



## **AGENDA**

### **BOARD OF MAYOR AND ALDERMEN WORK SESSION**

**Tuesday, January 21, 2020, 4:00 p.m.  
City Hall, 225 W. Center St., Council Room, 2<sup>nd</sup> Floor**

#### **Board of Mayor and Aldermen**

Mayor Patrick W. Shull, Presiding  
Vice Mayor Colette George  
Alderman Jennifer Adler  
Alderman Betsy Cooper

Alderman Darrell Duncan  
Alderman Tommy Olterman  
Alderman James Phillips

#### **Leadership Team**

Chris McCartt, City Manager  
Ryan McReynolds, Deputy City Manager  
J. Michael Billingsley, City Attorney  
Sid Cox, City Recorder/Chief Financial Officer  
Scott Boyd, Fire Chief  
David Quillin, Police Chief  
George DeCroes, Human Resources Director  
Ken Weems, Planning Manager  
Jessica Harmon, Assistant to City Manager

1. Call to Order
2. Roll Call
3. Neighborhood Advisory Commission Quarterly Update – Ted Fields
4. Library Strategic Plan Update – Chris Markley
5. Review of Items on January 21, 2020 Business Meeting Agenda
6. Adjourn

#### **Next Work Session Feb. 3**

***Citizens wishing to comment on agenda items please come to the podium and state your name and address. Please limit your comments to five minutes. Thank you.***

# City of Kingsport

January 21, 2020

## Project Status in Pictures

### 1 Cox Hollow Road Sewer Work

Current project work includes the installation of a 2" diameter sanitary sewer force main.

### 2 Future City Hall

Fiber optic communication conduit is being installed underground to the new city hall.

### 3 Market Street Bulb Out

This project is intended to facilitate safer pedestrian crossings and will include ADA compliant ramps.

### 4 Kingsport Aquatic Center Expansion

Crews are working on the future office space roof, while others work on the entry/exit of the pool.





# Status Updates on Active Projects sorted by Cost

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$7,500,000.00	Ryan McReynolds	<b>SR 347 (Rock Springs Road) [State &amp; MTPO funded]</b>	TDOT Managed, joint funded reconstruction of the State portion of Rock Springs Road	12/31/2021	TDOT, MTPO and City staff met 8/13/19 to discuss scope. A revised scope and contract are expected.
\$6,000,000.00	Michael Thompson	<b>Main Street Rebuild</b>	The reconstruction of Main Street from Sullivan Street to Clay Street. [City & MTPO Funded]	6/1/2021	Final ROW Plans submitted to TDOT 11/27/2019.
\$5,963,000.00	Niki Ensor	<b>West Kingsport Forcemain and Pump Station Improvements</b>	Rehab of West Kingsport SLS (#119) and installation of new forcemain to the WWTP.	12/31/2020	Pre construction meeting held 1/10/20. NTP - 2/3/20
\$4,400,000.00	Niki Ensor	<b>WWTP Electrical Improvements</b>	Design of wastewater treatment plant improvements. Project includes replacement of the Main Switchgear, Switchgear SB-1 and related equipment at the wastewater treatment plant.	12/31/2020	Expect to advertise for bid in February
\$3,750,000.00	Niki Ensor	<b>Chemical Feed Design</b>	Design of WTP Chemical Feed improvements. Project will include new facilities for pre and post chemical feed and implementation of bulk bleach for disinfection.	11/1/2020	12/2/19 - Project on hold to focus efforts on recent reliability issues at the WTP high service pump house.
\$3,500,000.00	Michael Thompson	<b>Island Road Improvements from SR-126 to Kingsport City Limits</b>	This project will realign Island Road to the southeast to improve vertical and horizontal roadway geometry for better traffic management and safety. The remaining unused portion of Island Road will be converted into a separated buffered multi-use path co	4/30/2024	TDOT has released Mattern & Craig to begin working on the NEPA phase.
\$3,312,698.00	Ryan McReynolds	<b>City Hall Relocation - Phase 1</b>	Renovations of floors 3 thru 6 for the consolidation of City offices to one location at 415 Broad Street.	6/11/2020	casework installation continues; drywall skim coating and sanding continues.
\$2,888,300.00	Niki Ensor	<b>Water &amp; Wastewater Facilities SCADA/Telemetry Project</b>	Design and installation of SCADA/Telemetry system that will serve both water and sewer plants, sewer lift stations, water pump stations and boosters, along with monitoring in the distribution and collection systems.	4/1/2020	Week of 1/13/20 - Integrator continues to install programs at the WWTP. Electrical sub started installing panels at remote sites.
\$2,500,000.00	Michael Thompson	<b>2021 Main Road Paving (MTPO Funded)</b>	Paving of functionally classified roadways: Meadowview Pkwy, Moreland Dr, Cooks Valley, Fall Creek and Netherland Inn Road	12/31/2021	Contract sent back to TDOT to be finalized.
\$2,341,130.00	Kitty Frazier	<b>Miracle Field Complex</b>	Construction of ball field, playground, and amenities.	5/31/2020	Asphalt and concrete curbing and sanitary sewer are complete. Current work includes masonry work on the concession/bathroom building.
\$2,300,000.00	Ryan McReynolds	<b>Justice Center Renovations</b>	Renovations and expansion of Justice Center that will accommodate court space and county offices currently residing in City Hall.	12/31/2020	Progress meeting held on 11/6/19 to discuss future space needs and progress of design plans for expansion.

Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$2,041,600.00	Chris McCartt	<b>Kingsport Aquatic Center Expansion</b>	New outdoor pool and deck, new construction of administration addition. New shaded pavilion, new walk-in freezer and restroom buildout. Construction of new masonry screen wall.	4/10/2020	Electrical and plumbing rough-in's are in progress.
\$1,157,898.78	Chad Austin	<b>Border Regions - Sanitary Sewer - Area 2 and Mitchell Road</b>	Sanitary Sewer Extension into annexed areas around Tri Cities Crossing	5/9/2020	Contractor installing sewer on Mitchell Rd
\$1,044,000.00	Kitty Frazier	<b>Kingsport Greenbelt Extension from Rotherwood Drive to Lewis Lane</b>	This project will build an extension of the Kingsport Greenbelt walking and biking path west from the end of the current Greenbelt at Rotherwood Drive to Lewis Lane on West Stone Drive (State Route 1).	5/31/2024	LGIP account set up to BMA meeting on 12/17.
\$1,000,000.00	Michael Thompson	<b>Area 11b Asphalt Paving</b>	Paving of asphalt streets in Upper Sevier Terrace (area between Fairview, W. Stone Drive, Lynn Garden Dr)	8/1/2020	City crews will be performing this work in Spring 2020.
\$997,475.00	Michael Thompson	<b>Stone Drive - Phase 1 (SR 1, US 11W) Sidewalk Improvements</b>	Construction of sidewalk along Stone Drive from Stonebrook Place Pvt. Dr. to American Way where current sidewalk gaps exist. Includes work to make existing driveways ADA accessible. [95% State Funded 5% City]	8/31/2020	Staff met with TDOT on 9/18. Still working to address some design elements and finalize right of way.
\$937,442.00	Kitty Frazier	<b>Kingsport Greenbelt - Eastern Extension - Phase 1 (2019-C6)</b>	New 1 mile long Greenbelt section from the 0.4 mile marker (bottom of the hill from Exchange Place) to Cleek Road. [Fed. Grant & City funded]	1/31/2020	C.O. Approved by TDOT - project to resume in April 2020
\$873,345.88	Chad Austin	<b>I &amp; I Sewer Rehab/Replacement</b>	Project will include sanitary sewer rehab/replacement in the White Street/Gibson Mill area, Fort Robinson area, Konnarock Road, Brooks Street Alley, and DB Track & Field.	2/1/2021	BMA approved Portland Utilities bid award on first reading 1/07/2020.
\$746,995.00	Chad Austin	<b>Border Regions Areas 1 and 3: Sanitary Sewer (Fordtown Rd, Mitchell Rd, Bob Jobe Rd)</b>	Extension of gravity sanitary sewer service to annexed areas in Border Regions Area.	3/7/2020	Contractor finished sewer line on Mitchell Rd. Working on cleanup.
\$699,000.00	Niki Ensor	<b>Hillcrest &amp; Allandale Water Storage Tank Rehabilitation</b>	Will be a partial rehabilitaion Allandale tank and a full rehabilitation of Hillcrest Tank.	9/30/2020	Barge has completed plan package and sending to TDEC for review. Bid Opening is February 12, 2020.
\$661,140.00	Michael Thompson	<b>Stone Drive - Phase 2 (SR 1, US 11W) Sidewalk Improvements</b>	Construction of sidewalk along Stone Drive from Stonebrook Place Pvt. Dr. to Lynn Garden Dr. [95% State Funded 5%]	8/31/2020	Plans are approved. Working to meet TDOT requirements to finalize the right-of-way phase.
\$481,183.00	Ryan McReynolds	<b>Wilcox Bridge (Wilcox Dr. &amp; E. Sullivan St.)</b>	Bridge re-painting and landscaping	5/29/2020	Due to temperature requirements from CSX on the paint application to the bridge this project start will be delayed until Spring 2020.
\$425,000.00	Michael Thompson	<b>Area 10-Phase 2 Contracted Concrete</b>	Replacing concrete roadway panels along Hollywood Drive	6/30/2020	Advertise for bid on January 5, 2020



Estimated Cost	Project Owner	Project Name	Project Description	Completion Date	CurrentStatus
\$415,000.00	Chad Austin	<b>SR 93- Fall Branch section (TDOT)</b>	TDOT project to improve State Route 93 in the Fall Branch area. Impacted waterlines in this area will be are to be relocated as part of the TDOT project.	7/30/2021	
\$400,000.00	Michael Thompson	<b>2020 Contracted Paving - E Sullivan Street</b>	Paving of E. Sullivan Street from E. Center Street to Church Circle	10/30/2020	Scope of sewer repairs is undecided at this time. Paving will bid once a path forward is determined.
\$352,000.00	Chad Austin	<b>SR 93- Horse Creek/Derby Drive Section (TDOT)</b>	TDOT project to improve State Route 93 in the Horse Creek/Derby Drive area. Project also includes improvements with the intersection with Derby Drive, along with a new bridge crossing Horse Creek. Impacted waterlines in this area will be are to be reloc	8/31/2022	TDOT "B Date" package due date pushed back to 5/28/2021; anticipated letting December 2021
\$247,595.00	Chad Austin	<b>Border Regions Area 3 - Cox Hollow Rd. and Snapps Ferry Road - Low Pressure Sewer</b>	Sewer extensions to serve the Border Regions Annexations in the vicinity of Tri-Cities Crossing. This particular project is for a low pressure sanitary sewer system (2" and 3" force main) along Cox Hollow Road and Snapps Ferry Road.	3/7/2020	Construction has begun. Current work is in the vicinity of Tri Cities Crossing.
	David Edwards	<b>Lochwood Road Flooding Early Detection and Notification System</b>	Automated flood water level monitoring and notification system for Lochwood Road. System will notify City employees of flood conditions.		Continuing field testing

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## BMA Report, January 21, 2020



### **Kingsport Employee Wellness, George DeCroes**

	01/01/2019 – 12/31/19	01/01/2020 – 01/14/2020
Total Utilization	97.1%	98.9%
City – Active Employees	62.8%	63.4%
City – Dependents	29.2%	29.1%
City – Retirees	1.9%	0.0%
Extended-Patient Services/Other	0.6%	2.9%
Work Comp	0.3%	0.9%
No Show	5.2%	3.7%

### **Worker's Compensation, Terri Evans**

For the month of December 2019, the city had eight (8) recordable worker's compensation claims that involved lost time or restricted duty. Of the eight (8) claims involved, three (3) were lost time and five (5) were restricted duty.



## **AGENDA**

### **BOARD OF MAYOR AND ALDERMEN**

#### **BUSINESS MEETING**

**Tuesday, January 21, 2020, 7:00 p.m.  
City Hall, 225 W. Center St., Courtroom, 2<sup>nd</sup> Floor**

#### **Board of Mayor and Aldermen**

Mayor Patrick W. Shull, Presiding  
Vice Mayor Colette George  
Alderman Jennifer Adler  
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Alderman Darrell Duncan  
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Alderman James Phillips

#### **City Administration**

Chris McCartt, City Manager  
Ryan McReynolds, Deputy City Manager  
J. Michael Billingsley, City Attorney  
Sid Cox, City Recorder/Chief Financial Officer  
David Quillin, Police Chief  
Scott Boyd, Fire Chief  
George DeCroes, Human Resources Director  
Ken Weems, Planning Manager  
Jessica Harmon, Assistant to City Manager

#### **I. CALL TO ORDER**

#### **II.A. PLEDGE OF ALLEGIANCE TO THE FLAG**

#### **II.B. INVOCATION – Pastor Richard Dice, Christ Church**

#### **III. ROLL CALL**

#### **IV.A. RECOGNITIONS & PRESENTATIONS**

1. Parks and Recreation Four Star Awards (Kitty Frazier, Alderman Cooper)

#### **IV.B. APPOINTMENTS**

1. Appointment to the Public Art Committee (AF: 18-2020) (Mayor Shull)
  - Appointment



**V. APPROVAL OF MINUTES**

1. Work Session – January 6, 2020
2. Business Meeting – January 7, 2020

**VI. COMMUNITY INTEREST ITEMS**

**A. PUBLIC HEARINGS**

None

**COMMENT**

Citizens may speak on agenda items. When you come to the podium, please state your name and address and sign the register that is provided. You are encouraged to keep your comments non-personal in nature, and they should be limited to five minutes. A total of thirty minutes is allocated for public comment during this part of the agenda.

**B. BUSINESS MATTERS REQUIRING FIRST READING**

1. Reauthorize an Electronic Citation Fee upon a Plea of Guilty or Nolo Contendere, or a Judgment of Guilty for Violation of Certain Traffic Ordinances of the City of Kingsport (AF: 17-2020) (David Quillin)
  - Ordinance – First Reading
2. Amend the FY 2020 the General Purpose School Fund Budget (AF: 24-2020) (David Frye)
  - Ordinance – First Reading
3. Amending City Code Authorizing the City Manager, or Designee to Execute All License Agreements with TDOT for Improvements or Maintenance of Licensed Premises (AF: 11-2020) (Ryan McReynolds)
  - Ordinance – First Reading

**C. BUSINESS MATTERS REQUIRING FINAL ADOPTION**

1. Vacate Alley Right-of-Way Located Behind 904-910 E. Center St. (AF: 05-2020) (Ken Weems)
  - Ordinance – Second Reading & Final Adoption
2. Enter into a Materials Agreement with School House, LLC Related to the Cherokee Bend Phase 2 Development and Appropriate the Funds (AF: 03-2020) (Ryan McReynolds)
  - Ordinance – Second Reading & Final Adoption

**D. OTHER BUSINESS**

1. Ratify the Mayor's Signature on Grant Application and Receive the Grant from the Tennessee Arts Commission (AF: 12-2020) (Hannah Powell)
  - Resolution
2. Amend the Agreement with Gordon Food Service (AF: 19-2020) (David Frye, Jennifer Walker)
  - Resolution

3. Award the Bid for Dobyns-Bennett High School Cafeteria Serving Line Equipment Replacement to Armstrong Construction (AF: 22-2020) (David Frye)
  - Resolution
4. Extend Award by Amending the Agreement with Premier Landscapes for Landscape Maintenance Services for 2020 (AF: 15-2020) (Ryan McReynolds)
  - Resolution
5. Extend Award by Amending the Agreement with Yard Dogs Lawn Care & Landscaping for Mowing & Trimming of Various Locations (AF: 16-2020) (Ryan McReynolds)
  - Resolution
6. Resolution to Condemn (AF: 25-2020) (Mike Billingsley)
  - Resolution
7. Amend Agreement with WestRock Converting Company for Recycling Services (AF: 14-2020) (Ryan McReynolds)
  - Resolution
8. Enter into a Service Contract for Substitute Staffing Services with ESS Southeast LLC for Kingsport City Schools (AF: 20-2020) (David Frye, Jennifer Guthrie)
  - Resolution
9. Award the Contract for Athletic Uniforms and Sports Equipment to BSN Sports (AF: 21-2020) (David Frye)
  - Resolution

**VII. CONSENT AGENDA**

None

**VIII. COMMUNICATIONS**

- A. City Manager
- B. Mayor and Board Members
- C. Visitors

**Citizens may speak on issue-oriented items. When you come to the podium, please state your name and address and sign the register that is provided. You are encouraged to keep your comments non-personal in nature, and they should be limited to five minutes.**

**IX. ADJOURN**



**AGENDA ACTION FORM**

**Appointment to the Public Art Committee**

To: Board of Mayor and Aldermen  
 From: Chris McCartt, City Manager *CM*

Action Form No.: AF-18-2020  
 Work Session: January 21, 2020  
 First Reading: N/A

Final Adoption: January 21, 2020  
 Staff Work By: Mayor Shull  
 Presentation By: Mayor Shull

**Recommendation:**  
 Approve appointment.

**Executive Summary:**

It is recommended to appoint Suzanne Barrett Justis to the Public Art Committee to fulfill the unexpired term of Julie Witherspoon Gunn who has resigned. If approved by the Board of Mayor and Aldermen the recommended table reflects term dates.

Terms are three years with no term limits. The commission is comprised of eight (8) at-large community members who may be considered from either Arts Council of Greater Kingsport, Downtown Kingsport Association and/or the Parks and Recreation Advisory Committee..

<b>Current Committee:</b>			
Member	Term Expires	No. of Terms	Eligibility
Julie Gunn	12/31/20	2	At-large
Shelburne Ferguson	7/31/21	1	At-large
Joshua Reid	7/31/21	2	At-large
Brad Hoover	7/31/22	4	Parks & Rec. Rep.
Chrissy Idlette	7/31/20	1	At-large
Bruce Shine	7/31/22	6	At-large
Joe Zoeller	7/31/22	1	Art Organization Rep.
Laura Feagins	7/31/21	1	At-large

<b>Recommended Committee:</b>			
Member	Term Expires	No. of Terms	Eligibility
Suzanne Barrett Justis	12/31/20	Fulfilling unexpired term	At-large
Shelburne Ferguson	7/31/21	1	At-large
Joshua Reid	7/31/21	2	At-large
Brad Hoover	7/31/22	4	Parks & Rec. Rep.
Chrissy Idlette	7/31/20	1	At-large
Bruce Shine	7/31/22	6	At-large
Joe Zoeller	7/31/22	1	Art Organization Rep.
Laura Feagins	7/31/21	1	At-large

**Attachments:**

- 1. Suzanne Barrett Justis Bio

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Oltman	—	—	—
Phillips	—	—	—
Shull	—	—	—



## **Suzanne Barrett Justis**

Suzanne Barrett Justis is an internationally recognized master wildlife artist. She is a signature member of Artists for Conservation, Portrait Society of America, Oil Painters of America, Women Artists of the South East, as well as the Kingsport Art Guild. She has dedicated her life to wildlife conservation and education through her art where she has worked with zoos all over the USA and Canada donating paintings to their fundraising efforts in support for habitat and wildlife conservation and preservation.

Suzanne's paintings are in many zoo's permanent collections, including the Dallas Zoo, The BioPark Zoo in Albuquerque NM, The Lincoln Park Zoo in Chicago, IL, The Grassmere Zoo in Nashville, TN and countless others. Her art work has been displayed in many museums throughout the world including VanDusen Botanical Gardens an Art Museum in Vancouver, Canada, The Arizona-Sonora Desert Museum Art Institute in Tuscon, AZ, The Saint Petersburg Museum of Fine Art in St Petersburg, FL, and the Lanwan Museum and Eco Art Park, Qingdao, China.

Suzanne has also been involved with international art exhibits, including the Silent Skies Mural project that she was able to also bring to her home town in Kingsport, TN.

Suzanne has maintained her studio/art gallery in downtown Kingsport for almost 13 years. It is here in her studio that she paints and teaches her many talented students. She offers both private and group lessons.

Minutes of the Regular Work Session of the  
Board of Mayor and Aldermen, City of Kingsport, Tennessee  
Monday, January 6, 2020, 4:30 PM  
Council Room – City Hall

PRESENT: Board of Mayor and Aldermen

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Sidney H. Cox, City Recorder

1. **CALL TO ORDER:** 4:30 p.m. by Mayor Patrick W. Shull.
2. **ROLL CALL:** By Deputy City Recorder Marshall.
3. **CAFR & AUDIT REVIEW.** *[NOTE: This Item was moved to the end of the agenda and began at 5:20 pm after a five minute recess from the regular agenda.]* Lisa Winkle, Treasurer, gave a detailed presentation on the Comprehensive Annual Financial Report for the Fiscal Year ending June 30, 2019 and answered questions.
4. **ROADS UPDATE.** Micahel Thompson, Assistnat Public Works Director, gave a presentation on this item and answered questions from the board.. Some discussion ensued.
5. **REVIEW OF AGENDA ITEMS ON THE JANUARY 7, 2020 REGULAR BUSINESS MEETING AGENDA.** City Manager McCartt and members of staff gave a summary or presentation for each item on the proposed agenda. There were no items discussed at greater length or received specific questions or concerns.
6. **ADJOURN.** Seeing no other matters presented for discussion at this work session, Mayor Shull adjourned the meeting at 6:40 p.m.

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ANGELA MARSHALL  
Deputy City Recorder

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PATRICK W. SHULL  
Mayor

Minutes of the Regular Business Meeting of the  
Board of Mayor and Aldermen of the City of Kingsport, Tennessee  
Tuesday, January 7, 2020, 7:00 PM  
Large Court Room – City Hall

PRESENT: Board of Mayor and Aldermen  
Mayor Patrick W. Shull, Presiding  
Vice Mayor Colette George           Alderman Darrell Duncan  
Alderman Jennifer Adler           Alderman Tommy Olterman  
Alderman Betsy Cooper           Alderman James Phillips

City Administration  
Chris McCartt, City Manager  
J. Michael Billingsley, City Attorney  
Sidney H. Cox, City Recorder/Chief Financial Officer

- I.     **CALL TO ORDER:** 7:00 p.m., by Mayor Patrick W. Shull.
- II.A. **PLEDGE OF ALLEGIANCE TO THE FLAG:** Bobby Flowers.
- II.B. **INVOCATION:** Jack Weikel, First Broad Street United Methodist Church.
- III.  **ROLL CALL:** By City Recorder Cox. All Present.
- IV.A. **RECOGNITIONS AND PRESENTATIONS.**
  - 1.     Lt. Tom Wayt (Chief Quillin & Alderman Adler).
  - 2.     Mr. Jim Bowman - Volunteer for KPD (Chief Quillin).
- IV.B. **APPOINTMENTS/REAPPOINTMENTS.**
  - 1.     **Appointments to the Neighborhood Advisory Committee** (AF: 09-2020) (Mayor Shull).

Motion/Second: George/Phillips, to approve:  
APPOINTMENT OF MS. SUZANNE BURNS TO SERVE A THREE-YEAR TERM AND REAPPOINTMENTS OF TED FIELDS, WALLACE GRILLS AND JAMIE JACKSON TO THEIR SECOND THREE-YEAR TERM ON THE **NEIGHBORHOOD ADVISORY COMMISSION** EFFECTIVE IMMEDIATELY AND EXPIRING ON DECEMBER 31, 2022.  
Passed: All present voting “aye.”

V.     **APPROVAL OF MINUTES.**

Motion/Second: Duncan/Cooper, to approve minutes for the following meetings:  
A.     December 16, 2019 Regular Work Session  
B.     December 17, 2019 Regular Business Meeting  
Approved: All present voting “aye.”

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen  
of the City of Kingsport, Tennessee, Tuesday, January 7, 2020**

**VI. COMMUNITY INTEREST ITEMS.**

**A. PUBLIC HEARINGS.**

**1. Vacate Alley Right-of-Way Located Behind 904-910 East Center Street (AF: 05-2020) (Ken Weems).**

**PUBLIC COMMENT ON ITEM VI.A.1.** None.

Motion/Second: Olterman/Adler, to pass:

AN ORDINANCE TO VACATE A SECTION OF AN UNNAMED ALLEY RIGHT-OF-WAY LOCATED BEHIND 904-910 EAST CENTER STREET SITUATED IN THE CITY, ELEVENTH CIVIL DISTRICT OF SULLIVAN COUNTY; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on first reading: All present voting "aye."

**PUBLIC COMMENT.** Mayor Shull invited citizens in attendance to speak about any of the remaining agenda items. There being no one coming forward to speak, the Mayor closed the public comment segment.

**B. BUSINESS MATTERS REQUIRING FIRST READING.**

**1. Enter into a Materials Agreement with School House, LLC Related to the Cherokee Bend Phase 2 Development and Appropriate the Funds (AF: 03-2020) (Ryan McReynolds).**

Motion/Second: Phillips/Duncan, to pass:

**Resolution No. 2020-102**, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MATERIALS AGREEMENT WITH SCHOOL HOUSE, LLC RELATED TO CHEROKEE BEND PHASE 2 DEVELOPMENT AND AUTHORIZING THE MAYOR TO SIGN ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting "aye."

Motion/Second: George/Cooper, to pass:

AN ORDINANCE TO AMEND THE WATER AND SEWER PROJECT FUNDS BY TRANSFERRING FUNDS TO THE CHEROKEE BEND PHASE 2 MATERIALS AGREEMENT PROJECTS (WA2052 AND SW2052); AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on first reading: All present voting "aye."

**C. BUSINESS MATTERS REQUIRING FINAL ADOPTION.**

**1. Ordinance to Condemn (AF: 279-2019) (Mike Billingsley).**

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen  
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Motion/Second: George/Phillips, to pass:

**ORDINANCE NO. 6842**, AN ORDINANCE TO AUTHORIZE AND DIRECT THE CITY ATTORNEY TO INITIATE CONDEMNATION PROCEEDINGS TO ACQUIRE PROPERTY, REAL OR PERSONAL, OR ANY EASEMENT, INTEREST, ESTATE OR USE THEREIN, FROM AFFECTED PROPERTY OWNERS ALONG THE ROUTE OF A CERTAIN PUBLIC WORKS PROJECT; TO FIX THE PROCEDURE FOR DIRECTING THE INITIATION OF SUCH LITIGATION; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on second reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting “aye.”

**2. Amend City Code Authorizing the City Manager, or Designee, to Execute All Local Government Investment Pool (LGIP) Accounts for TDOT Projects (AF: 276-2019) (Ryan McReynolds).**

Motion/Second: Duncan/George, to pass:

**ORDINANCE NO. 6843**, AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF KINGSFORT, TENNESSEE, SECTION 2-606 RELATING TO AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE LOCAL GOVERNMENT INVESTMENT POOL ACCOUNTS FOR TENNESSEE DEPARTMENT OF TRANSPORTATION PROJECTS AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

Passed on second reading in a roll call vote: Adler, Cooper, Duncan, George, Olterman, Phillips and Shull voting “aye.”

**D. OTHER BUSINESS.**

**1. Approval for Mayor to Sign Authorization Letter for Internet Domain Compliance (AF: 08-2020) (Mark Woomeer).**

Motion/Second: Adler/George, to pass:

**Resolution No. 2020-103**, A RESOLUTION APPROVING A LETTER FOR INTERNET DOMAIN COMPLIANCE WITH DOTGOV AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting “aye.”

**2. Wellness Reimbursement Agreement with OptumHealth Care Solution’s Renew Active Program (AF: 02-2020) (Shirley Buchanan)**

Motion/Second: Cooper/George, to pass:

**Resolution No. 2020-104**, A RESOLUTION APPROVING AN AGREEMENT WITH OPTUMHEALTH CARE SOLUTIONS FOR RENEW ACTIVE PROGRAM AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT



**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen  
of the City of Kingsport, Tennessee, Tuesday, January 7, 2020**

Passed: All present voting “aye.”

**3. Accept the Drug and Alcohol Policy Changes as Required by  
the Federal Transit Administration and the Federal Highway Administration (AF:  
06-2020) (Terri Evans).**

Motion/Second: Adler/Phillips, to pass:

**Resolution No. 2020-105, A RESOLUTION AMENDING THE FEDERAL HIGHWAY  
ADMINISTRATION (FWHA) SUBSTANCE ABUSE POLICY FOR CITY EMPLOYEES**

Passed: All present voting “aye.”

Motion/Second: Duncan/George, to pass:

**Resolution No. 2020-106, A RESOLUTION AMENDING THE FEDERAL TRANSIT  
AUTHORITY SUBSTANCE ABUSE POLICY FOR CITY EMPLOYEES**

Passed: All present voting “aye.”

Motion/Second: George/Cooper, to pass:

**Resolution No. 2020-107, A RESOLUTION AMENDING THE GENERAL SUBSTANCE  
ABUSE POLICY FOR CITY EMPLOYEES**

Passed: All present voting “aye.”

**4. Bid Award for the Purchase of One (1) 13 Yard Refuse Truck  
(AF: 07-2020) (Ryan McReynolds, Steve Hightower).**

Motion/Second: Olterman/Adler, to pass:

**Resolution No. 2020-108, A RESOLUTION AWARDDING THE BID FOR THE  
PURCHASE OF ONE 13 YARD REFUSE TRUCK TO TRIAD FREIGHTLINER OF  
TENNESSEE, LLC AND AUTHORIZING THE CITY MANAGER TO EXECUTE A  
PURCHASE ORDER FOR THE SAME**

Passed: All present voting “aye.”

**5. Execute an Agreement with Blue Ridge Medical Management  
Corporation for Counseling Services for Kingsport City Employees (AF: 04-2020)  
(George DeCroes).**

Motion/Second: Adler/Duncan, to pass:

**Resolution No. 2020-109, A RESOLUTION APPROVING AN AGREEMENT WITH BLUE  
RIDGE MEDICAL MANAGEMENT CORPORATION FOR COUNSELING SERVICES  
AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ALL OTHER  
DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF  
THE AGREEMENT**

Passed: All present voting “aye.”

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, Tuesday, January 7, 2020**

**6. Bid Award to Portland Utilities Construction Co. LLC for the 2019 Inflow & Infiltration (I&I) Sanitary Sewer Project (AF: 10-2020) (Ryan McReynolds).**

Motion/Second: Cooper/George, to pass:

**Resolution No. 2020-110**, A RESOLUTION AWARDING THE BID FOR THE 2019 I & I SANITARY SEWER PROJECT TO PORTLAND UTILITIES CONSTRUCTION COMPANY, LLC AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

Passed: All present voting “aye.”

**7. Acceptance of FY19 Comprehensive Annual Financial Report (CAFR) (AF: 13-2020) (Sid Cox).**

Motion/Second: George/Phillips, to pass:

ACCEPT FY19 COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR)

Passed: All present voting “aye.”

**VII. CONSENT AGENDA.** None.

**VIII. COMMUNICATIONS.**

**A. CITY MANAGER.** Mr. McCartt commented on the recent retirement of Steve Daugherty from the water department, noting there are many employees that we rarely see but they make huge impact. He also commented on the informative roads and paving presentation at the work session yesterday by Assistant Public Works Director Michael Thompson.

**B. MAYOR AND BOARD MEMBERS.** Alderman Duncan commended the staff on the CAFR and successful audit. He also congratulated the DB band for representing the city well in the Rose Bowl parade. Vice-Mayor George congratulated Sid Cox, Lisa Winkle and the finance department on the CAFR as well. Alderman Phillips stated he went to the Rose Bowl and saw the band's performance. Alderman Adler pointed out Tennessee was at epidemic flu levels and encouraged everyone to wash their hands and get a flu shot. She also commented on Mr. Bowman's previous recognition, stating it was an example of the Kingsport spirit. Alderman Olterman commented on the Sullivan North tournament and the work they put in. Mayor Shull stated he would be holding his second town hall meeting on Thursday from 6-9pm in Colonial Heights.

**C. VISITORS.** Malcom Stallard, Wayne Baxter and Dani Cook made comments.

**Minutes of the Regular Business Meeting of the Board of Mayor and Aldermen  
of the City of Kingsport, Tennessee, Tuesday, January 7, 2020**

**IX. ADJOURN.** Seeing no other business for consideration at this meeting, Mayor Shull adjourned the meeting at 8:00 p.m.

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ANGELA MARSHALL  
Deputy City Recorder

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PATRICK W. SHULL  
Mayor



AGENDA ACTION FORM

**Reauthorize an Electronic Citation Fee upon a Plea of Guilty or Nolo Contendere, or a Judgment of Guilty for Violation of Certain Traffic Ordinances of the City of Kingsport**

To: Board of Mayor and Aldermen  
From: Chris McCart, City Manager *CM*

Action Form No.: AF-17-2020  
Work Session: January 21, 2020  
First Reading: January 21, 2020

Final Adoption: February 4, 2020  
Staff Work By: Capt. Gore  
Presentation By: Chief Quillin

**Recommendation:**

Approve the Ordinance.

**Executive Summary:**

Tennessee Code Annotated 55-10-207 (e) (1-4) provides for an avenue to collect a fee of \$5.00 for every traffic citation that results in a plea of guilty, or nolo contendere, or a judgment of guilty for the purpose of funding the development and operation of an electronic citation system. This code authorizes municipalities to charge and collect the fee through city courts. The fee received must be apportioned as follows: a) \$1.00 will be retained by the court clerk; and b) \$4.00 will be transmitted on a monthly basis by the court clerk to the law enforcement agency that prepared the electronic traffic citation. Any fee imposed shall terminate after 5 years from the date on which the ordinance is adopted.

The Kingsport Police Department has operated an avenue for electronic citations since 2009. Overtime, the technology used needs to be updated/replaced for efficiency. This fee has been collected by the Police Department in the past but we are at the point of needing to reauthorize the fee in accordance with state law.

The breakdown of the \$5.00 fee is as follows: \$1.00 is retained by the court clerk and is used for computer hardware purchases or computer related expenses pertaining to replacement computers and necessary software upgrades, and the remaining \$4.00 is used to obtain new/replacement portable printers, printer paper, batteries and chargers. These items are used in the field by all of the officers to issue both city and misdemeanor citations.

Maintenance of the technology associated with this electronic citation has historically cost approximately \$5,700 annually and the collections from this fee results in approximately \$22,000 annually.

**Attachments:**

- 1. Ordinance

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 30-29 OF THE CODE OF ORDINANCES, CITY OF KINGSPORT, TENNESSEE, REESTABLISHING THE FEE FOR CITY COURT AUTHORIZED BY TENNESSEE CODE ANNOTATED SECTION 55-10-207 AS COURT COSTS; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT as follows:

SECTION I. That section 30-29 of the Code of Ordinances, City of Kingsport, Tennessee, is hereby amended to read as follows:

**Sec. 30-29 Courts costs.**

- (a) The court costs for the city court are hereby established as follows: city court costs for the city are \$60.00 per citation, which includes \$1.00 that will be transmitted to the state treasurer, as required by Tennessee Municipal Court Reform Act of 2004, T.C.A. § 16-18-301 et seq., provided however, if an electronic citation was issued, in addition to the \$60.00 court costs, \$5.00 shall be added to the court costs as set out in subsection b. Additionally, the court clerk of the city court is authorized to collect and transmit the state litigation tax or fee or any other tax, fee or cost required to be collected by the state on court citations or cases.
- (b) In addition to the court costs set out in subsection (a) pursuant to Tennessee Code Annotated Section 55-10-207(e), the city court clerk shall charge and collect an electronic citation fee of \$5.00 for each citation, which results in a conviction. Such fee shall be assessable as court costs and paid by the defendant for any offense cited in a traffic citation delivered that results in a plea of guilty or nolo contendere, or a judgment of guilty. This fee shall be in addition to all other fees, taxes and charges. One dollar (\$1.00) of such fee shall be retained by the court clerk. The remaining four dollars (\$4.00) of the fee shall be transmitted monthly by the court clerk to the law enforcement agency that prepared the traffic citation that resulted in a plea of guilty or nolo contendere, or a judgment of guilty. All funds derived from the electronic traffic citation fee that are transmitted to the law enforcement agency that prepared the traffic citation shall be accounted for in a special revenue fund of such law enforcement agency and may only be used for the following purposes:
  - (1) Electronic citation system and program related expenditures; and
  - (2) Related expenditures by such local law enforcement agency for technology, equipment, repairs, replacement and training to maintain electronic citation programs.
  - (3) All funds derived from the electronic citation fee set aside for the court clerk shall be used for computer hardware purchases, usual and necessary computer related expenses, or replacement. Such funds shall be preserved for those purposes and shall not revert to the general fund at the end of a budget year if unexpended.
- (c) As used in this section "electronic citation" means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

SECTION II. That this ordinance shall terminate pursuant to Tennessee Code Annotated Section 55-10-207.

SECTION III. That the board finds that it is in the best interest of the city in order to maintain and improve the operation of the court to modify the court costs as herein set forth.



SECTION IV. That this ordinance shall take effect from and after the date of its passage as the law directs, the public welfare of the City of Kingsport, Tennessee requiring it.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

PASSED ON 1ST READING \_\_\_\_\_  
PASSED ON 2ND READING \_\_\_\_\_



AGENDA ACTION FORM

**Amend the FY 2020 the General Purpose School Fund Budget**

To: Board of Mayor and Aldermen  
From: Chris McCartt, City Manager *CM*

Action Form No.: AF-24-2020  
Work Session: January 21, 2020  
First Reading: January 21, 2020  
Final Adoption: February 4, 2020  
Staff Work By: David Frye  
Presentation By: David Frye

**Recommendation:**  
Approve the Ordinance.

**Executive Summary:**  
The Board of Education approved fiscal year 2020 budget amendment number two at their meeting on January 14, 2020. This amendment increases estimated revenues and appropriations for the General Purpose School Fund by \$190,300. There is a donation from the Batelle Foundation (\$3,250) for Dobyys-Bennett Excel being designated as a STEM school, a donation from the Adams PTA (\$14,600) for playground improvements, donations from Washington Elementary School (\$12,000) and Washington PTA (\$12,000) for security film, and a Fund Balance Appropriation (\$148,450) to fund an upgrade for the KCS student information system.

- Attachments:**
1. Ordinance
  2. BOE Budget Amendment Number Two – FY 2020

Funding source appropriate and funds are available: *JM*

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE GENERAL PURPOSE SCHOOL FUND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2020; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the General Purpose School Fund Budget be amended by increasing the estimated revenue for Other Local Revenues by \$41,850; the estimated revenue for Fund Balance Appropriations by \$148,450 and by increasing the appropriation for Dobyns-Bennett Excel-Instructional Supplies and Materials by \$3,250; the appropriation for Technology-Capital Improvements by \$148,450; the appropriation for Other Capital Improvements by \$38,600.

**Fund 141: General Purpose School Fund**

**Revenues:**

	\$	\$	\$
141-0000-369-4990 Other Local Revenue	500,000	41,850	541,850
141-0000-392-0100 Fund Balance Appropriations	1,165,861	148,450	1,314,311
<b>Total:</b>	<b>1,665,861</b>	<b>190,300</b>	<b>1,856,161</b>

**Expenditures:**

141-7158-711-0429 DBE-Instructional Supplies	8,421	3,250	11,671
141-7250-785-0790 Technology Capital Outlay	319,734	148,450	468,184
141-7750-871-0707 Other Capital Outlay	821,269	38,600	859,869
<b>Total:</b>	<b>1,149,424</b>	<b>190,300</b>	<b>1,339,724</b>

SECTION II. That this Ordinance shall take effect from and after its date of passage, as the law direct, the welfare of the City of Kingsport, Tennessee requiring it.

\_\_\_\_\_  
PATRICK W. SHULL, Mayor

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: \_\_\_\_\_

PASSED ON 2ND READING: \_\_\_\_\_

January 14, 2020

KINGSPORT CITY SCHOOLS  
FISCAL YEAR 2019-2020  
BUDGET AMENDMENT NUMBER TWO

**GENERAL PURPOSE SCHOOL FUND**

**ITEM ONE: BATTELLE DONATION**

Battelle Education has donated \$3,250 to D-B Excel for their designation as a STEM School. These funds were received in June 2019 and were closed into the Unreserved Fund Balance at June 30. It is recommended that the estimated revenue for Fund Balance Appropriations and the appropriation for D-B Excel Instructional Supplies in increased by \$3,250.

**ITEM TWO: JOHN ADAMS PTA DONATION**

The John Adams PTA has donated \$14,600 to pay for partial pour-in-place surfacing for the John Adams playground. It is recommended that the estimated revenue for Other Local Revenue and that the appropriation for Capital improvements be increased by \$14,600.

**ITEM THREE: WASHINGTON ELEMENTARY SECURITY FILM**

Washington Elementary School and their PTA would like to install security film on all the windows at that school. This security film has been installed on the entrances at all the other KCS schools. The total cost of the project is \$27,193. The Washington PTA has raised \$12,000 for this project and Washington Elementary will match that donation for a total of \$24,000. An additional \$3,193 will be provided by safe Schools Grant funds to cover the Pre-School area. It is recommended that the estimated revenue for Other Local Revenue and that the appropriation for Capital improvements be increased by \$24,000.

**ITEM FOUR: STUDENT INFORMATION SYSTEM**

It is recommended that Kingsport City School's replace the student information system that is currently being used. The recommended SIS has an initial cost of \$140,046.75. It is recommended that the estimated revenue for Fund Balance Appropriations and the appropriation for Technology Capital be increased by \$148,450. This includes an additional 6% for contingency funds.



**AGENDA ACTION FORM**

**Amending City Code Authorizing the City Manager, or Designee to Execute All License Agreements with TDOT for Improvements or Maintenance of Licensed Premises**

To: Board of Mayor and Aldermen  
From: Chris McCartt, City Manager *CM*

Action Form No.: AF-11-2020  
Work Session: January 21, 2020  
First Reading: January 21, 2020

Final Adoption: February 4, 2020  
Staff Work By: Tim Elsea  
Presentation By: Ryan McReynolds

**Recommendation:**

Approve the Ordinance.

**Executive Summary:**

The city often performs work for projects within state highway licensed premises. The work may include, but is not limited to maintenance or installation for the operation of improvements to the licensed premises. TDOT issues License Agreements to the city reflective of use of the licensed premises, which are currently individually processed as agenda items for BMA approval and authorization for the Mayor to execute the documents.

It is requested to amend Kingsport City Code of Ordinances Sec. 2-606 Execution of contracts and purchase orders by adding the following paragraph –

Sec. 2-606 (h) The city manager, or designee is authorized to execute, in a form approved by the city attorney, and attested by the city recorder, all License Agreements with the Tennessee Department of Transportation allowing the city to access and perform work in the licensed premises for the operation of improvements.

**Attachments:**

- 1. Ordinance
- 2. License Agreement (4 pages)

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES,  
CITY OF KINGSPORT, TENNESSEE, SECTION 2-606  
RELATING TO THE EXECUTION OF CONTRACTS AND  
PURCHASE ORDERS; AND TO FIX THE EFFECTIVE DATE OF  
THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That Section 2-606 of the Code of Ordinances, City of Kingsport, Tennessee,  
is hereby amended to add section (h) to read as follows:

**Sec. 2-606.**

(h) The city manager, or designee, is authorized to execute, in a form approved by the  
city attorney, and attested by the city recorder, all License Agreements with the Tennessee  
Department of Transportation allowing the city to access and perform work in the licensed  
premises for the operation of improvements.

SECTION II. That this ordinance shall take effect from and after the date of its passage  
as the law directs, the public welfare of the City of Kingsport, Tennessee requiring it.

\_\_\_\_\_  
PATRICK W. SHULL, Mayor

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY City Attorney

PASSED ON 1ST READING \_\_\_\_\_  
PASSED ON 2ND READING \_\_\_\_\_

This Instrument prepared by:  
State of Tennessee  
Department of Transportation  
Region 1  
P.O. Box 58  
Knoxville, Tennessee 37901  
(Local Government)

Project No. \_\_\_\_\_  
Tract No. \_\_\_\_\_  
\_\_\_\_\_ County  
Request No. \_\_\_\_\_

### LICENSE AGREEMENT

THIS AGREEMENT is made and entered into as of this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between THE STATE OF TENNESSEE, acting by and through its Commissioner of Transportation, (hereinafter referred to as "State") and the **CITY OF KINGSPORT, TENNESSEE** (hereinafter referred to as "Licensee").

WHEREAS, Licensee desires to use a portion of the Licensed Premises to \_\_\_\_\_ being more specifically described in Exhibit A being attached to and made a part of this License; and

WHEREAS, the State is willing to permit said use of the Licensed Premises subject to certain conditions.

NOW, THEREFORE, in consideration of the execution of this License Agreement, it is mutually agreed between the parties hereto as follows:

1. **LICENSE** – Licensee is hereby granted permission to use the Licensed Premises to install and operate \_\_\_\_\_ (hereinafter referred to as the "Improvements").
2. **USE OF LICENSED PREMISES** - Licensee shall be permitted to use the Licensed Premises for the operation of the Improvements. Licensee shall not be permitted to use the Licensed Premises for any other purpose except by prior written permission of the State. Licensee's use of the Licensed Premises is subject to any easements of record and to the right of any utility owner to operate and maintain any existing utility facilities within the Licensed Premises.
3. **FEE** – Licensee shall pay \$0 per year to the State for the use of the Licensed Premises.
4. **TERM** – The License is a \_\_\_\_ year, renewable license which shall begin on [month/day], [year] and shall end on [month/day], [year].
5. **ACCESS** – The State shall provide Licensee access to the Licensed Premises at all times for the uses authorized herein.
6. **MAINTENANCE** – The costs of any maintenance and operation of the Improvements shall be at the sole expense of Licensee;
7. **TRAFFIC CONTROL** - At no time will work authorized by this license agreement interfere with the normal flow of traffic on roadways adjoining the Licensed Premises. Licensee is responsible for providing traffic control for this work zone in accordance with the requirements of the current *Manual on Uniform Traffic Control Devices*. If proper traffic control is not in place, TDOT may order Licensee to stop work until proper traffic control is put in place.

License Agreement  
Request No.

*Traffic Control Devices.* If proper traffic control is not in place, TDOT may order Licensee to stop work until proper traffic control is put in place.

8. **FIRE HAZARD** - The Property shall not be used for the manufacture or storage of flammable material or for any other purpose deemed by the STATE or the Federal Highway Administration to be a potential fire hazard or other hazard to the highway. The determination as to whether or not a use constitutes such a hazard shall be in the sole discretion of the STATE or the Federal highway Administration. The operation and maintenance of said property will be subject to regulation by the STATE to protect against fire or other hazard which could impair the use, safety or appearance of the highway. LICENSEE shall provide access, at all times, for firefighters and accompanying equipment.
9. **DAMAGE TO STATE PROPERTY** - Licensee shall be liable for any damage to state property resulting from Licensee's use of the Licensed Premises and/or installation and operation of the Improvements, including but not limited to, the roadway, shoulders, guardrail, drainage, landscaping, signs and controlled-access fences. All repair or replacement of such damage shall be made in accordance with the current TDOT Standard Specifications for Road and Bridge Construction, TDOT Standard Drawings and any other applicable design and/or construction standards or guidelines.
10. **LIABILITY** - Licensee shall assume all liability for claims arising out of conduct on the part of the Licensee for which it would be liable under the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101, et seq., up to the limits for which it can be held liable for such conduct under that act, arising from its use of the Licensed Premises. In addition, Licensee shall require that any contractor of Licensee that performs any work on the Licensed Premises, including any installation, maintenance, or operation of the Improvements, shall indemnify and hold harmless the State and all of its officers, agents and employees from all suits, actions or claims of any character arising from the contractor's acts or omissions in the prosecution of the work.
11. **INSURANCE** - The Licensee, its successors and assigns, agrees to maintain adequate public liability insurance, which may include self-insurance, and will provide satisfactory evidence of such insurance to the State. Further, the liability limits of this insurance must not be less than the exposure and limits of the Licensee's liability under the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101, et seq. The insurance policy shall include a provision for the insurance company to notify the State in writing of any cancellation or changes of the policy at least 30 days in advance of the cancellation or change. In addition, Licensee shall require that any contractor of Licensee that performs any work on the Licensed Premises, including any installation, maintenance, or operation of the Improvements, shall provide proof of adequate and appropriate general liability insurance providing liability coverage in an amount not less than \$1 million dollars per occurrence and \$300,000 per claimant, naming the State of Tennessee as an additional insured.
12. **PERMITS** - Licensee is responsible for obtaining and paying the costs of all permits, licenses or other approvals by any regulatory body having jurisdiction over the uses authorized herein. Prior to commencing the work authorized herein, Licensee shall notify Tennessee One Call regarding any excavation(s) and shall ensure that the provisions of TCA 65-31-101 et seq. are met.
13. **COMPLIANCE** - All work on the Licensed Premises shall be performed in compliance with current TDOT Landscape Design Guidelines and TDOT Standard Drawings in addition to applicable federal, state and local laws and regulations. Should Licensee fail or neglect to comply with any term or condition of this License Agreement or to comply with written notice and demand, this

License shall be subject to termination. In the event of such termination, Licensee shall immediately remove any and all of its Improvements from the licensed Premises and surrender all rights and privileges under this License Agreement; otherwise, on written notification by the State, the Improvements will be removed and said Licensed Premises restored to its former condition in a timely manner at the expense of the Licensee.

14. **TITLE VI ASSURANCES** – The Licensee for itself, its successors in interest and assigns, as part of the consideration hereof does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the property described in this License Agreement for a purpose for which the State or a State program or activity is extended or for another purpose involving the provision of similar services or benefits, the Licensee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations shall be amended.
15. **AMERICANS WITH DISABILITIES ACT ASSURANCES** – The Licensee for itself, its successors in interest and assigns, as part of the consideration hereof does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the property described in this License Agreement for a purpose for which the State or a State program or activity is extended or for another purpose involving the provision of similar services or benefits, the Licensee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 28, Code of Federal Regulations, Parts 35 and 36, Nondiscrimination on the Basis of Disability in State and Local Government Services and Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, and as said regulations shall be amended. The Licensee further agrees that if any pedestrian facilities are constructed, maintained, or operated on the property described in this License, the Licensee shall construct, maintain, and operate such facilities in compliance with the Architectural and Transportation Barriers Compliance Board’s “Accessibility Guidelines for Pedestrian Facilities in Public Rights-of-Way” (proposed 36 CFR Part 1190; published in the Federal Register, July 26, 2011).
16. **REVERSION** – In the event that the Licensed Premises is needed for a transportation project, Licensee shall remove any and all of its Improvements from the Licensed Premises and surrender all rights and privileges under this License Agreement within 60 days of receiving written notice from the State. In the event that the Licensed Premises is needed for a highway maintenance project, the use of the Licensed Premises will cease temporarily until the maintenance project is completed. In the event that a utility owner needs to maintain a permitted utility facility, the Licensee’s use of the Licensed Premises may cease or be impaired until the utility maintenance activity is completed.
17. **ADJACENT PROPERTY** – Licensee states and affirms that the Improvements constructed and maintained on the Licensed Premises are not relevant to any adjacent property’s activities, features, or attributes that qualify the adjacent property for protection under Section 4(f) of the Department of Transportation Act of 1966 (Pub. L. 89—670, 80 Stat. 931) now codified at 23 U.S.C. § 138, 49 U.S.C. § 303, and 23 CFR Part 774 (hereinafter referred to as “Section 4(f)”). Therefore, neither the act of reversion nor termination of this Agreement, nor any transportation related activities occurring on the Licensed Premises (including, but not limited to, maintenance activities, construction activities, etc.), would result in a substantial impairment to the activities, features, or attributes that may qualify Licensee’s adjacent or nearby property for protection under Section 4(f).

License Agreement  
Request No.

- 18. **NO PERMANENT OWNERSHIP** – Licensee does not currently possess, nor through this Agreement acquire, permanent ownership or control over the Licensed Premises.
- 19. **TERMINATION** – The State may terminate this License at will with 60 days written notice to Licensee.
- 20. **ASSIGNMENT** – The license shall not be transferred, conveyed or assigned to another party without prior written approval from the State.

**TO THE LICENSEE:**

**TO THE STATE:**

State of Tennessee  
Department of Transportation  
Suite 700, James K. Polk Building  
505 Deaderick Street  
Nashville, Tennessee 37243-0337

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

LICENSEE:

**NAME OF LICENSEE**

\_\_\_\_\_  
*Name and title*  
*Address of Licensee*

DATE: \_\_\_\_\_

APPROVED AS TO FORM  
AND LEGALITY:

\_\_\_\_\_  
Attorney for Licensee

DATE: \_\_\_\_\_

**STATE OF TENNESSEE**

\_\_\_\_\_  
John C. Schroer, Commissioner  
Tennessee Department of Transportation

DATE: \_\_\_\_\_

APPROVED AS TO FORM  
AND LEGALITY:

\_\_\_\_\_  
John Reinbold, General Counsel  
Tennessee Department of Transportation

DATE: \_\_\_\_\_





**AGENDA ACTION FORM**

**Vacate Alley Right-of-Way Located Behind 904-910 E. Center St.**

To: Board of Mayor and Aldermen  
From: Chris McCartt, City Manager *CM*

Action Form No.: AF-05-2020  
Work Session: January 6, 2020  
First Reading: January 7, 2020

**Final Adoption: January 21, 2020**  
Staff Work By: Jessica Harmon  
Presentation By: Ken Weems

**Recommendation:**

- Approve the Ordinance vacating alley right-of-way located behind 904-910 E. Center Street

**Executive Summary:**

This is a request to vacate approximately 138 feet in of alley right-of-way located behind 904-910 E. Center Street, totaling 2,760 square feet. The purpose of this owner-requested vacating is to allow for the owner to utilize the vacant lot behind the buildings as additional parking for their businesses. The only utility located in the area of request is AEP, who have secured an easement from the owner for their line/poles. During their December 2019 regular meeting, the Kingsport Regional Planning Commission voted unanimously to send a favorable recommendation for the vacating to the Board of Mayor and Aldermen. The Notice of Public Hearing was published on December 23, 2019.

**Attachments:**

1. Ordinance

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO VACATE A SECTION OF AN UNNAMED ALLEY RIGHT-OF-WAY LOCATED BEHIND 904-910 EAST CENTER STREET SITUATED IN THE CITY, ELEVENTH CIVIL DISTRICT OF SULLIVAN COUNTY; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, after due investigation and careful consideration at a public meeting held on December 19, 2019, the Kingsport Regional Planning Commission has determined that the public interest of the city is best served and warrants vacating that portion of a right-of-way described herein, nor can any future use of the same for right-of-way purposes be reasonably anticipated; and

WHEREAS, as a result of its action at the meeting held on December 19, 2019, the Kingsport Regional Planning Commission recommends to the board of mayor and aldermen to vacate for that portion of a right-of-way described herein; and

WHEREAS, a public hearing before the board of mayor and aldermen of the City of Kingsport, Tennessee, was held on the 7<sup>th</sup> day of January 2020, and notice thereof published in the Kingsport Times-News on the 23<sup>rd</sup> day of December, 2019.

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. The city hereby vacates and closes to public use all of a certain section of an unnamed alley right-of-way located behind 904-910 E. Center Street within the City of Kingsport, 11<sup>th</sup> Civil District of Sullivan County, Tennessee, which for purposes of this vacation is further described as follows:

BEGINNING at a point, said point being the northerly intersecting point of Mapleoak Lane and a 20-foot alley; thence, continuing in a northeasterly direction for a distance of 138.32 feet to a point, said point being the northerly intersecting point of a 20-foot alley with a 15-foot alley also being the southeasterly corner of Tax Map 46O Group B Parcel 34; thence, continuing in a southeasterly direction a distance of 20 feet to a point, said point being the intersection point of the northeasterly corner of Tax Map 46O Group B Parcel 30 with the 20-foot alley; thence, continuing in a southwesterly direction for a distance of 138.32 feet to a point, said point being the intersecting point of Mapleoak Lane with the northwesterly corner of Tax Map 46O Group B parcel 33; thence, continuing in a northwesterly direction for a distance of 20 feet to a point, said point being the point of BEGINNING.

SECTION II. That this ordinance shall take effect from and after its date of passage as the law directs, the welfare of the City of Kingsport, Tennessee, requiring it.

\_\_\_\_\_  
PATRICK W. SHULL, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, City Attorney

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, City Recorder

PASSED ON 1ST READING: \_\_\_\_\_  
PASSED ON 2ND READING: \_\_\_\_\_



**AGENDA ACTION FORM**

**Vacate Alley Right-of-Way Located Behind 904-910 E. Center St.**

To: Board of Mayor and Aldermen  
 From: Chris McCartt, City Manager *CM*

Action Form No.: AF-05-2020  
 Work Session: January 6, 2020  
 First Reading: January 7, 2020  
 Final Adoption: January 21, 2020  
 Staff Work By: Jessica Harmon  
 Presentation By: Ken Weems

**Recommendation:**

- Hold public hearing
- Approve the Ordinance vacating alley right-of-way located behind 904-910 E. Center Street

**Executive Summary:**

This is a request to vacate approximately 138 feet in of alley right-of-way located behind 904-910 E. Center Street, totaling 2,760 square feet. The purpose of this owner-requested vacating is to allow for the owner to utilize the vacant lot behind the buildings as additional parking for their businesses. The only utility located in the area of request is AEP, who have secured an easement from the owner for their line/poles. During their December 2019 regular meeting, the Kingsport Regional Planning Commission voted unanimously to send a favorable recommendation for the vacating to the Board of Mayor and Aldermen. The Notice of Public Hearing was published on December 23, 2019.

**Attachments:**

1. Ordinance
2. Notice of Public Hearing
3. Legal Description
4. Map
5. Staff Report

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN to all citizens of the City of Kingsport, Tennessee, to all persons interested, and the public at large that the City of Kingsport Board of Mayor and Aldermen will conduct a Public Hearing during its regular business meeting on Tuesday, January 7, 2020, to consider the vacating of right-of-way located behind 904-910 E Center Street. The regular business meeting will begin at 7:00 p.m. in the large courtroom located on the second floor of City Hall, at 225 W. Center Street, Kingsport, Tennessee.

The property proposed for vacating is generally described as follows:

BEGINNING at a point, said point being the northerly intersecting point of Mapleoak Lane and a 20-foot alley; thence, continuing in a northeasterly direction for a distance of 138.32 feet to a point, said point being the northerly intersecting point of a 20-foot alley with a 15-foot alley also being the southeasterly corner of Tax Map 46O Group B Parcel 34; thence, continuing in a southeasterly direction a distance of 20 feet to a point, said point being the intersection point of the northeasterly corner of Tax Map 46O Group B Parcel 30 with the 20-foot alley; thence, continuing in a southwesterly direction for a distance of 138.32 feet to a point, said point being the intersecting point of Mapleoak Lane with the northwesterly corner of Tax Map 46O Group B parcel 33; thence, continuing in a northwesterly direction for a distance of 20 feet to a point, said point being the point of BEGINNING.

All interested persons are invited to attend this meeting and public hearing. A detailed map and description is on file in the offices of the City Manager, Kingsport Library, and Planning Office for inspection. Additional information concerning this proposal may be obtained by contacting the Kingsport Planning Division of the Development Services Department, telephone 423-229-9485.

CITY OF KINGSPORT  
Angie Marshall, Deputy City Clerk  
P1T: 12/23/19

**904-910 E. Center Street Alley Vacating Legal Description**

BEGINNING at a point, said point being the northerly intersecting point of Mapleoak Lane and a 20-foot alley; thence, continuing in a northeasterly direction for a distance of 138.32 feet to a point, said point being the northerly intersecting point of a 20-foot alley with a 15-foot alley also being the southeasterly corner of Tax Map 46O Group B Parcel 34; thence, continuing in a southeasterly direction a distance of 20 feet to a point, said point being the intersection point of the northeasterly corner of Tax Map 46O Group B Parcel 30 with the 20-foot alley; thence, continuing in a southwesterly direction for a distance of 138.32 feet to a point, said point being the intersecting point of Mapleoak Lane with the northwesterly corner of Tax Map 46O Group B parcel 33; thence, continuing in a northwesterly direction for a distance of 20 feet to a point, said point being the point of BEGINNING.

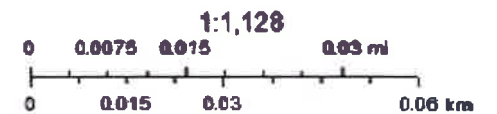


# Aerial



11/21/2019, 11:39:01 AM

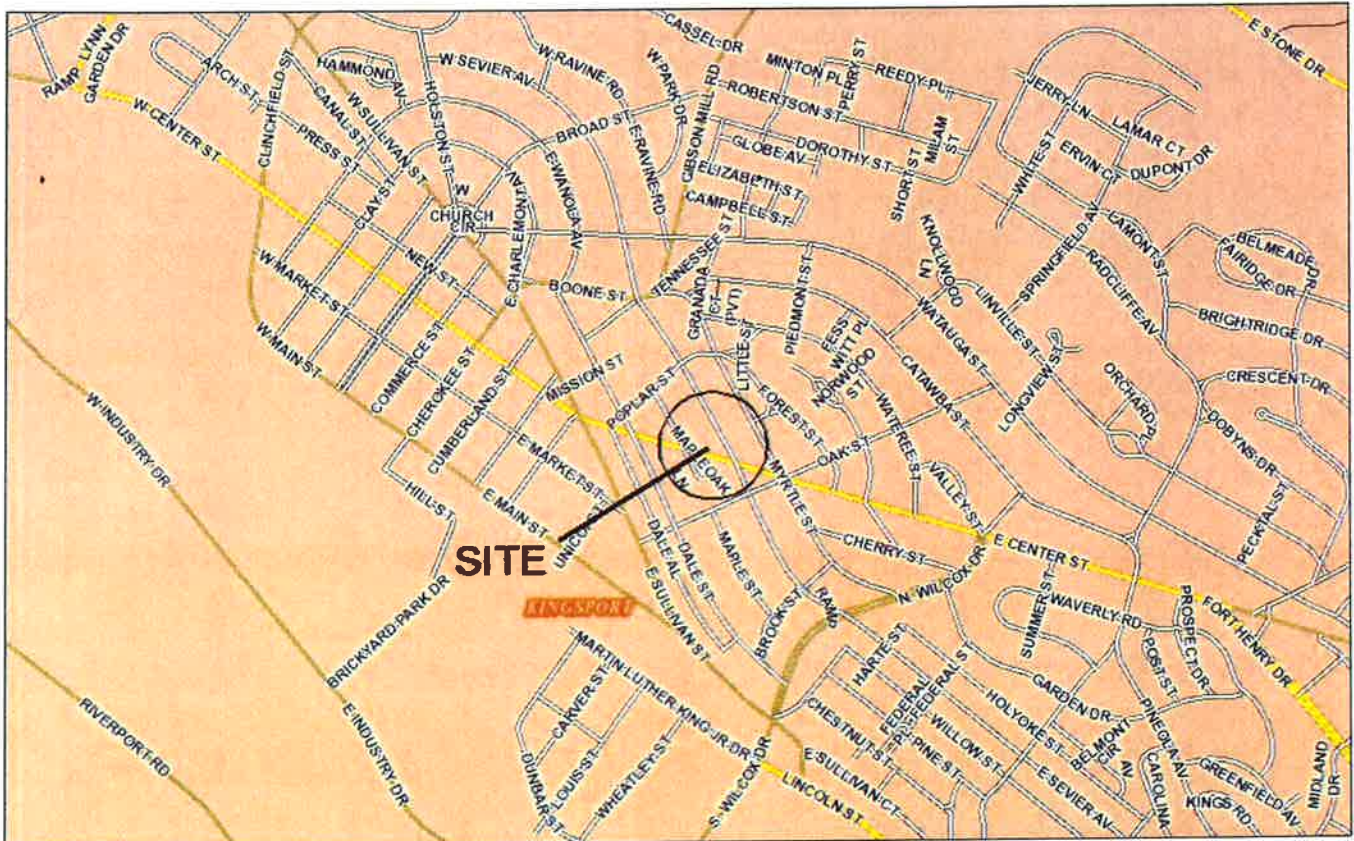
- Kpt 911 Address
- Sullivan County Parcels
- Hawkins County Parcels
- Water Lines
- Sewer Mains



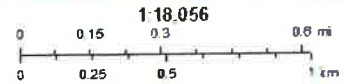


<b>Property Information</b>	Alley Right-of-Way Vacating		
<b>Address</b>	904 E. Center Street		
<b>Tax Map, Group, Parcel</b>	Alley ROW behind TM 460 Group B Parcels 30-33		
<b>Civil District</b>	11 <sup>th</sup> Civil District		
<b>Overlay District</b>	N/A		
<b>Land Use Designation</b>	Retail/Commercial		
<b>Acres</b>	+/- .06		
<b>Applicant #1 Information</b>		<b>Surveyor Information</b>	
<b>Name:</b> JHL Enterprises LLC <b>Address:</b> 1609 Forest View Dr <b>City:</b> Kingsport <b>State:</b> TN <b>Zip Code:</b> 37660 <b>Email:</b> ableprinte@yahoo.com <b>Phone Number:</b>		<b>Name:</b> n/a <b>Address:</b> <b>City:</b> <b>State:</b> <b>Zip Code:</b> <b>Email:</b> <b>Phone Number:</b>	
<b>Planning Department Recommendation</b>			
(Approve, Deny, or Defer)			
The Kingsport Planning Division recommends vacating the alley right-of-way located behind 904 E Center Street			
<ul style="list-style-type: none"> <li>Request reviewed by all city departments &amp; utility providers</li> </ul>			
<b>Staff Field Notes and General Comments:</b>			
<p>The applicant for this request owns the property on either side of the right-of-way. The requested vacating area consists of approximately 0.06 acres and is 138 feet in length. The alley was platted in the early 1900s and the property was replatted in 1947. The vacant lot on the north side of the right-of-way will be utilized for parking for the businesses that front on E. Center Street. The request would allow them to utilize the right-of-way area as access to and from the surrounding streets and buildings.</p> <p>All City Departments and Utility providers have reviewed this request. AEP has a line that runs through this alley therefore, an easement would need to be retained for their access. The owners have been working with AEP to ensure that this easement is taken care of. No other utility providers or city departments have any use for this property.</p> <p>Staff recommends sending forward a favorable recommendation to the Kingsport Board of Mayor and Alderman for the vacating of the alley right-of-way located behind 904 E Center Street based upon the AEP easement being secured and no other departments seeing the need to retain this area for right-of-way.</p>			
<b>Planner:</b>	Harmon	<b>Date:</b> 11/26/19	
		<b>Meeting Date:</b>	<b>December 19, 2019</b>

Location



11/21/2019 11:36:48 AM



Map App by Esri for ArcGIS

### Zoning



11/21/2019, 11:40:58 AM

Kpt 911 Address

-  Sullivan County Parcels
-  Hawkins County Parcels



Web App Builder for ArcGIS

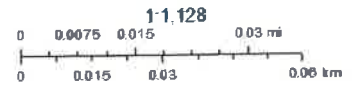


Future Land Use



11/21/2019, 11:39:54 AM

Kpt 911 Address	<b>Future Land Use</b>	Multi-Family	Public
□ Sullivan County Parcels	□ Agri/Vacant	Industrial	□ Utilities
□ Hawkins County Parcels	□ Single Family	Retail/Commercial	



Web AppBuilder for ArcGIS

Aerial



11/21/2019, 11:39:01 AM

- Kpt 911 Address
- Water Lines
- Sullivan County Parcels
- Sewer Mains
- Hawkins County Parcels



Web App Builder for ArcGIS



View from Mapleoak



**RECOMMENDATION:**

Staff recommends sending a favorable recommendation to the Board of Mayor and Alderman for the vacating of the alley right-of-way located behind 904-910 E Center Street based upon the AEP easement being secured and no other department seeing any use for this area of right-of-way.



**AGENDA ACTION FORM**

**Enter into a Materials Agreement with School House, LLC Related to the Cherokee Bend Phase 2 Development and Appropriate the Funds**

To: Board of Mayor and Aldermen  
 From: Chris McCart, City Manager *CM*

Action Form No.: AF-03-2020  
 Work Session: January 6, 2020  
 First Reading: January 7, 2020

**Final Adoption: January 21, 2020**  
 Staff Work By: David Harris  
 Presentation By: R. McReynolds

**Recommendation:**

Approve the Ordinance.

**Executive Summary:**

In an effort to promote smart growth and infill development as well as encourage the new housing market within the Kingsport city limits, the City of Kingsport passed the Materials Agreement Policy as set forth in Resolution 2007-084. Developers have the opportunity to enter into an agreement with the City whereas the City furnishes the water and sewer materials for the developers use within the developer's proposed subdivision. The developer would be responsible for posting a cash bond covering the cost of the materials that would be available for refund (minus sales tax) once the project is completed and has been approved by the City Engineer and the Regional Planning Commission.

Pursuant to the policy, School House, LLC has requested that the proposed Cherokee Bend Phase 2 Development, be allowed to participate in the materials agreement program. The total amount of the agreement is proposed at \$23,332.69 for a new thirteen (13) lot development.

To date, including this development, the program has supported 851 new/proposed lots within the City of Kingsport. Of those lots, 541 Building Permits and 473 Certificates of Occupancy have been issued to date.

**Attachments:**

- 1. Ordinance

Funding source appropriate and funds are available: *CM*

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE WATER AND SEWER PROJECT FUNDS BY TRANSFERRING FUNDS TO THE CHEROKEE BEND PHASE 2 MATERIALS AGREEMENT PROJECTS (WA2052 AND SW2052); AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. That the Water Project Fund and Sewer Project Fund budgets be amended by decreasing the funds transferred from the Water Fund operating budget by \$9,514 and by decreasing the funds transferred from the Sewer Fund operating budget by \$11,794 to the Cherokee Bend Phase 2 projects (WA2052 and SW2052) to fund the materials agreement.

<u>Account Number/Description:</u>	<u>Budget</u>	<u>Incr/&lt;Decr&gt;</u>	<u>New Budget</u>
<b><u>Water Project Fund: 451</u></b>			
<b><u>Cherokee Bend Phase 2 (WA2052)</u></b>			
<b><u>Revenues:</u></b>			
451-0000-391.45-00 From the Water Fund	\$ 0	\$ 9,514	\$ 9,514
<b>Totals:</b>	<b>0</b>	<b>9,514</b>	<b>9,514</b>
<b><u>Expenditures:</u></b>			
451-0000-605.90-03 Construction Contracts	\$ 0	\$ 9,514	\$ 9,514
<b>Totals:</b>	<b>0</b>	<b>9,514</b>	<b>9,514</b>
<b><u>Sewer Project Fund: 452</u></b>			
<b><u>Cherokee Bend Phase 2 (SW2052)</u></b>			
<b><u>Revenues:</u></b>			
452-0000-391.42-00 From the Water Fund	\$ 0	\$ 11,794	\$ 11,794
<b>Totals:</b>	<b>0</b>	<b>11,794</b>	<b>11,794</b>
<b><u>Expenditures:</u></b>			
452-0000-606.90-03 Construction Contracts	\$ 0	\$ 11,794	\$ 11,794
<b>Totals:</b>	<b>0</b>	<b>11,794</b>	<b>11,794</b>



SECTION II. That this Ordinance shall take effect from and after its date of passage, as the law directs, the welfare of the City of Kingsport, Tennessee requiring it.

\_\_\_\_\_  
PATRICK W. SHULL, Mayor

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING:  
PASSED ON 2ND READING:



**AGENDA ACTION FORM**

**Enter into a Materials Agreement with School House, LLC Related to the Cherokee Bend Phase 2 Development and Appropriate the Funds**

To: Board of Mayor and Aldermen  
From: Chris McCartt, City Manager *CM*

Action Form No.: AF-03-2020  
Work Session: January 6, 2020  
First Reading: January 7, 2020  
Final Adoption: January 21, 2020  
Staff Work By: David Harris  
Presentation By: R. McReynolds

**Recommendation:**  
Approve the Resolution and Ordinance.

**Executive Summary:**  
In an effort to promote smart growth and infill development as well as encourage the new housing market within the Kingsport city limits, the City of Kingsport passed the Materials Agreement Policy as set forth in Resolution 2007-084. Developers have the opportunity to enter into an agreement with the City whereas the City furnishes the water and sewer materials for the developers use within the developer's proposed subdivision. The developer would be responsible for posting a cash bond covering the cost of the materials that would be available for refund (minus sales tax) once the project is completed and has been approved by the City Engineer and the Regional Planning Commission.

Pursuant to the policy, School House, LLC has requested that the proposed Cherokee Bend Phase 2 Development, be allowed to participate in the materials agreement program. The total amount of the agreement is proposed at \$23,332.69 for a new thirteen (13) lot development.

To date, including this development, the program has supported 851 new/proposed lots within the City of Kingsport. Of those lots, 541 Building Permits and 473 Certificates of Occupancy have been issued to date.

- Attachments:**
- 1. Resolution
  - 2. Ordinance
  - 3. Agreement
  - 4. Cost Table
  - 5. Location Maps
  - 6. Development Chart

Funding source appropriate and funds are available: *JM*

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MATERIALS AGREEMENT WITH SCHOOL HOUSE, LLC RELATED TO CHEROKEE BEND PHASE 2 DEVELOPMENT AND AUTHORIZING THE MAYOR TO SIGN ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, pursuant to the Materials Agreement Policy as set forth in Resolution 2007-084, School House, LLC would like to enter into a Materials Agreement for the provision of certain water and sewer materials by the city for Cherokee Bend Phase 2, a 13 lot development in the city; and

WHEREAS, the total amount of the agreement as proposed is \$23,332.69;

Now, therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized and directed to execute, in a form approved by the city attorney, a Materials Agreement with School House, LLC to provide certain water and sewer materials by the city for Cherokee Bend Phase 2, in the amount of \$23,332.69, and the mayor is further authorized and directed to execute all documents necessary and proper to effectuate the purpose of the agreement.

SECTION II. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION III. That is resolution shall take effect from and after it adoption, the public welfare requiring it.

ADOPTED this the 7th day of January, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY


**MATERIALS AGREEMENT**

This AGREEMENT made and entered into on this 21st day of January, 2020, by and between School House, LLC. hereinafter "Developer", and the City of Kingsport, Tennessee, a municipal corporation, hereinafter "City".

WITNESSETH:

1. The Developer has subdivided a tract of land known as Cherokee Bend Phase 2, and preliminary approval having been heretofore granted by the Planning Commission.
2. The plans for the proposed water and sewer line improvement of the subdivided property have been submitted to and approved by the City of Kingsport, City Engineer and will require 825 LFT of Waterline and 870 LFT of Sanitary Sewer Line to construct.
3. The estimated cost of the materials listed in paragraph 2 above is approximately \$23,332.69. The Developer will purchase this material from the City for use for construction pursuant to this contract only.
4. The Developer will install the lines according to City's specifications, and will pay all costs for installation of all mains, valves, hydrants and other appurtenances, and will furnish the City "as built" drawings showing the cost lists of all pipe fittings, as well as their exact location.
5. The Developer, upon completion of the work and acceptance by the City, will tender to the City an instrument conveying unencumbered ownership of the lines and easement over and under the land where said lines are laid. Once this conveyance has been made and all the permits needed have been issued, all the inspections completed and passed, and all the payments have been made to the City by the Developer, the City will cause the said line to be connected to the main distribution line of the City.
6. The Developer will reimburse the City for any materials or engineering work required not covered by this agreement.
7. Prior to any reimbursement by the City to the Developer, the Developer will cause the property to be completely annexed into the corporate limits of the City.
8. The Developer will save the City harmless from any and all responsibility for laying any lines, etc., on or across any private premises not dedicated to public use.
9. The Developer will pay the City for the materials listed above and supplied by the City, and upon completion of the laying of water and sewer lines according to specification of and the plans approved by the City, and upon the Developer fully performing all the requirements contained in this agreement the City will reimburse the Developer for the amount paid to the City for the pipe purchased and used in the subdivision, less state and local sales tax.
10. The purpose of this agreement is to reimburse the Developer for 100% of cost of the water and sewer material, less state and local sales tax, with said materials being purchased from the City, and reimbursement for the cost of the materials being made to the Developer subject to the satisfactory completion of all terms of this agreement including complete annexation of the property into the corporate limits of the City.
11. It is understood that the Developer will do any and all ditching, laying of the pipelines, and any and all other work that may be necessary to meet the specifications of the City.
12. Any unused materials acquired by the Developer from the City will be returned to the City and the costs of such material, if returned undamaged, will be credited to the Developer.

IN TESTIMONY WHEREOF, the parties hereto have unto set their hands and seal on this the day and year first above written.

  
 \_\_\_\_\_  
 Developer

\_\_\_\_\_  
 Patrick W. Shull, Mayor

Attest:

Approved as to form:

\_\_\_\_\_  
Sidney H. Cox, City Recorder

\_\_\_\_\_  
J. Michael Billingsley, City Attorney

## Materials Agreement

Project: Cherokee Bend Phase 2  
 Date: December 18, 2019  
 Developer: School House, LLC

File No.: 2018-D17

Water Line		Anticipated		Estimated	
Item #	Item Description	Units	U/M	Price	Total
41810	6" x 18' D.I. Pipe	28.00	Joints	\$214.92	\$6,017.76
42120	4' Bury Hydrant	1.00	each	\$1,573.59	\$1,573.59
42325	6" MJ Gate Valve	3.00	each	\$472.00	\$1,416.00
43032	6x6x6 Anchor Tee	2.00	each	\$90.62	\$181.24
41951	6" MJ Plug w/ 2" Tap	1.00	each	\$42.74	\$42.74
42845	6" x 18" MJ Anchor Coupling	2.00	each	\$98.70	\$197.40
42555	6" D.I. MJ 22.5° Bend	1.00	each	\$40.43	\$40.43
42550	6" D.I. MJ 45° Bend	1.00	each	\$45.12	\$45.12
Building Code					
	Receipt To:				
Subtotal:	<b>451-0000-208-1250</b>				\$9,514.28
Sales Tax:	<b>451-0000-207-0201</b>			9.50%	\$903.86
Project #	<b>WA2052</b>			<b>Water Total:</b>	<b>\$10,418.14</b>
	Expense To:				
Water Acct. #	<b>451-0000-605-9003</b>				





## Materials Agreement

Project: Cherokee Bend Phase 2  
 Date: December 18, 2019  
 Developer: School House, LLC

File No.: 2018-D17

<b>Sanitary Sewer</b>		Anticipated		Estimated	
Item #	Item Description	Units	U/M	Price	Total
45003	8" x 14' SDR-35 gsktd Sewer Pipe	63.00	Joints	\$47.60	\$2,998.80
45057	8" x 6" Tee Wye gsktd Sewer	13.00	each	\$34.67	\$450.71
45112	Manhole Frame & Covers V-1312-44	8.00	each	\$241.95	\$1,935.60
45226	Manhole Base (24") w/ Invert	8.00	each	\$533.00	\$4,264.00
45223	Manhole Concrete 16" Riser (48")	2.00	each	\$133.00	\$266.00
45219	Manhole Concrete 16" Concrete Cone	1.00	each	\$172.00	\$172.00
45221	Manhole Concrete 24" Concrete Cone	5.00	each	\$193.00	\$965.00
45218	Manhole Concrete 32" Concrete Cone	2.00	each	\$241.00	\$482.00
45229	Manhole Concrete 2" Grade Ring	1.00	each	\$30.00	\$30.00
45230	Manhole Concrete 4" Grade Ring	3.00	each	\$40.00	\$120.00
45231	Manhole Concrete 6" Grade Ring	2.00	each	\$55.00	\$110.00
Building Code					
Receipt To:					
Subtotal:	<b>452-0000-208-1250</b>				\$11,794.11
Sales Tax:	<b>452-0000-207-0201</b>			9.50%	\$1,120.44
Project #	<b>SW2052</b>			Sewer Total:	\$12,914.55
Expense To:					
Sewer Acct #	<b>452-0000-606-9003</b>				
				<b>Grand Total:</b>	<b>\$23,332.69</b>





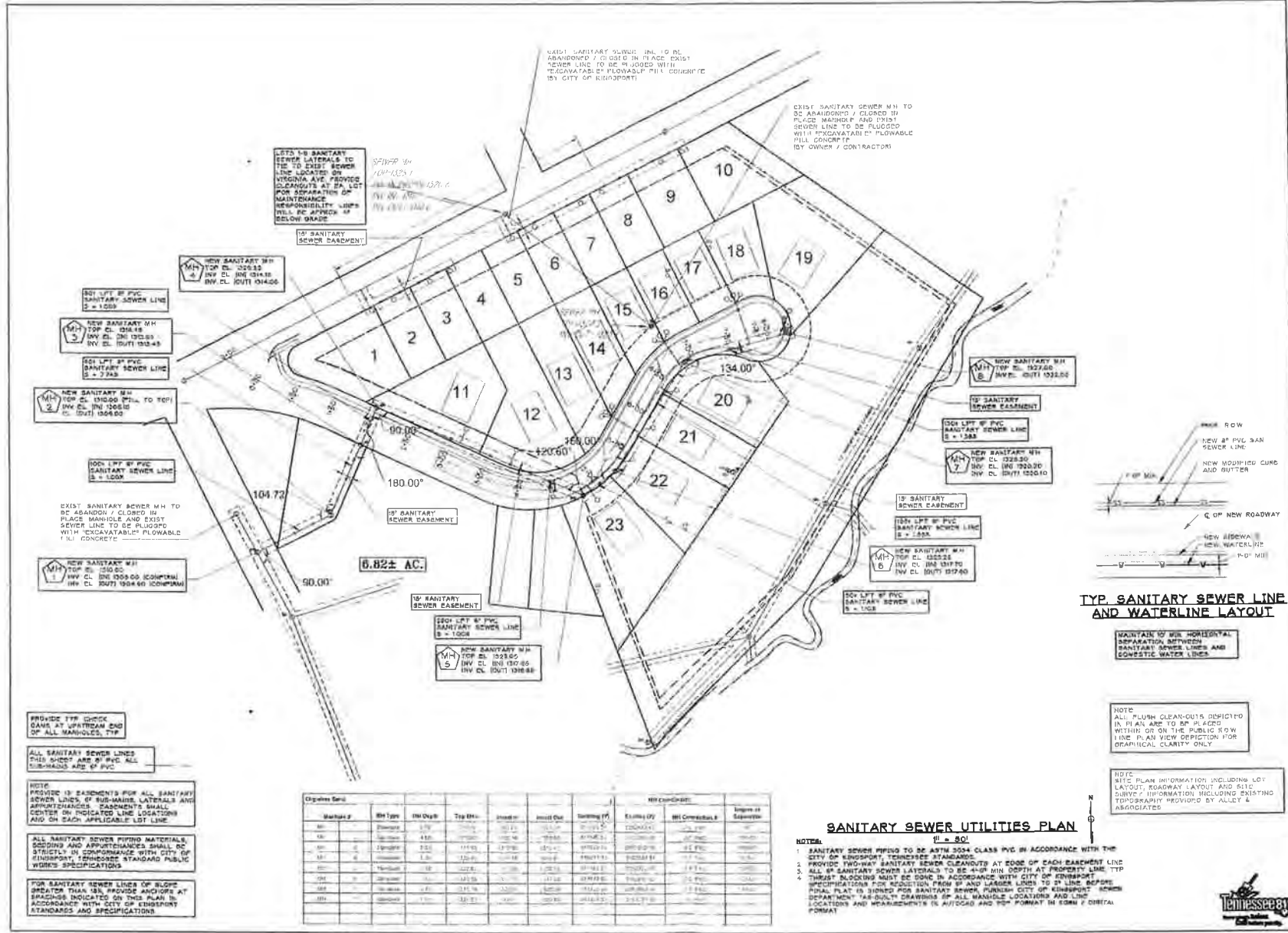
**SPODEN & WILSON  
CONSULTING ENGINEERS**  
430 CLAY STREET  
KINGSPORT, TENNESSEE 37680  
Phone: (423) 245-1161 Fax: (423) 245-0652  
email: [sw@spodenwilson.com](mailto:sw@spodenwilson.com)

**CHEROKEE BEND**  
KINGSPORT  
**SCHOOL HOUSE, LLC**  
KINGSPORT

**SANITARY SEWER  
UTILITIES PLAN**

NO.	DATE	FILE NO.
1	08-16-2011	30000
REVISIONS		
2	08-16-2011	
3	08-16-2011	
4	08-16-2011	
5	08-16-2011	

**SP-6**





**SPODEN & WILSON  
CONSULTING ENGINEERS**  
405 CLAY STREET  
KINGSPORT, TENNESSEE 37080  
Phone: 423-242-1811 Fax: 423-242-0852  
email: [sw@spodenwilson.com](mailto:sw@spodenwilson.com)

TENNESSEE

**CHEROKEE BEND**  
SCHOOL HOUSE, LLC

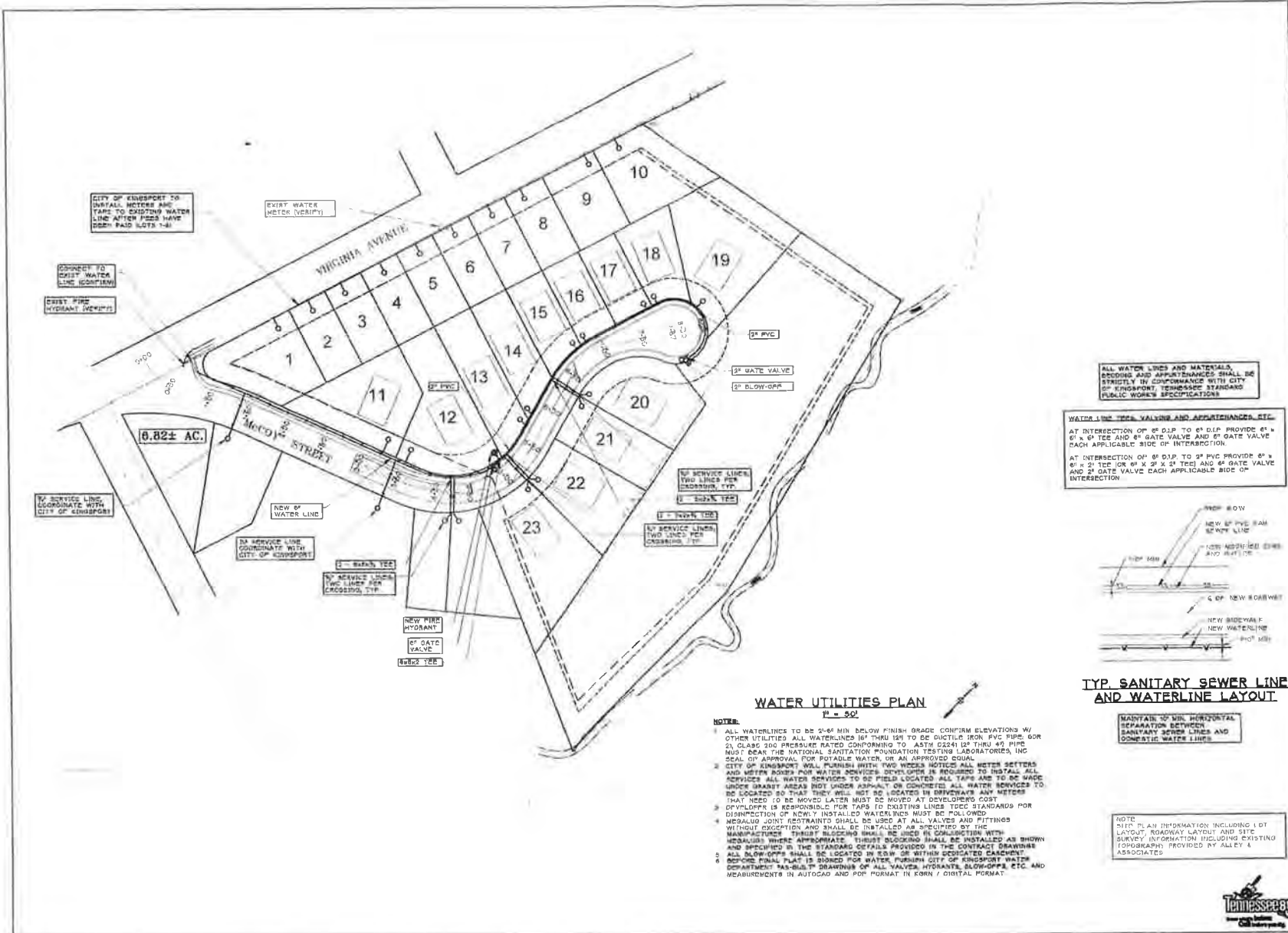
KINGSPORT  
TENNESSEE

SHEET TITLE  
**WATER UTILITIES  
PLAN**

NO.	DATE	FILE NO.
1	02-14-18	1808
2	02-27-18	
3	03-01-18	
4	03-08-18	
5	03-08-18	
6	03-08-18	
7	03-08-18	
8	03-08-18	
9	03-08-18	
10	03-08-18	
11	03-08-18	
12	03-08-18	
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22	03-08-18	
23	03-08-18	

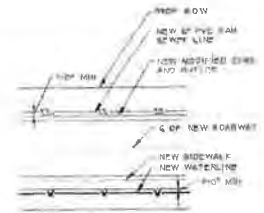


**SP-9**



**ALL WATER LINES AND MATERIALS, FITTINGS AND APPURTENANCES SHALL BE STRICTLY IN CONFORMANCE WITH CITY OF KINGSPORT, TENNESSEE STANDARD PUBLIC WORKS SPECIFICATIONS**

**WATER LINE TEE, VALVING AND APPURTENANCES, ETC.**  
AT INTERSECTION OF 8" D.I.P. TO 8" D.I.P. PROVIDE 6" x 6" x 8" TEE AND 8" GATE VALVE AND 8" GATE VALVE EACH APPLICABLE SIDE OF INTERSECTION.  
AT INTERSECTION OF 8" D.I.P. TO 2" PVC PROVIDE 6" x 8" x 2" TEE OR 6" x 2" x 2" TEE AND 8" GATE VALVE AND 2" GATE VALVE EACH APPLICABLE SIDE OF INTERSECTION



**TYP. SANITARY SEWER LINE AND WATERLINE LAYOUT**

**MAINTAIN 10" MIN. HORIZONTAL SEPARATION BETWEEN SANITARY SEWER LINES AND DOMESTIC WATER LINES**

**NOTE**  
THIS PLAN INFORMATION INCLUDING LOT LAYOUT, ROADWAY LAYOUT AND SITE SURVEY INFORMATION INCLUDING EXISTING TOPOGRAPHY PROVIDED BY ALLEY & ASSOCIATES

**WATER UTILITIES PLAN**  
1" = 50'

- NOTES:**
- ALL WATERLINES TO BE 2'-6" MIN. BELOW FINISH GRADE. CONFIRM ELEVATIONS W/ OTHER UTILITIES. ALL WATERLINES 16" THRU 18" TO BE DUCTILE IRON PVC PIPE. 60R 21, CLASS 200 PRESSURE RATED CONFORMING TO ASTM D2241 12" THRU 48" PIPE MUST BEAR THE NATIONAL SANITATION FOUNDATION TESTING LABORATORIES, INC. SEAL OF APPROVAL FOR POTABLE WATER. ON AN APPROVED EQUAL.
  - CITY OF KINGSPORT WILL FURNISH WITH TWO WEEKS NOTICE ALL WATER SETTERS AND WATER BOXES FOR WATER SERVICES. DEVELOPER IS REQUIRED TO INSTALL ALL SERVICES. ALL WATER SERVICES TO BE FIELD LOCATED. ALL TAPS ARE TO BE MADE UNDER BRASST AREAS NOT UNDER ASPHALT OR CONCRETE. ALL WATER SERVICES TO BE LOCATED SO THAT THEY WILL NOT BE LOCATED IN DRIVEWAY. ANY METERS THAT NEED TO BE MOVED LATER MUST BE MOVED AT DEVELOPER'S COST. DEVELOPER IS RESPONSIBLE FOR TAPS TO EXISTING LINES TOOO STANDARDS FOR DISINFECTION OF NEWLY INSTALLED WATERLINES MUST BE FOLLOWED.
  - REGALD JOINT RESTRAINTS SHALL BE USED AT ALL VALVES AND FITTINGS WITHOUT EXCEPTION AND SHALL BE INSTALLED AS SPECIFIED BY THE MANUFACTURER. THRUST BLOCKING SHALL BE USED IN CONJUNCTION WITH MANHOLES WHERE APPROPRIATE. THRUST BLOCKING SHALL BE INSTALLED AS SHOWN AND SPECIFIED IN THE STANDARD DETAILS PROVIDED IN THE CONTRACT DRAWINGS.
  - ALL BLOW-OFFS SHALL BE LOCATED IN ROW OR WITHIN DESIGNATED CATCHMENT BEFORE FINAL PLAT IS BOUND FOR WATER. FURNISH CITY OF KINGSPORT WATER DEPARTMENT REQUEST DRAWINGS OF ALL VALVES, HYDRANTS, BLOW-OFFS, ETC. AND MEASUREMENTS IN AUTOCAD AND PDF FORMAT IN KORN / DIGITAL FORMAT.



City of Georgetown  
MATERIALS AGREEMENT

Developer	Development	Proposed Lots/Development	Agreement Amt.	Date	Bldg. Permits	CO's	Status
Butch Rose	Hillcrest Heights	6	\$5,140.09	06/19/07	3	3	Closed
	Windridge Phase IV	40	\$92,202.29	04/15/08	15	15	Closed
Jeff McKee	Settler's Ridge Phase I	41	\$45,344.29	03/20/07	Total of 7	7	Closed
	Settler's Ridge Phase II	7	\$18,822.89	11/06/07			Closed
Edinburgh Group LLC	Edinburgh Phase I, Section 1	32	\$42,867.62	02/19/07	Total of 199	186	Closed
	Edinburgh Phase I, Section 2	15	\$25,205.92	04/17/07			Closed
	Edinburgh Phase 2, Section 1A	6	\$2,852.48	02/02/10			Closed
	Edinburgh Phase 2, Section 2	6	\$11,976.02	11/16/10			Closed
	Edinburgh Phase 2, Section 2B	11	\$9,472.85	10/18/11			Closed
	Edinburgh Phase 2, Section 2C	14	\$20,128.29	04/03/12			Closed
	Edinburgh Phase 2, Section 2E	8	\$25,177.34	10/02/12			Closed
	Edinburgh Phase 2, Section 2F	9	\$19,382.60	05/07/13			Closed
	Edinburgh Phase 4	17	\$65,033.97	07/24/13			Closed
	Edinburgh Phase V	12	\$51,965.42	10/7/2014			Closed
	Edinburgh Phase VII	20	\$27,552.51	6/2/2015			Closed
	Edinburgh Phase 9	6	\$5,917.93	5/5/2016			Open
	Edinburgh Phase 10	10	\$38,265.22	3/1/2017			Open
	Edinburgh South Phase I	23	\$36,694.42	11/1/2016			Open
Jerry Petzoldt	Old Island Phase II	59	\$118,027.86	05/06/08	42	38	Closed
Jim Nottingham	Riverwatch	29	\$47,605.13	04/15/08	22	15	Closed
Harold Slemp & Jack McMurray	Villas at Andover - Polo Fields	104	\$76,522.72	08/07/07	53	36	Closed
George Hunt	Hunts Crossing Phase II	22	\$18,375.20	04/15/08	6	5	Closed
Rob McLean	Anchor Point	80	\$72,552.51	07/15/08	42	34	Closed
	Anchor Point – Topsail Court	Included in Anchor Point	\$3,816.08	08/05/08		0	Closed
	Stapleton Dr Phase I	7	\$8,757.81	08/19/08	4	4	Closed
Ken Bates	Chase Meadows Phase I	15	\$39,418.91	07/15/08	Total of 58	52	Closed
	Chase Meadows Phase II	87	\$68,096.96	08/19/08			Closed
Terry Orth	Autumn Woods Phase I	19	\$30,628.25	10/07/08	19	19	Closed
	Autumn Woods Phase II	51	\$97,091.46	09/01/09	42	41	Closed
Gary Alexander	Riverbend Phase I	15	\$65,938.71	02/03/09	10	0	Closed
	Riverbend - Epcon Phase II	9	\$33,171.54	02/01/11			Closed
Leonard & Cynthia Gerber	St. Andrew's Garth Phase I	40	\$34,049.03	03/16/10	8	8	Closed
Jane Karst	Jane Karst Subdivision	4	\$4,100.78	09/20/11			Closed
M & M Builders	Brookton Park Subdivision	7	\$2,145.88	09/20/11	7	7	Closed
Vic Davis	The Summitt at Preston Park Ph. 3	20	\$79,327.82	12/03/13	4	3	Closed
	<b>TOTAL</b>	<b>851</b>	<b>\$1,343,628.80</b>		<b>541</b>	<b>473</b>	

Revised 12/02/19



AGENDA ACTION FORM

**Ratify the Mayor's Signature on Grant Application and Receive the Grant from the Tennessee Arts Commission**

To: Board of Mayor and Aldermen  
From: Chris McCart, City Manager *CM*

Action Form No.: AF-12-2020  
Work Session: January 21, 2020  
First Reading: N/A

Final Adoption: January 21, 2020  
Staff Work By: Hannah M. Powell  
Presentation By: Hannah M. Powell

**Recommendation:**

Approve the Resolution.

**Executive Summary:**

Annual Partnership Support Grant from the Tennessee Arts Commission. Office of Cultural Arts traditionally applies for this grant annually to get operational support for contracted arts projects, and matches the grant with operational budget. This year the request is for \$26,000.

**Attachments:**

- 1. Resolution

Funding source appropriate and funds are available:

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION TO RATIFY THE MAYOR'S SIGNATURE ON THE APPLICATION FOR AN ANNUAL PARTNERSHIP SUPPORT GRANT AND TO AUTHORIZE THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY AND PROPER TO RECEIVE AN ANNUAL PARTNERSHIP SUPPORT GRANT FROM THE TENNESSEE ARTS COMMISSION

WHEREAS, the city applied for an annual Partnership Support Grant from the Tennessee Arts Commission; and

WHEREAS, if awarded, the grant funds will be used for operational support for contracted arts projects; and

WHEREAS, the grant, is in the amount up to \$26,000.00, with 1:1 matching funds available in 110-4505-471.20-20.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the application submitted on January 13, 2020, for an annual Partnership Support Grant from the Tennessee Arts Commission, in an amount up to \$26,000.00 is ratified, including the execution of the same by Mayor Patrick W. Shull.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, all documents necessary and proper to apply for and receive an annual Partnership Support Grant from the Tennessee Arts Commission.

SECTION III. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st of January, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY



**AGENDA ACTION FORM**

**Amend the Agreement with Gordon Food Service**

To: Board of Mayor and Aldermen  
 From: Chris McCartt, City Manager *CM*

Action Form No.: AF-19-2020  
 Work Session: January 21, 2020  
 First Reading: N/A  
 Final Adoption: January 21, 2020  
 Staff Work By: Committee  
 Presentation By: David Frye / Jennifer Walker

**Recommendation:**  
 Approve the Resolution.

**Executive Summary:**

On February 19, 2019, the Board of Mayor and Aldermen passed a resolution to award the Grocery Items and Beverages Bid to Gordon Food Service. This agreement was to establish a continuous supply of grocery and beverage items for the City of Kingsport School Nutrition Services Program.

The term of the Gordons Food Service agreement has an expiration that occurs at the end of February, which does not follow the recommended School Nutrition bidding process timeline. To correct the term of the agreement, School Nutrition Services is recommending the approval to amend to the current agreement to extend the contract term for an additional four months. The new expiration date for the agreement will be June 30, 2020. Bid pricing will remain the same during the extension period. The contract not to exceed amount will be increased \$450,000.00 for grocery purchases during the extended period. The amended contract not to exceed amount will be \$1,800,000.00.

Funding will be provided from Kingsport City School Nutrition Services budget.

**Attachments:**

1. Resolution
2. Amendment Number One
3. Recommendation Memo

Funding source appropriate and funds are available: *JM*

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AMENDMENT NUMBER ONE TO THE AGREEMENT WITH GORDON FOOD SERVICE FOR GROCERY AND BEVERAGE ITEMS FOR THE KINGSPORT CITY SCHOOL NUTRITION SERVICES PROGRAM; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, on February 20, 2019, the board approved an agreement with Gordon Food Services to provide grocery and beverage items to the Kingsport City School Nutrition Services for the period of March 1, 2019, to February 28, 2020, with the option to renew the agreement for an additional three years, in one year increments; and

WHEREAS, the Kingsport City School Nutrition Services would like to amend the agreement to extend the term by four additional months, so the expiration of the agreement will be June 30, 2020, pricing will remain the same, and the contract not to exceed amount will increase \$450,000.00; and

WHEREAS, funding will be provided from Kingsport City School Nutrition Services budget.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That an amendment to the agreement with Gordon Food Service for Grocery and Beverage items for the Kingsport City School Nutrition Services for the extended period of March 1, 2020 to June 30, 2020, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the agreement with Gordon Food Service for Grocery and Beverage Items for the Kingsport City School Nutrition Services for the extended period of March 1, 2020, to June 30, 2020, and all other documents necessary and proper to effectuate the purpose of the amendment or this resolution.

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the amendment/agreement set out herein that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of January, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

**AMENDMENT NUMBER ONE**

Amendment Number One to the Agreement effective March 1, 2019 between Gordon Food Service and the City of Kingsport, Tennessee for Grocery and Beverage Items for Kingsport School Nutrition Program.

**Section 2 Contract Term**

- Extend the contract term for Four (4) Months to allow contract to expire at the end of the fiscal year on June 30, 2020.

**Section 3 Contract Price**

- Add Four Hundred Fifty Thousand Dollars and Zero Cents (\$450,000.00) and change the amount not to exceed contract total to One Million Eight Hundred Thousand Dollars and Zero Cents (\$1,800,000.00). All product bid pricing will remain the same as per the original bid and contract effective March 1, 2019 during the extended term.

**Section 6 Service Level- Delivery Time and Schedule**

- Revise delivery schedule days to Wednesday and Thursday. All locations that receive deliveries on Monday will receive deliveries on Wednesday (Starting at 6:00 a.m. and all must be delivered before 12pm).

All other terms and conditions remain the same as in the Agreement effective March 1, 2019.

GORDON FOOD SERVICE

CITY OF KINGSPORT, TENNESSEE

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

WITNESS:

\_\_\_\_\_  
City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney





**Jennifer Walker**  
Supervisor of School Nutrition Services

400 Clinchfield Street, Ste. 200  
Kingsport, TN 37660

p: (423) 378.2106  
f: (423) 378.2109

[jwalker@k12k.com](mailto:jwalker@k12k.com)  
[www.k12k.com](http://www.k12k.com)

## MEMORANDUM

**TO:** Board of Mayor and Aldermen

**FROM:** Jennifer Walker, KCS SNS Supervisor for School Nutrition Services

**DATE:** 01/14/2020

**RE:** Amendment One- Gordon Food Service Contract

Recommendation: Approval of Amendment One to the Gordon Food Service Contract.

City of Kingsport entered into an agreement with Gordon Food Service effective March 1, 2019. The agreement with Gordon Food Service helps maintain a continual supply of Grocery and Beverage items for the School Nutrition Services program for Kingsport City Schools.

The term of the Gordons Food Service agreement has an expiration that occurs at the end of February, which does not follow the recommended School Nutrition bidding process timeline. To correct the term of the agreement, School Nutrition Services is recommending the approval of Amendment One to the current agreement to extend the contract term for an additional four months. The new expiration date for the agreement will be June 30, 2020. Bid pricing will remain the same during the extension period. The contract not to exceed amount will need to be increased \$450,000.00. The amended contract not to exceed amount will be \$1,800,000.00.

All expenditures from this contract are funded by the School Nutrition Services budget. School Nutrition Services is a self-supporting department within Kingsport City Schools. The Program receives funding from federal reimbursements, state funding, revenue generated by meal fees, a la carte items sold and catering.







AGENDA ACTION FORM

**Award the Bid for Dobyys-Bennett High School Cafeteria Serving Line Equipment Replacement to Armstrong Construction**

To: Board of Mayor and Aldermen  
From: Chris McCartt, City Manager *CM*

Action Form No.: AF-22-2020  
Work Session: January 21, 2020  
First Reading: N/A  
Final Adoption: January 21, 2020  
Staff Work By: Committee  
Presentation By: David Frye

**Recommendation:**  
Approve the Resolution.

**Executive Summary:**

City of Kingsport for its Kingsport City Schools opened bids on December 10, 2019 for the Dobyys-Bennett High School Cafeteria Serving Line Equipment Replacement. The advertisement for the Invitation to Bid was published in the Kingsport Times News and the City of Kingsport website on Sunday, November 10, 2019. A bid was received from Armstrong Construction for \$552,000.00. The recommendation made by the project Architect – Steve Hutton, is to accept the compliant bid submitted by Armstrong Construction for the project.

The Board of Education approved the recommendation to award the bid to Armstrong Construction on January 14, 2020. It is recommended that the Board of Mayor and Aldermen approve the resolution to award the bid for the Dobyys-Bennett High School Cafeteria Serving Line Equipment Replacement for the bid amount of \$552,000.00 and establish a 6% contingency of \$33,120.00 for a project total of \$585,120.00.

Funding for the project is available in the School Nutrition Services Budget.

**Attachments:**

- 1. Resolution
- 2. Bid Tab
- 3. Recommendation Letter

Funding source appropriate and funds are available: *JM*

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AWARDING THE BID FOR THE DOBYNS-BENNETT HIGH SCHOOL CAFETERIA SERVING LINE EQUIPMENT REPLACEMENT PROJECT TO ARMSTRONG CONSTRUCTION AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, bids were opened December 10, 2019, for the Dobyms-Bennett High School Cafeteria Serving Line Equipment Replacement; and

WHEREAS, upon review of the bid, the board finds Armstrong Construction is the responsible compliant bidder meeting specifications for the particular grade or class of material, work or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to enter into a contract for the Dobyms-Bennett High School Cafeteria Serving Line Equipment Replacement from Armstrong Construction at an estimated construction cost of \$552,000.00; and

WHEREAS, funding for the project is available in the Dobyms-Bennett High School Cafeteria Serving Line Equipment Replacement Project in Account, in the School Nutrition Services Program Budget.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the bid for the Dobyms-Bennett High School Cafeteria Serving Line Equipment Replacement at an estimated cost of \$552,000.00, is awarded to Armstrong Construction, and the mayor is authorized to execute an agreement for same and all documents necessary and proper to effectuate the purpose of the agreement.

SECTION II. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the public.

SECTION III. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of January, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

MINUTES  
BID OPENING  
December 10, 2019  
4:00 P.M.

Present: Brent Morelock, Procurement Manager; Michelle Ramey, Assistant Procurement Manager; Steve Hutton, Steve K. Hutton & Associates; Derwin Cartmel, Holston Engineering; Joe Riggs, Holston Engineering

The Bid Opening was held in the Council Room, City Hall.

The Procurement Manager opened with the following bids:

Re-Bid Doby's Bennett High School Cafeteria Serving Line Equipment Replacement	
Vendor	Total Cost
Armstrong Construction Company, Inc.	\$552,000.00

The submitted bids will be evaluated and a recommendation made at a later date.

MEMORANDUM

TO: Board of Mayor and Aldermen

FROM: David J. Frye, Chief Finance Officer - Kingsport City Schools

DATE: January 14, 2020

SUBJECT: Dobyens-Bennett Cafeteria Serving Line Replacement

The City of Kingsport received one bid in response to the rebid invitation for the Dobyens-Bennett Cafeteria Serving Line Equipment Replacement project. Bids were opened on December 10, 2019 in the 2<sup>nd</sup> Floor Council Room at City Hall. The bid proposal received was submitted by Armstrong Construction for the lump sum of \$552,000.00.

The Architect, Steve Hutton and Holston Engineering, reviewed the bid documents and submitted a formal recommendation to accept the compliant bid submitted by Armstrong Construction for the project.

Kingsport City Schools is received approval to proceed with the award from the Board of Education on January 14, 2020. Now, it is recommended that the Board of Mayor and Aldermen approve the resolution to award the bid for the Dobyens-Bennett High School Cafeteria Serving Line Equipment Replacement project to Armstrong Construction.

Total funding for the project is \$610,120.00 and will be paid from the School Nutrition Services Budget.

Bid	\$ 552,000.00
Contingency - 6%	\$33,120.00
Architect/Engineering	<u>\$25,000.00</u>
Project Total	\$ 610,120.00

January 6, 2020

Michelle Ramey  
Asst Procurement Manager  
400 Clinchfield St. Suite 200  
Kingsport, TN 37660

Re: DBHS Serving Lines Replacement

Dear Michelle:

I met with Leland Leonard and Ben McMurry of Armstrong Construction. I reviewed their Bid preparation numbers. My review was with the understanding that the exact details would be kept confidential. Contractor's live in a very competitive world. No contractor wants the details of their method of bid preparation made public. Such information could be used by a competitor in the future.

Armstrong received three subcontractor bids for the serving lines and equipment. There was approximately 7-1/2% between the highest bid and the lowest. The serving lines and equipment cost made up the majority of the bid price. With a spread of 7-1/2% the equipment sub-bids were competitive.

Of Armstrong's bid, over 85% of the cost is competitively bid subcontractor work. In addition to the serving lines and equipment other subcontractor bids included electrical, plumbing and demolition work.


The remaining 15% of the bid price included work to be done by Armstrong employees, insurance, bonds, overhead costs and profit. These items all seemed to be well within normal ranges.

Armstrong's profit was in the mid-single digit percentage range. This profit margin would be considered normal and fair for a project this size.

Based on this information, I consider the bid price presented by Armstrong construction to be competitive, reasonable and fair. If the project were rebid, I would not necessarily expect to receive a lower bid price.

Based on my review of these bid preparation numbers and my previous experience with this contractor, I recommend the award of the contract to Armstrong Construction.

Sincerely,



Steven K. Hutton



AGENDA ACTION FORM

**Extend Award by Amending the Agreement with Premier Landscapes for Landscape Maintenance Services for 2020**

To: Board of Mayor and Aldermen  
From: Chris McCart, City Manager *CM*

Action Form No.: AF-15-2020  
Work Session: January 21, 2020  
First Reading: N/A

Final Adoption: January 21, 2020  
Staff Work By: Committee  
Presentation By: Ryan McReynolds

**Recommendation:**

Approve the Resolution.

**Executive Summary:**

Bids were opened on January 31, 2018 for Landscape Maintenance Services located at various locations including gateway areas. The BMA awarded the bid to Premier Landscapes, Inc. in the amount of \$130,000.00 which is inclusive of 19 areas to be maintained. The BMA then amended the agreement to extend the award of 2018 to 2019

Staff have been pleased with the service provided by the vendor and is recommending that we amend the agreement to extend the award for 2020.

Premier Landscapes has offered to maintain pricing at the 2018 levels for 2020.

Funding is available in Project GP1915 & GP2015.

**Attachments:**

- 1: Resolution
- 2: Agreement
- 3: Bid Opening Minutes
- 4: Vendor Letter
- 5: Recommendation Letter

Funding source appropriate and funds are available: *CM*

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH PROMIER LANDSCAPES, INC. FOR LANDSCAPE MAINTENANCE SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, in January 31, 2018, the board approved a resolution awarding the bid and authorizing the mayor to sign an agreement with Premier Landscapes, Inc. for landscape maintenance services in various places including gateway areas, in an amount not to exceed \$130,000.00; and

WHEREAS, the contract has an option to renew, and staff recommends amending the agreement to renew the award for 2020; and

WHEREAS, Premier Landscapes, Inc. has offered to maintain the pricing levels for 2019; and

WHEREAS, funding is available in project GP1915 and GP2015.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That an amendment to the agreement with Premier Landscapes, Inc. for landscape maintenance services to extend through 2020 at the same rate as 2018, is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the agreement with Premier Landscapes, Inc. for landscape maintenance services to extend through 2020 at the same rate as 2018 and all other documents necessary and proper to effectuate the purpose of the agreement or this resolution.

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the amendment that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of January, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR



ATTEST:

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SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

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J. MICHAEL BILLINGSLEY, CITY ATTORNEY

## **AGREEMENT FOR SERVICES**

THIS AGREEMENT, effective on February 21, 2018, by and between PROMIER LANDSCAPES INC., hereinafter referred to as "COMPANY" and the CITY OF KINGSPORT, hereinafter referred to as "OWNER".

### **WITNESSETH:**

WHEREAS, OWNER has need for services and other adjunct services as may be authorized by OWNER for LANDSCAPE MAINTENANCE SERVICES, and:

WHEREAS, COMPANY desires to provide such services and being competent to do so:

NOW THEREFORE, OWNER and COMPANY in consideration of the mutual covenants and agreements herein contained, do hereby agree as follows:

### **ARTICLE I SCOPE OF SERVICES AND SCHEDULE**

- 1.1 The work and services to be performed (hereinafter referred to as "Services") by COMPANY shall be in accordance with COMPANY's Scope of Work, as detailed in Appendix A attached hereto and made a part hereof as though fully set out in the body of this Agreement.
- 1.2 On receiving authorization to proceed with the work, COMPANY shall proceed with the Scope of Work contained in Appendix A.
- 1.3 COMPANY shall proceed on a schedule mutually agreed with OWNER.

### **ARTICLE II INDEPENDENT CONTRACTOR**

2.1 COMPANY warrants to be an independent contractor and responsible for its Services, and not as the agent of OWNER, in performing the Agreement, maintaining complete control over its employees and all of its subcontractors. Nothing contained in this Agreement or any subcontract awarded by CONSULTANT shall create any contractual relationship between any such subcontractor and OWNER. COMPANY shall provide services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. The COMPANY shall review State of Tennessee and City of Kingsport laws and regulations applicable to its services. COMPANY agrees to comply with all applicable Federal, State and Local codes and ordinances, including all applicable requirements of the Americans with Disabilities Act, in the design or implementation of the

Project.

### ARTICLE III COMMITMENT OF PERSONNEL

- 3.1 COMPANY represents that it has, or will secure at its own expense, the qualified personnel required in performing the Services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with OWNER.
- 3.2 All the Services required hereunder will be performed by COMPANY or subcontractors under their supervision and all personnel engaged in the Services shall be fully qualified and shall be authorized or permitted under State of Tennessee and local laws to perform such Services.

### ARTICLE IV COMPENSATION

- 4.1 OWNER agrees to compensate COMPANY for Services performed pursuant to Article I, which Services are identified in Appendix A, for an amount not to exceed ONE HUNDRED THIRTY THOUSAND DOLLARS AND ZERO CENTS (\$130,000.00). Said fee is inclusive of all labor, expenses and subcontracts to complete all elements of the Services for the Scope of Work, (Appendix A) except as may be identified in OWNER'S Responsibilities section of Appendix A, if such is included.
- 4.2 COMPANY shall submit periodic invoices in a form consistent with OWNER'S needs. Invoices for work performed shall indicate the time period during which the work was performed. The invoices are to be signed and certified as to their accuracy.
- 4.3 OWNER will promptly review monthly invoices. OWNER may require any additional information deemed necessary and appropriate to substantiate the invoice. OWNER shall have ten (10) work days from date of receipt from COMPANY of an invoice to reject all or any part of the invoice. OWNER shall pay the undisputed amounts to COMPANY within thirty (30) days of receipt of the invoice. The invoice shall show the percentage of completion of the Services as of the end of the period covered by the invoice. OWNER is not required to pay more than 90% of the compensation set out in 4.1 above until approval of Final Payment. Final payment, constituting the entire unpaid balance of the amount set out in 4.1 above, shall be made by OWNER to COMPANY only after COMPANY has fully performed and achieved Final Completion of the Services, and has provided OWNER all documents required by this Agreement.
- 4.4 COMPANY shall be responsible for alerting OWNER in any instance when it anticipates exceeding the budget amount; shall provide justification for same; and shall do so prior to expending 100% of the amount set out in 4.1 of this Agreement. The Agreement may be amended as the work progresses, provided COMPANY receives written authorization

from OWNER to make such amendments.

#### **ARTICLE V PERIOD OF PERFORMANCE**

- 5.1 The Scope of the Services to be performed by COMPANY shall be fully and finally completed by December 15, 2018. Final completion is the completion of all Services and all contract requirements by COMPANY.

#### **ARTICLE VI LIABILITY AND INSURANCE**

- 6.1 Public and Professional Liability - COMPANY shall fully indemnify, defend and save harmless OWNER, its Board of Mayor and Aldermen, employees and agents from and against damages, liabilities, expenses, compensations, claims, demands, suits or judgments of sums of money, including but not limited to court costs and reasonable counsel fees, to any party for loss of life or injury or damage to persons or property to the extent caused by, any negligent act, error, omission, of COMPANY, its agents, servants, or employees while engaged upon or in connection with the Services required or performed by COMPANY. The provisions of this Article VI shall survive the termination or expiration of this Agreement.
- 6.2 Insurance - Prior to beginning these Services, COMPANY shall, at COMPANY'S expense, obtain, keep in force during the term of this Agreement the following minimum amounts of insurance:
1. General Liability - occurrence basis bodily injury, personal injury and property damage - \$500,000 - \$1,000,000 combined single limit per occurrence;
  2. Automobile liability - owner, hired, and non-owned bodily injury and property damage - \$500,000 - \$1,000,000 combined single limit per occurrence;
  3. Workmen's compensation with statutory limits and employer's liability insurance with minimum limits of \$500,000, to provide for the payment of employees of CONSULTANT employed on or in connection with the work and/or to their dependents, of worker's compensation benefits, including when required, occupational disease benefits in accordance with the U. S. Longshoremen's and Harbor Worker's Compensation Act and the Jones Act. With the prior approval of OWNER, CONSULTANT may substitute different types of coverage for those specified as long as the total amount of required protection is not reduced.

OWNER, its Board of Mayor and Aldermen, its employees, and agents shall be named as additional insured on the certificates of insurance (General Liability or Automobile Liability) for such policies, and a certified copy of such certificates shall be provided to OWNER by COMPANY prior to the start of Services. COMPANY shall provide OWNER, upon its request.

a certified copy of any insurance policy required by this Agreement. Any failure or non-coverage by such policy or the limit of any such insurance shall not limit the liability of COMPANY to OWNER. The policy, or policies, shall contain a provision that such policy or policies may not be cancelled without thirty (30) days prior written notice of such cancellation to OWNER. Insurance required hereunder shall be in companies reasonably acceptable to OWNER.

## **ARTICLE VII TERMS AND CONDITIONS**

- 7.1 Successors and Assigns - This Agreement and all of its terms and conditions shall extend to and be binding upon the parties hereto and upon their respective heirs, executors, administrators, successors, and assigns.
- 7.2 Subletting, Assignment, or Transfer - This Agreement may not be sublet, assigned or transferred, changed, modified, or amended, in whole or in part, except as may be agreed, in writing, and signed by all the parties hereto.
- 7.3 Extent of Agreement - This Agreement constitutes the entire and integrated agreement between OWNER and COMPANY and no other written or oral understanding shall constitute part of this Agreement.
- 7.4 Severability - To the extent that any provision of this Agreement is finally adjudged invalid or unenforceable by a tribunal of competent jurisdiction, such provision shall be deemed modified to the extent necessary to make it enforceable.
- 7.5 Compliance of Laws - COMPANY shall comply with applicable laws, ordinances, rules, regulations and requirements of all federal, state and local governments, courts, boards, commissions or any other body exercising functions similar to the foregoing insofar as carrying out the provisions of this Agreement.
- 7.6 Termination - If through any cause, either party shall fail to fulfill in timely and proper manner the obligations, agreements or stipulations of this Agreement, the other party shall thereupon have the right to terminate this Agreement by filing written notice to the party in breach of such termination and specifying the effective date thereof, at least five days before the effective day of such termination.

In such event, all finished or unfinished documents, data, studies, and reports prepared by COMPANY under this Agreement shall, at the option of OWNER, become its property and COMPANY shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents. Notwithstanding the foregoing, COMPANY shall not be relieved of liability to OWNER for damages sustained by virtue of any breach of the agreement by COMPANY and OWNER may withhold any payments to COMPANY for the purpose of set off until such time as the exact amount of

damages due OWNER from COMPANY is determined.

- 7.7 Governing Law - This Agreement shall be interpreted under and governed by the laws of the state of Tennessee.
- 7.8 Right to Rely - The COMPANY shall have the right to reasonably rely upon the accuracy and completeness of the services and information furnished by the OWNER. The COMPANY shall provide prompt written notice to the OWNER if the COMPANY becomes aware of any errors, omissions or inconsistencies in such services or information. Nothing herein shall be construed so as to release COMPANY from its responsibility or liability.
- 7.9 Dispute Resolution - In the event that a conflict arises that cannot be resolved between the parties, OWNER and COMPANY agree that all disputes arising out of or relating to this Agreement or the Project shall be first submitted to non-binding mediation, unless the parties mutually agree otherwise. The mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period of agreement of the parties or court order.
- 7.10 Waiver of Consequential Damages - Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the OWNER nor the COMPANY, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty.

#### **ARTICLE VIII OWNERSHIP OF DOCUMENTS**

- 8.1 All documents, reports and material prepared by COMPANY in the performance of this Agreement shall become the sole property of OWNER upon payment in full of all monies owed the COMPANY, provided COMPANY is not in breach of this Agreement. COMPANY hereby acknowledges that all right, title, and interest in the documents and all related reports, plans, drawings, technical memoranda and other directly related documents of any kind prepared or made by COMPANY or its subcontractors in the performance of or in connection with COMPANY'S Services and duties under this Agreement shall be vested solely with OWNER, including the right to hold, use, or dispose of same as OWNER



deems appropriate in its sole discretion, but if OWNER uses such documents for other than intended purpose, OWNER assumes any and all liabilities for such use of the documents and COMPANY waives any property rights and copyright to such documents.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound have caused their duly authorized representative to, set their hand this day, month, and year first above written.

PROMIER LANDSCAPES INC.

By: *CKK*

Date: 2/22/2018

WITNESS:

*BK*


CITY OF KINGSPORT

By: *John Clark*

Date: 3/6/18

ATTEST:

*M. Marshall*  
City Recorder



APPROVED AS TO FORM:

*J. Mark ...*  
City Attorney

PERFORMANCE BOND

BOND "A"

STATE OF Tennessee  
COUNTY OF Sullivan

We, PROMIER LANDSCAPES INC (herein called the "Contractor"), as Principal, and Westfield Insurance Company do hereby acknowledge ourselves indebted and firmly bound and held unto the City of Kingsport, Tennessee, (hereinafter called the "Owner"), a Municipal Corporation existing under and by virtue of the laws of Tennessee, for the use and benefit of those entitled thereto, in the sum of ONE HUNDRED THIRTY THOUSAND DOLLARS AND ZERO CENTS (\$130,000.00) dollars, for the payment of which well and truly to be made in lawful money of the United States, we do hereby bind ourselves, our successors and assigns, heirs and personal representatives.

**BUT THE CONDITION OF THE FOLLOWING OBLIGATION OR BOND IS THIS WHEREAS,** the Owner has engaged the said Contractor, for the sum of (\$130,000.00) to construct the following improvements, to wit:  
LANDSCAPE MAINTENANCE SERVICES

as more fully appears in a written agreement bearing the date of 21st day of February, 2018, a copy of which said agreement or contract is by reference hereby made a part of hereof, and it is the desire of the said Owner that the said Contractor shall assure all undertakings under said agreement or contract, and shall assure and protect all laborers and furnishers of material on said work as provided by Chapter 182 of the Acts of the General Assembly of Tennessee of 1899, and any and all amendments thereto, including, without being limited to, Chapter 121 of the Public Acts of 1923, and Chapter 121 of the Public Acts of 1925, all of which were codified and re-enacted in Sections 7953 to 7959, inclusive, of the Code of Tennessee of 1932, and also in dependently of said statutes.

**NOW, THEREFORE,** if the said Contractor shall fully and faithfully perform all the undertakings and obligations under the said agreement or contract hereinabove referred to and shall fully indemnify and save harmless the said Owner from any and all outlay and expense which it may incur in making good any default, and shall fully pay all the labor, material and work used by said Contractor or any immediate or remote sub-contractor or furnisher of material under him in the performance of said contract, in lawful money of the United States as the same shall become due, then this obligation or bond shall be null and void, otherwise to remain in full force and effect.

And, for value received, it is hereby stipulated and agreed that no change, extension of time, alteration or addition to the terms of said agreement or contract or in the work to be performed thereunder or the specifications or drawings accompanying the same shall in any wise affect the obligations under this obligation or bond, and notice is hereby waived of any such change, extension of time, alteration or addition to the terms of the agreement or contract or to the work or to specifications.

In witness whereof the said Contractor has hereunto affixed its signature and said surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers on this the 22 day of February, 2018.

WITNESS:

[Signature]

Randy Price  
PRINCIPAL

VICE PRESIDENT  
TITLE

WITNESS:

Patricia Hazz

Westfield Insurance Company  
SURETY

BY: [Signature]  
ATTORNEY-IN-FACT

APPROVED AS TO FORM:

J. Michael [Signature]  
CITY ATTORNEY

THIS POWER OF ATTORNEY SUPERCEDES ANY PREVIOUS POWER BEARING THIS SAME POWER # AND ISSUED PRIOR TO 12/01/15, FOR ANY PERSON OR PERSONS NAMED BELOW.

POWER NO. 4111801 03

General Power of Attorney

Westfield Insurance Co. Westfield National Insurance Co. Ohio Farmers Insurance Co. Westfield Center, Ohio

CERTIFIED COPY

Know All Men By These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint M. KEITH SIMS, BENJAMIN R. CHRISTIAN, JOINTLY OR SEVERALLY

Handwritten signature and date 2/23/15

of KINGSPORT and State of TN its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, undertakings, and recognizances; provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed TWO MILLION DOLLARS AND NO CENTS (\$2,000,000)---

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-In-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be it Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-In-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact, may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be it Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereto affixed this 01st day of DECEMBER A.D., 2015 .

Corporate Seals Affixed



WESTFIELD INSURANCE COMPANY WESTFIELD NATIONAL INSURANCE COMPANY OHIO FARMERS INSURANCE COMPANY

By: Dennis P. Baus, National Surety Leader and Senior Executive

State of Ohio County of Medina ss.:

On this 01st day of DECEMBER A.D., 2015, before me personally came Dennis P. Baus to me known, who, being by me duly sworn, did depose and say, that he resides in Wooster, Ohio; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial Seal Affixed



David A. Kotnik, Attorney at Law, Notary Public My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio County of Medina ss.:

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this day of A.D.,



Frank A. Carrino, Secretary



PAYMENT BOND

BOND "B"

STATE OF Tennessee  
COUNTY OF Sullivan

KNOW ALL MEN BY THESE PRESENTS THAT: WE, PROMIER LANDSCAPES INC., General Contractor, principal, and Westfield Insurance Group/Company as Surety, are held and firmly bound unto the City of Kingsport, Tennessee, and John Clark, Jennifer Axsom Adler, Joe Begley, Betsy Cooper, Colette George, Mike McIntire, and Tommy Olterman, members of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, and Tilden J. Fleming, City Manager of said City, the persons having charge of letting of contract for the construction of certain improvements, to wit: **LANDSCAPE MAINTENANCE SERVICES**

in the penalty of ONE HUNDRED THIRTY THOUSAND DOLLARS AND ZERO CENTS (\$130,000.00) for the payment of which we bind ourselves, our several personal representatives and assigns, jointly, and individually, by these presents.

WITNESS our hands and seals on this 22 day of February, 2018

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT: WHEREAS, General Contractor, who entered into an Agreement with the City of Kingsport, Tennessee, dated the \_\_\_\_\_ for the furnishing of all materials, equipment, tools, supplies and labor for the construction of certain improvements as set out in said agreement, which is incorporated herein by reference as if copies in full herein, and if the said principal, as Contractor, shall well, fully and truly perform all of the provisions of said agreement on his part and shall pay for all materials, equipment, tools, supplies and labor so used in the performance of said contract in lawful money of the United States and will furnish to the City satisfactory evidence of the fact of such payments therefore, and that no lien is claimed against the property of said City in which the same are incorporated, and or furnish the City Manager with waivers of any liens that might exist therefore, then this obligation to be null and void; otherwise, to remain in full force and effect.

It is understood and agreed that this bond is executed in compliance with the provisions of, but not limited to, Chapter 182 of the Acts of the General Assembly of Tennessee for 1899, and or any and all Acts amendatory thereof.

And, for value received, it is hereby stipulated and agreed by the surety that no change, extension of time, alteration or addition to the term of said agreement or contract or in the work to be performed thereunder or the contract documents accompanying the same shall in any wise affect the obligations and liabilities under this bond, and notice is hereby waived of any such change, extension of time, alteration or addition to the terms of the agreement or contract, the contract documents or to the work.

WITNESS THE SIGNATURES OF THE Principal and Surety on this the 22 day of February, 2018

WITNESS:

Dandy Price  
PRINCIPAL

VICE PRESIDENT  
TITLE

WITNESS:

Stamele Nass

Westfield Insurance Company  
SURETY

BY: [Signature]  
ATTORNEY-IN-FACT

APPROVED AS TO FORM:

J. Manuel Poljely  
CITY ATTORNEY



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209



**BSN SPORTS™**

THE HEART OF THE GAME

**THANK YOU**

THIS POWER OF ATTORNEY SUPERCEDES ANY PREVIOUS POWER BEARING THIS SAME POWER # AND ISSUED PRIOR TO 12/01/15, FOR ANY PERSON OR PERSONS NAMED BELOW.

POWER NO. 4111801 03

General  
Power  
of Attorney

Westfield Insurance Co.  
Westfield National Insurance Co.  
Ohio Farmers Insurance Co.  
Westfield Center, Ohio

CERTIFIED COPY

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint  
**M. KEITH SIMS, BENJAMIN R. CHRISTIAN, JOINTLY OR SEVERALLY**

*[Signature]*  
of KINGSPOINT and State of TN its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, undertakings, and recognizances; provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed TWO MILLION DOLLARS AND NO CENTS (\$2,000,000)—

**LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.**

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be It Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be it Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereto affixed this 01st day of DECEMBER A.D., 2015 .

Corporate  
Seals  
Affixed



WESTFIELD INSURANCE COMPANY  
WESTFIELD NATIONAL INSURANCE COMPANY  
OHIO FARMERS INSURANCE COMPANY

*[Signature]*  
By: Dennis P. Baus, National Surety Leader and Senior Executive

State of Ohio  
County of Medina ss.:

On this 01st day of DECEMBER A.D., 2015 , before me personally came Dennis P. Baus to me known, who, being by me duly sworn, did depose and say, that he resides in Wooster, Ohio; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial  
Seal  
Affixed



*[Signature]*

David A. Kotnik, Attorney at Law, Notary Public  
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio  
County of Medina ss.:

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this day of A.D.,



*[Signature]*  
Frank A. Carrino, Secretary





January 17, 2018

PROJECT: Landscape Maintenance Services

Dear Prospective Bidder:

You are invited to submit a price proposal for the above project. A copy of the Invitation to Bid, Bid Proposal, Non-Collusive Forms, Drug-Free Workplace Affidavit, Iran Divestment Act Affidavit and Envelope Cover Sheet, are attached. A bid bond will be required. Proposals must be submitted on the forms provided by the City.

If there are any questions, you may call me at (423) 229-9419.

Sincerely,

A handwritten signature in black ink, which appears to read "Brent Morelock". The signature is written in a cursive style.

Brent Morelock, CPPO, CPPB  
Assistant Procurement Manager

BRM/mrg

Attachments

City of Kingsport – Procurement Department  
225 W. Center Street, Kingsport, TN 37660  
Phone – (423) 229-9419 Fax – (423) 224-2433

## INVITATION TO BID

Sealed bids for the following project will be received by the Procurement Manager until 4:00 P.M., Eastern Time, January 31, 2018, and at that time publicly opened in the Council Room, City Hall. All bids will be considered for award or rejection at a later date.

**PROJECT:** Landscape Maintenance Services

A Pre-Bid Conference will be held in the Public Works Conference Room, 609 W. Industry Dr., Kingsport, TN at 10:00 A.M., Eastern Time, January 24, 2018.

A bid bond or certified check in an amount equal to five percent (5%) of the total of the bid is required. Certified checks should be made payable to City Treasurer, City of Kingsport. The successful bidder will be required to execute acceptable Performance and Payment Bonds in an amount equal to one hundred (100%) percent of the contract price.

All bidders must be licensed Contractors as required by the Contractors Licensing Act of 1994 (TCA Title 62, Chapter 6). No bid will be opened unless the outside of the sealed envelope containing the bid provides the following information: the Contractor's license number, the date of the license's expiration, and a quotation of that part of his classification applying to the bid; the Geothermal, HVAC, Masonry, Plumbing, Mechanical and Electrical subcontractor's license number, each date of the license expiration and that part of each classification applying to the bid if the value of work is \$25,000 or greater; (\$100,000.00 or greater for Masonry) if value of the subcontractor's work is less than \$25,000, (\$100,000.00 for Masonry), the bid envelope is to be indicated with the phrase "Subcontractor's bid is less than \$25,000" (\$100,000.00 for Masonry) after each appropriate heading. If no Subcontractors are being used, the outside of the envelope must state, "No Subcontractors are being used on this project".

By submission of a signed bid, the bidder certifies total compliance with Title VI and Title VII of the Civil Rights Act of 1964, as amended, and all regulations promulgated thereunder.

No submitted bids may be withdrawn for a period of sixty (60) days after the scheduled closing time for receipt of bids. All bids shall be signed, sealed and addressed to the Procurement Manager, City of Kingsport, 225 W. Center St., Kingsport, TN 37660, and marked "Landscape Maintenance Services" The City by its governing regulations reserves the right to accept or reject any or all bids received, to waive any informalities in bidding and to re-advertise.

PUB IT: 01/17/18

Tilden J. Fleming  
City Manager

I propose to commence the work within 7 calendar days after notification of acceptance of bid and complete the work as specified by the City.

**LIQUIDATED DAMAGES**

N/A

My Terms are AS PER BID DOCUMENT.

The bidder hereby agrees that the Board of Mayor and Aldermen have the right to reject any and all bids received and to waive any informalities.

Certified check or bid bond is herewith deposited with the City Treasurer, in the sum of 5% of the total bid amount, made payable to the order of City Treasurer of the City of Kingsport, Tennessee, with the understanding that if the bid herewith submitted is rejected, the said check will be returned to the bidder; and if the said bid is accepted by the City of Kingsport, check will be returned to the bidder upon the execution and securing of a contract to do the said work. If awarded the contract to this work, and the bidder refuses or neglects to execute a written contract to do the same and furnish security in the amount required within ten days after being notified that the contract has been awarded to him the certified check shall be forfeited to the City as liquidated damages for such neglect or refusal, and the amount so collected shall be paid into the fund set aside for the City's portion of the cost of the proposed improvement.

The successful contractor shall provide for workman's compensation and comprehensive general public liability insurance in amounts acceptable to the City. The contractor will furnish comprehensive automobile liability insurance and insurance in such form as shall be satisfactory to the City. The contractor shall furnish owner's liability insurance to defend, indemnify and save harmless the City of Kingsport from any and all claims and suits for injury to persons or property arising out of the performance of the contract caused in any way by the acts or omissions of the contractor or the contractor's agents, employees, or subcontractor during or in connection with the contract work, excepting bodily injury or death or property damage caused by the sole negligence of the owner, its agents or employees.

We have read and acknowledge the requirements of owner's liability insurance to save and defend the City harmless.

We acknowledge receipt of 0 addendum(s) to this project.

**BID TO BE SUBMITTED IN DUPLICATE**

  
\_\_\_\_\_  
HANDWRITTEN Signature of Authorized  
Representative

\_\_\_\_\_  
PREMIER LANDSCAPES INC. DBA PREMIER LANDSCAPES INC.  
FIRM

1/30/2018  
Date

52306  
Tennessee Contractor's License Number

**BID MUST BE SIGNED TO BE CONSIDERED**

**BID FORM**

**LANDSCAPE MAINTENANCE SERVICES**

TO: OWNER: City of Kingsport  
ADDRESS: Procurement Manager, City of Kingsport,  
225 West Center Street  
Kingsport, TN 37660

FROM:  
BIDDER: PREMIER LANDSCAPES INC. DBA PREMIER LANDSCAPES INC.

ADDRESS: PO BOX 1697

CITY / STATE / ZIP: KINGSPORT, TENNESSEE, 37662

TELEPHONE: 423.246.7977

LICENSE NO: 52308

LICENSE EXPIRATION DATE: 3/31/2017

THE ABOVE STATED BIDDER IS:

- AN INDIVIDUAL  
 A CORPORATION  
 A PARTNERSHIP  
 A JOINT VENTURE CONSISTING OF:

\_\_\_\_\_  
\_\_\_\_\_

AND IS LICENSED TO DO BUSINESS IN THE STATE OF TENNESSEE FOR THE WORK SPECIFIED.

1. Having examined the specifications and any addenda prepared by the City of Kingsport entitled "Landscape Maintenance Services", having visited the sites of the proposed work and being completely familiar with the local conditions affecting the cost of the work .
2. I, (We) propose to execute the portion of the work identified as "Base Bid" for the stipulated sum of:  
(sums shall be in written and numerical form)

**Lump Sum Base Bid (Areas 1-19)** ONE HUNDRED THIRTY THOUSAND DOLLARS AND ZERO CENTS

DOLLARS. (\$ 130,000 )

3. The undersigned agrees to perform ALL the work described by the "Specifications".
4. The undersigned agrees to commence work under this contract within seven days of after receipt of notice to proceed.
5. The undersigned agrees that this bid shall be good and may not be withdrawn for a period of (60) sixty calendar days after the scheduled closing time for receiving bids.
6. The undersigned upon receipt of written notice of the acceptance of this bid, agrees to deliver, to the owner or his agent, the architect, the required performance bond, labor and material payment bond and certificate of insurance in accordance with the specifications. A 5% bid bond will be required.
7. The undersigned hereby acknowledges the receipt of:

**ADDENDA NO.**

**DATE**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BID FORM - ATTACHMENT

PROJECT: Landscape Maintenance Services

CHRIS KELSO being first duly sworn, deposes and says that:

- (1) He is  
of PREMIER LANDSCAPES INC DBA PREMIER LANDSCAPES INC  
the Bidder that has submitted the attached bid;
- (2) He is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting, such bid.
- (3) Such bid is genuine and is not a collusive or sham bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has any way colluded, conspired, connived or agreed, directly with any other Bidder, firm or person to submit a collusive or sham bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly, or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm, or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid Price or the Bid Price of any other Bidder, or to secure through any collusion, conspiracy, connivance or lawful agreement any advantages against the City of Kingsport, or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, or parties in interest, including this affiant.

*Chris Kelso*

MANAGER  
Title

Subscribed and sworn to before me this

30th day of January, 2018

*[Signature]*

Title Notary Public

My commission expires 6/24/2020





Affidavit

STATE OF TENNESSEE  
COUNTY OF SULLIVAN

DRUG-FREE WORKPLACE AFFIDAVIT  
OF PRIME BIDDER

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

1. He/She is the principal officer for PREMIER LANDSCAPES INC DBA PREMIER LANDSCAPES INC;
2. That the bidding entity has submitted a bid to CITY OF KINGSPORT  
for the construction of LANDSCAPE MAINTENANCE SERVICES;
3. That the bidding entity employs no less than five (5) employs;
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 30~~th~~ day of January, ~~200~~ 2018



  
NOTARY PUBLIC

My commission expires: 6/24/2020

**DRUG-FREE WORKPLACE**

If **CONTRACTOR** has five or more employees receiving pay: **CONTRACTOR** shall have a drug-free workplace program that complies with Title 50, Chapter 9 of the Code of Tennessee. shall obtain a certificate of compliance with the applicable portions of the Drug-Free Workplace Act from the Department of Labor and Workforce, and shall provide the Affidavit required by Public Acts, 2000, Chapter 918. **CONTRACTOR** shall ensure that it is in compliance with Public Acts, 2000, Chapter No. 918.

The City of Kingsport complies with Chapter 693 of the Public Acts of 2002 - The City of Kingsport operates a program that provides for testing of certain employees for workplace use of drugs and alcohol. The program is limited to those employees required by federal law to be tested. This law, known as the Omnibus Transportation Employee Testing Act of 1991, primarily covers certain employees who operate vehicles requiring a commercial drivers license or who work on vehicles the operation of which require a commercial drivers license.

# IRAN DIVESTMENT ACT AFFIDAVIT

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As per Tennessee Code Annotated, Title 12, and effective July 1, 2016:

By submission of this bid, each bidder 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 § 12-12-106.

  
\_\_\_\_\_  
Signature

1/30/2018  
\_\_\_\_\_  
Date

Bid or  
Proposal  
Bond

# Westfield Insurance Company

Westfield Insurance® 1 Park Circle, P O Box 5001,  
Westfield Center, Ohio 44251-5001 Toll Free 800-243-0210

KNOW ALL MEN BY THESE PRESENTS, that we, Premier Landscapes, Inc dba Premier Landscapes, Inc.  
\_\_\_\_\_, as Principal, and  
the Westfield Insurance Company an Ohio Corporation, with its principal office at Westfield  
Center, Ohio, as Surety, are held and firmly bound unto City of Kingsport (Procurement Manager, City of Kingsport -  
225 West Center Street, Kingsport, TN 37660) as Obligee, in  
the penal sum of \$6,500 (Six Thousand, Five Hundred and 00/100) DOLLARS,  
lawful money of the United States of America, for the payment of which, well and truly to be made, we bind  
ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these  
presents.

WHEREAS the said Principal is herewith submitting a bid or proposal for Landscape Maintenance Services  
(Various Locations)

NOW THEREFORE, the condition of the above obligation is such, that if the said Principal shall execute a  
contract and give bond for the faithful performance thereof, if required by the contract, or if the Principal or Surety  
shall pay the Obligee the difference, not exceeding the penal sum hereof, between the amount of the contract entered  
into in good faith to perform the work to which the bid or proposal relates and the amount bid or proposed by the  
Principal, then this obligation shall be void; otherwise it shall remain in full force and effect.

SIGNED this 30th day of January, 2018

Premier Landscapes, Inc dba Premier Landscapes, Inc  
Principal

By: Jarrod Reed  
Jarrod Reed, President

**Westfield Insurance Company**

By: Benjamin P. Johnson  
Benjamin P. Johnson, Attorney-in-fact

**City of Kingsport, Tennessee**  
**Landscape Maintenance Services**  
**2018 Specifications**

**Statement of Intent**

The Landscape Maintenance Contractor shall anticipate that the City of Kingsport expects the landscape maintenance at these sites to be of the highest quality possible and shall be professionally managed, executed, and performed by experienced personnel.

**Scope of Work – All Areas**

The Landscape Maintenance Contractor shall provide all materials, equipment, and labor required to perform all tasks identified within these specifications. The landscape Contractor is expected to perform the described work a minimum of every two weeks during the growing season except for the required Spring and Fall clean-ups to be done once a year.

**Locations**

- Area 1 – The triangular landscaped bed near the entrance of the Exit 4, I-26/Wilcox Drive ramp
- Area 2 – The large existing landscaped bed halfway down the Exit 4 ramp from I-26 towards Wilcox Drive/J. B. Dennis Highway
- Area 3 – The landscaped bed around the trees near the end of Exit 4 ramp from I-26 near J. B. Dennis Highway
- Area 4 – The median of Wilcox Drive near the intersection of J. B. Dennis Highway
- Area 5 – The landscaped bed around the Welcome to Kingsport Sign on the east side of Wilcox Drive near the intersection of J. B. Dennis Highway
- Area 6 – The landscaped bed in front of the wetland area on the east side of Wilcox Drive along the north side of J. B. Dennis Highway
- Area 7 – The landscaped bed in front of the brick house at the intersection of Wilcox Drive and J. B. Dennis Highway
- Area 8 – The landscaped beds on the Northwest side of the intersection of Wilcox Drive and J. B. Dennis Highway
- Area 9 - The 911 center located on Unicoi Street (Both inside and outside the fenced area)
- Area 10 - The entire landscaped median of Eastman Road
- Area 11 - All of the landscaped areas in the Middle of Broad Street from and including Church Circle to Main Street
- Area 12 – The entire landscaped median of Memorial Blvd. from Fort Henry Drive to Center Street/Warpath Drive
- Area 13 – All Landscaped areas of Carousel Park (Inside and outside of the fence, including landscaped bed at intersection of Center Street and Clinchfield Street)

- Area 14 – All landscaped and tree planted areas at the interchange of Stone Drive and J.B. Dennis Highway
- Area 15 - All landscaped and tree planted areas at the interchange of Memorial Blvd. and J.B. Dennis Highway
- Area 16 - All landscaped and tree planted areas at the interchange of Fort Henry Drive and J.B. Dennis Highway
- Area 17 – All landscaped and tree planted areas at the intersection of Stone Drive and Netherland Inn Road
- Area 18 – The entire landscaped median of Stone Drive from Eastman Road to Indian Trail Drive
- Area 19 – Lynn Garden Drive/US 23 Interchange (Both Sides of the Road)

### Scope of Work for Areas

#### A. Weed Control

1. At each visit hand-pull or spray any visible weeds from landscaped bed areas. In addition, the tops of any weeds over 6 inches in height must also be physically removed as not to cause an unsightly appearance.
2. Any visible weeds growth along the curb line, sidewalks, roads, or parking area (if present and in contact with the landscaped bed) must be removed or sprayed as not to cause an unsightly appearance.
3. Care must be taken to ensure no damage to the surrounding trees, shrubs, groundcover, perennials or turf occurs during any maintenance efforts.

#### B. Pesticide Applications

1. All pesticide applications must performed by a company Chartered by the Tennessee Department of Agriculture.
2. All pesticides (restricted and/or non-restricted) shall only be applied by a Tennessee Department of Agriculture Certified Applicator.
3. All pesticide applications must be in strict accordance with the manufacturer's recommendations as well as all Local, State and Federal regulations.
4. Weather conditions must be conducive for all pesticide applications.
5. All pesticide applications must be documented in writing and submitted to the City Representative on a monthly basis and shall contain at minimum the following information:
  - a. Application date(s)
  - b. Application site(s)
  - c. Applicator(s) name
  - d. Target pest(s)
  - e. Object(s) treated
  - f. Pesticide(s) used
  - g. Total use dilution volume
  - h. Application rate(s)
  - i. Dilution percentage/rate(s)

C. Watering

1. The Landscape Contractor shall be responsible for monitoring the moisture levels in the bed areas and report to the City Representative any problems that may be present during the maintenance visits.

D. Tree, Shrub, Ornamental Grasses, Groundcover, and Perennial Care

1. Trees

- a. At each visit inspect for any signs of pests, diseases, or other issues, notifying the City Representative of any major findings. Implement appropriate control measures including physical removal or chemical controls as needed.
- b. At each visit remove all sucker growth from tree trunks. Pruning cuts shall be made in an appropriate manner as not to further damage the trees.
- c. Notify City Representative of any dead, dying, or major damage in the trees. The entire tree is only to be removed upon request.
- d. All trees must be maintained in a stable upright position by means acceptable to the City Representative.

2. Shrubs

- a. At each visit inspect for any signs of pests, diseases, or other issues, notifying the City Representative of any major findings. Implement appropriate control measures including physical removal or chemical controls as needed.
- b. At each visit prune away any wayward, dead, or broken branches.
- c. Notify City Representative of any dead, dying, or major damage. The entire shrub is only to be removed upon request.
- d. Periodically, but only as necessary, some shrubs may require a hard pruning to achieve adequate vehicular line-of-sight for traffic or signs. However, this shall be done only upon direction of the City Representative.

3. Ornamental Grasses

- a. At each visit inspect for any signs of pests, diseases, or other issues, notifying the City Representative of any major findings. Implement appropriate control measures including physical removal or chemical controls as needed.
- b. At each visit prune away any wayward, dead, or broken blades.
- c. Notify City Representative of any dead, dying, or major damage. The entire plant is only to be removed upon request.
- d. Periodically, but only as necessary, the ornamental Grass may require a hard pruning to achieve adequate vehicular line-of-sight for traffic or signs. However, this shall be done only upon direction of the City Representative.

4. Groundcover

- a. At each visit inspect for any signs of pests, diseases, or other issues, notifying the City Representative of any major findings. Implement appropriate control measures including physical removal or chemical controls as needed.
- b. At each visit prune away any wayward, dead, or broken growth.
- c. Notify City Representative of any dead, dying, or major damage. The entire plant is only to be removed upon request.



5. Perennials
    - a. At each visit inspect for any signs of pests, diseases, or other issues, notifying the City Representative of any major findings. Implement appropriate control measures including physical removal or chemical controls as needed.
    - b. At each visit prune away any wayward, dead, or broken growth.
    - c. Notify City Representative of any dead, dying, or major damage. The entire plant is only to be removed upon request.
- E. Mulch
1. Landscaped beds shall only be mulched with a clean, fresh layer of shredded pine bark mulch. Mulch shall be applied as to appear to be level and of a consistent layer over the entire bed.
  2. All mulched beds must be maintained at a depth of no less than two (2) inches and no greater than four (4) inches.
  3. Care must be taken to prevent contact with the trunks of any trees.
  4. At times the Landscape Maintenance Contractor may need to re-edge and reapply mulch to the beds if there are any issues of mulch washing out of the bed area.
  5. All trees under 1 foot in diameter will also need to be mulched in these areas even if in turf areas.
- F. Spring Clean-up (To be performed once during the contract cycle)
1. Edging
    - a. Edge all landscape beds along all vertical curbs and along any existing sidewalks to prevent run off of mulch
    - b. Edge all landscape beds that are in contact with a turf area to define bed, prevent wash-out, and to make a smooth mowing line for turf management.
  2. Mulching
    - a. Shredded Pine Bark Mulch shall be applied a rate of no less than 1 cubic feet of product per 6 square feet each spring. Once applied, all beds must have a mulch depth of no less than (2) inches and no greater than four (4) inches
    - b. Mulch shall be applied as to appear to be level and of a consistent layer over the entire bed.
    - c. Care must be taken to prevent contact with the trunks of any trees.
  3. Fertilization
    - a. All plant material shall be fertilized with a low nitrogen, slow release product agreed upon by the Landscape Contractor and the City Representative.
    - b. Fertilizer applications must be fully documented and submitted to the City Representative as to type, rate of application and total amount used.
  4. Pruning
    - a. General - All plant material shall be properly pruned to promote a natural look, remove any unwanted growth, and to remove any wayward, dead, or damaged branches. Proper pruning cuts shall be made as to avoid damaging the plant, promote healing, and develop proper structure.
    - b. Trees – Trees shall be pruned as needed such that no branches/limbs interfere with proper use of sidewalks, parking areas and roadways. It should also ensure that all roadway signage remains visible to traffic. At no time shall any tree be topped. Crepe

Myrtles (if present) may require the removal of seed heads and/or crown reduction to promote flowering.

- c. Shrubs – Any Spring flowering shrubs shall be pruned, but at a date after the blooms are spent.
- d. Ornamental Grasses – Removal of all seed heads as well as removal of last year's growth to just above the base of the plant
- e. Groundcover – May include removal of any growth over curb line, growth outside of bed, or sidewalk
- f. Perennials – To include any spent seed heads and any of last year's spent growth.

5. Leaf Collection

- a. Collect and remove any previous leaf debris accumulation from all landscape bed areas.

G. Fall Clean-up (To be performed once during the contract cycle)

1. Edging

- a. Edge all landscape beds along all vertical curbs and along any existing sidewalks to prevent run off of mulch
- b. Edge all landscape beds that are in contact with a turf area to define bed, prevent wash-out, and to make a smooth mowing line for turf management.

2. Mulching

- a. No Fall Mulching shall be required

3. Fertilization

- a. No Fall Fertilization shall be required

4. Pruning

- a. General - All plant material shall be properly pruned to promote a natural look, remove any unwanted growth, and to remove any wayward, dead, or damaged branches. Proper pruning cuts shall be made as to avoid damaging the plant, promote healing, and develop proper structure.
- b. Trees – Trees shall be pruned as needed such that no branches/limbs interfere with proper use of sidewalks, parking areas and roadways. It should also ensure that that all roadway signage remains visible to traffic. At no time shall any tree be topped.
- c. Shrubs - Prune away any wayward, dead, or broken branches. No major pruning should occur on shrubs that have set bloom for the following season.
- d. Ornamental Grasses – Prune away any wayward, dead, or broken blades
- e. Groundcover – May include removal of any growth over curb line, growth outside of bed, or sidewalk
- f. Perennials – To include any spent seed heads and any of last year's spent growth.

- 5. Leaf Collection – After all leaves have fallen, rake or blow and collect leaf debris accumulation from all landscape bed areas.

H. Trash Removal and Cleanup

- 1. At each visit all litter, trash and unwanted debris will be removed from the landscaped beds and immediately surrounding areas (Minimum of 5 feet).
- 2. All litter and debris created by any of the above functions will be transported from the site and disposed at the Landscape Contractor's expense.

I. Traffic Control

1. Effective means for controlling pedestrian and vehicular traffic shall be instituted on every job site where necessary in accordance with U.S. Department of Transportation (DOT) Manual on Uniform Traffic Control Devices (MUTCD), and/or applicable state and local laws and regulations.

J. Irrigation

1. There is currently no irrigation systems within the landscaped beds included in these bids.

K. Guarantee

1. The Landscape Maintenance Contractor shall replace or repair, at the Contractor's expense, any plants or turf as a result of the Contractor's direct actions or failure to act to maintain the landscape beds and surrounding areas as expected and spelled out in these bids.

L. Renewal Option

1. The contract will be awarded for a period of one year with a renewal option on an annual basis in one year increments providing all terms, conditions and costs are acceptable to both parties. The City reserves the right to rebid at the end of any contract period.

MINUTES  
BID OPENING  
January 31, 2018  
4:00 P.M.

Present: Brent Morelock, Assistant Procurement Manager; Michelle Ramey, Assistant Procurement Manager, Schools; and Lewis Bausell, Landscape Specialist

The Bid Opening was held in the Council Room, City Hall.

The Assistant Procurement Manager opened with the following bids:

LANDSCAPE MAINTENANCE SERVICES	
Vendor:	Total Cost:
Boehm Landscape Management, Inc.	\$149,000.00
Premier Landscapes, Inc. dba Premier Landscapes, Inc.	\$130,000.00

The submitted bids will be evaluated and a recommendation made at a later date.



[www.premierlandscapes.com](http://www.premierlandscapes.com)

Premier Landscapes, Inc  
PO Box 1697  
Kingsport, TN 37662

Phone:423-246-7977  
Email: [chris@premierlandscapes.com](mailto:chris@premierlandscapes.com)  
Fax:423-246-7903

January 2<sup>nd</sup>, 2020

Dear Brent Morelock,

We agree to extend Landscape Maintenance Services (For Various Locations) in 2019 at the 2018 price.

We appreciate your business.

Chris Kelso  
Premier Landscapes Inc.

## Memorandum

January 3, 2020

To: Brent Morelock, Procurement Manager  
From: Lewis A. Bausell, Landscape Specialist  
Subject: Landscape Maintenance.Contract

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The Streets and Sanitation Department hereby recommends that the Landscaping Contract with Premier Landscaping, Inc., be extended through calendar year 2020. We have had no issues with their work and care of these areas during the last two years. It is also my understanding that they would be willing to continue these services at the same cost (\$130,000) as 2018 & 2019. Money is available in the Kingsport AEP Enhancement line item GP1915 until depleted at which time GP2015 will be available for use. This action would help prevent any increases in cost and save the City time and monies by not rebidding. Please let me know if you need any additional information or have any questions. Thank you for all of your help and guidance in this issue.





**AGENDA ACTION FORM**

**Extend Award by Amending the Agreement with Yard Dogs Lawn Care & Landscaping for Mowing & Trimming of Various Locations**

To: Board of Mayor and Aldermen  
From: Chris McCart, City Manager *CM*

Action Form No.: AF-16-2020  
Work Session: January 21, 2020  
First Reading: N/A

Final Adoption: January 21, 2020  
Staff Work By: Committee  
Presentation By: Ryan McReynolds

**Recommendation:**

Approve the Resolution.

**Executive Summary:**

Bids were opened on February 7, 2019 for Mowing and Trimming Services located at various locations. Last year the BMA awarded the bid to the low bidder Yard Dogs Lawn Care & Landscaping in the amount of \$94,055.00 for the mowing season which is inclusive of 35 areas to be maintained.

Staff have been pleased with the service provided by the vendor and is recommending that we amend the agreement to extend the award for 2020.

Yard Dogs Lawn Care & Landscaping has offered to maintain pricing at 2019 levels for 2020.

Funding is available in Account #62140324632099 for item 1, 11040334632020 for items 2-14, Project GP1915 for items 15-34 and 11045154712020 for item 35.

**Attachments:**

- 1: Resolution
- 2: Agreement
- 3: Bid Minutes
- 4: Vendor Letter
- 5: Recommendation Letter

Funding source appropriate and funds are available:

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH YARD DOGS LAWN CARE & LANDSCAPING FOR MOWING AND TRIMMING SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, in February 19, 2019, the board approved a resolution awarding the bid and authorizing the mayor to sign an agreement with Yard Dogs Lawn Care & Landscaping for mowing and trimming in various places areas, in an amount not to exceed \$94,055.00; and

WHEREAS, the contract has an option to renew, and staff recommends amending the agreement to renew the award for 2020; and

WHEREAS, Yard Dogs Lawn Care & Landscaping has offered to maintain the pricing levels for 2019; and

WHEREAS, funding is available in Account #62140324632099 for item 1, 11040334632020 for items 2-14, Project GP1915 for items 15-34 and 11045154712020 for item 35.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That an amendment to the agreement with Yard Dogs Lawn Care & Landscaping for landscape maintenance services to extend through 2020 at the same pricing as 2019 is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the agreement with Yard Dogs Lawn Care & Landscaping for landscape maintenance services to extend through 2020 at the same rate as 2019 and all other documents necessary and proper to effectuate the purpose of the agreement or this resolution.

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the amendment that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of January, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, CITY RECORDER

APPROVED, AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

**INVITATION FOR BID**

**THIS FORM MUST BE COMPLETED AND  
SIGNED FOR YOUR BID TO BE CONSIDERED VALID.**

Address to: Procurement Manager  
City of Kingsport  
225 W Center Street  
Kingsport, TN 37660  
phone (423) 229-9419 or fax (423) 224-2433

Date Issued: 01/21/19  
F.O.B. Kingsport  
  
Total Number of Pages: 11

This sealed bid in the original copy, subject to the terms and conditions on the attachment, will be received by the Procurement Manager until 4:00 P.M., Eastern Time on February 7, 2019, at which time will be publicly opened in the Council Room, City Hall, 225 W. Center Street, Kingsport, Tennessee. IN THE LOWER LEFT CORNER OF YOUR ENVELOPE ADDRESSED TO ABOVE, MARK YOUR ENVELOPE "MOWING" AND DATE OF THE BID OPENING.

**READ TERMS AND CONDITIONS BEFORE COMPLETING THIS FORM**

Item	Quantity	U/I	Description	Unit Price	Total Price
01		EA	<p>MOWING AND TRIMMING @ VARIOUS LOCATIONS AS SPECIFIED ON THE FOLLOWING PAGES.</p> <p>VENDOR IS REQUIRED TO COMPLETE THE FOLLOWING PAGES IN THIS PACKET TO RECORD PRICING.</p> <p><u>PRICES OFFERED ARE TO REMAIN FIRM FOR THE MOWING SEASON.</u></p> <p>THIS FORM MUST BE SIGNED TO BE CONSIDERED COMPLETE.</p> <p>LOCATION MAPS WILL BE AVAILABLE AT THE PRE-BID MEETING.</p> <p>AFFIDAVITS FORM MUST BE SIGNED AND NOTARIZED AND RETURNED WITH YOUR BID.</p>		

In compliance with this Invitation for Bid and subject to all conditions thereof, the undersigned agrees, if this bid is accepted within 60 days from the date of the opening, to furnish all of the material/service upon which prices are quoted, delivered at the designated point(s) within the time specified.

- (A) Terms: NET
- (B) Delivery/Job completion within \_\_\_\_\_ days after notification.
- (C) Specification/Letter of explanation enclosed: YES ( ) NO ( )

Timothy Drew Everhart  
 Handwritten Signature of Authorized Representative  
Yard Dogs Lawn Care and Landscaping  
 Name of Firm  
2/5/19  
 Date

**THIS FORM MUST BE SIGNED TO BE CONSIDERED COMPLETE**

COMPLIANCE AFFIDAVIT(S) (TOTAL OF 2 PAGES)  
THIS COMPLIANCE AFFIDAVIT MUST BE SIGNED, NOTARIZED AND INCLUDED WITH ALL BIDS – FAILURE TO INCLUDE THIS FORM WITH THE BID SUBMITTED SHALL DISQUALIFY THE BID FROM BEING CONSIDERED.

VENDOR: Yard Dogs Lawn Care and Landscaping

CONFLICT OF INTEREST:

1. No Board Member or officer of the City of Kingsport or other person whose duty it is to vote for, let out, overlook or in any manner superintend any of the work for the City of Kingsport has a direct interest in the award of the vendor providing goods or services.
2. No employee, officer or agent of the grantee or sub-grantee will participate in selection, or in the award or administration of an award supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of their immediate family, his or her partner, or an organization, which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.
3. The grantee's or sub-grantees officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from vendors, potential vendors, or parties to sub-agreements.
4. By submission of this form, the vendor is certifying that no conflicts of interest exist.

DRUG FREE WORKPLACE REQUIREMENTS:

5. Private employers with five or more employees desiring to contract for construction services attest that they have a drug free workplace program in effect in accordance with TCA 50-9-112.

ELIGIBILITY:

6. The vendor is eligible for employment on public contracts because no convictions or guilty pleas or pleas of nolo contendere to violations of the Sherman Anti-Trust Act, mail fraud or state criminal violations with an award from the State of Tennessee or any political subdivision thereof have occurred.

GENERAL:

7. Vendor fully understands the preparation and contents of the attached offer and of all pertinent circumstances respecting such offer.
8. Such offer is genuine and is not a collusive or sham offer.

IRAN DIVESTMENT ACT:

9. Concerning the Iran Divestment Act ( TCA 12-12-101 et seq.), by submission of this bid/quote/proposal, each vendor and each person signing on behalf of any vendor certifies, and

in the case of a joint bid/quote/proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each vendor is not on the list created pursuant to § 12-12-106.

**NON-COLLUSION:**

10. Neither the said vendor nor any of its officers, partners, owners, agents, representatives, employees or parties interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other responder, firm, or person to submit a collusive or sham offer in connection with the award or agreement for which the attached offer has been submitted or to refrain from making an offer in connection with such award or agreement, or collusion or communication or conference with any other firm, or, to fix any overhead, profit, or cost element of the offer price or the offer price of any other firm, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Kingsport or any person interested in the proposed award or agreement.
11. The price or prices quoted in the attached offer are fair, proper and not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the firm or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

**BACKGROUND CHECK REQUIREMENT FOR SCHOOL SYSTEM SUPPLIERS:**

12. In submitting this bid/quote/proposal, you are certifying that you are aware of the requirements imposed by TCA § 49-5-413 (d) to conduct criminal background checks through the Tennessee Bureau of Investigation and the Federal Bureau of Investigation on yourself and any of your employees who may come in direct contact with students or who may come on or about school property anytime students are present. You are further certifying that at no time will you ever permit any individual who has committed a sexual offense or who is a registered sex offender to come in direct contact with children or to come on or about school property while students are present.

The undersigned hereby acknowledges and verifies that the response submitted to this solicitation is in full compliance with the applicable laws/listed requirements.

SIGNED

BY:



PRINTED NAME: Timothy Drew Everhart

TITLE: Owner

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE: 2/6/19

BY (NOTARY PUBLIC): Brianne Lyons

MY COMMISSION EXPIRES ON: 4/3/21





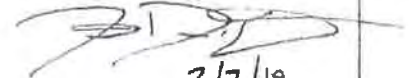
PRICING FORM FOR CONTRACT MOWING LOCATIONS 2019

Item #	Qty.	U/M	Locations	Cost Per Mow & Trim
1	1	JB	Mount Claire Cemetery (at end of Mount Claire Road)	\$ 30
2	1	JB	Riverwalk Park (near Industry Drive)	\$ 60
3	1	JB	Preston Park (Suffolk Street)	\$ 75
4	1	JB	Edinburgh Park (upper and lower areas)	\$ 150
5	1	JB	Rock Springs Community Center (Rock Springs Road)	\$ 80
6	1	JB	Lynn View Community Center (does not include inside fenced areas)	\$ 200
7	1	JB	Highland Park	\$ 15
8	1	JB	Rotherwood Park	\$ 50
9	1	JB	Cloud Park	\$ 85
10	1	JB	Hammond Park	\$ 45
11	1	JB	Rotary Park	\$ 40
12	1	JB	Borden Park	\$ 175
13	1	JB	Dale Street Park	\$ 15
14	1	JB	Sevier Street Park	\$ 15
15	1	JB	Carousel Park (Clinchfield Street)	\$ 55
16	1	JB	911 Center (Unicoi Street)	\$ 70
17	1	JB	Midland Center (Midland Drive)	\$ 35
18	1	JB	Cypress Street Lot (Corner off of Fort Henry Drive)	\$ 15
19	1	JB	Cleek Road (from Orebank Road to Stone Drive)	\$ 175
20	1	JB	New Fordtown Road (from intersection to base of I-26 Bridge)	\$ 170

Item #	Qty.	U/M	Locations	Cost Per Mow & Trim
21	1	JB	Rock Springs Walkway (from Rock Springs Valley Road to Cox Hollow Road)	\$40
22	1	JB	Allandale Mansion Grounds	\$300
23	1	JB	Lynn Garden Drive Clover Leaf @ Stone Drive	\$125
24	1	JB	Renaissance Center	\$100
25	1	JB	Wilcox Drive from Sullivan Street to East Center Street	\$80
26	1	JB	Netherland Inn Road Roundabout	\$25
27	1	JB	Lincoln Street/East Sullivan Court Intersection	\$20
28	1	JB	Main Street Train Station	\$20
29	1	JB	South Wilcox Drive	\$40
30	1	JB	Sullivan Gardens Parkway	\$25
31	1	JB	Wilcox Extension	\$35
32	1	JB	Meadowview Parkway	\$75
33	1	JB	Jennings Drive	\$60
34	1	JB	Boatyard Cemetary	\$65
35	1	JB	Lynn View (inside lower fence, does not include football field)	\$142.50

I Timothy Drew Everhart acknowledge all terms, ~~and~~ conditions, and specs of this contract.

TERMS AND CONDITIONS

  
2/7/19

1. Bids must be submitted on this form only and bear the handwritten signature of an authorized representative of the firm to be considered valid. Each bid will be placed in a separate envelope. Be sure the envelope is completely and properly identified and sealed. Telephone bids or fax bids will not be accepted. Unless otherwise stated by the City, no bidder may withdraw his bid within a period of sixty (60) days after the date set for the opening of bids.
2. If prices are quoted FOB Kingsport, TN., delivery to City of Kingsport locations shall be without additional charge.
3. Failure to examine any drawings, specifications, and instructions will be a bidder's risk. If bidder is in doubt as to the true meaning of any part of the drawings, specifications and instructions or other documents, he should submit a written request for an interpretation to the Procurement Manager. An interpretation of the documents will be made only by addendum issued by the Procurement Manager to each firm to whom an invitation was forwarded. The City will not be responsible for explanation or interpretations of bid documents except as issued in accordance herewith.
4. Where a brand or trade name appears in the specifications, it is understood that the brand or trade name referred to, or its approved equivalent, shall be furnished. If no mention is made of any exceptions, it is assumed that he is bidding on the article mentioned and not an approved equivalent.
5. The bidder is requested to attach brochure-type information on the supplies furnished. All guaranteed and warranties should be clearly stated.
6. Taxes. The City is exempted from Federal excise taxes and state and local sales taxes and bidders must quote prices which do not include such taxes. An exemption certificate will be furnished upon request.
7. Bids and modifications or corrections thereof received after the closing time specified will not be considered. The City is not responsible for delays in delivery by mail, courier, etc.
8. Any exceptions to these terms and conditions or deviations from written specifications will be shown in writing and attached to the bid form.
9. Any alteration, erasure, addition to or omission of requested information, change of the specifications, or bidding schedule, is made at the risk of the bidder and may result in the rejection of the bid, unless such changes are authorized by the specifications.
10. In the event cash discounts are offered by the bidder, the discount date shall begin with the date of the invoice or the date of receipt of all material covered by the order/contract, whichever is the later date.

Terms and Conditions

Page 2 of 2

11. Charges for boxing or cartage will not be allowed unless previously agreed upon.
12. Default in promised delivery and failure to comply with specifications authorizes the City to purchase supplies elsewhere and charge the difference to defaulting Vendor.
13. Bidder agrees to defend and save City of Kingsport from and against all demands, claims, suits, costs, expenses, damages and judgments based upon infringement of any patents relating to goods specified in this order or the ordinary use or operation of such goods by City or use or operation of such goods in accordance with bidders direction.
14. In case of error or discrepancy in the mathematics of the bid price, the unit prices shall prevail.
15. By submission of a signed bid, the bidder certifies total compliance with Title VI and Title VII of the Civil Rights Act of 1964, as amended, and all regulations promulgated thereunder.
16. Contracts and purchases will be made or entered into with the lowest, responsible, compliant bidder meeting specifications for the particular grade or class of material, work or service desired in the best interest and advantage to the City of Kingsport. Responsible bidder is defined as a bidder whose reputation, past performance, and business and financial capabilities are such that he would be judged by the appropriate City authority to be capable of satisfying the City's needs for a specific contract or purchase order.
17. The City reserves the right to determine the low bidder either on the basis of the individual items or on the basis of all items included in its INVITATION TO BID, unless otherwise expressly provided in the INVITATION TO BID. The City reserves the right to accept any item or group of items of any kind and to modify or cancel in whole or in part, its INVITATION TO BID.
18. All contracts or purchase orders issued for this award will be governed by the laws of the State of Tennessee.
19. The City, in accordance with its governing directives, reserves the right to reject any and all bids, to waive any informality or irregularities in bids and unless otherwise specified by the bidder, to accept any item.
20. The contract will be awarded for a period of one (1) year with a renewal option on an annual basis in one (1) year increments providing all terms, conditions and cost are acceptable to both parties. The City reserves the right to re-bid at the end of any contract period.

**Contracted Mowing Specifications**  
**For**  
**City of Kingsport - Streets and Sanitation**

I. **General**

A. **Scope of Services**

- 1) The City of Kingsport, TN desires to contract on a seasonal basis with a Contractor or Agency for mowing and trimming of selected areas.
- 2) The mowing season will begin on or about March 11, 2019 and extend to approximately November 1, 2019.
- 3) The Contractor shall furnish all labor, equipment, and materials to safely and adequately perform the mowing and trimming operations.

B. **Pre-Bid Conference**

- 1) A pre-bid meeting is scheduled for 9:00am on January 29, 2019 in the Public Works Conference Room located @ 609 W. Industry Drive, Kingsport, TN 37660 to review the specifications, set expectations, and review the sites to be serviced.
- 2) Attendance at the pre-bid meeting is strongly encouraged. You will be given the opportunity to ask questions in order to submit a bid proposal.

C. **Liability and Insurance**

- 1) The successful bidder must comply with the following insurance requirements:

Workmen's Compensation – which shall provide protection against any liability imposed by the Workmen's Compensation Law of the state in which the work is performed.

Liability Insurance – to defend, indemnify and save harmless the City from all claims and suits for injury or destruction of property and from all expenses in defending said claims and suits, including court costs, attorney's fees and other expenses caused in any way by the acts or omissions of the Contractor or the Contractor's agents, employees, or subcontractors during or in connection with said work, excepting on the property damage and bodily injury or death caused by the sole negligence of the City, its agents or employees.

Minimum required coverages are \$500,000 for property damage and \$1,000,000 for liability.

- 2) A Certificate of insurance shall be furnished to the City at the time of contract award wherein the types and amounts of coverage are documented.



D. Invoicing

- 1) The contractor shall prepare a written invoice to be submitted monthly for the service provided. The invoice shall list the individual locations for which payment is requested, the date mowed, the unit cost for mowing the location and total amount due.

II. SPECIFICATION OF SERVICES

A. Scope of work

- 1) All sites shall be mowed and trimmed at regular intervals to maintain a neat and uniform appearance.
- 2) Mowing shall occur approximately one time per week at each site and in no case shall more than 10 calendar days pass between mowing at each site unless approved or directed by the City.
- 3) The City reserves the right to postpone mowing operations when weather or other conditions necessitate a reduction of the mowing services. If mowing is suspended, the Contractor will not receive compensation. Payment is due only for services provided.
- 4) Sites shall be trimmed every time they are mowed at the same time they are mowed.
- 5) Each cutting/trimming shall be completed the same day or next day they are started.
- 6) All litter such as paper, cans, bottles, branches, etc. must be picked up and disposed of prior to mowing or trimming.
- 7) All non-turf areas such as sidewalks, parking lots, streets, landscaping beds, etc. shall be free of clippings and cutting debris via means of blowers, sweepers, or other equipment.

B. General Conditions

- 1) All work must be performed within the codes, standards, and municipal ordinances, and must meet all federal, state and local regulations.
- 2) The Contractor shall not apply any pesticides or herbicides without the City's written approval.
- 3) All employees working for the Contractor must wear the proper clothing and safety equipment.
- 4) The Contractor shall be responsible for providing and for the placement of any safety/traffic control equipment required to protect its employees, the public, surrounding areas, equipment and vehicles.
- 5) All work shall only be conducted Monday through Saturday and only during the hours of daylight to dusk.



- 4) Periodic inspections of mowed areas shall be made by the City to confirm Contractor compliance with these specifications. In the event that completed sites are not meeting these specifications, the Contractor will be expected to correct the issue(s) at no cost to the City. The City also reserves the right to terminate any contract entered into subsequent to this Bid when, in the opinion of the Director of Public Works, or his representative the Contractor has failed to perform satisfactorily any portion of the Requirements stipulated. Any such termination will be subject to written notification by the City wherein the reasons for termination shall be plainly stated.
- 5) **Renewal Option**  
The contract will be awarded for a period of one year with a renewal option on an annual basis in one year increments providing all terms, conditions and costs are acceptable to both parties. The City reserves the right to rebid at and end of any contract period.

MINUTES  
 BID OPENING  
 February 7, 2019  
 4:00 P.M.

Present: Brent Morelock, Procurement Manager; Nikisha Eichmann, Assistant Procurement Manager and Lewis Bausell, Landscape Grounds Supervisor

The Bid Opening was held in the Council Room, City Hall.

The Procurement Manager opened with the following bids:

MOWING & TRIMMING OF VARIOUS LOCATIONS						
Item #	Manuel Mowing	Earth Effects	Yard Dogs Lawncare	*H & H Property	**KB Lawncare	Precision Lawncare
1	\$ 25.00	\$ 34.97	\$ 30.00	N/A	\$ 100.00	\$ 40.00
2	\$ 75.00	\$149.97	\$ 60.00	N/A	\$ 125.00	\$150.00
3	\$ 50.00	\$ 40.97	\$ 75.00	N/A	\$ 125.00	\$ 50.00
4	\$175.00	\$250.00	\$150.00	N/A	\$1,000.00	\$270.00
5	\$ 60.00	\$ 75.00	\$ 80.00	N/A	\$ 200.00	\$ 65.00
6	\$ 80.00	\$301.00	\$200.00	N/A	\$1,200.00	\$310.00
7	\$ 28.00	\$ 31.00	\$ 15.00	N/A	\$ 40.00	\$ 20.00
8	\$ 50.00	\$ 67.00	\$ 50.00	N/A	\$ 50.00	\$ 45.00
9	\$ 65.00	\$ 40.00	\$ 85.00	N/A	\$ 225.00	\$ 80.00
10	\$ 40.00	\$ 5.00	\$ 45.00	N/A	\$ 75.00	\$ 40.00
11	\$ 40.00	\$179.00	\$ 40.00	N/A	\$ 125.00	\$ 50.00
12	\$175.00	\$200.00	\$175.00	N/A	\$ 800.00	\$500.00
13	\$ 32.50	\$290.00	\$ 15.00	N/A	\$ 35.00	\$ 25.00
14	\$ 22.50	\$500.00	\$ 15.00	N/A	\$ 35.00	\$ 25.00
15	\$ 35.00	\$101.00	\$ 55.00	N/A	\$ 150.00	\$ 40.00
16	\$ 30.00	\$200.00	\$ 70.00	N/A	\$ 100.00	\$ 50.00
17	\$ 45.00	\$100.00	\$ 35.00	N/A	\$ 75.00	\$ 50.00
18	\$ 12.50	\$ 20.00	\$ 15.00	N/A	\$ 40.00	\$ 20.00
19	\$150.00	\$ 55.00	\$175.00	N/A	\$ 125.00	\$200.00
20	\$ 60.00	\$ 10.00	\$170.00	N/A	\$ 200.00	\$150.00
21	\$ 60.00	\$299.00	\$ 40.00	N/A	\$ 150.00	\$ 80.00
22	\$300.00	\$500.00	\$300.00	N/A	\$1,415.00	\$550.00
23	\$ 75.00	\$200.00	\$125.00	N/A	\$ 250.00	\$100.00
24	\$ 85.00	\$100.00	\$100.00	N/A	\$ 350.00	\$175.00
25	\$100.00	\$199.00	\$ 80.00	N/A	\$ 300.00	\$120.00

Item #:	Manuel Mowing	Earth Effects	Yard Dogs Lawncare	*H & H Property	**KB Lawncare	Precision Lawncare
26	\$ 25.00	\$ 35.00	\$ 25.00	N/A	\$ 50.00	\$ 20.00
27	\$ 20.00	\$ 75.00	\$ 20.00	N/A	\$ 60.00	\$ 50.00
28	\$ 20.00	\$ 25.00	\$ 20.00	N/A	\$ 35.00	\$ 25.00
29	\$175.00	\$100.00	\$ 40.00	N/A	\$ 150.00	\$150.00
30	\$280.00	\$ 50.00	\$ 25.00	N/A	\$ 100.00	\$ 60.00
31	\$125.00	\$ 50.00	\$ 35.00	N/A	\$ 150.00	\$100.00
32	\$ 80.00	\$ 50.00	\$ 75.00	N/A	\$ 195.00	\$ 80.00
33	\$ 60.00	\$ 50.00	\$ 60.00	N/A	\$ 300.00	\$150.00
34	\$ 30.00	\$ 50.00	\$ 65.00	N/A	\$ 150.00	\$ 50.00
35	\$ 80.00	\$ 67.09	\$142.50	N/A	\$ 400.00	\$100.00

\* H & H Property - All or none - \$7,500.00

\*\*KB Lawncare - If awarded all - \$8,100.00

The submitted bids will be evaluated and a recommendation made at a later date.

Yard Dogs Lawn Care & Landscaping  
192 Laws Rd.  
Limestone, TN 37681  
423-202-8816 ~ 423-426-6183  
yarddogslawncaretn@gmail.com

Attn: City of Kingsport

To whom it may concern,

On behalf of Yard Dogs Lawncare and Landscaping, we would like to offer our services for the year 2020 for the Parks and Rec. mowing contract. This offer will be to provide services for the same contract pricing as the 2019-year contract. However, we do understand if service areas are to be added or subtracted to the contract that this could alter the contract pricing with approval from the City of Kingsport. We would like to thank you for this opportunity to provide service for the City of Kingsport. Should anyone have any questions feel free to contact us at anytime.

Sincerely,

  
Timothy D. Everhart  
Owner/ Operator

## Memorandum

December 18, 2019

To: Brent Morelock, Procurement Manager  
From: Lewis A. Bausell, Landscape Specialist  
Subject: Landscape Maintenance Contract

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The Streets and Sanitation Department hereby recommends that the Mowing & Trimming Services Contract with last year's low bidder (Yard Dogs Lawn Care & Landscaping) be extended through calendar year 2020. We have had no issues with their work and care of these areas during 2019. It is also my understanding that they would be willing to continue these services at the same cost (\$94,055.00) as 2019. Money is available in the same accounts as described last year. This action would help prevent any increases in cost and save the City time and monies by not rebidding. Please let me know if you need any additional information or have any questions. Thank you for all of your help and guidance in this issue.



**AGENDA ACTION FORM**

**Resolution to Condemn**

To: Board of Mayor and Aldermen  
From: Chris McCartt, City Manager *CM*

Action Form No.: AF-25-2020  
Work Session: January 21, 2020  
First Reading: N/A

Final Adoption: January 21, 2020  
Staff Work By: R. Trent; H. Clabaugh  
Presentation By: M. Billingsley

**Recommendation:**

Approve the Resolution.

**Executive Summary:**

In order to continue with the construction of the Border Regions Sanitary Sewer Extension Project, the attached resolution has been prepared authorizing and directing the city attorney to institute condemnation proceedings to acquire property that cannot be voluntarily secured from the property owners.

**Attachments:**

- 1. Resolution
- 2. Ordinance #6842
- 3. Project Location Map

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION TO AUTHORIZE CONDEMNATION  
PROCEEDINGS FOR BORDER REGIONS SANITARY  
SEWER EXTENSION PROJECT

WHEREAS, the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, has accorded completion of the Border Regions Sanitary Sewer Extension Project; and

WHEREAS, the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, by passage of Ordinance #6842 authorized and directed the city attorney of the City of Kingsport to institute condemnation proceedings upon direction by resolution of the Board of Mayor and Aldermen in the event that the necessary property cannot be voluntarily acquired; and

WHEREAS, the City of Kingsport, Tennessee has tendered to the owners of record its offer to purchase certain property situated in the 14<sup>th</sup> Civil District of Sullivan County, to-wit:

Mikell & Dana Admire Property – Mikell & Dana Admire  
Edward King, Jr. Property – Edward King, Jr.  
Wilmer & Margaret Mull Property – Wilmer & Margaret Mull

WHEREAS, since said owners have either rejected the offer to purchase by the City of Kingsport or have, to this date, not executed a deed, the Public Works Department has requested that the city attorney institute condemnation proceedings to acquire said property for the sanitary sewer extension project.

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF KINGSFORT, TENNESSEE, as follows:

1. That the recommendation of the Public Works Department to initiate condemnation proceedings to secure the referenced property is well taken and is hereby approved.

2. Further, that the city attorney of the City of Kingsport, Tennessee, is hereby authorized to institute condemnation proceedings to acquire certain property located in the 14<sup>th</sup> Civil District of Sullivan County, to-wit:

Mikell & Dana Admire Property – Mikell & Dana Admire  
Edward King, Jr. Property – Edward King, Jr.  
Wilmer & Margaret Mull Property – Wilmer & Margaret Mull

ADOPTED this the 21<sup>st</sup> day of January, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, Mayor

ATTEST:

\_\_\_\_\_  
ANGELA MARSHALL  
Deputy City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, City Attorney

This is to certify that this is an exact & true copy  
*[Signature]*  
DEPUTY CITY CLERK  
CITY OF KINGSPORT, TENNESSEE

**ORDINANCE NO. 6842**

**AN ORDINANCE TO AUTHORIZE AND DIRECT THE CITY ATTORNEY TO INITIATE CONDEMNATION PROCEEDINGS TO ACQUIRE PROPERTY, REAL OR PERSONAL, OR ANY EASEMENT, INTEREST, ESTATE OR USE THEREIN, FROM AFFECTED PROPERTY OWNERS ALONG THE ROUTE OF A CERTAIN PUBLIC WORKS PROJECT; TO FIX THE PROCEDURE FOR DIRECTING THE INITIATION OF SUCH LITIGATION; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE**

WHEREAS, the construction of public works projects are deemed a matter of highest priority for the public health, welfare, safety and convenience of the citizens and the public at large; and

WHEREAS, pursuant to the provisions of Tenn. Code Ann. Section 7-35-101 et seq., the city has embarked upon the accomplishment of the herein named public works project in accordance with the terms and provisions of said Act; and

WHEREAS, the city is empowered by ordinance, in accordance with the provisions of Article I, Section 2, Subsection 9 of the Charter, to condemn property, real or personal, or any easement, interest, estate or use therein, either within or without the city, for present or future public use, and in accordance with the terms and provisions of the general law of the state regarding eminent domain; and

WHEREAS, it may become necessary in the accomplishment of the herein named public works project to initiate litigation to acquire property, real or personal, or any easement, interest, estate or use therein, in connection with the herein named public works project; and

WHEREAS, time is of the essence in the accomplishment of the herein named public works project,

Now therefore,

BE IT ORDAINED BY THE CITY OF KINGSPORT, as follows:

SECTION I. In accordance with the provision of Article I, Section 2, Subsection 9 of the Charter, the city attorney is hereby authorized and directed to initiate eminent domain proceedings to condemn property, real or personal, or any easement, interest, estate or use therein, for the accomplishment of the following public works project:


**Border Regions Sanitary Sewer Extension Project**

SECTION II. That since time is of the essence in the expeditious acquisition of property, real or personal, or any easement, interest, estate or use therein, to accomplish the foregoing stated purposes, the city attorney is further directed to proceed forthwith to institute eminent domain proceedings as authorized by Resolution.

Patrick W. Shull  
PATRICK W. SHULL, Mayor

ATTEST:

Angela Marshall  
ANGELA MARSHALL  
Deputy City Recorder

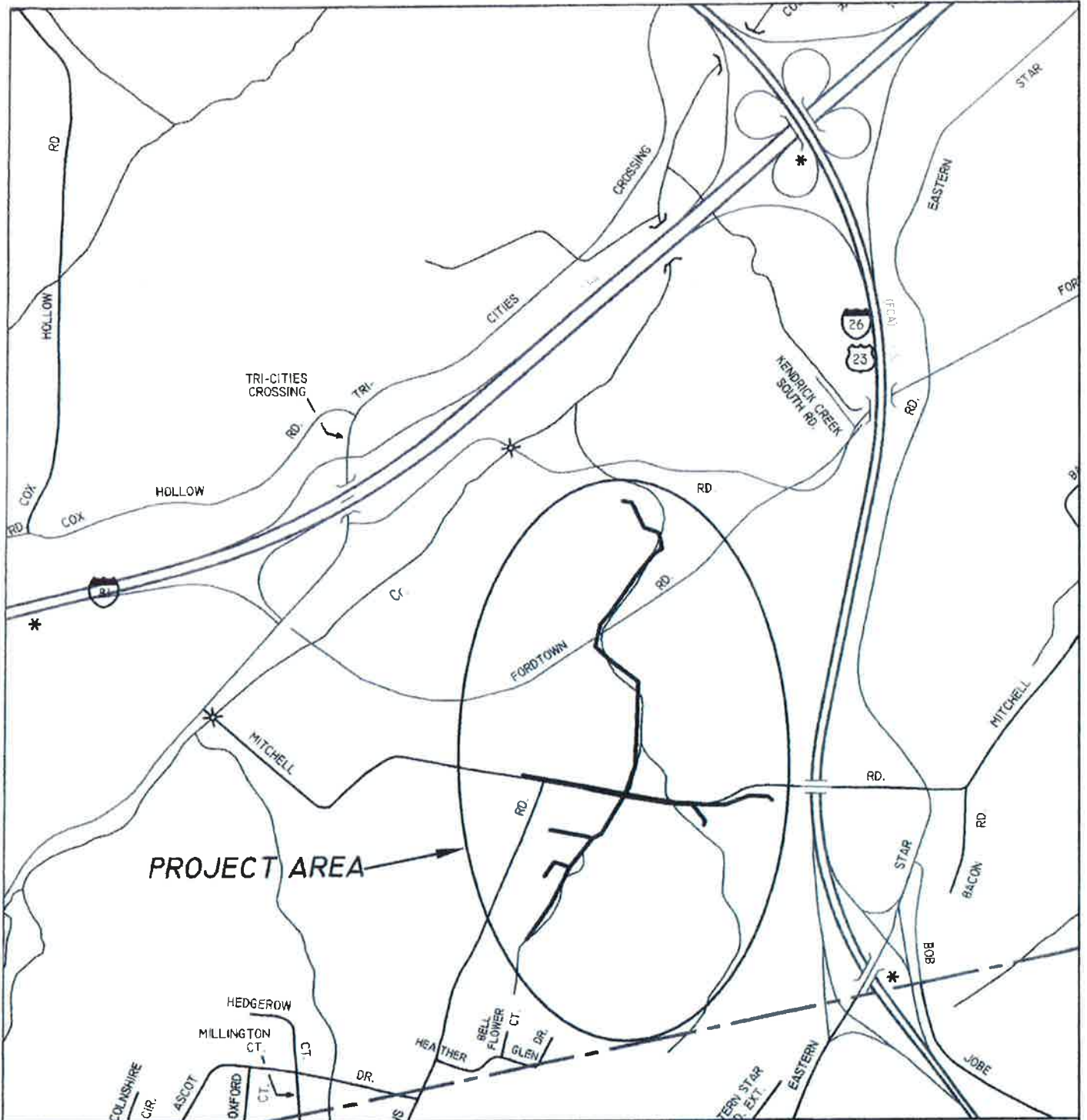


APPROVED AS TO FORM:

J. Michael Billingsley  
J MICHAEL BILLINGSLEY, City Attorney

PASSED ON 1ST READING: December 17, 2019

PASSED ON 2ND READING: January 7, 2020



**EXTENSION OF GRAVITY SANITARY SEWERS TO  
BORDER REGIONS AREA 2 & MITCHELL ROAD**

2018-C21



AGENDA ACTION FORM

**Amend Agreement with WestRock Converting Company for Recycling Services**

To: Board of Mayor and Aldermen  
From: Chris McCartt, City Manager *CM*

Action Form No.: AF-14-2020  
Work Session: January 21, 2020  
First Reading: N/A

Final Adoption: January 21, 2020  
Staff Work By: Michael Thompson  
Presentation By: Ryan McReynolds

**Recommendation:**  
Approve the Resolution.

**Executive Summary:**

City staff continuously researches process improvement opportunities that will provide the best services at the lowest cost for the Citizens of Kingsport. On December 5, 2011 the BMA approved an agreement with Rock-Tenn Converting Company (currently d.b.a. WestRock Converting Company) as a material recovery facility (MRF) to receive, sort and market recycling material once delivered to them (AF-325-2011). By going automated single stream at curbside for our recycling program, this allowed more capacity for recyclables in the cart, and quicker stop time per customer. Through the results of these efforts, the City has been able to improve service delivery to their citizens.

November 10, 2016 bids were opened to continue with a MRF for our curbside recycling program, and February 7, 2017 the BMA approved entering into an agreement with WestRock Converting Company for this service (AF-39-2017). The initial terms of the agreement were for three (3) years with an option for additional renewals. Therefore it is recommended to amend the agreement with WestRock Converting Company extending the agreement through February 2, 2022. All other terms and conditions of the agreement remain in full force and effect.

**Attachments:**

- 1. Resolution
- 2. Email from WestRock
- 3. Amendment One (2 pages)

Funding source appropriate and funds are available: *JM*

	Y	N	O
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH WESTROCK CONVERTING COMPANY FOR RECYCLING SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AMENDMENT

WHEREAS, on February 7, 2017, the board approved an agreement with WestRock Converting Company for curbside recycling services; and

WHEREAS, the initial terms of the agreement were for three years with an option to renew for additional renewals; and

WHEREAS, the city would like to renew the agreement with WestRock Converting Company to extend the agreement through February, 2022.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That an amendment to the agreement with WestRock Converting Company for curbside recycling services is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, an amendment to the agreement WestRock Converting Company for curbside recycling services and all other documents necessary and proper to effectuate the purpose of the agreement or this resolution, said amendment being generally as follows:

**FIRST AMENDMENT TO THE AGREEMENT FOR REMOVAL OF RECYCLABLE MATERIALS CURBSIDE COLLECTION**

THIS FIRST AMENDMENT TO THE AGREEMENT FOR REMOVAL OF RECYCLABLE MATERIALS CURBSIDE COLLECTION ("**First Amendment**"), dated February 1, 2020 ("**First Amendment Effective Date**"), is made by and between WESTROCK CONVERTING LLC (f/k/a **WESTROCK CONVERTING COMPANY**), a Georgia limited liability company with offices located at 1000 Abernathy Rd NE, Atlanta Georgia 30328 (hereinafter "**PROCESSOR**") and the **CITY OF KINGSFORT** (hereinafter "**SUPPLIER**").

**RECITALS**

**WHEREAS**, **SUPPLIER** and **PROCESSOR** entered into an Agreement on February 1, 2017 for services and other adjunct services as may be authorized by **SUPPLIER** for the removal of recyclable materials curbside collection;

**WHEREAS**, WestRock Converting Company converted to a limited liability company under Georgia law on or about September 30, 2018 and is now known as WestRock Converting LLC; and

**WHEREAS**, the parties desire to extend the Agreement through February 1, 2022;

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. In accordance with 6.1 of the Agreement the parties agree to a renewal term effective February 1, 2020 and continuing through February 2, 2022.
2. All other terms and conditions of the Agreement remain in full force and effect.
3. This First Amendment may be executed electronically or by facsimile and in counterparts, each of which shall be construed as an original, and all of which together shall constitute but a

single instrument.

IN WITNESS WHEREOF, and intending to be legally bound, the parties have caused their respective duly authorized officers to sign this First Amendment effective as of the day and year first written above.

[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION II. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the amendment/agreement set out herein that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION III. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION IV. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21<sup>st</sup> day of January, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

**Catron, Sheila**

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**Subject:** RE: WestRock Recycle Contract Renewal

**From:** Michael Niemann [<mailto:michael.niemann@westrock.com>]

**Sent:** Wednesday, December 11, 2019 10:45 AM

**To:** Hammonds, Ronnie <[RonnieHammonds@KingsportTN.gov](mailto:RonnieHammonds@KingsportTN.gov)>

**Cc:** Hal Risher <[hal.risher@westrock.com](mailto:hal.risher@westrock.com)>; Derek Senter <[derek.senter@westrock.com](mailto:derek.senter@westrock.com)>

**Subject:** RE: WestRock Recycle Contract Renewal

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Ronnie,

WestRock desires to Amend the Agreement between the City and WestRock for "The Removal of Recyclable Materials Curbside Collection" and extend services through February 1, 2022.

Attached is the First Amendment draft for your review. Please respond with any comments or edits and we'll put the First Amendment in final form for execution.

Thank you,

**Michael Niemann**

General Manager  
Knoxville Recycling



865-399-6343

[michael.niemann@westrock.com](mailto:michael.niemann@westrock.com)

*Safety Is Our Top Priority*

**FIRST AMENDMENT TO THE AGREEMENT FOR REMOVAL OF RECYCLABLE  
MATERIALS CURBSIDE COLLECTION**

THIS FIRST AMENDMENT TO THE AGREEMENT FOR REMOVAL OF RECYCLABLE MATERIALS CURBSIDE COLLECTION ("**First Amendment**"), dated February 1, 2020 ("**First Amendment Effective Date**"), is made by and between WESTROCK CONVERTING LLC (f/k/a **WESTROCK CONVERTING COMPANY**), a Georgia limited liability company with offices located at 1000 Abernathy Rd NE, Atlanta Georgia 30328 (hereinafter "PROCESSOR") and the **CITY OF KINGSPORT** (hereinafter "SUPPLIER").

**RECITALS**

**WHEREAS**, SUPPLIER and PROCESSOR entered into an Agreement on February 1, 2017 for services and other adjunct services as may be authorized by SUPPLIER for the removal of recyclable materials curbside collection;

**WHEREAS**, WestRock Converting Company converted to a limited liability company under Georgia law on or about September 30, 2018 and is now known as WestRock Converting LLC; and

**WHEREAS**, the parties desire to extend the Agreement through February 1, 2022;

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. In accordance with 6.1 of the Agreement the parties agree to a renewal term effective February 1, 2020 and continuing through February 2, 2022.
2. All other terms and conditions of the Agreement remain in full force and effect.
3. This First Amendment may be executed electronically or by facsimile and in counterparts, each of which shall be construed as an original, and all of which together shall constitute but a single instrument.

IN WITNESS WHEREOF, and intending to be legally bound, the parties have caused their respective duly authorized officers to sign this First Amendment effective as of the day and year first written above.

**WESTROCK CONVERTING LLC**

**CITY OF KINGSPORT**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

WITNESS:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

City Recorder

APPROVED AS TO FORM

\_\_\_\_\_

City Attorney



**AGENDA ACTION FORM**

**Enter into a Service Contract for Substitute Staffing Services with ESS Southeast LLC for Kingsport City Schools**

To: Board of Mayor and Aldermen  
From: Chris McCart, City Manager *CM*

Action Form No.: AF-20-2020  
Work Session: January 21, 2020  
First Reading: N/A  
Final Adoption: January 21, 2020  
Staff Work By: Committee  
Presentation By: David Frye / Jennifer Guthrie

**Recommendation:**

Approve the Resolution.

**Executive Summary:**

Kingsport City Schools Human Resource Department saw the need to search for a company to provide staffing services exclusively for K-12 school districts. ESS Southeast, LLC specializes in providing qualified staff for positions such as substitute Teachers, paraprofessionals, and other school support staff for daily, long-term and permanent assignments.

Several Tennessee school districts have executed service agreements with ESS Southeast, LLC. Cheatham County Tennessee recently executed an agreement on May 6, 2019. Instead of issuing a Request For Proposal for staffing services, several school districts in Tennessee are taking advantage of the T.C.A. § 12-3-1203 statute which authorizes in-state "piggyback" contracts whereby local governments and school districts in Tennessee may purchase supplies, goods, equipment and services under the same terms as a legal bid initiated by any other city, county, utility district, or other local government unit in Tennessee.

Kingsport City Schools Human Resources Department is requesting approval from the Board of Mayor and Aldermen to enter into a service agreement with ESS Southeast, LLC utilizing the Cheatham County, Tennessee agreement as permitted by the "piggyback" language in Section 4.18 of the agreement executed May 6, 2019.

The annual cost estimate for ESS, LLC staffing services will be \$170,000.00 and paid from school budget funds in account # 141-7150-711.03-99 Contracted Services.

**Attachments:**

- 1. Resolution
- 2. ESS, LLC Agreement

Funding source appropriate and funds are available: *JM*

	Y	N	O
Axom Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING A SERVICE CONTRACT WITH ESS SOUTHEAST, LLC FOR SUBSTITUTE STAFFING SERVICES FOR THE KINGSPORT CITY SCHOOLS AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE CONTRACT

WHEREAS, the city benefits by using cooperative contracts with the confidence that it is receiving competitive pricing knowing the products and services awarded have already been through the procurement process of the principal procurement agency; and

WHEREAS, T.C.A. Section 12-3-1203 authorizes in-state "piggyback" contracts whereby local governments in Tennessee may purchase supplies, goods, equipment and services under the same terms as a legal bid initiated by any other city, county, utility district, or other local government unit in Tennessee; and

WHEREAS, ESS Southeast, LLC currently has a contract with several school districts in Tennessee; and

WHEREAS, the city would like to enter into a service contract with ESS Southeast, LLC for staffing services; and

WHEREAS, the annual cost estimate for the contract is \$170,000.00 and will be paid by school budget funds in account # 141-7150-711.03-99 Contracted Services.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That an agreement with ESS Southeast, LLC is approved.

SECTION II. That the mayor, or in his absence, incapacity, or failure to act, the vice-mayor, is authorized and directed to execute, in a form approved by the city attorney and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the agreement with ESS Southeast, LLC and all other documents necessary and proper, and to take such acts as necessary, to effectuate the purpose of the agreement or this resolution, said agreement being as follows:

**ESS Southeast, LLC**

**SUBSTITUTE STAFF PLACEMENT AGREEMENT**

This is an Agreement, entered into as of January 21, 2020, by and between **ESS Southeast, LLC** (the "Company") located at 800 North Kings Highway, Suite 405, Cherry Hill, New Jersey 08034 and the **City of Kingsport Schools for Its Kingsport City Schools** located at 400 Clinchfield St Suite 200, Kingsport, TN 37660 (hereinafter referred to as "LEA" for Local Education Agency).

**Background**

The Company is in the business of providing substitute teachers for local education systems, as well as other related staffing services. The LEA desires to engage the services of the Company on the terms and conditions set forth in this Agreement.

NOW THEREFORE, intending to be legally bound and acknowledging the receipt of adequate consideration, the parties hereby agree as follows:

1. **Provision of Substitute Staff.** The Company shall be the exclusive provider of substitute teachers and other staff listed in Exhibit "A" (hereinafter "**Substitute Staff**") to fill positions at the

request of the LEA on an as-needed basis, using such request mechanism(s), policies and procedures as may be established by the Company from time to time. The Company makes no guarantee that it will be able to fill all requests made by the LEA. In the event that the LEA requests a Substitute Staff and the Company is unable to provide a Substitute Staff with the necessary certification(s) and qualifications within a reasonable time period, the LEA may locate and hire a qualified Substitute Staff directly as an employee of the LEA. Whether the Company has provided Staff within a "reasonable time" will depend upon the particular circumstances relevant to the assignment (ex.: amount of time between request from district to the start date of assignment, skills needed for position, tasks required, needs of the student, etc.).

1.1 The LEA agrees that the Company shall be the exclusive contract provider of Substitute Staff to the LEA. All or any placement of Substitute Staff made pursuant to this Agreement and the processes and procedures established by the Company, be paid by the Company, and be invoiced back to the LEA by Company.

1.2 The Company acknowledges and understands that LEA participates in an internship program with educator preparation providers (EPPs) whereby the LEA provides training and preparation experiences to teacher candidates. These teacher candidates will from time to time serve in the capacity of a substitute teacher as part of the internship program. The Company acknowledges that allowing teacher candidates to serve in this capacity as part of their internship program is not a violation of this Agreement by the LEA.

1.3 The LEA will provide a list of staff which the LEA desires to remain in the pool of Substitute Staff assigned by the Company to the LEA. The LEA shall provide a written list of such personnel and may update said list by written addition or deletion of all changes. If the LEA was serviced by another vendor prior to this Agreement, the LEA will also make a good faith effort to produce a list of staff who provided services through this vendor; provided, however, any past agreements with other vendors permitted the disclosure of such information. Subject to the interview, training, background checks and certification requirements included elsewhere in this Agreement, and normal employee responsibilities attendant to employment, the Company will accept such persons for assignment to the LEA. However, as part of the transition process, the LEA certifies to its actual knowledge that the aforementioned former Substitute Staff of the LEA meet the state requirements to serve as Substitute Staff (ex. Criminal history, TB Test) for the first 90 days after the date of this Agreement, unless Company is otherwise notified by LEA. The LEA acknowledges that the Substitute Staff will be ineligible to accept substitute assignments after said 90 day period if they are determined to be non-compliant with the laws governing educational employees in the State, which shall be Company's responsibility to determine pursuant to the terms of this Agreement.

1.4 The Company agrees to use its best commercial efforts to provide the LEA a fill rate equal to or greater than 90% on average for the school year. The calculation of the fill rate shall begin after ninety (90) school days of service to allow company sufficient time to recruit and employ substitute teachers. The calculation shall be based on requests for daily, full-day substitute teachers (excluding paraprofessionals and other non-teacher positions) which were submitted to the Company prior to 12:00 pm on the evening prior to the school day.

**2. Treatment of Substitute Staff as Employees of the Company.** All Substitute Staff provided by the Company will be treated by the LEA as employees of the Company, and not as employees of the LEA, for all purposes, including but not limited to Federal and State income tax purposes. Without limiting the preceding sentence:

2.1 The Company shall maintain all necessary personnel and payroll records for the Substitute Staff;

2.2 The LEA shall not be responsible for the payment of the wages and fringe benefits (if any) of the Substitute Staff; The Company shall withhold applicable taxes from the wages of the Substitute Staff, and shall be responsible for any payroll tax liabilities of an "employer" with respect to the Substitute Staff;

2.3 The Company shall provide applicable workers' compensation insurance coverage for the Substitute Staff in such amounts as may be required by law; and

2.4 Substitute Staff shall not be eligible for tenure with the LEA or be entitled to participate in any of the LEA's employee benefit plans, including pension, 403(b), profit sharing, retirement, deferred compensation, welfare, insurance, disability, bonus, vacation pay, severance pay and other similar plans, programs and agreements, whether or not reduced to writing.

2.5. In order to provide certain Substitute Staff who are obtaining the required initial or renewal State certifications, depending upon state requirements, the LEA recognizes that it may be required to execute certificate/permit/license applications and other related documents, such as a criminal history request as a representative of or on behalf of the Company. If necessary, the LEA designates the Company as its designee to submit a Substitute Staff's credentials to the county or state department of education office to obtain the Substitute Staff certifications. The LEA recognizes that

it may be required to execute certain documents to allow the Company to perform its function as its designee. In such instances, the LEA is not responsible for any of the obligations of the Company as the employer included in this Paragraph 2.

**3. The Company's Obligations.**

3.1 The Company will act in good faith to provide Substitute Staff who, if needed or applicable, (a) hold a current license and certification for the positions requested by the LEA, (b) have had a completed criminal history and child abuse background check as required by law and/or the applicable Department of Education, (c) have appropriate health screenings, inoculations and tuberculosis testing as required by the state and (d) who shall render services in accordance with applicable laws and procedures of the state and this Agreement.

3.2 In selecting Substitute Staff, the Company shall apply such screening and evaluation criteria as it may determine in its sole discretion and as may be required by the applicable law of the jurisdiction in which the services of Substitute Staff will be performed. The Company will conduct any additional screening that may be mutually agreed in writing by the Company and the LEA, with an appropriate and agreed upon increase in the Company's fees.

3.3 The Company seeks to provide Substitute Staff that are trained for the requested positions. The Company will provide Substitute Staff training as required by the State, including as applicable, classroom management, general rules and procedures applicable to the position, and other pertinent matters prior to any assignment of said Substitute Staff. For existing LEA staff, the Company shall provide training as requested by the LEA for a fee equal to the Company's actual cost.

3.4 The Company shall have primary responsibility for, (i) advertising, recruiting and promoting substitute positions for LEA, and (ii) applicant tracking, including managing and maintaining any independent IT systems as it may deem necessary for these purposes.

3.5 The Company expects that the Substitute Staff assigned to the LEA will perform their services satisfactorily. If the LEA notifies the Company via the company electronic portal that a Substitute Staff has not performed satisfactorily within the reasonable discretion of the LEA, along with the clear reasons therefor, the Company will honor the LEA's request not to assign specific Substitute Staff. This section will in no way affect the right of the Company, in its sole discretion as employer, to hire, assign, reassign, discipline and/or terminate its own employees. The LEA understands that declining the services of a specific Substitute Staff may result in the Company's inability to secure an acceptable alternate if timely notice of the request is not provided.

**4. The LEA's Obligations.** In connection with Substitute Staff provided by the Company pursuant to this Agreement, the LEA shall:

4.1 Provide information to the Substitute Staff as needed to allow the Substitute Staff to fully understand the duties and responsibilities of the placement and promptly report to the Company any suspicious, unusual, inappropriate behavior or unsatisfactory performance;

4.2 Provide a safe and suitable workplace that complies with all applicable governmental safety and health standards, statutes, and regulations;

4.3 Provide Substitute Staff with (i) adequate information, training, and safety equipment with respect to hazardous substances and any inherent dangers of the workplace (including known violent students), (ii) emergency procedures, and (iii) school rules and protocols, policies and procedures regarding student disciplinary actions, and confidentiality of student records. Further, the LEA will provide all Substitute Staff with any training appropriate to the needs, duties, responsibilities or knowledge unique to the LEA or otherwise different than would generally be appropriate in other LEAs.

4.4 Not assign Substitute Staff to assignments which (i) have sole custody of a single student for an extended period without LEA oversight, (ii) have sole responsibility for more than one classroom of students at a time, (iii) administer or maintain custody of any student medications, (iv) have custody of cash, negotiable valuables, merchandise, credit cards, check writing materials, keys or similar property, except for student lunch money that may be collected in the normal course of business, (v) use any vehicle on behalf of the LEA; (vi) work more than eight (8) hours in a day or more than forty (40) hour per week without notice to Company;

4.5 Assign Substitute Staff only to tasks for which they have been requested, unless written consent has been given by the Company. Heavy labor, lifting, or physical activity is prohibited unless required and accepted in the job description;

4.6 Not assign Substitute Staff to travel or perform duties off the normal school premises of the LEA except for class trips which are supervised by an LEA teacher;

4.7 If Substitute Staff is assigned duties in connection with the LEA's computer systems, maintain appropriate password security and backup copies of all data;

4.8 Maintain appropriate written internal control policies and procedures to ensure the confidentiality of all student records and appropriately limit the access of Substitute Staff to such records;

- 4.9 Not promise any Substitute Staff an increased rate of compensation;
- 4.10 Comply with any reasonable restrictions imposed by the Company on the responsibilities to be assigned to any Substitute Staff;
- 4.11 Approve and sign paper or electronic forms supplied by the Company documenting the amount of time worked by Substitute Staff or, if representatives of the LEA are not available to approve and sign such forms, authorize such forms to be executed by representatives of the Company on behalf of the LEA;
- 4.12 Be responsible for keeping the Company promptly informed by email (if available) of all Substitute Staff on-site changes and any changes in the LEA or building supervisory contact information;
- 4.13 To the extent possible, LEA should encourage its staff to notify the Company as soon as possible of the LEA staff's absence, but no later than 6 a.m. daily or 3 hours prior to the start of the class, whichever is earlier, through the protocols established by the Company for such notice; provided, however, the Company and the LEA recognize that the need for a substitute may occur after the above times and that in such cases the Company will use best efforts to find a substitute for such LEA requests. Calculation of fill rate will be based only on full day substitute staff who enter absences on or before midnight (12:00 am) prior to the day of absence;
- 4.14 Comply with all Company policies and procedures to accurately invoice the LEA, process the daily record keeping and other tasks necessary for the Company to administer and track Substitute Staff, including but not limited to, sign in and out procedures and related records;
- 4.15 The LEA shall be solely responsible to control LEA staff absences and any budgetary impact resulting therefrom;
- 4.16 LEA represents that its actions under this Agreement do not violate its obligations under any agreement that LEA has with any labor union;
- 4.17 LEA shall cooperate with Company with respect to Company's recruiting efforts and activities, including but not limited to, (i) promptly sharing applications LEA may receive for positions with Company, provided, however that LEA shall not be responsible for substitute applicant tracking; and (ii) reasonably assisting Company with advertising positions on LEA social media accounts;
- 4.18 If allowable by state procurement law, other LEAs may utilize this Agreement if mutually agreeable to Company;
- 4.19 LEA shall cooperate and coordinate with Company with respect to Company's development and installation of Company's information technology (IT) systems for the LEA. The LEA understands that failure to cooperate in this regard may lead to a delay in services;
- 4.20 In the event of a complaint concerning Substitute Staff, LEA shall provide Company with a written incident report. Company and LEA agree to cooperate, exchange information, and reasonably permit each other's involvement in any investigatory activities or proceedings to the extent allowable by law.

## **5. Indemnification and Limitations of Liability.**

5.1 **Indemnification of the LEA by the Company.** The Company shall indemnify and hold the LEA's Board, and its agents, employees and Board members harmless from and against all claims or losses incurred, including reasonable attorney's fees, that are proximately caused by the acts or omissions of the Company, Substitute Staff, or other employees or authorized agents of the Company, or by the Company's breach of this Agreement, except that such indemnification shall not apply to any claims or losses for which the Company is entitled to indemnification by the LEA.

5.2 **Indemnification of the Company by the LEA.** Deleted.

5.3 **Notification; Right to Defend.** A party incurring any claim or loss for which indemnification may be provided pursuant to this section 5 shall promptly notify the other party in writing. The recipient of such notice may, at its own cost and expense, thereupon assume the defense of any third party claim using counsel reasonably satisfactory to the notifying party.

5.4 **Limitation of Damages.** Under no circumstances shall the Company be liable for special, indirect, consequential, punitive, expectancy, lost profit or goodwill damages, or for damages caused by the unsatisfactory performance of Substitute Staff that does not result in a finally adjudicated claim of damages against the LEA brought by a third party.

5.5 **Complete Agreement.** The parties agree that this section 5 sets forth their complete agreement with respect to any possible indemnification claim, and waive their right to assert any common-law indemnification or contribution claim against the other. This provision does not waive comparative fault set out in Tennessee law.

## **6. Fees and Payment.**

6.1. **The Company's Pricing Plan**, attached hereto as Exhibit A and made a part of this Agreement, is accepted by the LEA. The Company shall submit to the LEA a standard weekly invoice showing in reasonable detail the services provided. For hourly positions, LEA shall pay for all time actually worked by Staff, not scheduled time. Company will comply with state laws, if any, requiring paid

leave. District will reimburse Company for paid leave days taken by Company staff for a district assignment per the service rate set forth in the pricing exhibit.

**6.2 Advance Payment.** If allowable by state procurement law, LEA will pay an Advance Payment to Company within five (5) days prior to the start of LEA's school year equal to 1/10 of Company's projected annual billings for services provided to the LEA. Company will not provide Substitute Staff to LEA until the Advance Payment is received. Company will apply the Advance Payment to the invoices for the final month of the LEA's school year. If there is a balance owed to Company following application of the Advance Payment, LEA will satisfy the invoice(s) pursuant to Section 6.7. Likewise, if there is a positive balance remaining following application of the Advance Payment, Company will apply any remaining monies to the Advance Payment due for the following school year or, if the Agreement is terminated, refund the balance to the LEA within thirty (30) days of termination date.

**6.3 Changes to Pricing Plan.** In the event that the LEA requests to increase the established pay rate for Substitute Staff from that specifically listed on Exhibit A, or if the LEA requests to establish a new Substitute Staff classification or new pay rate to be paid to some or all of the Substitute Staff not identified on Exhibit A (e.g., for improved recruitment, retention or for other reasons), the billing rate to the LEA shall be determined by using the markup used on Exhibit A. The LEA shall provide the Company fourteen (14) days prior written notice of its request to change an existing pay rate or establish a new Substitute Staff classification and pay rate.

The Company may change the Pricing Plan contained on Exhibit A in the event that government (local, state or federal) mandated labor costs, including but not limited to, employee healthcare or family leave benefits, minimum wage, payroll taxes, or workers compensation rates, which are required by law, regulation or mandate are enacted, implemented, become effective or are increased after the date of this Agreement. Company shall provide LEA with a minimum of thirty (30) days prior notice of any such pricing changes and no such pricing changes will go into effect until mutually agreed upon in writing by the parties. If mutually agreed upon, the Pricing Plan shall be adjusted as of the effective date of the law, regulation or mandate to reflect the actual cost increase to the Company reasonably calculated on a direct or pro rata basis. If the parties cannot agree on a price change, either party may terminate the Agreement upon thirty (30) days written notice.

For multi-year Agreements or whenever this Agreement is extended, the Pricing Plan may be modified to reflect a cost of living adjustment equal to the greater of 3% or the applicable consumer price index rate for the LEA for the twelve months preceding the most recent quarterly rate. Company shall provide LEA with a minimum of thirty (30) days prior notice of any such pricing changes and no such pricing changes will go into effect until mutually agreed upon in writing by the parties. If the parties cannot agree on a price change, either party may terminate the Agreement upon thirty (30) days written notice.

**6.4 Affordable Care Act.** The Patient Protection and Affordable Care Act ("ACA") became effective January 1, 2014. The ACA has a look back period that determines Substitute Staff eligibility for healthcare insurance coverage that shall begin on the beginning of this Agreement.

The Company normally hires Substitute Staff as part time employees who will work on average less than 30 hours per week such that they are not eligible for healthcare benefits under the ACA. However, should the LEA in its discretion employ Substitute Staff to work directly for LEA in addition to the hours worked for Company (example: after school program director or coach), and the combined work hours of the Substitute Staff cause the Substitute Staff to be deemed eligible to receive healthcare benefits under the ACA, the LEA agrees to reimburse the Company's cost of providing the minimum plan healthcare insurance coverage under the ACA.

**6.5 Use or Employment of Substitute Staff by the LEA Directly.** Company maintains the right to manage the schedule of its employees. Accordingly, if the LEA engages the services of any Substitute Staff other than through the Company on a per-diem, hourly or other basis, whether for services covered in this Agreement or otherwise, the LEA shall promptly notify the Company in writing and provide all information as the Company may reasonably request. Furthermore, if LEA hires Substitute Staff for services which are provided by Company in accordance with this Agreement, for the lesser of the period for which such Company employee is engaged or the term of this Agreement, the LEA shall calculate and pay to the Company any amounts due by using the daily or hourly markup used on Exhibit A. Failure of the LEA to promptly notify the Company that it has employed Substitute Staff may result in the Company continuing to pay wages to the Substitute Staff for assignments which are not worked. In such event, the LEA shall be liable to Company for all costs, including wages paid to the Substitute Staff, lost markup, and reasonable collection costs.

If Substitute Staff is hired as a full-time non-interim teacher of the LEA during the term of this Agreement, the LEA shall pay to Company the sum of \$2,500.00 or ten percent (10%) of the LEA yearly salary for the employee, whichever is higher, within thirty (30) days of employment. This payment is to reimburse Company for recruitment expenses and lost revenue. This fee shall not be due if the Substitute Staff was a "district original", i.e. previously working for the LEA at the start of

this Agreement. For the avoidance of doubt, the fees identified in this paragraph 6.5 shall only apply to substitute teacher staff who are hired into full time teaching positions. The fees set forth in this paragraph shall not apply to Substitute Staff who are hired into non-teaching positions, including but not limited to, Instructional Assistants, ECLC Assistants, clerical positions, SNS workers, nurses, custodians and all other non-teaching positions. Such additional non-teaching staff may be added at a future date upon mutual agreement of the parties.

**6.6 Non-Solicitation of Company Corporate Staff.** The LEA agrees that during the term of this Agreement and for a period of 12 months after the termination of the Agreement, without obtaining the prior written consent of the Company, neither the LEA nor any of its affiliates shall directly or indirectly, for itself or on behalf of another person or entity solicit for employment or otherwise induce, influence or encourage to terminate employment with the Company or employ or engage as an independent contractor any corporate employee of the Company (i.e. employee working for Company in a role other than as "Substitute Staff") with whom the LEA had contact or who became known to the LEA in connection with this Agreement. For the purposes of this section, "Company" also includes Source 4 Solutions LLC.

**6.7 Payment.** The LEA shall pay the Company (ESS) upon receipt of invoice via an ACH Debit initiated by Company. If the LEA is unable to provide an ACH initiated by Company, the LEA can elect to provide an ACH or wire transfer. Payment not received within fifteen (15) business days after receipt of invoice will be subject to a \$25.00 late fee and 1% per month service charge. Any dispute of billing must be communicated to Company within 10 days of receipt of invoice. Any adjustments less than 10% of the invoice will not delay payment and will be applied to the following invoice.

**6.8 Sales and Use Tax.** The LEA has a Sales and Use Tax Exemption Certificate for Tennessee sales and use tax and will provide the same to Company upon request. Company shall bear the burden of providing its suppliers with a copy of the LEA's Sales and Use Tax Exemption Certificate.

**7. Term.** The term of this Agreement shall begin on January 21, 2020 and shall remain in effect through December 31, 2020. Thereafter, the Agreement shall automatically renew on a yearly basis after the term unless either party provides written notice of termination at least one hundred and twenty (120) days prior to the end of the fiscal school year. Notwithstanding the preceding sentence, either party may terminate this Agreement if (i) the other party breaches a material provision of this Agreement and such breach is not cured within 30 days following written notice or (ii) in the case of a breach that by the terms of the breach cannot be cured within 30 days, the breaching party has not instituted measures to cure such breach within 10 days and fully cured such breach within 90 days. Further, the Company has the right to terminate this Agreement should any student or LEA employee physically or verbally assault or injure a Company's employee, and the LEA does not respond to the incident to the Company's reasonable satisfaction. In the event either party terminates this Agreement, the LEA shall pay all amounts due under the terms of this Agreement to the Company for services provided through the date of termination. Either party has the right for its convenience to terminate the Agreement upon ninety (90) days written notice to the party after the first full year of services. Such termination will not be deemed a breach of contract by either party. Should LEA exercise this provision, LEA will compensate Company for all satisfactory and authorized services completed as of the termination date.

**8. Insurance Coverage.** Each party shall, at its own cost and expense, maintain insurance coverage reasonably appropriate for the activities it conducts and the risks it assumes. The insurance coverage maintained by the Company shall include:

8.1 Workers' compensation coverage of such types and in such amounts as may be required by the laws of the jurisdiction in which the services of Substitute Staff are performed;

8.2 Commercial general liability coverage, including personal injury, blanket contractual liability, and broad form property damage, with a \$2,000,000 combined single limit per occurrence;

8.3 Umbrella coverage with a \$1,000,000 combined single limit per occurrence.

**9. Confidentiality & Non-Disparagement.** During the course of the business relationship, each party may be given access to proprietary or confidential information of the other, including, but not limited to, pricing policies, the identity and social security numbers of employees, and business policies and systems ("Confidential Information"). Each party shall hold Confidential Information of the other party in confidence, treating such Confidential Information with no less care than it treats its own, and shall not disclose such Confidential Information to any third party or use such Confidential Information for any purpose other than as contemplated by this Agreement. Upon termination of this Agreement, or sooner if requested by either party, each party shall return all Confidential Information of the other party in its possession, without retaining copies of such Confidential Information. This section shall not apply to information (i) that is in the public domain, or (ii) required to be disclosed by law or legal process.

Notwithstanding anything in this Agreement to the contrary any documents or materials, including the Agreement, in any format, including, but not limited to, paper, electronic, or virtual, that are public



records pursuant to the Tennessee Open Records Act, set out in T.C.A. §10-7-503 et seq., are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, LEA must, upon proper request, release public documents and records as defined by T.C.A. §10-7-503 et seq., including, but not limited to, the Agreement and all records created and maintained related to the Agreement, without the requirement to disclose such request to Company or provide Company with notice or the time to obtain a protective order.

At no time during or after the term of this Agreement and for a period of two (2) years thereafter shall either party directly or indirectly disparage the commercial business, professional or financial, as the case may be, reputation of the other party or any of their employees, management, owners or officers.

**10. Absentee Management System; Data and Intellectual Property.** To provide Substitute Staff, Company may utilize its own or the LEA's absentee management system (hereinafter "System") as it is agreed between the parties. Under either method, the Company owns all employee and absence management information data related to Substitute Staff. If the Company utilizes the LEA's System, the LEA shall allow and authorize the Company full access to the System (sometimes referred to as "Super User" status) throughout the term of the Agreement and for thirty days after termination. In the event this Agreement is terminated, Company shall have thirty (30) days to remove Company data from the System. All Company data, intellectual property, including processes, procedures and knowhow, trademarks and copyrights, are and shall remain the sole property of the Company.

**11. Miscellaneous**

**11.1 Amendments; Waivers.** This Agreement may be amended as agreed between the parties. No amendment, modification, or waiver of any provision of this Agreement shall be binding unless in writing and signed by the party against whom the operation of such amendment, modification, or waiver is sought to be enforced. No delay in the exercise of any right shall be deemed a waiver thereof, nor shall the waiver of a right or remedy in a particular instance constitute a waiver of such right or remedy generally.

**11.2 Notices.** Any notice or document required or permitted to be given under this Agreement shall be deemed to be given on the date such notice is (i) deposited in the United States mail, postage prepaid, certified mail, return receipt requested, (ii) deposited with a commercial overnight delivery service with delivery fees paid, or (iii) transmitted by facsimile or electronic mail with transmission acknowledgment, to the principal business address of the recipient or such other address or addresses as the parties may designate from time to time by notice satisfactory under this section. A copy of any notice to the Company shall be sent to the attention of the Company's president at the regular business address of the Company.

**11.3 Governing Law.** This Agreement shall be governed by the internal laws of Tennessee without giving effect to the principles of conflicts of laws. Each party hereby consents to the personal jurisdiction of the federal or state courts for Kingsport, Tennessee, and agrees that all disputes arising from this Agreement shall be prosecuted in such courts. Each party hereby agrees that any such court shall have in personam jurisdiction over such party and consents to service of process by notice sent by regular mail to the address set forth above and/or by any means authorized by the law of the LEA's state.

**11.4 Language Construction.** The language of this Agreement shall be construed in accordance with its fair meaning and not for or against any party. The parties acknowledge that each party and its counsel have reviewed and had the opportunity to participate in the drafting of this Agreement and, accordingly, that the rule of construction that would resolve ambiguities in favor of non-drafting parties shall not apply to the interpretation of this Agreement.

**11.5 Payment of Fees.** In the event of a dispute arising under this Agreement finally resolved through litigation or alternate dispute resolution, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

**11.6 Force Majeure.** Neither party shall be responsible for delays or failure to perform caused by acts of God (including fire, flood, storm, or other natural disturbances), war, civil war, riot, epidemic, acts of foreign enemies, terrorist activities, government sanction, strikes or other labor disputes (it being specifically understood that the existence of any picket line by a collective bargaining unit shall be considered as within this definition of force majeure), interruption or failure of electric, telephone or similar service or other causes beyond such party's control.

**11.7 Signature in Counterparts.** This Agreement may be signed in counterparts, each of which shall be deemed to be a fully-executed original.

**11.8 Signature by Facsimile.** An original signature transmitted by facsimile shall be deemed to be original for purposes of this Agreement.

**11.9 Assignment.** No party to this Agreement shall assign its rights or duties hereunder, without

the prior written consent of the other parties, except that the Company may assign its rights and duties in connection with a sale or other disposition of all or substantially all of its business, may assign custodial services to Custodial Services, LLC, and may assign e-learning solutions for distance instruction to Proximity Learning, Inc., an ESS company.

11.10 **No Third Party Beneficiaries.** Except as otherwise specifically provided in this Agreement, this Agreement is made for the sole benefit of the parties. No other persons shall have any rights or remedies by reason of this Agreement against any of the parties or shall be considered to be third party beneficiaries of this Agreement in any way.

11.11 **Binding Effect.** This Agreement shall inure to the benefit of the respective heirs, legal representatives and permitted assigns of each party, and shall be binding upon the heirs, legal representatives, successors and assigns of each party.

11.12 **Titles and Captions.** All article, section and paragraph titles and captions contained in this Agreement are for convenience only and are not deemed a part of the context hereof.

11.13 **Pronouns and Plurals.** All pronouns and any variations thereof are deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons may require.

11.14 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior discussions, agreements, understandings and negotiations. The LEA and Company agree that in the event that any provision of this Agreement shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid any other provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.  
[Acknowledgements Deleted for Inclusion in this Resolution]

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the agreement set out herein that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21<sup>st</sup> day of January, 2020.

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PATRICK W. SHULL, MAYOR

ATTEST:

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SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

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J. MICHAEL BILLINGSLEY, CITY ATTORNEY

# ESS Southeast, LLC

## SUBSTITUTE STAFF PLACEMENT AGREEMENT

This is an Agreement, entered into as of January 21, 2020, by and between **ESS Southeast, LLC** (the “Company”) located at 800 North Kings Highway, Suite 405, Cherry Hill, New Jersey 08034 and the **City of Kingsport Schools for Its Kingsport City Schools** located at 400 Clinchfield St Suite 200, Kingsport, TN 37660 (hereinafter referred to as “LEA” for Local Education Agency).

### Background

The Company is in the business of providing substitute teachers for local education systems, as well as other related staffing services. The LEA desires to engage the services of the Company on the terms and conditions set forth in this Agreement.

NOW THEREFORE, intending to be legally bound and acknowledging the receipt of adequate consideration, the parties hereby agree as follows:

**1. Provision of Substitute Staff.** The Company shall be the exclusive provider of substitute teachers and other staff listed in Exhibit “A” (hereinafter “**Substitute Staff**”) to fill positions at the request of the LEA on an as-needed basis, using such request mechanism(s), policies and procedures as may be established by the Company from time to time. The Company makes no guarantee that it will be able to fill all requests made by the LEA. In the event that the LEA requests a Substitute Staff and the Company is unable to provide a Substitute Staff with the necessary certification(s) and qualifications within a reasonable time period, the LEA may locate and hire a qualified Substitute Staff directly as an employee of the LEA. Whether the Company has provided Staff within a “reasonable time” will depend upon the particular circumstances relevant to the assignment (ex.: amount of time between request from district to the start date of assignment, skills needed for position, tasks required, needs of the student, etc.).

1.1 The LEA agrees that the Company shall be the exclusive contract provider of Substitute Staff to the LEA. All or any placement of Substitute Staff made pursuant to this Agreement and the processes and procedures established by the Company, be paid by the Company, and be invoiced back to the LEA by Company.

1.2 The Company acknowledges and understands that LEA participates in an internship program with educator preparation providers (EPPs) whereby the LEA provides training and preparation experiences to teacher candidates. These teacher candidates will from time to time serve in the capacity of a substitute teacher as part of the internship program. The Company acknowledges that allowing teacher candidates to serve in this capacity as part of their internship program is not a violation of this Agreement by the LEA.

1.3 The LEA will provide a list of staff which the LEA desires to remain in the pool of Substitute Staff assigned by the Company to the LEA. The LEA shall provide a written list of such personnel and may update said list by written addition or deletion of all changes. If the LEA was serviced by another vendor prior to this Agreement, the LEA will also make a good faith effort to

produce a list of staff who provided services through this vendor; provided, however, any past agreements with other vendors permitted the disclosure of such information. Subject to the interview, training, background checks and certification requirements included elsewhere in this Agreement, and normal employee responsibilities attendant to employment, the Company will accept such persons for assignment to the LEA. However, as part of the transition process, the LEA certifies to its actual knowledge that the aforementioned former Substitute Staff of the LEA meet the state requirements to serve as Substitute Staff (ex. Criminal history, TB Test) for the first 90 days after the date of this Agreement, unless Company is otherwise notified by LEA. The LEA acknowledges that the Substitute Staff will be ineligible to accept substitute assignments after said 90 day period if they are determined to be non-compliant with the laws governing educational employees in the State, which shall be Company's responsibility to determine pursuant to the terms of this Agreement.

1.4 The Company agrees to use its best commercial efforts to provide the LEA a fill rate equal to or greater than 90% on average for the school year. The calculation of the fill rate shall begin after ninety (90) school days of service to allow company sufficient time to recruit and employ substitute teachers. The calculation shall be based on requests for daily, full-day substitute teachers (excluding paraprofessionals and other non-teacher positions) which were submitted to the Company prior to 12:00 pm on the evening prior to the school day.

**2. Treatment of Substitute Staff as Employees of the Company.** All Substitute Staff provided by the Company will be treated by the LEA as employees of the Company, and not as employees of the LEA, for all purposes, including but not limited to Federal and State income tax purposes. Without limiting the preceding sentence:

2.1 The Company shall maintain all necessary personnel and payroll records for the Substitute Staff;

2.2 The LEA shall not be responsible for the payment of the wages and fringe benefits (if any) of the Substitute Staff; The Company shall withhold applicable taxes from the wages of the Substitute Staff, and shall be responsible for any payroll tax liabilities of an "employer" with respect to the Substitute Staff;

2.3 The Company shall provide applicable workers' compensation insurance coverage for the Substitute Staff in such amounts as may be required by law; and

2.4 Substitute Staff shall not be eligible for tenure with the LEA or be entitled to participate in any of the LEA's employee benefit plans, including pension, 403(b), profit sharing, retirement, deferred compensation, welfare, insurance, disability, bonus, vacation pay, severance pay and other similar plans, programs and agreements, whether or not reduced to writing.

2.5. In order to provide certain Substitute Staff who are obtaining the required initial or renewal State certifications, depending upon state requirements, the LEA recognizes that it may be required to execute certificate/permit/license applications and other related documents, such as a criminal history request as a representative of or on behalf of the Company. If necessary, the LEA designates the Company as its designee to submit a Substitute Staff's credentials to the county or state department of education office to obtain the Substitute Staff certifications. The LEA recognizes that it may be required to execute certain documents to allow the Company to perform

its function as its designee. In such instances, the LEA is not responsible for any of the obligations of the Company as the employer included in this Paragraph 2.

### **3. The Company's Obligations.**

3.1 The Company will act in good faith to provide Substitute Staff who, if needed or applicable, (a) hold a current license and certification for the positions requested by the LEA, (b) have had a completed criminal history and child abuse background check as required by law and/or the applicable Department of Education, (c) have appropriate health screenings, inoculations and tuberculosis testing as required by the state and (d) who shall render services in accordance with applicable laws and procedures of the state and this Agreement.

3.2 In selecting Substitute Staff, the Company shall apply such screening and evaluation criteria as it may determine in its sole discretion and as may be required by the applicable law of the jurisdiction in which the services of Substitute Staff will be performed. The Company will conduct any additional screening that may be mutually agreed in writing by the Company and the LEA, with an appropriate and agreed upon increase in the Company's fees.

3.3 The Company seeks to provide Substitute Staff that are trained for the requested positions. The Company will provide Substitute Staff training as required by the State, including as applicable, classroom management, general rules and procedures applicable to the position, and other pertinent matters prior to any assignment of said Substitute Staff. For existing LEA staff, the Company shall provide training as requested by the LEA for a fee equal to the Company's actual cost.

3.4 The Company shall have primary responsibility for, (i) advertising, recruiting and promoting substitute positions for LEA, and (ii) applicant tracking, including managing and maintaining any independent IT systems as it may deem necessary for these purposes.

3.5 The Company expects that the Substitute Staff assigned to the LEA will perform their services satisfactorily. If the LEA notifies the Company via the company electronic portal that a Substitute Staff has not performed satisfactorily within the reasonable discretion of the LEA, along with the clear reasons therefor, the Company will honor the LEA's request not to assign specific Substitute Staff. This section will in no way affect the right of the Company, in its sole discretion as employer, to hire, assign, reassign, discipline and/or terminate its own employees. The LEA understands that declining the services of a specific Substitute Staff may result in the Company's inability to secure an acceptable alternate if timely notice of the request is not provided.

### **4. The LEA's Obligations.** In connection with Substitute Staff provided by the Company pursuant to this Agreement, the LEA shall:

4.1 Provide information to the Substitute Staff as needed to allow the Substitute Staff to fully understand the duties and responsibilities of the placement and promptly report to the Company any suspicious, unusual, inappropriate behavior or unsatisfactory performance;

4.2 Provide a safe and suitable workplace that complies with all applicable governmental safety and health standards, statutes, and regulations;

4.3 Provide Substitute Staff with (i) adequate information, training, and safety equipment with respect to hazardous substances and any inherent dangers of the workplace (including known violent students), (ii) emergency procedures, and (iii) school rules and protocols, policies and procedures regarding student disciplinary actions, and confidentiality of student records. Further, the LEA will provide all Substitute Staff with any training appropriate to the needs, duties, responsibilities or knowledge unique to the LEA or otherwise different than would generally be appropriate in other LEAs.

4.4 Not assign Substitute Staff to assignments which (i) have sole custody of a single student for an extended period without LEA oversight, (ii) have sole responsibility for more than one classroom of students at a time, (iii) administer or maintain custody of any student medications, (iv) have custody of cash, negotiable valuables, merchandise, credit cards, check writing materials, keys or similar property, except for student lunch money that may be collected in the normal course of business, (v) use any vehicle on behalf of the LEA; (vi) work more than eight (8) hours in a day or more than forty (40) hour per week without notice to Company;

4.5 Assign Substitute Staff only to tasks for which they have been requested, unless written consent has been given by the Company. Heavy labor, lifting, or physical activity is prohibited unless required and accepted in the job description;

4.6 Not assign Substitute Staff to travel or perform duties off the normal school premises of the LEA except for class trips which are supervised by an LEA teacher;

4.7 If Substitute Staff is assigned duties in connection with the LEA's computer systems, maintain appropriate password security and backup copies of all data;

4.8 Maintain appropriate written internal control policies and procedures to ensure the confidentiality of all student records and appropriately limit the access of Substitute Staff to such records;

4.9 Not promise any Substitute Staff an increased rate of compensation;

4.10 Comply with any reasonable restrictions imposed by the Company on the responsibilities to be assigned to any Substitute Staff;

4.11 Approve and sign paper or electronic forms supplied by the Company documenting the amount of time worked by Substitute Staff or, if representatives of the LEA are not available to approve and sign such forms, authorize such forms to be executed by representatives of the Company on behalf of the LEA;

4.12 Be responsible for keeping the Company promptly informed by email (if available) of all Substitute Staff on-site changes and any changes in the LEA or building supervisory contact information;

4.13 To the extent possible, LEA should encourage its staff to notify the Company as soon as possible of the LEA staff's absence, but no later than 6 a.m. daily or 3 hours prior to the start of the class, whichever is earlier, through the protocols established by the Company for such notice; provided, however, the Company and the LEA recognize that the need for a substitute may occur after the above times and that in such cases the Company will use best efforts to find a



substitute for such LEA requests. Calculation of fill rate will be based only on full day substitute staff who enter absences on or before midnight (12:00 am) prior to the day of absence;

4.14 Comply with all Company policies and procedures to accurately invoice the LEA, process the daily record keeping and other tasks necessary for the Company to administer and track Substitute Staff, including but not limited to, sign in and out procedures and related records;

4.15 The LEA shall be solely responsible to control LEA staff absences and any budgetary impact resulting therefrom;

4.16 LEA represents that its actions under this Agreement do not violate its obligations under any agreement that LEA has with any labor union;

4.17 LEA shall cooperate with Company with respect to Company's recruiting efforts and activities, including but not limited to, (i) promptly sharing applications LEA may receive for positions with Company, provided, however that LEA shall not be responsible for substitute applicant tracking; and (ii) reasonably assisting Company with advertising positions on LEA social media accounts;

4.18 If allowable by state procurement law, other LEAs may utilize this Agreement if mutually agreeable to Company;

4.19 LEA shall cooperate and coordinate with Company with respect to Company's development and installation of Company's information technology (IT) systems for the LEA. The LEA understands that failure to cooperate in this regard may lead to a delay in services;

4.20 In the event of a complaint concerning Substitute Staff, LEA shall provide Company with a written incident report. Company and LEA agree to cooperate, exchange information, and reasonably permit each other's involvement in any investigatory activities or proceedings to the extent allowable by law.

## **5. Indemnification and Limitations of Liability.**

5.1 **Indemnification of the LEA by the Company.** The Company shall indemnify and hold the LEA's Board, and its agents, employees and Board members harmless from and against all claims or losses incurred, including reasonable attorney's fees, that are proximately caused by the acts or omissions of the Company, Substitute Staff, or other employees or authorized agents of the Company, or by the Company's breach of this Agreement, except that such indemnification shall not apply to any claims or losses for which the Company is entitled to indemnification by the LEA.

5.2 **Indemnification of the Company by the LEA.** Deleted.

5.3 **Notification; Right to Defend.** A party incurring any claim or loss for which indemnification may be provided pursuant to this section 5 shall promptly notify the other party in writing. The recipient of such notice may, at its own cost and expense, thereupon assume the defense of any third party claim using counsel reasonably satisfactory to the notifying party.

5.4 **Limitation of Damages.** Under no circumstances shall the Company be liable for special, indirect, consequential, punitive, expectancy, lost profit or goodwill damages, or for damages caused by the unsatisfactory performance of Substitute Staff that does not result in a finally adjudicated claim of damages against the LEA brought by a third party.

5.5 **Complete Agreement.** The parties agree that this section 5 sets forth their complete agreement with respect to any possible indemnification claim, and waive their right to assert any common-law indemnification or contribution claim against the other. This provision does not waive comparative fault set out in Tennessee law.

## 6. Fees and Payment.

6.1. **The Company's Pricing Plan,** attached hereto as Exhibit A and made a part of this Agreement, is accepted by the LEA. The Company shall submit to the LEA a standard weekly invoice showing in reasonable detail the services provided. For hourly positions, LEA shall pay for all time actually worked by Staff, not scheduled time. Company will comply with state laws, if any, requiring paid leave. District will reimburse Company for paid leave days taken by Company staff for a district assignment per the service rate set forth in the pricing exhibit.

6.2 **Advance Payment.** If allowable by state procurement law, LEA will pay an Advance Payment to Company within five (5) days prior to the start of LEA's school year equal to 1/10 of Company's projected annual billings for services provided to the LEA. Company will not provide Substitute Staff to LEA until the Advance Payment is received. Company will apply the Advance Payment to the invoices for the final month of the LEA's school year. If there is a balance owed to Company following application of the Advance Payment, LEA will satisfy the invoice(s) pursuant to Section 6.7. Likewise, if there is a positive balance remaining following application of the Advance Payment, Company will apply any remaining monies to the Advance Payment due for the following school year or, if the Agreement is terminated, refund the balance to the LEA within thirty (30) days of termination date.

6.3 **Changes to Pricing Plan.** In the event that the LEA requests to increase the established pay rate for Substitute Staff from that specifically listed on Exhibit A, or if the LEA requests to establish a new Substitute Staff classification or new pay rate to be paid to some or all of the Substitute Staff not identified on Exhibit A (e.g., for improved recruitment, retention or for other reasons), the billing rate to the LEA shall be determined by using the markup used on Exhibit A. The LEA shall provide the Company fourteen (14) days prior written notice of its request to change an existing pay rate or establish a new Substitute Staff classification and pay rate.

The Company may change the Pricing Plan contained on Exhibit A in the event that government (local, state or federal) mandated labor costs, including but not limited to, employee healthcare or family leave benefits, minimum wage, payroll taxes, or workers compensation rates, which are required by law, regulation or mandate are enacted, implemented, become effective or are increased after the date of this Agreement. Company shall provide LEA with a minimum of thirty (30) days prior notice of any such pricing changes and no such pricing changes will go into effect until mutually agreed upon in writing by the parties. If mutually agreed upon, the Pricing Plan shall be adjusted as of the effective date of the law, regulation or mandate to reflect the actual cost increase to the Company reasonably calculated on a direct or pro rata basis. If the parties cannot agree on a price change, either party may terminate the Agreement upon thirty (30) days written

notice.

For multi-year Agreements or whenever this Agreement is extended, the Pricing Plan may be modified to reflect a cost of living adjustment equal to the greater of 3% or the applicable consumer price index rate for the LEA for the twelve months preceding the most recent quarterly rate. Company shall provide LEA with a minimum of thirty (30) days prior notice of any such pricing changes and no such pricing changes will go into effect until mutually agreed upon in writing by the parties. If the parties cannot agree on a price change, either party may terminate the Agreement upon thirty (30) days written notice.

**6.4 Affordable Care Act.** The Patient Protection and Affordable Care Act (“ACA”) became effective January 1, 2014. The ACA has a look back period that determines Substitute Staff eligibility for healthcare insurance coverage that shall begin on the beginning of this Agreement.

The Company normally hires Substitute Staff as part time employees who will work on average less than 30 hours per week such that they are not eligible for healthcare benefits under the ACA. However, should the LEA in its discretion employ Substitute Staff to work directly for LEA in addition to the hours worked for Company (example: after school program director or coach), and the combined work hours of the Substitute Staff cause the Substitute Staff to be deemed eligible to receive healthcare benefits under the ACA, the LEA agrees to reimburse the Company’s cost of providing the minimum plan healthcare insurance coverage under the ACA.

**6.5 Use or Employment of Substitute Staff by the LEA Directly.** Company maintains the right to manage the schedule of its employees. Accordingly, if the LEA engages the services of any Substitute Staff other than through the Company on a per-diem, hourly or other basis, whether for services covered in this Agreement or otherwise, the LEA shall promptly notify the Company in writing and provide all information as the Company may reasonably request. Furthermore, if LEA hires Substitute Staff for services which are provided by Company in accordance with this Agreement, for the lesser of the period for which such Company employee is engaged or the term of this Agreement, the LEA shall calculate and pay to the Company any amounts due by using the daily or hourly markup used on Exhibit A. Failure of the LEA to promptly notify the Company that it has employed Substitute Staff may result in the Company continuing to pay wages to the Substitute Staff for assignments which are not worked. In such event, the LEA shall be liable to Company for all costs, including wages paid to the Substitute Staff, lost markup, and reasonable collection costs.

If Substitute Staff is hired as a full-time non-interim teacher of the LEA during the term of this Agreement, the LEA shall pay to Company the sum of \$2,500.00 or ten percent (10%) of the LEA yearly salary for the employee, whichever is higher, within thirty (30) days of employment. This payment is to reimburse Company for recruitment expenses and lost revenue. This fee shall not be due if the Substitute Staff was a “district original”, i.e. previously working for the LEA at the start of this Agreement. For the avoidance of doubt, the fees identified in this paragraph 6.5 shall only apply to substitute teacher staff who are hired into full time teaching positions. The fees set forth in this paragraph shall not apply to Substitute Staff who are hired into non-teaching positions, including but not limited to, Instructional Assistants, ECLC Assistants, clerical

positions, SNS workers, nurses, custodians and all other non-teaching positions. Such additional non-teaching staff may be added at a future date upon mutual agreement of the parties.

**6.6 Non-Solicitation of Company Corporate Staff.** The LEA agrees that during the term of this Agreement and for a period of 12 months after the termination of the Agreement, without obtaining the prior written consent of the Company, neither the LEA nor any of its affiliates shall directly or indirectly, for itself or on behalf of another person or entity solicit for employment or otherwise induce, influence or encourage to terminate employment with the Company or employ or engage as an independent contractor any corporate employee of the Company (i.e. employee working for Company in a role other than as "Substitute Staff") with whom the LEA had contact or who became known to the LEA in connection with this Agreement. For the purposes of this section, "Company" also includes Source 4 Solutions LLC.

**6.7 Payment.** The LEA shall pay the Company (ESS) upon receipt of invoice via an ACH Debit initiated by Company. If the LEA is unable to provide an ACH initiated by Company, the LEA can elect to provide an ACH or wire transfer. Payment not received within fifteen (15) business days after receipt of invoice will be subject to a \$25.00 late fee and 1% per month service charge. Any dispute of billing must be communicated to Company within 10 days of receipt of invoice. Any adjustments less than 10% of the invoice will not delay payment and will be applied to the following invoice.

**6.8 Sales and Use Tax.** The LEA has a Sales and Use Tax Exemption Certificate for Tennessee sales and use tax and will provide the same to Company upon request. Company shall bear the burden of providing its suppliers with a copy of the LEA's Sales and Use Tax Exemption Certificate.

**7. Term.** The term of this Agreement shall begin on January 21, 2020 and shall remain in effect through December 31, 2020. Thereafter, the Agreement shall automatically renew on a yearly basis after the term unless either party provides written notice of termination at least one hundred and twenty (120) days prior to the end of the fiscal school year. Notwithstanding the preceding sentence, either party may terminate this Agreement if (i) the other party breaches a material provision of this Agreement and such breach is not cured within 30 days following written notice or (ii) in the case of a breach that by the terms of the breach cannot be cured within 30 days, the breaching party has not instituted measures to cure such breach within 10 days and fully cured such breach within 90 days. Further, the Company has the right to terminate this Agreement should any student or LEA employee physically or verbally assault or injure a Company's employee, and the LEA does not respond to the incident to the Company's reasonable satisfaction. In the event either party terminates this Agreement, the LEA shall pay all amounts due under the terms of this Agreement to the Company for services provided through the date of termination. Either party has the right for its convenience to terminate the Agreement upon ninety (90) days written notice to the party after the first full year of services. Such termination will not be deemed a breach of contract by either party. Should LEA exercise this provision, LEA will compensate Company for all satisfactory and authorized services completed as of the termination date.

**8. Insurance Coverage.** Each party shall, at its own cost and expense, maintain insurance coverage reasonably appropriate for the activities it conducts and the risks it assumes. The insurance coverage maintained by the Company shall include:

8.1 Workers' compensation coverage of such types and in such amounts as may be required by the laws of the jurisdiction in which the services of Substitute Staff are performed;

8.2 Commercial general liability coverage, including personal injury, blanket contractual liability, and broad form property damage, with a \$2,000,000 combined single limit per occurrence;

8.3 Umbrella coverage with a \$1,000,000 combined single limit per occurrence.

**9. Confidentiality & Non-Disparagement.** During the course of the business relationship, each party may be given access to proprietary or confidential information of the other, including, but not limited to, pricing policies, the identity and social security numbers of employees, and business policies and systems ("Confidential Information"). Each party shall hold Confidential Information of the other party in confidence, treating such Confidential Information with no less care than it treats its own, and shall not disclose such Confidential Information to any third party or use such Confidential Information for any purpose other than as contemplated by this Agreement. Upon termination of this Agreement, or sooner if requested by either party, each party shall return all Confidential Information of the other party in its possession, without retaining copies of such Confidential Information. This section shall not apply to information (i) that is in the public domain, or (ii) required to be disclosed by law or legal process.

Notwithstanding anything in this Agreement to the contrary any documents or materials, including the Agreement, in any format, including, but not limited to, paper, electronic, or virtual, that are public records pursuant to the Tennessee Open Records Act, set out in T.C.A. §10-7-503 et seq., are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, LEA must, upon proper request, release public documents and records as defined by T.C.A. §10-7-503 et seq., including, but not limited to, the Agreement and all records created and maintained related to the Agreement, without the requirement to disclose such request to Company or provide Company with notice or the time to obtain a protective order.

At no time during or after the term of this Agreement and for a period of two (2) years thereafter shall either party directly or indirectly disparage the commercial business, professional or financial, as the case may be, reputation of the other party or any of their employees, management, owners or officers.

**10. Absentee Management System; Data and Intellectual Property.** To provide Substitute Staff, Company may utilize its own or the LEA's absentee management system (hereinafter "System") as it is agreed between the parties. Under either method, the Company owns all employee and absence management information data related to Substitute Staff. If the Company utilizes the LEA's System, the LEA shall allow and authorize the Company full access to the System (sometimes referred to as "Super User" status) throughout the term of the Agreement and for thirty days after termination. In the event this Agreement is terminated, Company shall have thirty (30) days to remove Company data from the System. All Company data, intellectual property, including processes, procedures and knowhow, trademarks and copyrights, are and shall remain the sole property of the Company.

## **11. Miscellaneous**

**11.1 Amendments; Waivers.** This Agreement may be amended as agreed between the parties. No amendment, modification, or waiver of any provision of this Agreement shall be binding unless in writing and signed by the party against whom the operation of such amendment, modification, or waiver is sought to be enforced. No delay in the exercise of any right shall be deemed a waiver thereof, nor shall the waiver of a right or remedy in a particular instance constitute a waiver of such right or remedy generally.

**11.2 Notices.** Any notice or document required or permitted to be given under this Agreement shall be deemed to be given on the date such notice is (i) deposited in the United States mail, postage prepaid, certified mail, return receipt requested, (ii) deposited with a commercial overnight delivery service with delivery fees paid, or (iii) transmitted by facsimile or electronic mail with transmission acknowledgment, to the principal business address of the recipient or such other address or addresses as the parties may designate from time to time by notice satisfactory under this section. A copy of any notice to the Company shall be sent to the attention of the Company's president at the regular business address of the Company.

**11.3 Governing Law.** This Agreement shall be governed by the internal laws of Tennessee without giving effect to the principles of conflicts of laws. Each party hereby consents to the personal jurisdiction of the federal or state courts for Kingsport, Tennessee, and agrees that all disputes arising from this Agreement shall be prosecuted in such courts. Each party hereby agrees that any such court shall have in personam jurisdiction over such party and consents to service of process by notice sent by regular mail to the address set forth above and/or by any means authorized by the law of the LEA's state.

**11.4 Language Construction.** The language of this Agreement shall be construed in accordance with its fair meaning and not for or against any party. The parties acknowledge that each party and its counsel have reviewed and had the opportunity to participate in the drafting of this Agreement and, accordingly, that the rule of construction that would resolve ambiguities in favor of non-drafting parties shall not apply to the interpretation of this Agreement.

**11.5 Payment of Fees.** In the event of a dispute arising under this Agreement finally resolved through litigation or alternate dispute resolution, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

**11.6 Force Majeure.** Neither party shall be responsible for delays or failure to perform caused by acts of God (including fire, flood, storm, or other natural disturbances), war, civil war, riot, epidemic, acts of foreign enemies, terrorist activities, government sanction, strikes or other labor disputes (it being specifically understood that the existence of any picket line by a collective bargaining unit shall be considered as within this definition of force majeure), interruption or failure of electric, telephone or similar service or other causes beyond such party's control.

**11.7 Signature in Counterparts.** This Agreement may be signed in counterparts, each of which shall be deemed to be a fully-executed original.

**11.8 Signature by Facsimile.** An original signature transmitted by facsimile shall be deemed to be original for purposes of this Agreement.

**11.9 Assignment.** No party to this Agreement shall assign its rights or duties hereunder, without the prior written consent of the other parties, except that the Company may assign its rights

and duties in connection with a sale or other disposition of all or substantially all of its business, may assign custodial services to Custodial Services, LLC, and may assign e-learning solutions for distance instruction to Proximity Learning, Inc., an ESS company.

**11.10 No Third Party Beneficiaries.** Except as otherwise specifically provided in this Agreement, this Agreement is made for the sole benefit of the parties. No other persons shall have any rights or remedies by reason of this Agreement against any of the parties or shall be considered to be third party beneficiaries of this Agreement in any way.

**11.11 Binding Effect.** This Agreement shall inure to the benefit of the respective heirs, legal representatives and permitted assigns of each party, and shall be binding upon the heirs, legal representatives, successors and assigns of each party.

**11.12 Titles and Captions.** All article, section and paragraph titles and captions contained in this Agreement are for convenience only and are not deemed a part of the context hereof.

**11.13 Pronouns and Plurals.** All pronouns and any variations thereof are deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons may require.

**11.14 Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior discussions, agreements, understandings and negotiations. The LEA and Company agree that in the event that any provision of this Agreement shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid any other provision of this Agreement.

**[INTENTIONALLY LEFT BLANK; SIGNATURES ON FOLLOWING PAGE]**



IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

**ESS Southeast, LLC**

By \_\_\_\_\_  
Charles Spencer, Executive V.P.

Date \_\_\_\_\_

**City of Kingsport Schools for Its  
Kingsport City Schools**

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

Date \_\_\_\_\_

**EXHIBIT A**

**PRICING PAID BY THE LOCAL EDUCATION AGENCY TO COMPANY**

Based on Cheatham County contract dated May 6, 2019.

<u>Substitute Position</u>	<u>Daily Pay Rate</u>	<u>Company Pricing</u>
Certified Full Day Substitute Teachers	\$67.50 per day	\$87.08 per day
Certified Half Day Substitute Teachers	\$33.75 per day	\$43.54 per day
Degreed Full Day Substitute Teachers	\$60.00 per day	\$77.40 per day
Degreed Half Day Substitute Teachers	\$30.00 per day	\$38.70 per day
Non-Degreed Full Day Substitute Teachers	\$57.50 per day	\$74.18 per day
Non-Degreed Half Day Substitute Teachers	\$28.75 per day	\$37.09 per day
Retiree Full Day Substitute Teachers	\$100.00 per day	\$129.00 per day
Retiree Half Day Substitute Teachers	\$50.00 per day	\$64.50 per day
Long Terms (excluding District Retirees)	\$185.00 per day	\$238.65 per day

**Optional Absent Management System Fee:** For positions not listed above, if LEA wants absences not requiring a substitute tracked, Company may charge 75¢ per absence.



## AGENDA ACTION FORM

### Award the Contract for Athletic Uniforms and Sports Equipment to BSN Sports

To: Board of Mayor and Aldermen  
 From: Chris McCartt, City Manager *CM*

Action Form No.: AF-21-2020  
 Work Session: January 21, 2020  
 First Reading: N/A

Final Adoption: January 21, 2020  
 Staff Work By: Committee  
 Presentation By: David Frye

#### Recommendation:

Approve the Resolution.

#### Executive Summary:

The City of Kingsport – Kingsport City Schools received two proposals for consideration on November 20, 2019 in response to the Request for Proposals for Athletic Uniforms and Sports Equipment. The proposals received were from BSN Sports and Riddell.

An evaluation committee reviewed the two proposals based upon the criteria provided within the Request for Proposal specifications. The committee selected BSN Sports due to the proposed discounts, product rebates and on site customer service offered. The Asst. Procurement Manager contacted BSN Sports to request clarification on the proposal and to negotiate the terms and conditions. The proposal, the Partnership Agreement and the Supplier Agreement includes the negotiated terms and conditions.

The intent of this contract is for discount pricing, product rebates and onsite customer service provided by local BSN Representatives. This agreement is not exclusive and does not restrict purchases with other vendors.

The Board of Education approved the request to award the contract to BSN Sports on January 14, 2020. Kingsport City Schools is requesting the Board of Mayor and Aldermen approve the award of the contract for Athletic Uniforms and Sports Equipment to BSN Sports.

#### Attachments:

1. Resolution
2. Recommendation Memo
3. BSN Sports Agreements / Proposal

	<u>Y</u>	<u>N</u>	<u>O</u>
Adler	—	—	—
Cooper	—	—	—
Duncan	—	—	—
George	—	—	—
Olterman	—	—	—
Phillips	—	—	—
Shull	—	—	—

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AWARDING THE PROPOSAL FOR THE CONTRACT FOR ATHLETIC UNIFORMS AND SPORTS EQUIPMENT TO BSN SPORTS AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR THE SAME AND ALL DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPOSE OF THE AGREEMENT

WHEREAS, proposals were opened November 20, 2019, for athletic uniforms and sports equipment for use at the Kingsport City Schools and by the city parks and recreation department; and

WHEREAS, upon review of the proposals, the board finds BSN Sports is the lowest responsible compliant bidder meeting specifications for the particular grade or class of material, work or service desired and is in the best interest and advantage to the city, and the City of Kingsport desires to enter into a contract for athletic uniforms and sports equipment from BSN Sports on an as needed basis; and

WHEREAS, funding is identified in city and school budgets for athletic uniforms.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That the bid for the athletic uniforms and sports equipment on an as needed basis is awarded to BSN Sports, and the mayor is authorized to execute an agreement for same and all documents necessary and proper to effectuate the purpose of the agreement.

SECTION II. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort and prosperity of the public.

SECTION III. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of January, 2020.

\_\_\_\_\_  
PATRICK W. SHULL, MAYOR

ATTEST:

\_\_\_\_\_  
SIDNEY H. COX, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
J. MICHAEL BILLINGSLEY, CITY ATTORNEY

MINUTES  
BID OPENING  
November 20, 2019  
4:00 P.M.

Present: Brent Morelock, Procurement Manager; and Michelle Ramey, Assistant Procurement Manager,  
Schools

The Bid Opening was held in the Council Room, City Hall.

The Procurement Manager opened with the following bids:

RFP – ATHLETIC UNIFORMS AND SPORTS EQUIPMENT - SCHOOLS
Vendor:
BSN Sports
Riddell/All American

The submitted bids will be evaluated and a recommendation made at a later date.

## MEMORANDUM

TO: Board of Mayor and Aldermen

FROM: David J. Frye, Chief Finance Officer

DATE: January 14, 2020

SUBJECT: BSN Sports Agreement for Athletic Uniforms and Sports Equipment

The City Of Kingsport – Kingsport City Schools received two proposals for consideration in response to the Request for Proposal for Athletic Uniforms and Sports Equipment. Proposals were opened publicly on November 20, 2019 at 4 PM in the second-floor Council Room at City Hall. Proposal submitted for consideration were from BSN Sports and Riddell.

An evaluation committee reviewed the two proposals based upon the criteria provided within the Request for Proposal specifications. The evaluation committee selected BSN Sports due to the proposed discounts, product rebates and on site customer service offered. The Asst. Procurement Manager contacted BSN Sports to request clarification on the proposal and to negotiate the terms and conditions. The proposal, the Partnership Agreement and the Supplier Agreement now include the negotiated terms and conditions.

The Board of Education approved the award of the RFP to BSN Sports on January 14, 2020. Kingsport City Schools is requesting the Board of Mayor and Alderman approve the award of the contract for Athletic Uniforms and Sports Equipment to BSN Sports for the City of Kingsport – Kingsport City Schools.



P.O. Box 7726, Dallas, TX 75209

City of Kingsport-Kingsport City Schools

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

Revised 12/19/2019

**BSN Sports Partner Agreement  
City of Kingsport – Kingsport City Schools**

**Minimum Service Capability**

- BSN agrees to provide three different levels of uniforms (stock, modified, custom)
- BSN agrees to men's and women's cuts in apparel and uniforms.
- BSN agrees to provide tall and large (Big & Tall) sizes in apparel and uniforms
- BSN agrees to provide all footwear in standard sizes as well as large/wide sizes (if available)- **refers to All Footwear offered by Nike.**
- **Verification w /manufacturer**
- BSN /Nike hereby verify to procure and confirm to the Federal Fair Labor Standards Act, and will abide by all the terms within this contract
- BSN Sports will have our sales pro's available for onsite servicing Bi-weekly throughout the length of the contract agreement.
- All oral presentations will be handled by our Local Sales Pro: **Matt Pendleton- please see Contact Information Attached** -All product Samples at that time can be seen and evaluated.
- Sales Pro will be responsible for showing product samples, communicating order deadlines **with the Purchasing Department**, and providing 24-hour response for all questions and concerns.
- Sales Demonstration and Sample Evaluations will be set up between **City of Kingsport-Kingsport City Schools** and **Matt Pendleton** - Sales Pro.
- **Shipping cost are set by BSN Sports LLC and are not meant to make any money.**

**Order Lead Times**

- Yes, Fall sports by 2/1, Winter Sports By 4/1, and Spring Sports 8/1. Normal Day to Day non decorated items can be delivered in 2-6 business days and decorated items in 2-3 weeks once art work is approved. Both listed as Day to Day will depend on availability.

**Purchase Order/Credit Cards**

- BSN Sports does accept both purchase orders and credit card orders **off quotes, on all orders. Purchase orders will be issued for orders for City of Kingsport – Kingsport City Schools**





**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

**Term of the Partner Agreement**

- Same as the service agreement – **effective upon execution for four (4) years.**

City of Kingsport-Kingsport City Schools

- RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

**Revised 12/19/2019**

**PURCHASE AGREEMENT:**

Footwear, Equipment, Uniforms and Apparel purchased at specific team dealer pricing. City of Kingsport-Kingsport City Schools, agrees to purchase products at team dealer pricing in each year contract.

**SALES/SERVICE AGREEMENT:**

Sales and service will be with BSN Sports LLC., **when it is in the best interest of the City of Kingsport – Kingsport City Schools to do so.** City of Kingsport – Kingsport City Schools must comply with BSN ordering Guidelines, approximately Six -nine months in advance to guarantee delivery.

The undersigned **will execute all agreements when the** official contract has been completed by the BSN Sports Legal Department and agreed to by both parties.

**All Negotiations outside of this contract that may arise will be discussed with the Procurement manager.**

City of Kingsport-Kingsport City Schools

BSN SPORTS LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

**BSN SUPPLIER AGREEMENT WITH  
CITY OF KINGSPORT-KINGSPORT CITY SCHOOLS**

BSN SPORTS, (“BSN”) is pleased to offer the City of Kingsport for its Kingsport City Schools Athletic Departments the **BSN SPORTS SUPPLIER AGREEMENT** for the purchase and supply of Nike apparel and footwear along with any and all other equipment & apparel offered for sale by BSN SPORTS, for use by the school and its athletic programs.

**Benefits:**

1. **“Premier Pricing”** shall apply to all footwear, clothing and equipment purchased by City of Kingsport, Dobyns- Bennett High School, Ross Robinson MS , & John Sevier M S at the following rates:

- 40% off retail price on all Nike clothing
- 35% off retail price on all Nike footwear and equipment
- 30% off retail price on all Nike Custom uniforms purchased within the time frame specified in the BSN SPORTS uniform Schedule.
- 20% off catalog price on all BSN SPORTS proprietary products (as defined below) from BSN SPORTS catalog (excludes closeout and sale items)
  - BSN SPORTS proprietary products are identified in our catalog with a black star icon next to the product code.
- 10% off catalog price on all non-branded products from BSN SPORTS catalog.
  - BSN SPORTS catalog non-branded products are products distributed by BSN from a third-party manufacturer such as Wilson, Spalding, Rawlings, etc.

2. **BSN Sports Product / Apparel Rebate:** Kingsport City Schools Athletics shall receive the following in free product Rebate: Subject to the terms below, at the end of each School Year of this agreement, the Athletic Program will receive a Product Rebate including selected products from BSN. The Product Rebate will be selected from a list of products provided by BSN and subject to availability at the time of order. Product Rebates are available after the requirements below are met (including, without limitation, the Annual Spending Level with BSN as set forth below) and must be utilized within forty-five (45) days of the end of the School Year in which the rebate was earned. A Product Rebate balance does not carry over from School Year to School Year. Kingsport City Schools and its Athletic Programs must be current on all payment obligations to BSN to be eligible for the Product Rebate.

- **Rebate totals are figured towards the end of April when all purchases for the year are done.**
- **All BSN rewards must be used before July 1st of that year**
- **Please, see attached List of non-selected Rebated products forwarded separately.**

**Annual Spending Level**

- \$200,000

**Annual Rebate amount**

8% of annual spend in Nike apparel or



P.O. Box 7726, Dallas, TX 75209  
BSN equipment at retail catalog price.

- **\$150,000+** or 6% of annual spend in Nike apparel  
BSN equipment at retail catalog price.
- **\$100,000+** **Annual Rebate amount**  
5% of annual spend in Nike apparel  
or BSN equipment at retail catalog price.

3. **NIKE Team Sports Product / Apparel Rebate:** Dobyns- Bennett High School Athletics Programs shall receive the following in free Nike promotional product calculated at Nike retail prices and redeemable from the approved Nike Fundamental Apparel promo list:

- Year 1: \$20,000 in Nike promotional product @ retail price
- Year 2: \$20,000 in Nike promotional product @ retail price
- Year 3: \$20,000 in Nike promotional product @ retail price
- Year 4: \$20,000 in Nike Promotional product @ retail price

**\$1,500.00 per year for both Middle Schools in Nike Product @ Retail Price, plus a 5% Rebate on Total Spend each year.**

\$1,500 per year Nike Promotional product for Dobyns – Bennett High School Administration.

**4. Region Championship Region Championship Incentive:**

Championship tees for entire team and coaches staff

**State Championship Incentive:**

Championship tees for entire team and coaches staff

\$1,000 Coach's Promotional product allotment to Head Coach (sports: FB, VB, MBB, WBB, BB, SB, Track & Field, MSC, WSC)

\$500.00 for Head Coach of Sports not listed that wins a State Title.

**Advertising Allotment:** BSN will furnish \$3,000 per year for advertising on the Jumbo Tron. The \$3,000 will come from BSN or Nike Product at Retail Price.



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

**5. VIP Marketing Package:** Dobyons-Bennett High School will receive a free “Big Signs” VIP Branding package, in year 1 of agreement, which will consist of the following:

- Custom Media Backdrop & Table Cloth
- 8 ea. single avenue Banners with Hardware
- 1 ea. Custom Pop-Up Tent
- 3 ea. Spirit Flags with poles
- 6 ea. Custom Outdoor Banners

**Kevin Atlas and the Believe in You tour, school visit in either school year 2020-2021 or 2021-2022. (\$20,000 Value)**

The “Believe in You” Challenge begins with every student attending a school event he or she may not have gone to before, i.e. the football team attending the band concert to reciprocate the support they received all season or the band attending a drama performance, or all three cheering loudly at the next tennis match. Kevin is the first person with one arm to earn a Division I basketball scholarship and played professional basketball overseas.

**BSN Sports LLC understands that no employee of the City of Kingsport-Kingsport City Schools is permitted to accept gifts or entertainment from BSN Sports or any of its affiliates at any time for any reason.**

City of Kingsport-Kingsport City Schools

BSN SPORTS LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

**RFP: Athletic Uniforms and  
Sports Equipment Contract**

For

**City of Kingsport**

**Kingsport City Schools**

Attn: Procurement Manager

225 West Center Street

Kingsport, TN 37660

Due: November 20<sup>th</sup>, 2019 @4pm

**Revised: December 19, 2019**

Submitted By

**BSN SPORTS LLC/NIKE**

P.O Box 7726

Dallas, TX 75209

Chris Bloomfield- National Bid Director

Phone: 800-527-7510 x7324

Office: Dallas. TX

Email: [bsnbid@bsnsports.com](mailto:bsnbid@bsnsports.com)

[WWW.BSNSPORTS.COM](http://WWW.BSNSPORTS.COM)



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

1027372

WHEN ORDERING OFF THIS BID,  
PLEASE INDICATE THIS BID  
NUMBER ON ALL ORDERS.  
19-55875



**REQUEST FOR PROPOSAL  
CITY OF KINGSPORT - KINGSPORT CITY SCHOOLS  
ATHLETIC UNIFORMS AND  
SPORTS EQUIPMENT CONTRACT**

**Due Date: November 20, 2019  
Due Time: 4:00 PM**

**City of Kingsport Procurement Department  
225 West Center Street  
Kingsport, TN 37660  
423/378-2134**



P.O. Box 7726, Dallas, TX 75209

City of Kingsport-Kingsport City Schools

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

**Revised 12/19/2019**

We are honored to have the opportunity to present a proposal to you today and appreciate your time.

As you will see in the enclosed documents, we are bringing forth a truly one of a kind deal that can add significant value to your athletic program and broader community via access to exclusive product, service guarantees, exclusive experiences, continued education for coaches and reward back on every purchase. Being the largest **Nike** team distributor in the Country comes with benefits to our partners that are tough to match. That said, we expect you'll get other good offers from our competitors, so it's important you know a bit more about us as you consider all options.

Started in 1972 with our founder selling tennis nets out of the trunk of his car, BSN SPORTS is still a family run company focused around one core principle – SERVICE. There is nothing more important to us, and nothing that sets us apart more, than our passion for serving you: School Administrators, Athletic Directors and Coaches who impact more lives in a year than most people do in a lifetime. The more time we can save you off the field, the more time you'll have to impact lives on it, which is why we do everything we possibly can to make your lives easier. This includes:

- Our commitment to be on campuses at least once a week (or whenever you need us) with comfort knowing we are always a short drive away. **(available- if contacted by phone)**
- Unmatched inventory management systems that give us the ability reduce backorders by checking real time product availability from multiple vendors and our warehouses before we ever leave your office.
- Your own customized Team Art Locker, a treasure chest of cutting- edge designs and artwork your athletes and community will love
- Digital player and fan wear storefronts that automate the team shop process and give coaches time back in their day
- Access to our sister brands at VIP Branding, Varsity Spirit and Herff Jones that give us the unique ability to help you transform your brand and elevate ALL aspects of student life. **The discount is up to the Varsity Spirit Rep, and the purchase of Cheer items DO NOT count towards BSN Rebate.**
- And a LOT more...

Best of luck throughout the process and please don't hesitate to reach out to us with any questions.

Thank you,

Chris Bloomfield,

National Bid Director, BSN SPORTS LLC.





**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

1	<b>PROPOSAL FORM</b>
2	<b>COMPANY &amp; PRODUCT OVERVIEW</b>
3	<b>PARTNERSHIP AGREEMENT</b>
4	<b>ORDERING/CUSTOMER SERVICE</b>
5	<b>COST PROPOSAL</b>
6	<b>REFERENCES</b>
7	<b>PRACTICE GEAR</b>
8	<b>CONTRACT, TERMS &amp; CONDITIONS</b>
9	<b>OTHER</b>
10	<del> </del>
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**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

**TAB 1**



**BSN SPORTS**

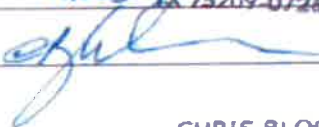
P.O. Box 7726, Dallas, TX 75209

**RFP - CITY OF KINGSFORT - KINGSFORT CITY SCHOOLS ATHLETICS  
UNIFORMS AND SPORTS EQUIPMENT CONTRACT  
PROPOSAL FORM**

The undersigned hereby offers the following proposal for consideration by the City of Kingsport - Kingsport City Schools for **ATHLETIC UNIFORMS AND SPORTS EQUIPMENT** in accordance with the terms, conditions, and specifications contained herein.

**COST AND RATE:** proposals shall be offered on separate sheets attached to this proposal page(s). however, this signed page must be included with return proposal package.

Company: BSN SPORTS LLC  
PO Box 7726  
Dallas TX 75209-0726

By:  (Signature of authorized agent)

Name: CHRIS BLOOMFIELD  
National Bid Director  
bsnbid@bsnsports.com

Title: \_\_\_\_\_  
Address: BSN SPORTS LLC  
PO BOX 7726  
DALLAS, TX 75209-0726

Phone: 800-827-7510 x 7324

Fax: 800-865-7653

E-mail: BSN BID@BSN SPORTS.COM

Date: 11-4-19

**MUST BE SIGNED AND SUBMITTED WITH PROPOSAL TO BE VALID**



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

TAB 2



P.O. Box 7726, Dallas, TX 75209

City of Kingsport-Kingsport City Schools

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

**Revised 12/19/2019**

### **Company Experience**

BSN Sports LLC. is the largest direct selling manufacturer, marketer and distributor of sporting goods to the institutional markets in the United States. Founded in 1972, BSN has a rich history of serving the institutional markets for 43 years.

BSN manages 90 plus web sites on its SAP –backed Computer Platform, in addition to 10 plus web sites that mirrors the catalog and marketing faces of our company.

With 1000 plus employees, the Company is the only of its kind and size in targeting the elementary, varsity, and college educational markets, as well as municipalities, state and federal government, private youth programs, YMCA's, boy's and girls' clubs, churches and summer camps. BSN is proud to have over 100,000 customers, with active accounts in every zip code in the United States. We offer over 22,000 products – the largest assortment in the Industry – including team and recreational equipment, and a complete line of branded team practice and game uniforms such as **Nike**, Rawlings, and branded products from Tachikara, Baden, Wilson, Spalding and a host of other well-known names. The Company prides itself on being a complete one stop shop for institutional customers in the USA – providing unparalleled service, quality, speed of shipment, product breadth and factory direct value.

BSN Sports is the only true one stop-shop team sporting goods dealer in the United States. No other company in the industry can offer **City of Kingsport-Kingsport City Schools** the broad assortment of products that we have available and support it with A+ service. In addition to the products and services, we offer Game Changing Solutions and are the Industry Leader in Technology. A few examples of the solutions are 24 Hour Quick Ship on all BSN stocked items, one invoice for every order and Online BSN Billing. A few examples of technology are, the iPad that allows our Sales Pro's to have direct feeds in the field of live inventory of over 15 National Brands as well as our own.



P.O. Box 7726, Dallas, TX 75209

City of Kingsport-Kingsport City Schools

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

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### Methodology

#### **Relationship to Manufacturer Nike:**

BSN Team Sports is a strategic partner with Nike Team and is the largest Nike Team Dealer in the United States. BSN warehouses over \$30M in Nike product in its Indianapolis facility giving it the largest inventory of Nike Team product nationally, second only to Nike themselves. BSN Team Sports has maintained a strong relationship with Nike Team for more than 15 years. This commitment to the Nike brand affords BSN the opportunity to take advantage of special promotions and products offered only to BSN. BSN can pass these special programs and products along to their customers. Through this relationship BSN Team Sports is recognized nationally as the go-to dealer for Nike Team product. BSN Reps are experts in the Nike Brand and Nike Product. Our commitment to Nike as our flagship brand means a higher level of understanding of the Nike products and how those products can best be used by your university.

#### **Minimum Product Offering**

- BSN agrees to provide three different levels of uniforms (Stock, modified, custom)
- BSN agrees to men's and women's cuts in apparel and uniforms
- BSN agrees to provide tall and large (Big & Tall) Sizes in apparel and uniforms.
- BSN Agrees to provide all footwear in standard sizes as well as large/wide sizes (if available)

#### **Trademark per NFHS Apparel Guidelines**

- All apparel and uniforms will bear the same appropriate trademark per NCAA apparel guidelines.

#### **Verification w/ manufacturer**

- BSN and Nike hereby verify to procure and conform to the Federal Fair Labor Standards Act and will abide by all terms within this contract.

#### **Catalogs**

- Enclosed you will find a current Nike catalog for your review.

Due to the vast product offering, additional catalogs can be found in digital format at:

<http://www.bsnsports.com/nike-catalogs/>



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

City of Kingsport-Kingsport City Schools  
RFP: Athletic Uniforms and Sports Equipment Contract  
Due: November 20<sup>th</sup>, 2019 @ 4pm

Revised 12/19/2019

Primary Contact

**Matt Pendleton – Sales Pro**

Office: Bristol

Phone: (423)956-3287

Email: [mpendleton@bsnsports.com](mailto:mpendleton@bsnsports.com)

**Brett Sutryk – Customer Service Rep**

Office: Chesapeake, VA

Phone: (757)548-3391 Ext 64571

Email: [bsutryk@bsnsports.com](mailto:bsutryk@bsnsports.com)

**Chuck Rouse – Regional Sales Manager**

Office: Knoxville

Phone: (865) 966-3662 Ext 2

Email: [crouse@bsnsports.com](mailto:crouse@bsnsports.com)

**Chris Bloomfield – National Bid Director**

Office: BSN Sports – Dallas HQ

Phone (800) 527-7510 Ext. 47324

Email: [bsnbid@bsnsports.com](mailto:bsnbid@bsnsports.com)

\*Chris Bloomfield has 33 Years of experience in the sporting goods industry.

**BRAND SELECTION**

Our partnerships give you access to the most brand names in the industry. The hottest products at the best prices.



We make it YOURS with

**COMPLETE DECORATION SERVICES**

SCREEN PRINTING - EMBROIDERY - NUMBERING - LOGOS - LETTERING





P.O. Box 7726, Dallas, TX 75209

City of Kingsport-Kingsport City Schools  
RFP: Athletic Uniforms and Sports Equipment Contract  
Due: November 20<sup>th</sup>, 2019 @ 4pm

Revised 12/19/2019

### Company Information & History

#### *(New Corporate Headquarters – Corporation)*

Varsity Brands Holding Company Inc.,  
Dba BSN Sports LLC  
14460 Varsity Brands Way  
Farmers Branch, TX 75224

#### Years in Business

Incorporated on April 21, 1982, in Delaware.

#### Number of Employees

Currently BSN Sports LLC employs over 2,432 employees nationwide.  
Approximately 1000 in outside sales reps.  
We currently have numerous offices strategically located throughout the US.

#### Litigation/Company Strength

- As with any large company of this size, from time to time BSN SPORTS, LLC may be involved with various types of litigation. At no time will any litigation affect this company’s contract or agreement with the **City of Kingsport-Kingsport City Schools**.
- BSN Sports LLC is not for sale, nor are we currently involved in any negotiations to be acquired in the near future.

BSN SPORTS, LLC is not in default on any loans or financial agreements



**WE HAVE GREAT PARTNERSHIPS WITH ALL MAJOR COLLEGIATE LICENSING FIRMS**



P.O. Box 7726, Dallas, TX 75209

City of Kingsport-Kingsport City Schools

RFP: Athletic Uniforms and Sports Equipment Contract

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### Evaluation Criteria

Key Reasons to Contract with BSN Sports for this RFP include the following:

- **Critical Mass:** at over \$800 million in sales for our last fiscal year, BSN is the largest marketer, manufacturer and direct distributor in the sporting goods market. With size comes the strongest domestic and international buying power in our industry, allowing us to keep costs down by leveraging our buying power in negotiations.
- **Value:** With critical mass and our factory direct sales model comes the ability to pass savings on to the end user and provide customers with pricing that is 10-30% less than other suppliers on comparable products.
- **Quality, Proprietary Product:** BSN offers its customers a vast array of "in-house" names, coupled with major brand names which we also distribute. These "in-house" brands, which include MacGregor and Voit, make up about 1/3 of our product mix and play an intergral role in our marketing strategy of providing both choice and value to our customers.
- **Speed:** A major difference between BSN and competitors is the speed with which we can deliver large quantities of products. BSN carries over \$80 million in on-hand inventory and is the only company in the industry capable of fulfilling large orders to schools, parks and recreation departments and even the federal government within tight timelines- particularly on hard to stock items like bleachers, backstops, field goals and other capital goods. BSN guarantees 24 hour quick shipment on any quantity of goods in its warehouse and marks over one thousand SKU's in its catalogs as quick-ship ready. Speed of shipments has been an important part of our success. **This is a service guaranteed by our Warehouse.**
- **Diversification:** BSN sells nearly 22,000 products through its customer-type specific catalogs, sales pros, phone teams, internet sites and distribution partners. Our various warehouses totaling over 500,000 square feet of space act as the backbone for this product distribution effort. In addition to offering virtually every equipment item an institution may need, BSN also offers a host of uniform and shoe brands making BSN a true one stop shop for their customers.
- **Technology:** BSN runs SAP and has used this software to separate itself from competitors since 1999. Our job is to make it easier and faster for our customers to purchase products 24/7. SAP gives employees instant access to the information customers need: product availability, pricing and order status. It gives our customers power to process and track their own orders online with ease. In addition, each of our sales pros is equipped with an iPad that is loaded with electronic catalogs and which provides instant access to inventory and order entry while on the road.



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

TAB 3



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

City of Kingsport-Kingsport City Schools

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

**Revised 12/19/2019**

**BSN Sports Partner Agreement  
City of Kingsport – Kingsport City Schools**

**Minimum Service Capability**

- BSN agrees to provide three different levels of uniforms (stock, modified, custom)
- BSN agrees to men's and women's cuts in apparel and uniforms.
- BSN agrees to provide tall and large (Big & Tall) sizes in apparel and uniforms
- BSN agrees to provide all footwear in standard sizes as well as large/wide sizes (if available)- **refers to All Footwear offered by Nike.**
- **Verification w /manufacturer**
- BSN /Nike hereby verify to procure and confirm to the Federal Fair Labor Standards Act, and will abide by all the terms within this contract
- BSN Sports will have our sales pro's available for onsite servicing Bi-weekly throughout the length of the contract agreement.
- All oral presentations will be handled by our Local Sales Pro: **Matt Pendleton- please see Contact Information Attached** -All product Samples at that time can be seen and evaluated.
- Sales Pro will be responsible for showing product samples, communicating order deadlines **with the Purchasing Department**, and providing 24-hour response for all questions and concerns.
- Sales Demonstration and Sample Evaluations will be set up between **City of Kingsport-Kingsport City Schools** and **Matt Pendleton** - Sales Pro.
- **Shipping cost are set by BSN Sports LLC and are not meant to make any money.**

**Order Lead Times**

- Yes, Fall sports by 2/1, Winter Sports By 4/1, and Spring Sports 8/1. Normal Day to Day non decorated items can be delivered in 2-6 business days and decorated items in 2-3 weeks once art work is approved. Both listed as Day to Day will depend on availability.

**Purchase Order/Credit Cards**

- BSN Sports does accept both purchase orders and credit card orders **off quotes, on all orders. Purchase orders will be issued for orders for City of Kingsport – Kingsport City Schools**



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

**Term of the Partner Agreement**

- Same as the service agreement – **effective upon execution for four (4) years.**

City of Kingsport-Kingsport City Schools

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

**Revised 12/19/2019**

**PURCHASE AGREEMENT:**

Footwear, Equipment, Uniforms and Apparel purchased at specific team dealer pricing.

City of Kingsport-Kingsport City Schools, agrees to purchase products at team dealer pricing in each year contract.

**SALES/SERVICE AGREEMENT:**

Sales and service will be with BSN Sports LLC., **when it is in the best interest of the City of Kingsport – Kingsport City Schools to do so. City of Kingsport – Kingsport City Schools** must comply with BSN ordering Guidelines, approximately Six -nine months in advance to guarantee delivery.

The undersigned **will execute all agreements when the** official contract has been completed by the BSN Sports Legal Department and agreed to by both parties.

**All Negotiations outside of this contract that may arise will be discussed with the Procurement manager.**

City of Kingsport-Kingsport City Schools

BSN SPORTS LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

TAB 4



## BSN SPORTS

P.O. Box 7726, Dallas, TX 75209

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

Revised 12/19/2019

### Ordering/Returns/Invoicing Process

When ordering on either Purchase order, faxes, emails or verbal communication on this bid, please reference your bid Proposal Number: **RFP: Athletic Uniforms and Sports Equipment Contract**, AND our bid Log ID Number: **19-55875**.

You will be assigned a N-30 account. You will not be invoiced until all the order has been shipped complete, even if an item is backordered. **City of Kingsport-Kingsport City Schools** will receive a credit line and no individual credit apps will be requested for separate transactions. **City of Kingsport-Kingsport City Schools** Procurement Managers (City and Schools) **will** receive a monthly report 5 day after each month end accurately reporting the previous month and fiscal year to date purchases and promotional dollars.

#### Ordering Process

- Quote provided by BSN Sales Professional
- Order made by **Purchasing Department**: It is BSN Sports standard policy that partners provide purchase orders or credit cards with all orders. Any orders lacking such will not be submitted in the system until one or the other is provided. This procedure will be reviewed with the **Purchasing Department** to ensure it aligns with the **Purchasing Department's** purchasing guidelines/needs. Orders will be process with
- Order in the BSN's SAP system – Order Acknowledgement provided to **Requisitioner**.
- Art Approved – art must be approved by **Requisitioner and submitted to the Procurement Manager or designee** before decoration can begin.
- "Blank Orders" – ship in 24 hours from our Dallas and Indianapolis facilities/warehouses. (**orders without logos/silk screen / embroidery**)
- BSN will designate the carrier that is best suited for its supplies to the proposed institutional participant.
- When order is shipped complete, an invoice is produced.

**Comp Order Process (no charge orders from BSN or Nike within comp structure):** Same standard process as above –

- Coach must let Sales Pro know at time of order that this is a comp goods order.
- Sales Pro notes if product will be embellished by BSN Sports (standard embellishment costs apply) or sent blank to **City of Kingsport-Kingsport City Schools**.
- See offer for additional details.

City of Kingsport-Kingsport City Schools





P.O. Box 7726, Dallas, TX 75209

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

Revised 12/19/2019

**Next Day Orders:**

- Next day delivery requests are available on certain products. The order will incur a shipping charge for next day delivery. Freight quotes will be **Approved by the Purchasing department** and be emailed to the **Purchasing department**, and orders will not be processed until freight charges are approved. **All shipping/ freight charges must be included on the Quote.**
- For next day delivery, all orders will need to be received and processed before 10AM CST to ship that day and are subject to availability and regular holiday and weekend provisions.

**Return / Exchange Policy & Minimum Order Policies**

- BSN guarantees 100% satisfaction with your purchase. Products may be returned for a refund.
- BSN takes the Customer 1st approach. In general, we view business relationships as a partnership. There are no Restocking Fees for items that we stock in our warehouse. There are no additional charges for exchanges. There are minimum order quantities only if the manufacturer we represent requires them. That is something that will be addressed at the time of the sale. Any other issues can be negotiated as they arise.
- BSN provides a **60-day return policy**.
- BSN carries a 1-year standard Manufacturer's warranty on all its items.
- Returned items must be sent back in original packaging and be unused and returned at participant's expense. We cannot accept any returns on custom items and drop ship items. **All Nike Product not used has a 30 day return policy.**
- All discrepancies regarding late product shipments or refusal of shipments will be handled by your customer service representative.
- Custom orders may not be returned unless the merchandise is defective, or we made an error when making the custom order product. The return authorization number must be included in all correspondence and returns. We are not responsible for misuse, customer installation or improper storage.



P.O. Box 7726, Dallas, TX 75209

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

Revised 12/19/2019

### Deliverables

- BSN will meet & exceed all Quality assurances from **City of Kingsport-Kingsport City Schools** - the measurement of success is: On-Time Deliveries, Frequent Communication with the **City of Kingsport-Kingsport City Schools** staff & your overall satisfaction with BSN
- BSN can provide all embellishment services including screen printing, embroidery, tackle twill, sublimation, performance flex and other new forms of lettering. We will work with each **requisitioner** and send approval of all art requested. All embellishment will be quoted at time of request from **requisitioner**. We will follow all guidelines given to us from the; **City of Kingsport-Kingsport City Schools**. In addition to utilizing local certified decorators, BSN SPORTS owns a state-of-the-art production facility in Indianapolis and a decoration facility in Nashville, TN.
- BSN will also provide a uniform order schedule to help maximize arrival of new uniforms and we also have access to exclusive uniform styles that can be used by the athletic teams. BSN Sports provides online billing to help streamline invoices and payments. We provide tracking information on shipments from our warehouse to the **customer** to allow **the customer** to know when items are scheduled to arrive. BSN Sports has at once inventory feed to our inventory including many apparel vendors. All **City of Kingsport – Kingsport City School** departments will have access to all our brands for any apparel/equipment needs.



P.O. Box 7726, Dallas, TX 75209

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

Revised 12/19/2019

### Qualifications-General Requirements

- In BSN SPORTS 300,000 square foot production and warehouse facility located in Indianapolis, IN, there are 14 automatic screen-printing presses, 26 manual presses and 10 K2 Numbering presses.
- Additionally, BSN SPORTS has over 16 digital fusion stations, over 165 heads of embroidery and a laser bridge tackle twill/embroidery machine.
- BSN SPORTS leads the team industry in their technological approach to customization by utilizing I-Image ST Computer-to-Screen Imaging Unit to burn screens for printing without having to manually place films for exposure, as well as automated screen cleaners to maximize the precision within their designs.
- BSN SPORTS is the only team dealer in the country who has been shape audited by **Nike** and is classified as a **Nike** factory, which enables BSN Sports to do contract jobs for **Nike** including printing the **Nike** logo on **Nike** apparel.
- BSN SPORTS has two full time production shifts and over 25 full time artists dedicated to producing embellishment for their team partners. In addition to the 25 in-house full-time artists, we work with over 300 outside contracted artists.
- Finally, BSN SPORTS owns a decoration facility in Nashville and also utilizes an extensive network of certified partner decorators, including numerous experienced decoration facilities in Tennessee and surrounding states. We currently have an office/showroom located in **Bristol, VA & Knoxville, TN** and have plans to open an office/showroom and decoration facility in Williamson County if we are awarded this RFP.
  
- **Inventory**
  - BSN SPORTS stocks over \$80 million of inventory, of which approximately \$30 million is apparel. In addition to millions of dollars of **Nike** product stocked at BSN's warehouse, BSN has access to **Nike's** inventory of Team Apparel (including stock uniforms), which inventory is located in Dayton, Tennessee. **Nike** currently inventories more than 10 million units of apparel in Dayton. **Nike** will also decorate products for us at the Dayton facility. In addition, BSN has access to the inventory in **Nike's** 3 million square foot distribution facility in Memphis, Tennessee where shoes and Nike equipment are stored.
  - With state-of-the-art EDI technology, BSN Sports secures product in real-time from **Nike's** inventory; we have the resources to supplement our own inventory quickly.

City of Kingsport-Kingsport City Schools



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

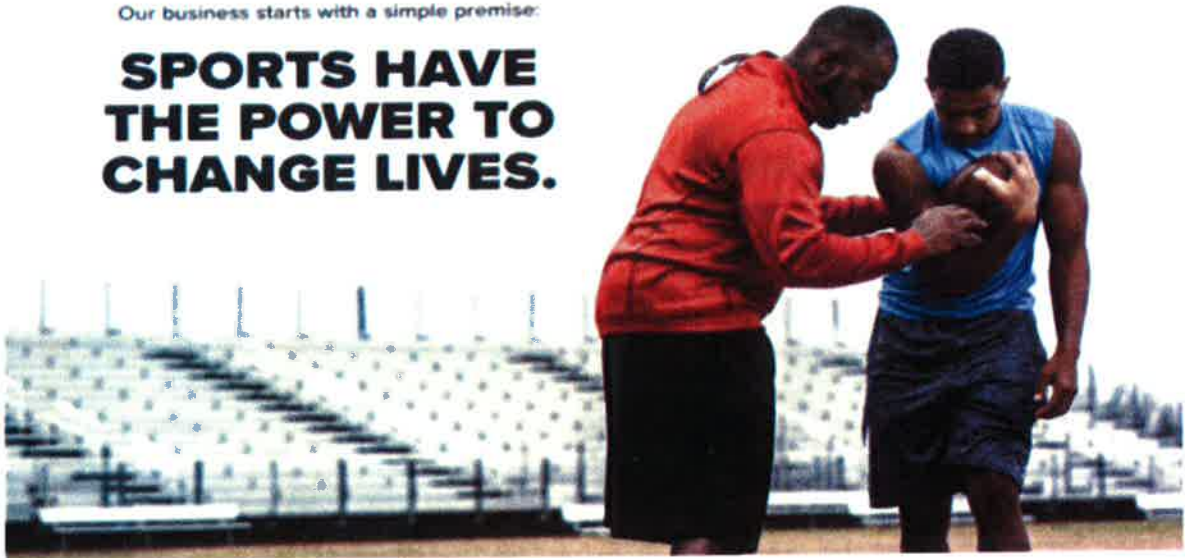
Revised 12/19/2019

### Qualifications-General Requirements

- Your local dedicated Sales Professionals have real-time access to **Nike's** inventory, as well as BSN's inventory of **Nike's** product on his/her iPad. The Sales Pro can check this inventory as he/she is putting together an order with the **Requisitioner**.
- BSN SPORTS offers apparel for every team and individual sport offered by the Athletic programs at **City of Kingsport-Kingsport City Schools**.
- **Uniforms**
  - **Nike** has a wide range of uniform options that span across a multitude of sports. They have three classifications of uniform options; stock uniforms, digital (sublimated) uniforms and custom uniforms (formerly called modified uniforms).
  - **Nike** can outfit over 20 different sports, both men's and women's, throughout their assortment of uniform choices.
    - Men's and women's cuts available in apparel and uniforms
    - Tall, large and XL sizes available in apparel and uniforms.

*Our business starts with a simple premise:*

**SPORTS HAVE  
THE POWER TO  
CHANGE LIVES.**





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RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

Revised 12/19/2019

### Software inventory / Order Management System

- BSN Sports utilizes state of the art E-commerce Technology with a Magneto e-commerce platform fully integrated with its SAP ERP system. The benefits to this integrated site are that bid customers will see negotiated bid pricing during the online shopping experience, not adjusted later after the order has been entered. Additional benefits are visibility to real-time product availability, product comparisons, account history, order tracking, email shipping notifications, etc.
- BSN supports its online customers through a traditional call center with a 1-800 support line, through email Contact US Support, as well as real-time online chat integrated into the website. The customer on the site only has to click the handy “chat” box to initiate a chat session and one of BSN Sports knowledgeable representatives will promptly respond. The Chat system provides the rep with valuable information about the customer, including what page they are viewing, previous pages viewed and notes from previous chat sessions. Typical support hours are 8am-5pm CST M-F, Excluding Holidays
- BSN will work closely with **City of Kingsport-Kingsport City Schools** Procurement & coordinate to deliver on-time & manage within **City of Kingsport-Kingsport City Schools** protocol
- Stock Products ship from Our BSN Warehouse within 24 hours of Order placement - Most will arrive at **City of Kingsport-Kingsport City Schools** within 3 business days or less
- **All orders submitted by email with purchase order after quote is received.** Orders will be entered by either the territory managers or the sales pro in the field. It will then be reviewed by key personnel in the bid department and the contract manager daily.
- All custom items or screen printing is subject to drop ship delivery times, freight charges, and special pricing, due mainly to the nature of each job. Shipping is already discounted.
- BSN also offers **City of Kingsport-Kingsport City Schools** - BSN Billing (Complete Online visibility of Goods/Services ordered & invoiced from BSN to **City of Kingsport-Kingsport City Schools**) access to 24 hr. Online Ordering. **Billing address: 225 W. Center Street, Kingsport, TX 37660, Email: [Ap@Kingsporttn.gov](mailto:Ap@Kingsporttn.gov). This address will appear on all quotes.**
- Our BSN Field Sales Pro is equipped with technology to allow for IMMEDIATE On-Site confirmation of the following **City of Kingsport-Kingsport City Schools** Staff
- Updated Live Inventory on ALL BSN sku's, Live Inventory from 17 of our Major Brands (**Nike**, Champion, Easton, Rawlings, Mizuno, Schutt, etc.)
- Live Artwork Creation & approval On-Demand - eliminating days of waste.



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

## TAB 5

## Cost Proposal



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**BSN SUPPLIER AGREEMENT WITH  
CITY OF KINGSPORT-KINGSPORT CITY SCHOOLS**

BSN SPORTS, ("BSN") is pleased to offer the City of Kingsport for its Kingsport City Schools Athletic Departments the **BSN SPORTS SUPPLIER AGREEMENT** for the purchase and supply of Nike apparel and footwear along with any and all other equipment & apparel offered for sale by BSN SPORTS, for use by the school and its athletic programs.

**Benefits:**

1. **"Premier Pricing"** shall apply to all footwear, clothing and equipment purchased by City of Kingsport, Dobyns- Bennett High School, Ross Robinson MS , & John Sevier M S at the following rates:
  - 40% off retail price on all Nike clothing
  - 35% off retail price on all Nike footwear and equipment
  - 30% off retail price on all Nike Custom uniforms purchased within the time frame specified in the BSN SPORTS uniform Schedule.
  - 20% off catalog price on all BSN SPORTS proprietary products (as defined below) from BSN SPORTS catalog (excludes closeout and sale items)
    - BSN SPORTS proprietary products are identified in our catalog with a black star icon next to the product code.
  - 10% off catalog price on all non-branded products from BSN SPORTS catalog.
    - BSN SPORTS catalog non-branded products are products distributed by BSN from a third-party manufacturer such as Wilson, Spalding, Rawlings, etc.
  
2. **BSN Sports Product / Apparel Rebate:** Kingsport City Schools Athletics shall receive the following in free product Rebate: Subject to the terms below, at the end of each School Year of this agreement, the Athletic Program will receive a Product Rebate including selected products from BSN. The Product Rebate will be selected from a list of products provided by BSN and subject to availability at the time of order. Product Rebates are available after the requirements below are met (including, without limitation, the Annual Spending Level with BSN as set forth below) and must be utilized within forty-five (45) days of the end of the School Year in which the rebate was earned. A Product Rebate balance does not carry over from School Year to School Year. Kingsport City Schools and its Athletic Programs must be current on all payment obligations to BSN to be eligible for the Product Rebate.
  - **Rebate totals are figured towards the end of April when all purchases for the year are done.**
  - **All BSN rewards must be used before July 1st of that year**
  - **Please, see attached List of non-selected Rebated products forwarded separately.**

**Annual Spending Level**

- \$200,000

**Annual Rebate amount**

8% of annual spend in Nike apparel or





**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

BSN equipment at retail catalog price.

- **\$150,000+**                      6% of annual spend in Nike apparel  
or    BSN equipment at retail catalog price;
  
- **\$100,000+**                      **Annual Rebate amount**  
   5% of annual spend in Nike apparel  
or    BSN equipment at retail  
catalog price.

3. **NIKE Team Sports Product / Apparel Rebate:** Dobyons- Bennett High School Athletics Programs shall receive the following in free Nike promotional product calculated at Nike retail prices and redeemable from the approved Nike Fundamental Apparel promo list:
- Year 1: \$20,000 in Nike promotional product @ retail price
  - Year 2: \$20,000 in Nike promotional product @ retail price
  - Year 3: \$20,000 in Nike promotional product @ retail price
  - Year 4: \$20,000 in Nike Promotional product @ retail price

**\$1,500.00 per year for both Middle Schools in Nike Product @ Retail Price, plus a 5% Rebate on Total Spend each year.**

\$1,500 per year Nike Promotional product for Dobyons – Bennett High School Administration.

**4. Region Championship Region Championship Incentive:**

Championship tees for entire team and coaches staff

**State Championship Incentive:**

Championship tees for entire team and coaches staff

\$1,000 Coach’s Promotional product allotment to Head Coach (sports: FB, VB, MBB, WBB, BB, SB, Track & Field, MSC, WSC)

\$500.00 for Head Coach of Sports not listed that wins a State Title.

**Advertising Allotment:** BSN will furnish \$3,000 per year for advertising on the Jumbo Tron. The \$3,000 will come from BSN or Nike Product at Retail Price.



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5. **VIP Marketing Package:** Dobyens-Bennett High School will receive a free “Big Signs” VIP Branding package, in year 1 of agreement, which will consist of the following:

- Custom Media Backdrop & Table Cloth
- 8 ea. single avenue Banners with Hardware
- 1 ea. Custom Pop-Up Tent
- 3 ea. Spirit Flags with poles
- 6 ea. Custom Outdoor Banners

**Kevin Atlas and the Believe in You tour, school visit in either school year 2020-2021 or 2021-2022. (\$20,000 Value)**

The “Believe in You” Challenge begins with every student attending a school event he or she may not have gone to before, i.e. the football team attending the band concert to reciprocate the support they received all season or the band attending a drama performance, or all three cheering loudly at the next tennis match. Kevin is the first person with one arm to earn a Division I basketball scholarship and played professional basketball overseas.

BSN Sports LLC understands that no employee of the City of Kingsport-Kingsport City Schools is permitted to accept gifts or entertainment from BSN Sports or any of its affiliates at any time for any reason.

City of Kingsport-Kingsport City Schools

BSN SPORTS LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



**BSN SPORTS**

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City of Kingsport-Kingsport City Schools  
RFP: Athletic Uniforms and Sports Equipment Contract  
Due: November 20<sup>th</sup>, 2019 @ 4pm

## **Financial Stability**

### **Evidence of Financial Responsibility**

#### **Dunn and Bradstreet Info:**

BSN Sports LLC - D & B Rating: 1R4

Our D & B Number: 176-33-2310

#### **Bank Information:**

Bank of America NA

901 Main Street

Dallas, TX 75202

Contact: Tershea Green

Phone # 214-209-4772

Email: [tershea.L.green@bsml.com](mailto:tershea.L.green@bsml.com)

Please Note:

*If you require any **financial information**, please note that all financial information is considered Privileged and will require a copy of our NDA (non-disclosure agreement) which will need to be signed and returned to BSN SPORTS LLC before we are allowed to send you our current company financial portfolio.*

Contact info: Diana Thompson – Manager –Corporate Finance

Email: [Dthompson@bsnsports.com](mailto:Dthompson@bsnsports.com)



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

**Dear Coach,**

Thanks for being there for the W's  
and getting us through the L's.  
Thanks for taking the time to care.  
To lift us up on the field and off.  
Thanks for showing us there's more  
to us than we ever knew.  
You've helped all of us.  
Now let us help you continue to be  
the heart of the game.

800.527.7510  
BSNSPORTS.com



**BSN SPORTS™**  
THE HEART OF THE GAME



**TAB 6**



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

References

Provide three similar contract references with return proposal.

Reference #1 - Name of Reference	TENNESSEE HIGH SCH.
Contact Name:	BARRY WADE - A.D.
Phone Number:	423-652-9361
Number of years servicing this account:	- ONGOING - EMAIL: WADE@BTC5.ORG
Reference #2 - Name of Reference	GREENEVILLE HIGH SCHOOL
Contact Name:	PATRICK FRALEY
Phone Number:	423-787-8030
Number of years servicing this account:	- ONGOING - EMAIL: FRALEY@GCSCHOOLS.NET
Reference #3 - Name of Reference	EAST TENNESSEE STATE UNIV.
Contact Name:	TANNER BAIL - ASST. A.D.
Phone Number:	423-653-3148
Number of years servicing this account:	- ONGOING - EMAIL: BAILT@ETSU.EDU

BSN SPORTS  
PO BOX 7726  
DALLAS, TX 75209-0726

**COMPLETE AND SUBMIT WITH PROPOSAL**

CHRIS BLOOMFIELD  
National Bid Director  
bsnbid@bsnsports.com



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**Practice Gear**

Practice Gear does not have to be NIKE purchased from BSN Sports. Practice Gear purchased from BSN Sports will be eligible for rebate.

All catalogs (Nike) will be mailed separately from our Sales Pro

- **Matt Pendleton – Sales Pro**  
Phone: (423)956-3287 Email: [mpendleton@bsnsports.com](mailto:mpendleton@bsnsports.com)

**THERE ARE  
THOUSANDS  
OF PEOPLE  
WHO CAN  
SELL YOU  
WHAT WE  
SELL**



**WHAT MAKES US  
UNIQUE IS OUR  
DRIVE TO SPEND  
EVERY SECOND  
THINKING ABOUT  
WAYS TO MAKE  
YOUR LIFE  
EASIER...**





**BSN SPORTS**

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**TAB 8**



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### **Contract, Terms and Conditions**

BSN Sports is the only true one stop dealer in the United States. No other company in the industry can offer **City of Kingsport-Kingsport City Schools** the broad assortment of products that we have available and support it with A+ service. In addition to the products and services, we offer Game Changing Solutions and are the industry leader in Technology. A few examples of the solutions are 24 Hour Quick Ship on all BSN stocked items, one invoice for every order and Online Billing. A few examples of technology are, the iPad that allow our Sales Pro's to have direct feeds in the field of live inventory of over 15 National Brands as well as our own, My Team Shop which has been explained earlier, and Team Art Locker where customers can design and request custom art with or without the Sales Pro's assistance. Partners, all of the above with Nike and **City of Kingsport-Kingsport City Schools** will have the BEST ever shopping experience.

**Conditions:** Purchases made through BSN SPORTS will be eligible for the Product Rebate.

The School and Athletic Program must be current on all payment obligations to BSN to be eligible for the Program Rebate.

Term: The duration of this agreement is **four (4) years from the execution date and will be in effect for four years.**

**\*There is no difference between 24-Hour quick shipments versus normal shipping costs.**



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**COMPLIANCE AFFIDAVIT(S) (TOTAL OF 2 PAGES)**

**THIS COMPLIANCE AFFIDAVIT MUST BE SIGNED, NOTARIZED AND INCLUDED WITH ALL BIDS - FAILURE TO INCLUDE THIS FORM WITH THE BID SUBMITTED SHALL DISQUALIFY THE BID FROM BEING CONSIDERED.**

**VENDOR:** \_\_\_\_\_ **BSN SPORTS LLC**  
**PO BOX 7726**  
**DALLAS, TX 75209-0726**

**CONFLICT OF INTEREST:**

1. No Board Member or officer of the City of Kingsport or other person whose duty it is to vote for, let out, overlook or in any manner superintend any of the work for the City of Kingsport has a direct interest in the award of the vendor providing goods or services.
2. No employee, officer or agent of the grantee or sub-grantee will participate in selection, or in the award or administration of an award supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of their immediate family, his or her partner, or an organization, which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.
3. The grantee's or sub-grantees officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from vendors, potential vendors, or parties to sub-agreements.
4. By submission of this form, the vendor is certifying that no conflicts of interest exist.

**DRUG FREE WORKPLACE REQUIREMENTS:**

5. Private employers with five or more employees desiring to contract for construction services attest that they have a drug free workplace program in effect in accordance with TCA 50-9-112.

**ELIGIBILITY:**

6. The vendor is eligible for employment on public contracts because no convictions or guilty pleas or pleas of nolo contendere to violations of the Sherman Anti-Trust Act, mail fraud or state criminal violations with an award from the State of Tennessee or any political subdivision thereof have occurred.

**GENERAL:**

7. Vendor fully understands the preparation and contents of the attached offer and of all pertinent circumstances respecting such offer.
8. Such offer is genuine and is not a collusive or sham offer.

**IRAN DIVESTMENT ACT:**

9. Concerning the Iran Divestment Act ( TCA 12-12-101 et seq.), by submission of this bid/quote/proposal, each vendor and each person signing on behalf of any vendor certifies, and in the case of a joint bid/quote/proposal, each party thereto certifies as to its own organization, under



**BSN SPORTS**

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penalty of perjury, that to the best of its knowledge and belief that each vendor is not on the list created pursuant to § 12-12-106.


**NON-COLLUSION:**

- 10. Neither the said vendor nor any of its officers, partners, owners, agents, representatives, employees or parties interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other responder, firm, or person to submit a collusive or sham offer in connection with the award or agreement for which the attached offer has been submitted or to refrain from making an offer in connection with such award or agreement, or collusion or communication or conference with any other firm, or, to fix any overhead, profit, or cost element of the offer price or the offer price of any other firm, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Kingsport or any person interested in the proposed award or agreement.
- 11. The price or prices quoted in the attached offer are fair, proper and not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the firm or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

**BACKGROUND CHECK REQUIREMENT FOR SCHOOL SYSTEM SUPPLIERS:**

- 12. In submitting this bid/quote/proposal, you are certifying that you are aware of the requirements imposed by TCA § 49-5-413 (d) to conduct criminal background checks through the Tennessee Bureau of Investigation and the Federal Bureau of Investigation on yourself and any of your employees who may come in direct contact with students or who may come on or about school property anytime students are present. You are further certifying that at no time will you ever permit any individual who has committed a sexual offense or who is a registered sex offender to come in direct contact with children or to come on or about school property while students are present.

The undersigned hereby acknowledges and verifies that the response submitted to this solicitation is in full compliance with the applicable laws/listed requirements.

SIGNED BY:   
 PRINTED NAME: CHRIS BLOOMFIELD  
 National Bid Director  
 bsnbid@bsnsports.com  
 TITLE: \_\_\_\_\_

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE: 4th November, 2019

BY (NOTARY PUBLIC): Lorraine Eubank

MY COMMISSION EXPIRES ON: 8/22/2021



**COMPLETE AND SUBMIT WITH PROPOSAL**



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**OTHER**

**Branding Initiatives / Support of Facility Signage (Value Added Options)**

BSN Sports is part of the Varsity Brands family. Part of our family is VIP Branding, a one-stop source for all facilities and branding needs. These include, but are not limited to:

- o Banners
- o Door Wraps
- o Custom Screens
- o Wall murals
- o Window Branding
- o Pole Flags
- o Decals
- o Media Backdrops
- o Tents
- o Avenue Banners
- o Brand Creation and Protection Services- creation of Facility branding-mascots, city /school logos, statements, etc
- o SuperFanU app
- o See more at our link: <http://vipbranding.com/>

Added Value: VIP Promotional Package to include Media Backdrop, 8' Custom Table Cloth, 8 ea. Avenue Banners, 3 ea. Spirit Flags & 6 Custom Banners (Retail Value \$8,000)

**WE PROVIDE  
UNIQUE  
RESOURCES  
TO HELP  
MAKE A  
BIGGER  
IMPACT ON  
CAMPUS**

**Varsity // BRANDS  
IMPACT  
PROGRAM**

**PARTNERSHIP  
RESOURCES**

**VIPBRANDING**  
POWERED BY VARSITY BRANDS



**SPIRIT  
WORKS**

**TEAM UP  
for ST. JUDE**  
Spirited by Varsity

**SERVICES**

The school transformation experts in identity, facility & spirit branding

Year-round education program for Coaches, Administrators, Athletes & Parents

A consultative program that will demonstrate how to effectively inspire, engage & transform spirit on campus

School-wide fundraising & awareness activities for St. Jude centered around a high school sporting event



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RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

11/04/2019

Registered to do Business in Tennessee



STATE OF TENNESSEE  
DEPARTMENT OF REVENUE

Payment Summary

BSN SPORTS, LLC  
1901 DIPLOMAT DR  
DALLAS, TX 75234-8914

Date	17-Apr-2018
Account	1000208817-SLC
Filing Period:	31-Mar-2018

Chris Bloomfield  
National Bid Director  
BSN SPORTS LLC  
[Bsnbid@bsnsports.com](mailto:Bsnbid@bsnsports.com)  
[www.bsnsports.com](http://www.bsnsports.com)





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**CODE OF ETHICS- OUR Standard Company Policy**

This Code of Business Conduct and Ethics (“Code”) has been adopted by the Board of Directors of BSN Sports, LLC. (The “Company”) and summarizes the standards that must guide our actions. While covering a wide range of business practices and procedures, these standards cannot and do not cover every issue that may arise, or every situation where ethical decisions must be made, but rather set forth key guiding principles that represent the Company’s policies and establish conditions for employment at the Company.

We must strive to foster a culture of honesty and accountability. Our commitment to the highest level of ethical conduct should be reflected in all of the Company’s business activities including, but not limited to, relationships with employees, customers, suppliers, competitors, the government and the public, including the Company’s shareholders. All the Company’s employees, officers and directors must conduct themselves according to the language and spirit of this Code and seek to avoid even the appearance of improper behavior. Even well-intentioned actions that violate the law or this Code may result in negative consequences for the Company and for the individuals involved. For Company personnel, such consequences may result in corrective and/or disciplinary action, which may include dismissal or removal from office.

The Company is strongly committed to conducting its business affairs with honesty and integrity and in full compliance with all laws, rules and regulations in the cities and states in which we operate. No employee, officer or director of the Company shall commit an illegal or unethical act or instruct others to do so, for any reason. If you believe that any practice raises questions as to compliance with this Code or applicable law, rule or regulation or if you otherwise have questions regarding any law, rule or regulation, please contact the Company’s President Or Chief Executive Officer.

Confidential proprietary information generated and gathered in our business is a valuable Company asset. Protecting this information plays a vital role in the Company’s continued growth and ability to compete, and all confidential proprietary information should be maintained in strict confidence, except when disclosure is authorized by the Company or required by law. Confidential proprietary information includes all non-public information that might be useful to competitors or that could be harmful to the Company or its customers or suppliers if disclosed. Confidential information also includes intellectual property such as trade secrets, patents, trademarks and copyrights, as well as business research and new product plans, objectives and strategies, records, databases, salary and benefits data, employee medical information, customer, employee and supplier’s lists and any unpublished financial or pricing information must also be protected. It also includes information received from third parties, such as suppliers and customers, and entrusted to us on a confidential basis. Unauthorized use or distribution of confidential or



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City of Kingsport-Kingsport City Schools

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

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**CODE OF ETHICS- Continued**

proprietary information violates Company policy and could be illegal. Such use or distribution could result in negative consequences for both the Company and the individuals involved, including potential legal and disciplinary actions. We respect the property rights of other companies and their proprietary information and require our employees, officers and directors to observe such rights.

Your obligation to protect the Company's proprietary and confidential information continues even after you leave the Company, and you must return all proprietary and confidential information in your possession upon leaving the Company.

The Company's employees, officers and directors have an obligation to act in the best interest of the Company. All employees, officers and directors should endeavor to avoid situations that present a potential or actual conflict between their interest and the interest of the Company. A "conflict of interest" occurs when a person's private interest interferes in any way, or even appears to interfere, with the interest of the Company, including its subsidiaries and affiliates. A conflict of interest can arise when an employee, officer or director takes an action or has an interest that may make it difficult for him or her to perform his or her work objectively and effectively. Conflicts of interest may also arise when an employee, officer or director (or his or her family members) received improper personal benefits as a result of the employee's, officer's or director's position at the Company.

Although it would not be possible to describe every situation in which a conflict of interest may arise, the following are examples of situations which may constitute a conflict of interest:

- working, in any capacity, for a competitor, customer or supplier while employed by the Company;
- accepting gifts of more than modest value or receiving personal discounts or other benefits as a result of your
- position at the Company from a competitor, customer or supplier;
- competing with the Company for the purchase or sale of property, services or other interests;
- having an interest in a transaction involving the Company, a customer or supplier (not including routine
- investments in publicly traded companies);
- receiving a loan or guarantee of an obligation as a result of your position with the Company, other than
- permitted loans or guarantees by the Company that are properly documented and made pursuant to
- established policies; and
- Directing business to a supplier owned or managed by, or which employs, a relative or friend.



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City of Kingsport-Kingsport City Schools

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#### CODE OF ETHICS- Continued

Situations involving a conflict of interest may not always be obvious or easy to resolve. Employees should report actions that may involve a conflict of interest to the Company's President or Chief Executive Officer. To avoid conflicts of interests, all senior officers and directors must disclose to the Company's President or Chief Executive Officer any material transaction or relationship that reasonably could be expected to give rise to such a conflict, and the Company's President or Chief Executive Officer shall notify the Board of Directors of any such disclosure. Conflicts of interests involving the Company's Chief Executive Officer shall be disclosed to the Company's President, Chief Financial Officer or the Board of Directors. Employees, officers and directors who knowingly fail to disclose conflicts of interest are subject to disciplinary action, including dismissal or removal from office.

Protecting Company assets against loss, theft or other misuse are the responsibility of every employee, officer and director. Loss, theft, misuse and waste of Company assets directly impact our profitability. Any such loss, misuse, waste or suspected theft should be reported to a manager/supervisor or the Company's President or Chief Executive Officer. The sole purpose of the Company's equipment, inventory and supplies is the conduct of our business. They may only be used for Company business consistent with Company guidelines, though incidental personal use may be permitted.

Employees, officers and directors are prohibited from taking for themselves business opportunities that arise or are discovered through the use of corporate property, information or position. No employee, officer or director may use corporate property, information or position for personal gain, and no employee, officer or director may compete with the Company directly or indirectly. Competing with the Company may involve engaging in the same line of business as the Company or any situation where the employee, officer or director takes away from Company opportunities for sales or purchases of products, services or interests. Employees, officers and directors owe a duty to the Company to advance its legitimate interests when the opportunity to do so arises.

Each employee, officer and director of the Company should endeavor to deal fairly with customers, suppliers, competitors, shareholders, the public and one another at all times and in accordance with ethical business practices. No one should take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair dealing practice. No payment in any form shall be made directly or indirectly to or for anyone for the purpose of obtaining or retaining business or obtaining any other favorable action. The Company and the employee, officer or director involved may be subject to disciplinary action as well as potential civil or criminal liability for violation of this policy.



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City of Kingsport-Kingsport City Schools

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**CODE OF ETHICS- Continued**

Occasional business gifts to and entertainment of non-government employees in connection with business discussions or the development of business relationships are generally deemed appropriate in the conduct of the Company's business. However, these gifts should be given infrequently, and their value should be modest. Gifts or entertainment in any form that would likely result in a feeling or expectation of personal obligation should not be extended or accepted. Practices that are acceptable in commercial business environments may be against the law or the policies governing federal, state or local government employees. Therefore, no gifts or business entertainment of any kind may be given to any government employee without the prior approval of the Company's Chief Executive Officer.

The Foreign Corrupt Practices Act ("FCPA") prohibits giving anything of value directly or indirectly to any "foreign official" for the purpose of obtaining or retaining business. When in doubt as to whether a contemplated payment or gift may violate the FCPA, contact the Company's Chief Executive Officer before taking any action.

The antitrust laws prohibit agreements among competitors on such matters as prices, terms of sale to customers and allocating markets or customers. Antitrust laws can be very complex, and violations may subject the Company and its employees to criminal sanctions, including fines, jail time and civil liability. If you have any questions, consult the Company's Chief Executive Officer.

Any political contributions made by or on behalf of the Company and any solicitations for political contributions of any kind must be lawful and in compliance with the Company's policies. This policy applies solely to the use of Company assets and is not intended to discourage or prevent individual employees, officers or directors from making political contributions or engaging in political activities on their own behalf. No one may be reimbursed directly or indirectly by the Company for personal political contributions.

The Company is committed to conducting its business in compliance with all applicable environmental and workplace health and safety laws and regulations. The Company strives to provide a safe and healthy work environment for our employees and to avoid adverse impact and injury to the environment and communities in which we conduct our business. Achieving this goal is the responsibility of all officers, directors and employees. Violence and threatening behavior are not permitted. Employees should report to work in condition to perform their duties, free from the influence of illegal drugs or alcohol.

The Company's policies for recruitment, advancement and retention of employees forbid discrimination on the basis of any criteria prohibited by law, including but not limited to race, sex and age. The Company's policies are designed to ensure that employees are treated, and treat each other, fairly and with respect and dignity. In keeping with this objective conduct involving discrimination or harassment of others will not be tolerated.



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

City of Kingsport-Kingsport City Schools

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

11/04/2019

**CODE OF ETHICS- Continued**

Situations which may involve a violation of ethics, laws or this Code may not always be clear and may require difficult judgment. Employees are encouraged to discuss any questions they may have with supervisors, managers or other appropriate personnel, such as the Human Resources Department, when in doubt about the best course of action in a particular situation. It is the responsibility of all directors, officers and employees to report all suspected accounting irregularities and any such individual is also encouraged to report any other suspected wrongdoing. You may choose to report your concerns to an appropriate individual within the Company, or to report anonymously through a third-party service the Company has retained for this purpose. For access to the anonymous third-party service, refer to the Company's whistleblower policy. The Company will not tolerate any kind of retaliation for reports or complaints regarding misconduct that were made in good faith. Open communication of issues and concerns by all employees without fear of retribution or retaliation is vital to the successful implementation of this Code. You are required to cooperate in internal investigations or misconduct and unethical behavior

# BRAND SELECTION

Our partnerships give you access to the most brand names in the industry. The hottest products at the best prices.



We make it YOURS with

## COMPLETE DECORATION SERVICES

SCREEN PRINTING • EMBROIDERY • NUMBERING • LOGOS • LETTERING





**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

# GAME-CHANGING SOLUTIONS



### 24 HOUR QUICK SHIP

With over 25,000 items in stock, we can ship your products immediately. From central warehouses to your fields and locker rooms, orders arrive quickly.



### BEST PRICE GUARANTEE

We guarantee 100% satisfaction with your purchase – including price. If you find one of our items at a lower price, we'll beat it.



### MOBILE-FRIENDLY DESIGN

Shop online for our full selection at [BSNSPORTS.com](http://BSNSPORTS.com)



### EXCLUSIVE SIMPLIFIED BILLING

We eliminate all accounting hassles and multiple invoices with ONE invoice. You can also review your account status, pay your bill and submit inquiries online. Sign up at [BSNBILLING.com](http://BSNBILLING.com) today.

# INDUSTRY LEADING TECHNOLOGY

Enables us to be fast, and serve you in multiple ways.



### BSN SPORTS iPad APP = INSTANT ACCESS

Every sales professional can search products, check inventory, place orders and track shipments, in real time, right from your office.



### MY TEAM SHOP

No more order forms, no more payment collection. Now you can create your own online player store with all the custom apparel, footwear and sports equipment your team needs. You can also choose to ship all products to you, or directly to your players' homes, saving you even more time.



### TEAM ART LOCKER

Access artwork for any high school in America. Customize colors, mascot and more for every sport. Your local sales professional can then take your design from dream to reality with our extensive line of apparel.



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

# FACTORY DIRECT ADVANTAGE

The only team sports distributor with over 20 proprietary equipment and apparel brands to make it easier for us to get things to your door faster to save you time AND money.



**GEAR** **PORTaPIT** **MARK1** **REACTOR** **THE ROCK** **ALUMIGOIL** *MacGregor* **PRO-DOWN**

## FINALLY, ONE CONTACT FOR **EVERYTHING**

UNIFORMS



EQUIPMENT



FAN WEAR



FACILITY







**BSN SPORTS**  
P.O. Box 7726, Dallas, TX 75209

Exclusions

Page 1 of 2

Merchandise must be purchased at catalog prices. This promotion can not be used in conjunction with any other special offers or gift certificates. Discount may apply to Internet orders only.

### Exclusions:

- AAI Systems
- All Bleacher Covers
- All Pro II Field Marker and Scotsman Wet line Field Marker
- Automated External Defibrillators
- Baseballs - Diamond, Wilson, Baden & Rawlings
- Bats - some Demarini, Easton, Louisville Slugger and Worth
- Bison Rectangular Glass Backboards
- Blocking Sleds
- Chain Link Permanent Backstops
- Champion Dumbbells
- Climbing Walls, Mats & Accessories
- Collapsible Batting Tunnels
- Dance Systems & Platforms
- Diamond Pro Products
- Dirt Doctor Infield Groomers
- Dudley NJCAA Game Softball
- Field Covers, Tarps and Super Soppers
- First Class Bleachers
- FitnessGram Software
- Frontrow To Go PA System
- Gymnastic Landing Mats
- High Jump & Pole Vault Pits
- Line Mate Marking Systems
- Lobster Tennis Products
- My Team Shop purchases
- Olympic Style Plates
- NJCAA, NCAA, NAIA, CCCAA and NWAC game balls
- Pitchers Mounds
- Pitching Machines - ATEC, Bulldog & Jugs
- Playground Equipment including swings
- Polar Heart Rate Monitors
- Poly Cap Fence Guard
- Pro Gym's
- Scoreboards
- Spalding NJCAA Alpha Footballs and Game Basketballs
- SportPanel Fencing
- Sports Attack / Baseball Hack Attack
- Standard and graphic Wall Pads
- Stiga Table Tennis Tables
- Softballs - Worth
- T-Rex

<http://www.bsnsports.com/exclusions/>

6/2/2016



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

Exclusions

Page 2 of 2

- Tachikara Volleyballs
- Trophy Cases and Lockers
- Uniforms
- Wrestling Mats
- Youth & Junior Blocking Sled
- Items which carry "DS" under availability. (Drop ship items)

Note: MLB, NBA and WNBA are all registered tradenames.



**BSN SPORTS**  
P.O. Box 7726, Dallas, TX 75209

Form **W-9**  
(Rev. November 2017)  
Department of the Treasury  
Internal Revenue Service

**Request for Taxpayer Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**Varsity Brands Holding Co., Inc.**

2 Business name/disregarded entity name, if different from above  
**BSN Sports LLC**

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

Individual/sole proprietor or single-member LLC  
 C Corporation  
 S Corporation  
 Partnership  
 Trust/estate  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) \_\_\_\_\_

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

4 Exemption codes apply only to certain entities, not individuals; see instructions on page 3.  
Exempt payee code (if any): \_\_\_\_\_  
Exemption from FATCA reporting code (if any): \_\_\_\_\_  
Account is located outside the U.S.

5 Address number, street, and apt or suite no. (See instructions.)  
**P.O. BOX 7726**

6 City, state, and ZIP code  
**Dallas, TX 75209**

7 List account number(s) here (optional)

Requester's name and address (optional)

Print or type.  
See specific instructions on page 3.

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			-				
--	--	--	---	--	--	--	--

OR

Employer identification number

4	7	-	2	4	6	0	2	7	2
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**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must check out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign this certification. See the instructions for Part II, later.

Sign Here: Signature of U.S. person: *CHRIS BLOOMFIELD* National Bid Director  
Date: *11-4-19*  
mentbd@bsnsports.com

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.



**BSN SPORTS**  
P.O. Box 7726, Dallas, TX 75209

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b> <b>For vendor or other person doing business with local governmental entity</b>		<b>FORM CIQ</b>
<p><small>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.</small></p> <p><small>This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).</small></p> <p><small>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</small></p> <p><small>A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</small></p>	<b>OFFICE USE ONLY</b> <hr/> Date Received:	
<p><b>1</b> Name of person who has a business relationship with local governmental entity</p> <p style="font-size: 1.2em; margin-left: 20px;"><b>BSN Sports LLC</b></p>		
<p><b>2</b> <input checked="" type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire.</p> <p><small>(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</small></p>		
<p><b>3</b> Name of local government officer with whom filer has employment or business relationship.</p> <p style="text-align: center; font-size: 1.2em; margin-left: 100px;"><b>None</b></p> <p style="text-align: center; font-size: 0.8em; margin-left: 100px;">Name of Officer</p> <p><small>This section (item 3 including subparts A, B, C &amp; D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</small></p> <p><small>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?</small></p> <p style="margin-left: 40px;"> <input type="radio"/> Yes      <input checked="" type="radio"/> No </p> <p><small>B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?</small></p> <p style="margin-left: 40px;"> <input type="radio"/> Yes      <input checked="" type="radio"/> No </p> <p><small>C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?</small></p> <p style="margin-left: 40px;"> <input type="radio"/> Yes      <input checked="" type="radio"/> No </p> <p><small>D. Describe each employment or business relationship with the local government officer named in this section.</small></p> <p style="font-size: 1.5em; margin-left: 20px;"><b>None</b></p>		
<p><b>4</b></p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 60%;"> <p style="font-size: 1.2em; margin-left: 20px;"><i>Chris Bloomfield</i></p> <p style="margin-left: 20px;">Signature of person doing business with the governmental entity</p> </div> <div style="width: 35%; text-align: center;"> <p style="font-size: 0.8em; margin: 0;">CHRIS BLOOMFIELD National Bid Director bsnbid@bsnsports.com</p> <p style="font-size: 1.2em; margin: 5px 0 0 0;"><b>11/04/2019</b></p> <p style="font-size: 0.8em; margin: 0;">Date</p> </div> </div>		

Adopted 06/29/2007





**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

## **PRE-EMPLOYMENT CRIMINAL HISTORY CHECK AND DRUG TESTING**

After an offer has been made to an applicant entering a designated job category, a mandatory criminal history check, drug test and/or medical examination will be performed by a background research professional service company and health professional referred by BSN Sports, Inc. The offer of employment and assignment to duties is contingent upon satisfactory completion of the test. The examination will be performed at the company's expense in accordance with the policies explained in this Handbook and the applicable provisions of law.

## **CRIMINAL CONVICTIONS OR OFFENSES**

The initiation of legal charges or a civil lawsuit against an employee may affect the licensure or bond ability of the employee and/or the Company, as well as the Company's ability to service and maintain the trust of its customers and other members of the community, and to provide for the protection of the Company's ability to safeguard its ability to properly service its clients. Consequently, to the extent permitted by law, employees shall be required to notify the Company if convicted or charged with the commission of a crime or offense. Employees also are required to notify the Company of any commencement of an investigation or disciplinary action relating to licensure or professional certifications.

Additionally, except as otherwise prohibited by applicable law, any employee who is convicted, pleads guilty to or is sentenced for the commission of any crimes or offenses is subject to discipline, up to and including separation of employment without prior warning if the Company determines that the act, crime or offense:

- Affects continued ability to perform duties for the Company
- Indicates unfitness for continued employment
- Involves theft or moral turpitude
- Tends to bring the Company or any of its products into disrepute, or would affect employee morals or morale if employment continued
- Indicates that the employee could present a danger to other employees or our customers, or
- Would tend to indicate that the employee could present a danger to our customers or other employees.

Except as otherwise prohibited by applicable law, the Company may discipline or separate an employee for engaging in off-duty conduct that the Company determines to be detrimental to the interests of the Company.



**BSN SPORTS**  
P.O. Box 7726, Dallas, TX 75209

## **Affirmative Action and Equal Employment**

### **Opportunity Policy**

---

#### **41 C.F.R § 60-2.13(b)-2.21 (a)**

It is the policy of BSN SPORTS, LLC to pursue, affirmatively. Equal Employment opportunity for all its qualified applicants and employees. The company will recruit, hire, train, transfer and promote without regard to age, race, color, religion, sex(gender), national origin, disability (if the person is otherwise qualified) or status as veteran. All decisions on employment will be based only on the individual's ability as related to the requirements of the job for which he or she is being considered.

Management will assist in assuring that personnel actions, such as compensation, transfers, dismissals, company-sponsored training and education will be administered without regard to age, race, color, religion, sex(gender), national origin, disability (if the person is otherwise qualified) or status as a veteran. It is the responsibility of each executive, manager, supervisor and employee to cooperate in this effort.

I have appointed the Human Resources Director as the Corporation's director of Equal Opportunity Programs. In addition, the Human Resources Director will be our Corporate Direct of Affirmative Action programs for individuals with disability and for protected veterans. He/She will establish and monitor the implementation of personnel procedures to guide the Corporation's Affirmative Action programs. This official is charged with designing and implementing review and reporting systems that will keep management informed on a yearly basis of the status of Equal Employment Opportunities.

Inquiries about the Corporation's Affirmative Action policy and/or employee complaints should be directed to the Human Resources Director. BSN SPORTS, LLC, 1901 Diplomat Drive, Farmers Branch, TX 75234.

---

Terrence M. Babilla  
BSN SPORTS, LLC  
President, Chief Operating Officer and  
General Counsel



P.O. Box 7726, Dallas, TX 75209

RFP: Athletic Uniforms and Sports Equipment Contract

Due: November 20<sup>th</sup>, 2019 @ 4pm

11/04/2019

To Whom It May Concern:

The following people have authority to sign bids for BSN Sports:

Chris Bloomfield  
Craig Mostaffa  
John Stafford  
Sherry Iqbal

Bid Director  
Bid Specialist  
Bid Specialist  
Bid Specialist

Sincerely,

Terrence M. Babilla, Chief Operating Officer  
BSN Sports, Inc.



WE ARE THE  
RECOGNIZED LEADER  
in team athletic gear,



THE DRIVING FORCE  
in spirit, and



THE MOST TRUSTED NAME  
in celebrating student milestones.







**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209

# Now offering online billing! **BSNBilling.com**

- 24/7 account access
- Receive invoices and statements online
- Secure and convenient payments
- Manage multiple accounts
- Review account history and status



## **Need help?**

Contact us at [bsnbilling@bsnsports.com](mailto:bsnbilling@bsnsports.com)  
or call 1 (800) 527-7510



**BSN SPORTS**



**BSN SPORTS**

P.O. Box 7726, Dallas, TX 75209



## WE ARE THE **BEST SUPPLY NETWORK** IN **SPORTS™**

Founded in 1972 as a factory-direct equipment company, **BSN SPORTS** continues the tradition as the largest distributor of team sports apparel and equipment in the United States. We are in a unique position to support the student athlete and coach from grade school to college and beyond.

### LOCAL PARTNERSHIP

With over 850 sales professionals living and working across the United States, we specialize in understanding your community, your school and your unique needs. BSN SPORTS service approach is designed to make you the hero on and off the field.



### TECHNOLOGY LEADER



- Catalogs/Promos Auto Update
- Inventory Inquiry Link
- Online Order Entry
- Order Tracking
- Online Player Pay Solution
- Team Art Locker - 1,000+ Designs

**24 HOUR**  
QUICK SHIP

**BEST PRICE**  
**GUARANTEE**

**GO**  
PAPERLESS

### GAME CHANGING SOLUTIONS

We promise to provide real solutions that make a difference to your budget, your athletes and your peace of mind. Our one-stop shop approach saves you time and reduces the number of vendors you need.

#### iPad App = Instant Access

Sales Pros equipped with a custom app gives instant access to search products, check inventory, place orders and track shipments on the spot.

- Team Art Locker - 1,000+ Designs
- Every High School in the Nation
- Preloaded with Mascot Name & School Colors



#### EQUIPMENT

- Team Gear
- Game & Practice
- Field
- Gym & Fitness
- Facilities
- Physical Education
- Bleachers

#### TEAMWEAR

- Uniforms
- Performance
- Travel
- Coaching
- Staff
- Fans

#### DECORATION

- Screen Printing
- Embroidery
- Numbering
- Logos
- Lettering

#### Team Art Locker

Use this online tool to access custom artwork for every high school in America!

#### My Team Shop

Create a custom online store with the decorated athletic apparel, footwear & sports equipment you want your team to purchase.



**MY TEAM SHOP**



The Ultimate TeamWear Outfitter

800.527.7510 - [BSNSPORTS.com](http://BSNSPORTS.com)

# OUR PROMISES TO YOU

## HEART

We will reach deeper and push further for every coach, every athletic director, every reseller, every athlete, and every parent we encounter.

## INTEGRITY

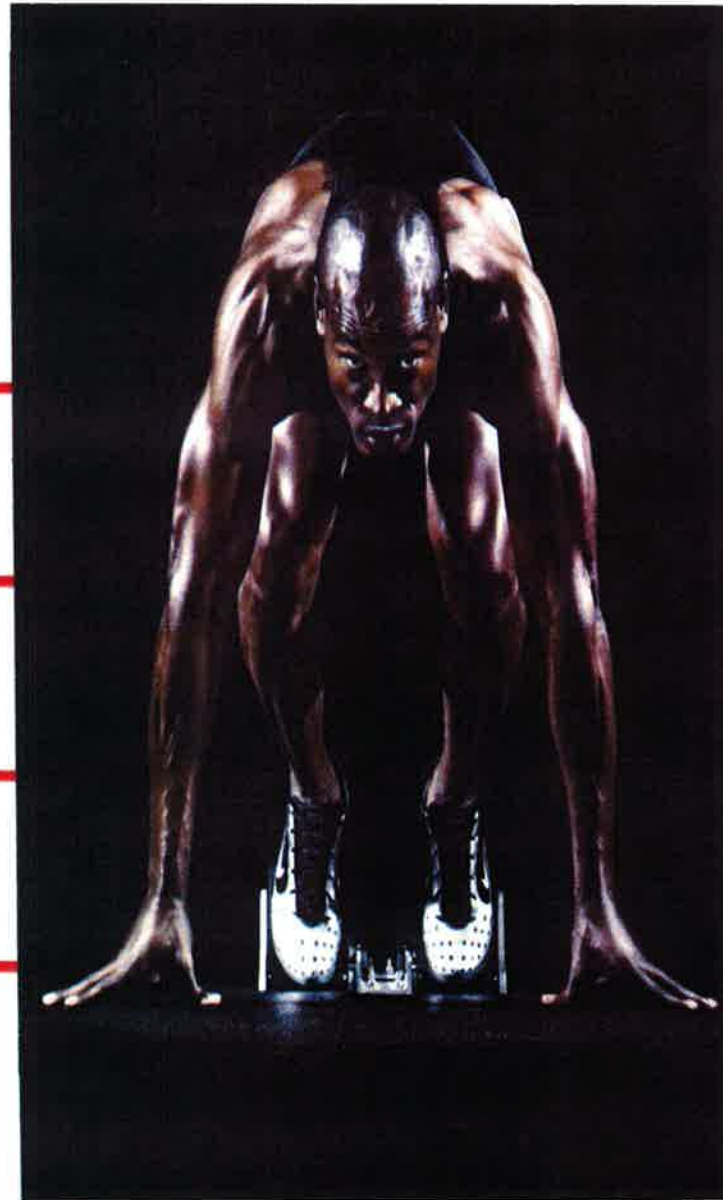
In an atmosphere of honesty and transparency, we come through on the promises we make to one another as well as those we make to our customers.

## TEAMWORK

All of us – everyone who works for BSN SPORTS in any capacity – works closely together to help one another take full advantage of all opportunities.

## RESOURCEFULNESS

We will provide our customers with the best and most Game Changing Solutions at all times, no matter what it takes.



P.O. Box 7726, Dallas, TX 75209

**BSN SPORTS**

