (1) Department Shoulder Patch on each sleeve.
- (2) Badge shall be worn on the left chest in the provided location. Velcro badge is required on the load bearing vest.
- (3) Silver colored initial insignia "SPD" will be utilized by all uniformed officers below the rank of Sergeant. Gold colored insignias will be used for the rank of Sergeant and above. Collar Insignia is to be worn with the bottom corners of the insignia touching the stitched seams of the collar an equal distance from the point of the collar. If the load bearing vest is utilized, collar insignias are not required.
- (4) Sleeve Rank Chevrons shall be utilized by supervisors as well as those officers who are assigned Field Training Officer responsibilities.
- (5) Name Plate shall be worn centered on the pleat above the right pocket flap. The bottom of the plate should rest evenly on the top of the pocket. Name tape is required on the load bearing vest.

(6) Medals and pins that have been authorized by the Chief of Police may be worn on the Class A or B uniform. Examples of approved items are; Medal of Valor, Life Saving, Military Service/Veteran, FBI National Academy, Northwestern Staff and Command, SWAT, Traffic Officer, Crisis Intervention Team/CIT, Crisis Negotiators and FBI LEEDA Trilogy. Department approved medals are to be centered on and one quarter inch above the nameplate. Subsequent medals are stacked, evenly spaced.

b. Dark Navy Blue Trousers. Hemmed so as to rest on the top of the foot with a slight break in the crease.

c. Uniform Boots /Shoes that have been approved by the department must be Black in color and kept clean and maintained so as to present a professional appearance.

d. Headgear / Hat(s) For special events, as part of an inspection or as directed by a supervisor, officers may be directed to wear the department issued eight point hat, navy blue with hat badge. As part of the Class B uniform only the The department issued "baseball" style cap is only authorized to be worn with the Class B uniform. Stocking Caps and similar cold weather headgear may also be worn with the Class B Uniform when believed necessary by the officer. This cold weather headgear if not the department issued, must be Navy Blue or Black. No logos other than SPD shall be worn on stocking caps.

e. Duty Belt - Items authorized to be carried on a Duty belt and or Load Bearing

- (1) Inner belt (Used to hold up trousers);
- (2) Outer belt w/keepers (Holds equipment);
- (3) Holster;
- (4) Handgun;
- (5) Radio w/holder;
- (6) Flashlight;
- (7) Handcuffs w/case
- (8) OC Spray w/holder; and
- (9) Impact weapon w/holder.

f. Ballistic Vest. A ballistic vest, to include either the outer load bearing vest, which is designed to and can be used to carry several equipment items that would normally be carried on a duty belt, external vest cover

that looks like a uniform shirt, or the conventional concealed inner vest will be worn when in uniform. Badge, name plate, "Police" placard, and blood type are the only patches allowed to be worn on the Load Bearing Vest.

[41.3.5]

g. Under shirts (black or white only).

h. Utility Knives- The utility knife is intended solely for the purpose of carrying out the general duties and designated special assignments of police operations. Its use as a defensive or offensive weapon is authorized in *exigent circumstances only*.

- (1) Folding Blades or Automatic Knives- The blade of any folding blade or automatic knife shall not exceed 4.5 inches. They shall be carried in a manner that is secure and inconspicuous to the public. Clipped to or in a pocket, clipped to the waistband, or inside the pants or vest are examples of acceptable carry techniques. Any variances to this description must be approved by the Chief of Police or their designee.
- (2) Fixed Blade Knives- The blade of any fixed blade knife shall not exceed 4.5 inches. Fixed blade knives shall be carried in a sheath and in a manner that is secure and inconspicuous to the public. Secured in the waistband, inside the vest or in the boot (covered by pants) are examples of acceptable carry techniques. Any variances to this description must be approved by the Chief of Police or their designee.
- (3) The utility knife is not intended for use as a weapon and officers are discouraged from using it in this capacity. However, it may be used in defensive capacities under exigent circumstances. Under such circumstances, it shall be deemed a use of deadly force and is governed by this department's use of force policy.

i. No items shall be worn, as part of a duty uniform, that has not been approved by the Chief of Police or their designee. This shall include either department issued items and or personal equipment or apparel.

3. Prescribed Civilian Clothing (Sworn)

a. Male police officers authorized to wear civilian clothing on duty will wear color-coordinated slacks, shirts and shoes. Casual attire, such as denim jeans, work pants or tennis shoes are permitted when work conditions are favorable and permitted by the Division Commander.

b. Female police officers permitted to wear civilian clothing will wear the equivalent style attire, such as a dress, pantsuit, suit, pants and blouse. Casual attire, such as denim jeans, work pants, or tennis shoes are permitted when work conditions are favorable and permitted by the Division Commander.

c. Narcotics division officers are permitted to wear tee shirts, shorts, denim jeans, sporting jerseys, cowboy boots, tennis shoes, etc., due to the nature of the assignment. Vulgar language or clothing that is in poor taste is not permitted. The division commander is authorized to prescribe what is in poor taste or vulgar.

4. Prescribed Civilian Clothing (Non-Sworn)

a. Civilian employees shall follow the dress code as outlined in the Town Employee Handbook

b. The immediate supervisor of the civilian employee will have the discretion to identify clothing as not within the "Business Casual" expectation and take appropriate corrective action.

5. Honor Guard Ceremonial Uniform

a. Employees assigned Honor Guard duties are required, upon short notice, to respond in their Ceremonial Uniform and perform or participate in ceremonies as directed and authorized by the Chief. Whenever utilized individually or as a member of the full Honor Guard officers shall wear the full and complete Honor Guard Uniform.

III. Personal Appearance

A. Hair

1. All officers are required to maintain a neat, clean and well-groomed hair style. No extreme styles, cuts, colors, or carvings are allowed. Hair style and length shall not interfere with the proper wearing of the uniform hat.

2. Male officers shall keep hair cut so that it does not hang below their uniform shirt collar, over the top of the ears or eyebrows.

3. Female officers who wear a hair style that extends below the bottom of the uniform collar must keep their hair pulled up. Female officers may use hair-holding devices including, but not limited to barrettes, pins, clips, bands and scrunches; however, they must ensure the devices are plain in design and must be either blue, black or blend with their hair color. Officers who use such devices must make them as inconspicuous as possible. The use of such hair-holding devices should not interfere with the proper wearing of the uniform hat.
4. Male and female officers who are authorized to wear civilian clothing must maintain a neat and clean hairstyle to be determined by the division commander.
5. All officers should keep in mind that long hair can be easily grabbed, and should make every effort to keep their hair cut short or pulled up to avoid the accidental or deliberate pulling of the hair.
6. Hair color shall be natural looking with no extreme or dramatic changes from the officer's natural appearance, colors and tones.

B. Facial Hair

1. Male officers are permitted to wear a neat, well-groomed and trimmed mustache, beard or goatee. Beards and goatees shall not extend more than one-half (1/2) of an inch in length from the face and shall follow the line of the jawbone, shall not proceed into the neck area, and the perimeter lines of the beard shall be neatly trimmed and defined. Additionally, all facial hair must be trimmed above the cheek line.
2. Facial hair shall be maintained at a length and pattern so as to maintain a neat and professional appearance.
3. Officers who are authorized to wear civilian clothing must maintain neat and clean facial hair to be determined by the division commander.
4. Officers who are unable to grow their facial hair into a full, neat and professional looking beard or goatee must be clean shaven so as to present a neat and professional appearance.
5. The Chief, or his or her designee, shall have the sole discretion to determine what does and does not maintain a neat and professional appearance.

C. Jewelry

1. The wearing of jewelry should be kept to a minimum in order to maintain a professional appearance and to help avoid possible injury to the officer.
2. Piercings - Employees who in the normal course of their duties are in the public view shall not be allowed to have piercings on the face, (i.e. eyebrows, nose, chin, lips or the tongue while on duty.)
3. Female officers are discouraged from wearing earrings while in uniform. However, if they chose to do so, they may wear one pair of matching "studs" or "button type" earrings (1 in each ear) that do not exceed ¼ inch in diameter. Hoop or dangling earrings are prohibited. Exceptions based on medical needs may be approved by the Chief on a case by case basis. Earrings may not be worn by male officers.
4. A maximum of two rings may be worn by any officers while in uniform.
5. Officers need to be aware that a necklace can become a choke hazard if caught or grabbed.
6. Officers who choose to wear a necklace must ensure that it is not visible while in uniform. Under no circumstances will an officer be allowed to wear a choker style necklace.

D. Finger nails

1. Finger nails shall be kept clean and neatly trimmed so as to not interfere with the performance of duties, detract from a professional image, or present a safety hazard. Non-eccentric nail polish, to include colorless nail polish may be worn.

E. Tattoos or Altered Body Parts

1. Employees shall present a professional appearance. Any tattoos or brands visible on the head, face, neck or scalp are prohibited. Any tattoos not on the head, face, neck or scalp that may be visible while wearing the uniform must not be offensive or objectionable in nature and must not depict nudity, racism, violence or vulgarity through words or symbols. Any tattoo that could be perceived as offensive or objectionable to the public, or is determined to be inappropriate by the Chief must be completely covered.

2. Visible physical alterations of the body that are not consistent with generally acceptable business standards of appearance are prohibited. (i.e. tongue splitting, wearing of ear gauges, etc) The Chief, or their designee, shall have the sole discretion to determine what is a generally acceptable appearance.



**Town of Smyrna
Town Council Meeting
Agenda Summary**

**Agenda Item Number 16.
Department: Legal
Date: September 25, 2025**

Subject:

Consideration of an Ordinance amending Smyrna Municipal Code Title 15, Chapter 6, Section 622 relative to Modified Public Transportation Vehicles.

Fiscal Impact:

None

Contract Type:

Contract Term (if applicable):

Background:

The current ordinance in the Town of Smyrna addresses the parking of school buses and similar vehicles in residential areas. However, the ordinance does not adequately describe those types of vehicles under 12,000 pounds if not being used for a government purpose or a commercial purpose.

Summary:

Primary Prohibition: The paragraph prohibits parking or storing modified public transportation vehicles in front yards, driveways, or any area between the front building line and street right-of-way of residential lots.

Defines the Vehicles: It specifically defines "Modified Public Transportation Vehicle" as any vehicle that was originally manufactured to transport 15 or more passengers, has been substantially altered in external appearance from its original design (through modifications like removing signage, installing non-standard fixtures, repainting, etc.), and is no longer actively used by government or educational institutions.

Recommended Council Action:

Staff recommends approval.

Attachments:

1. Amendment to Title 15 622

Motor Vehicles, Traffic, and Parking

When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (2007 Code, § 15-621)

§ 15-622 COMMERCIAL and MODIFIED PUBLIC TRANSPORTATION VEHICLES.

(1) No person shall park any motor vehicle licensed or primarily used for commercial purposes and having a gross vehicular rated weight in excess of 12,000 pounds on a public street within a residential zoning district, on any residential lot of less than five acres in size, nor shall any person allow any such motor vehicle to be parked on any such property belonging to him or her or under his or her control. Excluded from this provision are emergency service vehicles, refuse collection vehicles subject to the provisions of division (2) below, and other vehicles actively performing a service between the hours of 7:00 a.m. and 9:00 p.m., including moving vans and vehicles needed for construction purposes. It shall be an exception to this provision that the owner or operator of a school bus that is actively used in association with a government entity, quasi-governmental entity, school district, or state recognized educational institution shall be allowed to park two school buses on a residential lot owned or occupied by the bus driver, if such school buses are parked in a rear or side yard with no part of the school bus encroaching the front corner of the residence.

(2) It shall be unlawful to park any vehicle used for refuse collection purposes within 200 feet of any residential dwelling for more than one hour during a 24-hour period. A refuse collection vehicle which has been parked for any length of time at such a location shall be moved at least 500 feet before parking again. (2007 Code, § 15-622) Penalty, see § 15-625

(3) No person shall park or store a modified public transportation vehicle in the front yard, driveway, or any area between the front building line and the street right-of-way of any residential lot within the jurisdiction of this municipality, except for temporary parking necessary for loading and unloading purposes, which shall not exceed 48 hours within 30 days. For purposes of this provision, "Modified Public Transportation Vehicle" means any vehicle that: (a) was originally manufactured, designed, or configured to transport fifteen (15) or more passengers as part of a public, private, or institutional transportation system; and (b) has been substantially altered in external appearance from its original governmental or institutional design through modifications including but not limited to: removal or alteration of original signage, livery, or identifying markings; installation of non-standard exterior fixtures, equipment, or structures; repainting that obscures or removes original fleet identification; or other exterior modifications that significantly change the vehicle's appearance from its original public transportation configuration; and (c) is no longer actively used in association with a government entity, quasi-governmental entity, school district, or state recognized educational institution. This prohibition shall not apply to: (i) residential lots that contain five (5) acres or more of land area; or (ii) vehicles parked in enclosed structures not visible from public streets.

§ 15-623 TRUCKS AND TRAILERS.