

AGENDA
BOARD OF MAYOR & ALDERMEN

February 5, 2018 Meeting

Sevierville Civic Center

6:00 P.M.



AGENDA
BOARD OF MAYOR & ALDERMEN
February 5, 2018 Meeting
Sevierville Civic Center
6:00 P.M.

A. CALL TO ORDER

1. Pledge of Allegiance
2. Invocation

B. ROLL CALL

C. MINUTES - January 22, 2018

D. PUBLIC FORUM

E. REPORTS

F. COMMUNICATIONS FROM MAYOR & ALDERMEN

G. OLD BUSINESS

1. Consider approval of **Ordinance O-2018-001 – 2nd reading** – An Ordinance to consider adding a new title to the Sevierville Municipal Code – Title 21, “Resource Extraction” – *Russell Treadway* 1
2. Consider approval of **Ordinance O-2018-002 – 2nd reading** – An Ordinance to obtain permission from the City to hold a special event – *Russell Treadway* 20
3. Consider approval of **Ordinance O-2018-003 – 2nd reading** – An Ordinance to amend the zoning ordinance of the City of Sevierville, Tennessee, to include a town center zoning definition, uses, standards, and map definition and to reformat the organization of the existing ordinance – *Pamela Caskie* 27

H. NEW BUSINESS

1. Consider approval of **expenditures for the bi-annual Employee Survey** – *Tracy Baker* 30
2. Consider approval of **Annual Preventative Maintenance Contract** for AED’s and Heart Monitors from Zoll Medical Corporation in the total amount of \$7,973.25 – *Matt Henderson* 32
3. Consider approval of **Agreement between the City of Sevierville and the Smoky Mountain Home for Children and Stars Futbol Club** – *Bob Parker* 39
4. Consider approval of **Agreement between the City of Sevierville and the Smoky Mountain Youth Baseball Association** – *Bob Parker* 46
5. Consider approval of **extension of water and sewer lines** for proposed 168 unit apartment complex at the corner of Newport Highway and Long Springs Road – *Steve Flynn* 55
6. Consider approval of **TDOT Contract** in regard to sewer relocation on Chapman Highway in the Ford Hill area – *Steve Flynn* 58

I. ADJOURNMENT

**BOARD OF MAYOR AND ALDERMEN
CITY OF SEVIERVILLE, TENNESSEE**

January 22, 2018

A regular meeting of the Board of Mayor and Aldermen of the City of Sevierville, Tennessee, was held at the Sevierville Civic Center, 130 Gary Wade Boulevard, Sevierville, Tennessee, on January 22, 2018 at 6:00 PM.

There were present and participating at the meeting:

Robbie Fox, Vice-Mayor
Wayne Helton, Alderman
Devin Koester, Alderman
Travis L. McCroskey, Alderman
Jim McGill, Alderman

Absent:

Bryan C. Atchley, Mayor

Senior Staff Present:

Pam Caskie, Development Director
Steve Flynn, Water & Sewer Director
Bryon Fortner, Public Works Director
Matt Henderson, Fire Chief
Lynn McClurg, Chief Financial Officer & City Recorder
Don Myers, Police Chief
Mary Ann Stackhouse, Attorney
Bob Parker, Parks & Recreation Director
Russell Treadway, City Administrator

Vice-Mayor Fox chaired the meeting with Lynn K. McClurg as secretary of the meeting. A motion was made by Alderman Koester and seconded by Alderman McCroskey to approve the minutes of the January 8, 2018 meeting and to dispense with the reading. Motion carried.

PUBLIC FORUM

Vice-Mayor Fox opened the public forum section of the meeting. Fox recognized Marvin Manning, who expressed his support of a gross receipts tax in favor of property tax to address debt service funding. Fox recognized Andrea Wilson, with the Sevier Commons Arts Council, who expressed support of the Town Center zoning ordinance. Fox recognized Jeremy Strader, representing a proposed Smoky Mountain Life Center, who requested Board support to achieve a goal of opening a homeless shelter or warming center in Sevierville. There being no further comments, the public forum was closed.

COMMUNICATIONS

Vice-Mayor Fox recognized Matt Henderson, who introduced the following new employee(s): Lee Wilson, Sawyer Morton, and Derrick Layman; Fire Department. The Board thanked public services staff for their efforts during recent inclement weather.

BOARD APPOINTMENTS

Vice-Mayor Fox requested ratification of the following board/committee appointment(s):

Public Utilities (Power Board) Mignonne Coykendall Unexpired term of Bobby Castle

A motion was made by Alderman Helton and seconded by Alderman McGill to approve the appointment(s) as recommended. Motion carried.

REPORTS

Vice-Mayor Fox recognized Frank McDaniel with Brown, Jake & McDaniel, PC, who presented the City's fiscal year 2017 Comprehensive Annual Financial Report. Fox noted the submission of monthly staff reports.

NEW BUSINESS

Vice-Mayor Fox presented and placed for passage an ordinance O2018-002 entitled "SPECIAL EVENTS." A motion was made by Alderman Koester and seconded by Alderman Helton to approve the ordinance as presented and to dispense with the reading. Those voting Yes: Fox, Helton, Koester, McCroskey, McGill. Those voting No: None. Fox declared the ordinance passed on first reading.

Vice-Mayor Fox presented and placed for passage an ordinance O2018-003 entitled "AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF SEVIERVILLE, TENNESSEE TO INCLUDE A TOWN CENTER ZONING DEFINITION, USES, STANDARDS, AND MAP DEFINITION AND TO REFORMAT THE ORGANIZATION OF THE EXISTING ORDINANCE.". A motion was made by Alderman Koester and seconded by Alderman McGill to approve the ordinance as presented and to dispense with the reading. Those voting Yes: Fox, Helton, Koester, McGill. Those voting No: McCroskey. Fox declared the ordinance passed on first reading.

Vice-Mayor Fox recognized Bryon Fortner, who requested approval to purchase a detection camera system from sole source vendor Gridsmart in the amount of \$17,679.00. A motion was made by Alderman McGill and seconded by Alderman McCroskey to approve the purchase as requested. Motion carried.

Vice-Mayor Fox recognized Bryon Fortner, who requested approval of a consulting agreement with Cannon & Cannon, Inc. for technical traffic supplemental services (Traffic Operations Manager training) in an amount not to exceed \$22,080.00. A motion was made by Alderman Koester and seconded by Alderman McGill to approve the consulting agreement as presented. Motion carried

Vice-Mayor Fox recognized Don Myers, who requested approval to purchase seven in-car video cameras from sole source vendor Digital Ally in the total amount of \$27,965.00. A motion was made by Alderman McCroskey and seconded by Alderman Helton to approve the purchase as requested. Motion carried.

Vice-Mayor Fox recognized Don Myers, who requested approval to purchase vehicle light bars from low price vendor West Chatham Distributors in the total amount of \$8,100.00. A motion was made by Alderman Helton and seconded by Alderman Koester to approve the purchase as requested. Motion carried.

Vice-Mayor Fox recognized Don Myers, who requested approval to purchase in-car prisoner partitions from low price vendor Truckers Lighthouse in the total amount of \$6,428.00. A motion was made by Alderman McGill and seconded by Alderman McCroskey to approve the purchase as requested. Motion carried.

Vice-Mayor Fox recognized Don Myers, who requested permission to accept a donation in the amount of \$750.00 from the Tanger Outlet Center at Five Oaks for the purpose of community instruction and educational materials. A motion was made by Alderman Koester and seconded by Alderman Helton to accept the donation as requested. Motion carried.

Vice-Mayor Fox recognized Don Myers, who requested approval to purchase seven tasers from sole source vendor Gulf State Distributors in the total amount of \$7,761.39. A motion was made by Alderman McCroskey and seconded by Alderman McGill to approve the purchase as requested. Motion carried.

Vice-Mayor Fox recognized Lynn McClurg, who requested approval and/or ratification of the following expenditure(s) in excess of \$5,000.00:

1. Matthew Forsyth	K-9 Instructor	\$5,000.00	Prof. services
--------------------	----------------	------------	----------------

A motion was made by Alderman McGill and seconded by Alderman Koester to approve the expenditure(s) as presented. Motion carried.

There being no further business to discuss, the meeting adjourned at 6:58 PM.

Approved: _____
Bryan C. Atchley, Mayor

Attest: _____
Lynn K. McClurg, City Recorder



Board Memorandum

DATE: February 5, 2018

AGENDA ITEM: Ordinance O-2018-001 – *2nd reading* - Consider adding a new title, Title 21 “Resource Extraction” to the Sevierville Municipal Code.

RESPONSIBILITY: Russell Treadway, City Administrator

PRESENTATION: For some time, the Board has discussed regulating resource extraction including quarrying within the City limits.

Attached, you will find a draft version not yet in final ordinance form.

The City Attorney recommends another workshop(s) prior to final adoption.

This is presented for consideration on second reading.

REQUESTED ACTION: Motion and affirmative vote to pass ordinance on second reading.

ORDINANCE O-2018-001

AN ORDINANCE TO ADD A NEW TITLE, TITLE 21, “RESOURCE EXTRACTION” TO THE SEVIERVILLE MUNICIPAL CODE

21-101. Purpose. The purpose of regulating Resource Extraction land uses is to provide minimum standards for all resource extraction operations within City limits in order to protect public health and safety, to preserve the scenic beauty of Sevierville's landscapes and environment, to protect the public from damage to both the quality and quantity of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people of Sevierville and the surrounding communities. This purpose will be fulfilled through the following means:

- 1) Identification of areas in the City where resource extraction is most appropriate and not in conflict with other nearby land uses.
- 2) Establishment of permitting requirements, environmental review procedures and performance standards to regulate resource extraction.
- 3) Establishment of standards that prevent or minimize environmental and aesthetic impacts on extracted properties, adjacent properties, and the City as a whole.
- 4) Establishment of standards and financial guarantees that restore extracted land to a condition compatible with adjacent properties.

21-102. Definitions. For purposes of this Title, certain terms and words are defined below:

- 1) “Nonmetallic Resource” or “Resource” means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, and/or non-renewable material. Nonmetallic minerals include, but are not limited to, stone, rock, limestone, sand, silica sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.
- 2) “Resource Extraction” includes any or all of the following activities:
 - ii. Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation and grading of such materials.
 - ii. On-site manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation, washing, compounding, mixing or blending of

mineral aggregates or nonmetallic resources obtained by extraction from the mining site or with materials transferred from off-site.

iii. On-site manufacturing processes aimed at producing nonmetallic resource products for sale or use by the operator.

iv. Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.

v. Transport of the extracted nonmetallic resources, finished products or waste materials from the extraction site.

vi. Disposal of waste materials.

vii. Reclamation of the extraction site.

3) "Resource Extraction Facility" means any area that is being used for on-site removal, stockpiling, processing, transferring, or storage of resources.

21-103. Exempted uses and operations. The following are exempted from the performance standards applicable to resource extraction activities:

1) Excavations or grading by a person solely for domestic or farm use at a person's residence or farm.

2) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.

3) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.

4) Excavations for building construction purposes conducted on the building site.

5) Resource extraction at sites where less than one acre of total affected acreage occurs over the life of the mine.

6) Removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

7) Stockpiling of resources by retailers, such as nurseries and home improvement stores, for the purpose of resale to the public for non-industrial uses.

8) Stockpiling, storage, and transportation of sand, salt, and/or gravel by state, county, and/or City entities.

9) Stockpiling, storage, and transportation of dredge spoils removed from public waters.

10) Stockpiling, storage, and transportation of sand and gravel for construction purposes and private snow plowing purposes.

21-104. Resource Extraction Facility Permit Required. All persons having a legal or equitable interest in any resource extraction facility commencing on or after the effective date of this Ordinance must obtain a permit by applying to the Planning Commission through the Planning Commission's site plan approval process, or through any other process that may be established by the Planning Commission or by the Zoning Ordinance. Such persons are referred to hereinafter as "owner," "operator," and/or "permittee." These terms are interchangeable for the purposes of this Title.

21-105. Resource Extraction Facility Permit Application Requirements. All persons seeking to engage in resource extraction activities within the City must submit the following:

1) Name, address, phone number(s), e-mail address, and website of the operator of the resource extraction facility.

2) Name, addresses, phone number(s), and e-mail addresses of all owners or lessors of the land on which the mining operation will occur.

3) Acreage and complete legal description of the subject property on which the facility will be located, including all contiguous property owned by the landowners.

4) A narrative outlining the type of material to be excavated, mode of operation (including any screening, drying, washing, coating, processing and storage of material), estimated quantity of material to be extracted, plans for blasting, and other pertinent information to explain the request in detail.

5) Estimated time frame to operate the facility, to include hours per day, days per week, months per year, and number of years in operation.

6) A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.

7) A description of the estimated average daily and peak daily number of vehicles accessing the facility. If more than one access to the facility is proposed, provide a breakdown of anticipated daily and peak number of vehicles using each access.

8) Any other information or documentation required for site plan approval.

9) Site maps of the proposed operations that show the entire site(s) and include areas within six-hundred feet (600') of the site. All maps shall be drawn at a scale of one-inch (1") to two-hundred feet (200') unless otherwise stated below:

i. Map A-Existing site conditions, to include:

- a) Property boundaries to be surveyed by a Tennessee Registered Land Surveyor.
- b) A survey which provides contour lines at five foot (5') intervals.
- c) Existing vegetation including plant community, evaluation of condition of plant community, and dominant species.
- d) Existing structures.
- e) Existing pipelines, power lines and other utilities.
- f) Easements affecting the permitted property.
- g) Adjacent public road right-of-way.
- h) Existing access points to public roads.
- i) Test borings and monitoring wells used to characterize the site.
- j) Threatened and endangered species on the site and within 1/4 mile of the site.
- k) Distribution, thickness and type of existing topsoil and subsoil.
- l) Location of existing historical, cultural, and archaeological features identified in federal and State databases and those not identified but discovered on-site.
- m) Location of areas previously affected by mining on-site.

GEOLOGY

- n) Geologic units and contacts.
- o) Depth to bedrock (if applicable).
- p) Confining units (clays, shale, siltstone).
- q) Fracture patterns and traces (for rock quarries).
- r) Location of any known caves, joints, fractures, sinkholes, stream sinks, and springs.

HYDROLOGY

- s) Drainage patterns and permanent water areas within six hundred feet (600') of the property lines.
- t) Water-table elevations with ground water flow direction.

- u) Wells within a one-mile radius of property lines showing location, depth, static water-level, age and construction.
- v) Location and elevation of any known springs within six hundred feet (600') of the property lines.
- w) General location of septic systems within six hundred feet (600') of the property lines.
- x) Location of designated trout streams within six hundred feet (600') of the property lines.

ii. Map B-Proposed operations, to include:

- a) Property boundaries surveyed by a Tennessee Registered Land Surveyor.
- b) Vegetation protection plan for vegetation remaining on site.
- c) Soil salvage plan, including storage areas, methods of protection from erosion, compaction and weeds.
- d) Structures to be erected.
- e) Location of sites to be mined showing depth of proposed excavation.
- f) Location of tailing (strippings or overburden) deposits showing a maximum height of deposits, which may not exceed forty four feet (44').
- g) Location of processing areas and machinery to be used in the mining operation.
- h) Location of storage of mined materials, showing height of storage deposits, which may not exceed forty four feet (44').
- i) Location of vehicle parking.
- j) Location of storage of explosives.
- k) Location of fuel storage.
- l) Erosion and sediment control structures.
- m) Water retention ponds.
- n) Drainage Plan including revisions to existing drainage patterns.
- o) Proposed internal road system including typical cross sections.
- p) Proposed new access points to adjacent public roads.

q) Proposed haul routes of vehicles removing material from the pit including current spring weight restrictions on the proposed routes.

iii. Map C-Reclamation Plan. The Reclamation Plan must take into account the Performance Standards listed in this Title in addition to:

a) Property boundaries surveyed by a Tennessee Registered Land Surveyor.

b) Final grade of proposed site showing elevations and contour lines at five foot (5') intervals.

c) Proposed land use after mining.

d) Location, species, rate, and density of vegetation to be seeded and planted.

e) Location and nature of any structure to be erected in relation to the end use plan.

f) Proposed improvements such as roads, paths, ponds, etc.

g) Topsoil restoration plan.

h) Rates, kinds, and location of soil amendments.

i) Mulching, erosion control fabric, and other soil stabilization methods.

j) Include the grading plans, topsoil protection and replacement, seeding, revegetation, mulching, erosion control, and sedimentation control specifications for each phase and final restoration.

k) Include quantified performance standards for the reclamation and maintenance of each plant community to be restored. These shall be based on a minimum percent cover of acceptable vegetation, maximum percent cover of unacceptable vegetation, and minimum species diversity at reclamation milestones: 0-24 months; 2-5 years; and 6 years or more after substantial completion. Acceptable and unacceptable vegetation shall be defined in the plan.

10) Supporting documentation: Every application for a resource extraction facility permit shall include submission of supporting documentation. The documentation must take into account the Performance Standards listed in this Title and may be presented in descriptive or map form. Supporting documentation shall include, but is not limited to, the following:

i. A description of existing land uses on the subject property.

ii. A description of zoning classifications of the subject property.

- iii. A description of the soil, vegetation, mineral content and topography of the subject property. A minimum of three (3) soil boring logs representative of the site and a description of the subsurface materials on the subject property must be submitted.
- iv. A general description of surface waters, existing drainage patterns and groundwater conditions within 1/4 mile of the subject property.
- v. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
- vi. Copies of all state and federal application documents and operating permits.
- vii. A description of the site hydrology and drainage characteristic during extraction for each phase of mineral extraction including plans to control erosion, sedimentation and water quality of storm water runoff.
- viii. If there are any proposed changes to the existing drainage patterns, include proposed mitigation plans to control downstream off-site damage caused by any increase to the natural flow of water or any diversion of the existing natural flow of water.
- ix. A description of actions to be taken to mitigate potential impacts resulting from mineral extraction and processing, including potential impact related to: wetlands, erosion, noise, air pollution, surface water contamination, traffic, dust, or vibrations.
- x. A description of site screening, buffering, landscaping and security fencing.
- xi. A description of the method in which complaints about any aspect of the resource extraction facility or off-site transportation are to be received and the method by which complaints are to be resolved, such as neighbor notifications, meetings, or property value guarantees.
- xii. A plan for groundwater quality protection. The plan shall include a minimum of three (3) borings showing depth to groundwater. If washing or processing are not proposed, and if groundwater is not encountered at a depth of fifteen feet (15') below the bottom of the proposed pit floor, the applicant need not extend borings any further. If washing/processing is proposed, a minimum of three (3) monitoring wells shall be installed to evaluate the hydrogeologic environment. The City reserves the right to require additional borings or monitoring wells if necessary.
- xiii. A minimum of three (3) cross-sections showing the extent of overburden, extent of mineral deposits, the water table, and any evidence of the water table in the past.
- xiv. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water. Descriptions of methods used for filtration and control of water runoff are to be included also.

xv. Identification of all proposed off-site trucking routes, together with the frequency and the common schedule of travel to be used for transporting extracted materials or products to and from the site.

xvi. Description of methods to control the weight of vehicles leaving the facility and the methods to ensure vehicles do not travel on roads with weight limits lower than the weight of the vehicles.

xvii. Description of methods to prevent mud and debris from being tracked onto public roads.

xviii. A listing of any hazardous materials, including all fuel supplies, that will be stored on-site and a description of measures to be used for securing and storing these materials.

xix. A listing of all chemicals used in the manufacturing and processing operations and in controlling dust.

xx. If a mineral extraction facility proposes to dewater the site, a plan must be submitted that includes:

- a) Dewatering points and their elevations;
- b) Hydrogeologic parameters of the unit dewatered including hydraulic conductivity, transmissivity, and storativity;
- c) Proposed volume and rate of dewatering;
- d) Discharge point; and
- e) Duration of dewatering.

xxi. Contingency Plans: A plan for responding to spills and berm/earthen dam failure, or accidental release of chemicals, dust, waste, process water, or tailings.

xxii. Seismic Monitoring: If a resource extraction facility proposes using explosives, a pre-blast survey performed by a Tennessee Licensed Engineer of surrounding dwellings and buildings within 1/2 mile of the facility shall be conducted prior to initial blasting. Yearly seismic surveys shall be conducted by the applicant's engineer and submitted to the City if blasting has occurred within the previous year.

xxiii. Description of site security and property boundary signage to be utilized at the facility.

11) Additional requirements for underground resource extraction facilities:

- i. A description of the stability of lands overlaying the underground workings.

- ii. Locations of adits, ventilation shafts, and other surface openings.
- iii. Detailed description of water handling procedures, including dewatering and processing water.
- iv. Detailed description of the fate and transport of groundwater into and out of the mine workings.
- v. No resource extraction activities shall occur within a five-hundred foot (500') radius of any residential or farm well.
- vi. Designs for mining under public roads require approval of the road authority.
- vii. Mining or tunneling must maintain a two-hundred foot (200') vertical extension setback from permanent surface structures.

21-106. Resource Extraction Facility Permit Application Process.

1) Application. A request for a resource extraction permit, as provided within this Title, shall be filed with the Planning Commission as part of the regular site plan approval process and subject to the procedures applicable to that process.

2) Recommendation. The Planning Commission shall make a recommendation, including such actions or conditions relating to the request as the Planning Commission may see fit, to the Board of Mayor and Aldermen. The Board of Mayor and Aldermen may impose restrictions or conditions as deemed necessary to protect the public interest. These conditions may include, but are not limited to, the following:

- i. Matters relating to the appearance of the facility.
- ii. Hours of operation.
- iii. Limiting the number of loaded trucks leaving the facility per day.
- iv. Requiring all access drives to be watered and/or conditioned regularly to minimize dust.
- v. Increasing setbacks.
- vi. Blasting notifications and frequency.
- vii. Limiting the height, size or location of buildings, stockpiles or tailings (strippings or overburden) deposits.
- viii. Controlling the location and number of vehicle access points.
- ix. Increasing street width and improving access conditions, including turn lanes, bypass lanes, etc.

- x. Increasing the number, size, location, or lighting of signs.
- xi. Requiring diking, berming, fencing, buffering, screening, landscaping, or other facilities to protect adjacent or nearby property.
- xii. Designating sites for open space.
- xiii. Delineating the area to be mined, total size and open area at any one time.
- xiv. Requiring phased reclamation.
- xv. Requiring financial security to guarantee compliance with the conditions of approval.
- xvi. Air and water quality monitoring.
- xvii. On-site and off-site improvements to mitigate impacts caused by revisions to the natural flow of surface waters.
- xviii. Requiring the owner/operator to enter into a road maintenance agreement with the City which shall specify the owner/operator's responsibilities with regard to road maintenance costs based on the life expectancy of the operations at the facility.

3) Action and Findings of the Board of Mayor and Aldermen. The Board of Mayor and Aldermen shall conduct a public hearing on the application and shall approve, modify, or deny the request and state the reasons for its actions. The Director of Development shall notify the applicant of the action of the Board of Mayor and Aldermen.

7) Reapplication/Lapse of Permit. The Planning and Development Department shall not accept reapplication for the same or substantially similar permit within twelve (12) months of denial.

8) Amended Permit. Any material change to the operations or use of the land approved under a current permit shall require an amended permit and all procedures shall apply as if a new permit were being issued. The determination of whether any change constitutes a material change shall be made at the sole discretion of the Director of Planning.

21-107. Annual Registration Required. Annual registration of all resource extraction facilities is required. The purpose of the annual registration is to maintain an updated listing of active mineral extraction facilities in the City, to decertify any permits where the activity has ceased, to monitor compliance with the conditions of approval, to review the applicability of the conditions and to review bonding requirements.

1) Permit holders must complete and return registration forms provided by the City. Failure to maintain registration shall be cause for revocation of the permit.

2) Permits for resource extraction facilities will not automatically expire if there are no activities as authorized within a year's time as long as the permittee complies with the annual registration specified herein.

3) Annual registration is done administratively by the Director of Development and will not require review by the Planning Commission or the Board of Mayor and Aldermen, provided all conditions are being met and the activity meets all standards as outlined in this Title, and any other permits required by law.

4) For underground resource extraction facilities, a map prepared by a Tennessee registered Land Surveyor showing the property boundaries, the location, depth, size, and elevation of the tunnels and extent of the area mined must be submitted with the annual registration fee.

21-108. Security Required. The Director of Development shall require the owner of the property in which resource extraction is occurring to post a letter of credit, bond, or cash escrow in such form and sum as determined by the Board of Mayor and Aldermen as part of the permit. The security shall be sufficient to reimburse the following costs:

1) Costs of bringing the operation into compliance with the resource extraction permit requirements including site monitoring and enforcement costs.

2) Extraordinary costs of repairing roads due to special burden resulting from the hauling of materials and traffic associated with the operation.

3) Extraordinary costs of providing an alternative water supply to potentially affected residences or agricultural operations located within 1/2 mile of the resource extraction facility or other such areas shown to be impacted by the resource extraction operations.

4) Site restoration.

5) Costs the City may incur in enforcing the terms of the conditional use permit, including consultant's and attorney's fees.

6) Bonds shall have an initial term of at least one (1) year and shall include a provision for notification of the City at least thirty (30) days prior to cancellation or non-renewal.

7) Bonds must be renewed in such a manner that sufficient security is in existence at all times throughout the duration of the resource extraction activities.

8) In the event the City determines that the amount of security provided by an owner/operator must be increased, or if the amount provided has been exhausted, the City shall notify the owner/operator of the amount of additional security needed and the basis of that request. The owner/operator shall provide the additional security within thirty (30) days of the request.

21-109. Additional Performance Standards for Resource Extraction Facilities. The following performance standards apply to all resource extraction facilities located in the City and are supplemental and in addition to the other performance standards contained in this Title and the zoning code:

1) Normal hours of operation. Resource extraction facilities shall operate only between the hours of 9:00 a.m. and 5:00 p.m., Monday through Saturday, unless specified otherwise in the permit for the facility.

i. Exceptions to the hours of operation must be approved by the Director of Development. Approval may only be granted in conjunction with the furnishing of material for a public improvement, public safety or a public good project that is underway during the hours that the resource extraction facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.

2) Fencing. Fencing, signs, and barriers are required around the outer boundaries of the entire resource extraction site, and around any ponding areas and steep sloped excavation areas unless, because of their location, they are not deemed to create a safety hazard.

3) Access. The permittee must obtain a permit from the road authority for all proposed new access points to public roads. The road authority may restrict the weight of vehicles allowed to use any permitted access.

4) Roadway dust control. Operators shall be responsible for providing continuous dust control during facility operation on unpaved roads that are the primary routes to or from a resource extraction facility. Watering roadways or other dust control measures along paved roads accessing the facility such as pavement sweeping and wheel washing may be required.

5) Resource extraction facility dust control and air quality. To mitigate public nuisances and public health concerns, the Director of Development shall require dust control in all resource extraction facilities.

i. Remedies to control dust may include methods such as berming, landscaping, enclosures for processing equipment, and watering stockpiled materials and tailings (strippings or overburden) deposits and all roads within the site.

ii. All equipment used for mining operations shall be constructed, maintained, and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred feet (600') of the facility lot line.

iii. The Director of Development may require air quality/air particulate monitoring of a resource extraction facility.

- a) If required, the operator shall begin air quality/air particulate and weather monitoring at least six (6) months prior to operation to create a baseline of the area.
- b) Stationary monitors shall be located at strategic locations along the resource extraction facility property lines, within the site, and may also be required to be located at neighboring residences within six hundred feet (600') of the facility property lines.
- c) Continuous remote readings shall be taken and reported to the Director of Development when requested. A summary report shall accompany the operation's annual renewal documentation and fees.

7) Blasting permit required. The owner/operator shall obtain a blasting permit from the City, if applicable.

8) Noise. Maximum noise levels at the facility will be consistent with the standards established by the City or by State law, whichever are more stringent.

9) Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment according to all federal and state laws, rules, regulations and statutes.

10) Water resources. The resource extraction operation shall not allow surface water to leave the site in a manner that causes flooding, erosion, or alteration of natural drainage patterns. The resource extraction operation shall not adversely affect the quantity or quality of surface or subsurface water. Surface water leaving the site shall be of equal quality as water originating off-site before it passes through the site. The operator shall perform any water treatment necessary to comply with this provision.

11) Screening/buffering. Screening barriers shall be subject to the approval of the Director of Development.

- i. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties.

- ii. A screening barrier may be required between the resource extraction facility and any public road.

- iii. A screening barrier may be required to mitigate visual impacts of the resource extraction facility from existing historical, cultural, recreational features and dwellings, including but not limited to trails, navigable waters, and sites identified State and federal databases.

- iv. A buffer yard and screening is required for all resource extraction facility boundaries that abut residential, parks and open areas, and public assembly land uses.

12) Unauthorized storage. Vehicles, equipment, or materials not associated with the resource extraction facility or not in operable condition may not be kept or stored at the facility.

13) Setbacks. The following minimum setbacks shall be maintained from property boundaries at the surface and their vertical extensions below the surface:

- i. Twenty five feet (25') of adjoining property lines, except for visual screening, reclamation, and berming of overburden material, unless written consent of the owner of the adjoining property is first secured, recorded in the Sevier County Register's Office and a copy submitted to the Director of Development.

- ii. One thousand feet (1000') of any existing dwelling or platted residential subdivision, not owned by the operator or owner, unless written consent of the owner of the adjoining property is first secured, recorded in the Sevier County Register's Office and a copy submitted to the Director of Development.

- iii. Five hundred feet (500') of the boundary of any zoning district where such operations are not permitted.

- iv. Thirty feet (30') of any right-of-way of any existing or platted street, road or highway, except berm construction, vegetative screening, or maintenance activities unless by written consent of the adjacent road authority having jurisdiction over the right-of-way and a copy is submitted to the Director of Development.

- v. The Board of Mayor and Aldermen may increase the setbacks based upon residential locations, social or economic concerns, type of mining, or to mitigate public nuisance concerns.

14) Phasing. Phasing plans must be prepared for all mineral extraction facilities. The proposed size of the extraction, processing, staging, and stockpiling operations are to be identified. Resource extraction activities shall be conducted so active extraction operations expose no more than forty (40) acres at any one time, unless specifically approved in the conditional use permit.

15) Weed control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.

16) Waste disposal. Any waste generated from the mining operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, county, and City requirements.

- i. Portable asphalt and concrete plants must be approved on a per project basis by the City.

- ii. An estimate of the amount of recycled concrete and asphalt material to be processed must be submitted. An estimate of the time required and the amount required to be stockpiled before being processed must be submitted.

17) Water quality monitoring. Water quality monitoring shall be performed when a resource extraction facility is (a) mining below the water table; (b) if the property lines are within six-hundred feet (600') of known Karst features, springs, streams, or lakes; (c) if the operation is proposing to dewater the site; (d) if the site is using chemicals as part of the washing or ponding process; or (e) if otherwise required by the City Council or state law.

i. If washing/processing operations are proposed, a minimum of three (3) monitoring wells shall be installed to evaluate the hydrogeologic environment. The City reserves the right to require additional borings or monitoring wells if necessary.

ii. A Water Monitoring Plan shall include placing a sufficient number of monitoring wells in strategic locations along the property lines and within the site to adequately characterize and monitor surface and groundwater.

iii. Monitoring of residential wells within six-hundred feet (600 ') of the property lines may also be required.

iv. Continuous remote readings shall be taken and reported to the City when requested. A summary report shall accompany the operation's annual registration documentation.

18) General compliance. The operators must comply with all federal, state, regional, county, and local laws and regulations applicable to the operation of the resource extraction facility, including, but not limited to, floodplain management regulations and zoning code regulations.

19) Additional regulations. The Director of Development may impose additional regulations and requirements on the resource extraction facility to protect the public health, safety, and welfare.

20) Land reclamation. The following minimum land reclamation standards and conditions shall apply:

i. For gravel pits, final grades may not exceed one (1) vertical to three (3) horizontal slope except for rehabilitated areas in existence at the time of adoption of this Ordinance. In completing final grading in each phase, the top of the slope may begin twenty feet (20') from property lines.

a) Proposed topography shall fit in with regional topography and mirror landforms typical of the area.

ii. For rock and limestone quarries, the permittee shall submit a plan to explain how the quarries are to be rehabilitated.

iii. A minimum of three inches (3") of topsoil shall be placed on all graded surfaces.

iv. Seeding and mulching shall be consistent with Tennessee Department of Transportation specifications for rights-of-way. Areas returned to agricultural production are exempt from the seeding and mulching requirements.

v. Soil restoration, seeding, and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached.

a) Land shall be reclaimed to native vegetation unless inconsistent with the final proposed land use.

b) Proposed land uses shall be consistent with zoning code requirements, and applicable federal, state, and local regulations in effect at the time the plan is submitted, and may be required to be amended over time.

vi. Soil erosion and sedimentation control measures as deemed adequate by the Director of Development shall be included.

vii. Unless otherwise amended or approved by the Director of Development, all final grades and site restoration efforts shall be consistent with the Reclamation Plan.

viii. Within twelve (12) months after completion of resource extraction or after termination of the permit, all equipment, vehicles, machinery, materials, and debris shall be removed from the subject property.

ix. Within twelve (12) months after completion of resource extraction or after termination of the permit, site reclamation must be completed. Failure to annually register the resource extraction facility will be considered termination of the resource extraction facility and the twelve (12) month period for site reclamation begins.

x. All water areas resulting from excavation shall be addressed upon reclamation of the site. In unique circumstances where the Board of Mayor and Aldermen has reviewed proposals for water bodies at the time of approval of the overall plan and has determined that such would be appropriate as an open space or recreational amenity in subsequent reuse of the site, water bodies may be permitted.

21-110. Bi-Annual and Annual Reporting.

1) During the first two (2) years of operations, the owner of all resource extraction operations in the City shall submit a report twice per year to the Director of Development between the dates of January 1- February 1 and July 1 -August 1.

2) After two (2) years of consecutive operations, the owner/operator of all resource extraction operations in the City shall submit an annual report to the Director of Development between the dates of January 1- February 1.

3) The bi-annual and annual reports shall include the following information:

- i. An identification of the owner/operator and the location of the resource extraction site.
- ii. A map accurately showing the area of existing excavation, the unclaimed areas and reclaimed areas of the mine site. These maps shall include the acreage of each area.
- iii. A written, detailed description of activities and operations on the site for the previous half-year (for bi-annual reports) or year (for annual reports).
- iv. A written, detailed description of activities and operations planned for the following calendar year of operations.
- v. A written report demonstrating how the owner/operator has been in compliance with all the terms set forth in the zoning ordinance and the conditional use permit. The report shall include all water and air quality monitoring results.
- vi. A summary of all areas of noncompliance and a detailed plan for bringing noncompliant areas of operation into compliance for the next calendar year of operations.

21-111. Inspection, Violations, Penalties and Enforcement.

1) Inspection. In addition to the reporting requirements, the Director of Development may make inspections of the facility upon reasonable notice to determine the condition of the resource extraction sites in order to ensure and safeguard the health and safety of the public and determine compliance with the minimum standards under the applicable law.

2) Penalties for Violation. Any firm, person or corporation who violates any of the provisions of this Title shall be subject to a fine of up to Fifty Dollars (\$50.00) for each offense, unless a more severe penalty is provided by state or federal law. Each day that a violation is permitted to exist shall constitute a separate offense.

3) Additional violations. The following also constitute violations of the zoning code:

- i. Engaging in resource extraction without properly obtaining a conditional use permit as required by the zoning code.
- ii Making incorrect or false statements in the information and documentation submitted in the reporting or during inspection by an authorized representative of the City.
- iii. Failure to provide a bi-annual or annual report by the applicable deadline.
- iv. Failure to take appropriate or reasonable action to remediate a known violation, citation, request for additional information or financial assurance, or any other order by the City.

4) Enforcement. In the event of a violation or threatened violation of any of the terms of this Title, the Director of Development may take appropriate action to enforce this Ordinance, including but not limited to exercising the performance bonds, application for injunctive relief, action to compel performance, revocation of the conditional use permit, and/or other appropriate action before the Board of Mayor and Aldermen or in court if the Director of Development deems it necessary to prevent, restrain, correct or abate such violations or threatened violations.

APPROVED: _____
Bryan C. Atchley, Mayor

ATTEST:

Lynn K. McClurg, City Recorder

Passed on 1st reading: 1/8/2018

Passed on 2nd reading:

Passed on 3rd reading:



Board Memorandum

DATE: February 5, 2018

AGENDA ITEM: Consider approval of **Ordinance O-2018-002 –2nd reading** – An Ordinance to obtain permission from the City to hold a special event

RESPONSIBILITY: Russell Treadway, City Administrator

PRESENTATION: Over the past few months, the Leadership Team has worked to streamline and document the process of obtaining permission from the City to hold a special event. This ordinance is the results of those efforts. In addition to laying out the process, it also permits the Special Event Committee (currently defined as Leadership Team) to waive certain ordinances, such as overnight camping, road closings, and vendor sales. It provides for recuperation of costs in accordance with a schedule already approved by BOMA and ensure compliance with all life safety issues.

REQUESTED ACTION: Approve passage of Ordinance O-2018-002.

ORDINANCE O-2018-002

CHAPTER 3

SPECIAL EVENTS

16-301. Purpose. It is the general purpose of and intent of this section to require a permit for special events or activities. A special event is an event such as a festival, fair, carnival or other type of promotion that is outside the customary or usual activities conducted on the property where the special event will take place, or an event held on public property, including but not limited to a parade. It is a temporary outdoor use that extends beyond the normal business activities and is designed to draw large crowds to promote a specific charity, cause, city-wide event, hobby or festival.

16-302. Performance Standards. Special events shall comply with the following standards:

(1) Location.

- a. Special events that do not require the use of public right-of-way shall be conducted on private property in a commercial or manufacturing zoning district, except that non-profit organizations may conduct special events on any property where the owner has granted permission.
- b. For all special events that require the use of public right-of-way, the permit granted shall clearly specify the streets to be used for the event and the time that the streets will be closed, if applicable.

(2) Land-use compatibility.

The special event shall be compatible with adjacent land uses. The special event shall not impair the normal, safe and effective operation of a permanent use on the same site. The special event shall not endanger or be detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the special event, taking into consideration, among other things, the nature of the special event, its location on the site and its relationship to parking and access points.

(3) Compliance with other regulations.

- a. Compliance with the Building Code: All structures shall meet all applicable provisions of the Building Code. Any temporary structure shall be promptly removed upon the cessation of the event. Within forty-eight (48) hours of cessation of the event, the site shall be returned to its previous condition, including the removal of all litter, signage, attention-attracting devices or other

evidence of the special event. If the site is not returned to its previous condition, the City may restore the site at the event coordinator's expense.

- b. Compliance with the Fire Code. All special events shall meet all applicable provisions of the Fire Code and Life Safety Code. A Public Safety Plan is required for any indoor or outdoor gathering of persons that has an adverse impact on public safety, including but not limited to diminished access to buildings, structures, fire hydrants or fire apparatus access roads, or where the gathering adversely affects public safety services of any kind.

The Fire Chief or his designee shall be consulted for the following requirements and inspections as necessary:

1. All temporary cooking operations.
 2. A fire department access road a minimum of 20 feet in width and 13.6 feet in height shall be provided to within 150 feet of all structures and on at least on two sides of all two-story structures within 500 feet of the special event, unless the Fire Chief or his designee approves otherwise.
 3. A minimum of five (5) feet of clearance shall be provided around all fire hydrants within the event area and shall be accessible from the fire department access road(s).
 4. Open burning, recreational fires and portable outdoor fire places shall not be permitted without approval of the Fire Chief or his designee.
 5. Fire extinguishers shall be sized and placed as determined by the Fire Chief or his designee.
 6. All temporary electrical wiring for the special event shall meet the requirements of the National Electrical Code.
 7. A Fire Watch shall be maintained during the event. For purposes of this section, "Fire Watch" means a temporary measure intended to ensure continuous surveillance of an event or portion thereof by one or more qualified individuals for the purpose identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the fire department.
- c. Environmental Impacts: The special event shall not generate excessive noise, dust, smoke, glare, spillover lighting or other forms of environmental or visual pollution, unless specifically authorized by the permit.
 - d. Area of parking lot dedicated to outdoor special events: No more than ten (10) percent of the parking stalls required for the structure associated with the parking lot in which the special event occurs shall be permitted to be used for a special event. Regardless of how many stalls are occupied by the special event,

no special event that occurs in the parking lot for a permanent structure may cause a parking shortage for primary and accessory uses associated with that structure.

- e. Public Damage: No spikes, nails, anchors or other devices shall be driven into any public street, sidewalk or parking lot surface or into any existing concrete or asphalt. Such devices may be used on private parking lots provided any damage resulting therefrom is repaired upon cessation of the event and removal of the devices.
- f. City Services: If the applicant requests that City provide services or equipment, including but not limited to traffic control or security personnel, or if the City otherwise determines that services or equipment are required to protect the public health, safety, or general welfare, the applicant shall reimburse the City for the cost of the services, according the schedule of fees adopted by the City.

16-303. Operating Regulations.

(1) The operator(s) of all Special events at which alcohol, or food is served, inflatable amusement devices are used, goods or services are sold, fireworks are used, or bonfires are lit, must also obtain all required licenses, approvals, and permits for such activities. A special event is also subject to the following:

- a. Signage
 - a. A Main Event Sign on the premises of the event may not be larger than 100 Square feet
 - b. Off Premise Directional signs must receive the approval of the City as to location and number, and no such sign may be larger than 32 square feet
 - c. Any internal signage for vendors, directional signage for parking, or sponsorship signage may be no larger than 32 square feet, and must be oriented to be visible primarily to the special event participants.
- b. Vendors
 - a. All vendors must obtain all required state and local licenses, including but not limited to health, business licenses, as well as tax identification numbers.
 - b. Vendors must be at the special event primarily to serve the participants.
 - c. Vendors may operate only during the operating hours of the event.

16-304. Criteria for Approval. All applications for a special event permit shall be submitted to the Special Events Coordinator appointed by the City Director of Planning and Development, and shall be reviewed and acted upon by a Special Events

Committee (hereinafter referred to as the “Committee”) of no fewer than 9 members, appointed by the City Administrator.

(1) When reviewing a request for a special event permit, the Committee may establish any additional conditions deemed necessary to ensure compatibility with adjacent land-uses and to minimize potential adverse impacts on nearby uses, including but not limited to the following:

- a. Limitations on signs.
- b. Temporary arrangements for parking and traffic circulation.
- c. Requirements for screening/buffering and guarantees for site restoration and cleanup following the special event.
- d. Modifications or restrictions on the hours of operation, duration of the event, size of the event or other operational characteristics.
- e. The provision of traffic control or security personnel to ensure the public safety and convenience.

(2) The Committee shall have the right to deny a special event permit for any reason whatsoever deemed sufficient by the Committee, including but not limited to: fraud, incompleteness of application, conflicts in time and location with other special events, timing of the event, location of the event, problems with past events by the same applicant or group represented, potential damage to public property, disapproval of site owner or property owners, potential harm to the public, noise, potential abuse of animals, lack of sanitary facilities for waste, site incapacity to handle crowds, disruptions to adjacent businesses by blocking of access to facilities, or any other unsafe conditions.

(3) The Special Events Committee may waive the requirements of municipal ordinances that would unduly interfere with the special event. Such waivers will be enumerated on the permit at the time of issuance, along with any stipulated conditions.

16-305. Fees and Deadlines.

(1) All applications must be completed 60 calendar days prior to the start of the event. Applications shall be submitted on-line with all required questions answered and submittals provided. Any application submitted less than 60 days prior to the event will be subject to a late fee. No application submitted 15 days or less from the start of the event will be considered.

(2) A Non-refundable application of \$100 must be submitted with the completed application. A late fee of \$100 will be assessed for any application submitted less than 60 days prior to the event. If the primary sponsor of the event is an organization

exempt from tax under Section 501 of the Internal Revenue Code, \$100 of the applicable fees may be waived.

(3) Upon review of the permit application, the Committee will determine the appropriate charges for the required City services, if any. The total of such charges must be paid prior to the issuance of the Permit.

(4) If the event is cancelled at least to 15 days prior to the event, any charges paid to the City for services not provided will be refunded.

16-306. Co-Sponsorship.

(1) Upon approval by the Board of Mayor and Aldermen, the City may co-sponsor events, including but not limited to events sponsored by the Sevierville Chamber of Commerce or the Sevierville Commons Association, or events sponsored by Sevier County when County events are held around Courthouse Square.

(2) If an event is co-sponsored by the City, some or all of the applicable fees and charges may be waived by the Committee in exchange for the prominent display of the City's logo on all advertising, or upon such other terms and conditions as the Committee may determine.

16-307. Liability. Special event permit recipients must show proof of liability insurance at time of application, in an amount and in a form satisfactory to the City's Risk Manager. If the special event is to take place on public property, said certificate of insurance shall name the City as an additional insured in an amount determined by the City Risk Manager based on the nature of the special event.

16-308. Review and Appeal Process.

(1) All completed applications will be certified as complete by the Special Events Coordinator and submitted to the Committee, as designated by the City Administrator, for review, comment and approval.

(2) The Committee may approve a permit, deny a permit, or approve it with conditions. An appeal from the decision of the Committee is to the Planning Commission, which shall consider the matter according to its usual procedures.

(3) The provisions of this Chapter shall govern special events as defined herein. Any provisions of the Sevierville Municipal Code inconsistent with the provisions of this Chapter shall be deemed to not apply to special events as defined in and regulated by this Chapter.

16-309. Penalty for Non-Compliance. Any person violating any provision of this Chapter shall be subject to a fine of not more than fifty dollars (\$50.00) for each violation. In addition, violators may be denied permits for future special events. The City may also maintain an action in any court of competent jurisdiction for recovery of all damages suffered by the City as a result of said violations.

APPROVED: _____
Bryan C. Atchley, Mayor

ATTEST:

Lynn K. McClurg, City Recorder

Passed on *1st reading*: 1/22/2018

Passed on *2nd reading*:

Passed on *3rd reading*:



Board Memorandum

DATE: February 5, 2018

AGENDA ITEM: **Ordinance O-2018-003 – 2nd reading -**
Consider approval of amendments to the City of Sevierville Zoning Ordinance

RESPONSIBILITY: Pamela Caskie, Development Director

PRESENTATION: In March 2017, the Planning Commission directed the Staff to incorporate the language prepared in consultation with the Sevierville Commons Association for the Downtown area currently zoned C-1 and to rename it Town Center. In subsequent Planning Commission meetings, staff received approval and direction to reformat the ordinance to make it simpler to edit and to use for development purposes. The results of those efforts have been reviewed by the Planning Commission over the past 3 months and letters were sent to all affected property owners. Comments were received at Planning Commission and adjusted accordingly. The ordinance is now ready for approval and adoption by the Board of Mayor and Alderman. The full text of the ordinance may be found at:
<http://gis.seviervilletn.org/documents/seviervillezoning.pdf>
and a proposed map [by clicking here](#).

REQUESTED ACTION: Passage of the amendments to the Zoning Ordinance and Zoning Map

ORDINANCE NO. O-2018-003

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF
THE CITY OF SEVIERVILLE, TENNESSEE TO INCLUDE A TOWN CENTER
ZONING DEFINITION, USES, STANDARDS, AND MAP DEFINITION AND TO
REFORMAT THE ORGANIZATION OF THE EXISTING ORDINANCE**

WHEREAS, the Tennessee Code Annotated (TCA), Section 13-7-201, grants municipalities the authority to adopt zoning requirements for the purposes of the public health, safety, morals, convenience, order, prosperity, and general welfare; and

WHEREAS, Sections 13-7-202 through 204 of the TCA provide for the regulation of buildings, structures, and land according to zoning district, and to amend zoning requirements according to certain procedures; and

WHEREAS, this ordinance is an amendment to the zoning code intended to enhance the public safety and convenience, and

WHEREAS, this ordinance incorporates language providing for a new Town Center (TC) designation, provides associated uses, standards, and mapping, and

WHEREAS, the ordinance reformats the organization and style of the existing language without change to the underlying wording, principles, meaning or intent

NOW THEREFORE:

BE IT ORDAINED, by the BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SEVIERVILLE, TENNESSEE, that:

Section 1. The document presented to the Board of Mayor and Alderman entitled Zoning Ordinance, 2018 shall replace the existing ordinance entitled Sevierville Zoning Ordinance and be hereas known as the Sevierville Zoning Ordinance

Section 2. The Zoning Ordinance shall incorporate a zone identified as Town Center Zoning and designated on the map as TC. All requirements, uses, standards, definitions and map delineations shall replace the requirements of the Central Business District (C-1) currently identified.

Section 3. The Map attached to the ordinance shall be incorporated herein by reference and properties so included in this TC shall be rezoned in accordance with Section 1204.

Section 4. This ordinance shall become effective five (5) days from and after its final passage, the public welfare requiring it.

APPROVED: _____
Bryan C. Atchley, Mayor

ATTEST:

Lynn K. McClurg, City Recorder

Passed on 1st reading: 1/22/2018

Passed on 2nd reading:

Passed on 3rd reading:



Board Memorandum

DATE: February 5, 2018

AGENDA ITEM: Approval of expenditure for the bi-annual employee survey

RESPONSIBILITY: Tracy Baker, Assistant City Administrator

PRESENTATION: We have alternated conducting the National Citizen and Employee Surveys since 2013. This will be the third year for the Employee Survey, which is conducted by the National Research Center in conjunction with the International City Management Association. For a fee of \$7,255, the service will include an online and paper survey to be completed anonymously by employees, assessment of the results, and a detailed comparative report at the conclusion of the survey.

REQUESTED ACTION: Approval of expenditure of \$7,255 for the employee survey.



NRC
National Research Center Inc

2955 Valmont Road
Suite 300
Boulder, CO 80301
T: (303) 444-7863
F: (303) 444-1145

Invoice

Date	Invoice No.
January 19, 2018	6671

Bill to:
Tracy Baker City of Sevierville Sevierville, TN 865-868-0910

Terms
Net 30 days

Description	Amount
The National Employee Survey Basic Service	\$6,255.00

TOTAL	\$6,255.00
--------------	-------------------

If payment is not received within 30 days, National Research Center, Inc. reserves the right to charge an additional fee of 3% of the total invoiced amount on any late payments. This policy helps keep costs low for clients that pay in a timely fashion.



Board Memorandum

DATE: February 5, 2018

AGENDA ITEM: Request Approval for Annual Preventative Maintenance Contract for AED's and Heart Monitors throughout the City of Sevierville from Zoll Medical Corporation, a Sole Source Provider.

RESPONSIBILITY: Matt Henderson, Fire Chief

PRESENTATION: Requesting approval to allow Zoll Medical Corporation do yearly maintenance on 17 AED Plus units, 1 AED Pro contract price of \$ 3,510.00 and Warranty and Maintenance on 4 Zoll X Series and 4 Zoll M Series Heart Monitor Defibrillators in the amount of \$ 4,463.25. Total cost is \$ 7,973.25. This is a budgeted item.

REQUESTED ACTION: Recommend approval.



PREVENTIVE MAINTENANCE CONTRACT

Sevierville Fire Department (Customer # 7045)

ZOLL Medical Corporation

269 Mill Road
Chelmsford, MA 01824-4105
(978) 421-9655 Main
(800) 348-9011
(978) 421-0022 Fax

Attn: Benny Pickens (865) 453-9276 / bpickens@seviervilletn.org

Bill To: Sevierville Fire Department

P.O. Box 5500
Sevierville, TN 37862

Ship To: Sevierville Fire Department

120 Gary Wade Boulevard
Sevierville, TN 37862

From: Ken Massone

Senior Service Contracts Representative
(978) 421-9587 / kmassone@zoll.com

QUOTATION: 00023327

Quote Date: January 29, 2018
Quote Pricing: Valid for 60 Days

PM Contact: -

AED Plus

Part No	Description	Contract Dates	Qty	Price	Adj. Price	Ext. Price
8889-7000	Preventive Maintenance after Equipment Sale - ZOLL AED Plus Once an order for Preventive Maintenance is placed, ZOLL Technical Support Contracts Department will contact the customer to arrange the shipment of a loaner unit to the customer's facility for return of customer's unit or at ZOLL's discretion, send a ZOLL certified Biomed Technician on site. Serial Number(s): X02H004087, X08A142461, X13F606124, X13F606153, X13F606362, X14F685505, X16J868363, X17B901137, X17C906182, X17F927944, X17F928071, X17F928106, X17H948074, X17H948117, X17H948144, X17H948154 & X17H948166	03/01/2018 to 02/28/2019	17	\$195.00	\$195.00	\$3,315.00

AED Pro

Part No	Description	Contract Dates	Qty	Price	Adj. Price	Ext. Price
8889-7000	Preventive Maintenance - ZOLL AED Pro Once an order for Preventive Maintenance is placed, ZOLL Technical Support Contracts Department will contact the customer to arrange the shipment of a loaner unit to the customer's facility for return of customer's unit or at ZOLL's discretion, send a ZOLL certified Biomed Technician on site. Serial Number(s): AA06L004746	03/01/2018 to 02/28/2019	1	\$195.00	\$195.00	\$195.00

TOTAL: \$3,510.00

COMMENTS:

1. Applicable tax will be added at the time of invoicing.
2. Payment terms are Net 30.

TERMS & CONDITIONS: See Preventive Maintenance Terms and Conditions attached hereto.

ZOLL Medical Corporation

Signature: _____

Name: Ken Massone

Title: Senior Service Contracts Representative

Date: _____

Sevierville Fire Department

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

ZOLL Medical Corporation
PREVENTIVE MAINTENANCE CONTRACT for Sevierville Fire Department

Quote No:00023327

Preventive Maintenance Terms and Conditions

1. Preventive maintenance ("PM") will be invoiced upon ZOLL's receipt of quote with an authorized signature (the "PM Contract") and, if available, a purchase order.
2. Any PMs that remain unused as of the end of a one-year PM contract will be forfeited and no monies will be refunded to the customer. Any PMs that remains unused as of the end of the initial term of the Multi-year PM Contract will automatically roll over into the next year of the PM Contract. Any PMs that remains unused as of the end of the second and subsequent years of the PM Contract, will be forfeited and no monies will be refunded to the customer.
3. If the customer purchases new ZOLL equipment, unused PMs will be transferred to the new equipment at the end of the factory warranty.
4. If ZOLL determines during the course of performing PM that a repair is required and the device is not covered under warranty, ZOLL will request customer authorization in order to repair the device.
5. Upon the customer's request, a loaner will be provided free of charge pursuant to ZOLL's Loaner Policy. The loaner will be provided for use while the device is being serviced by ZOLL.
6. It is the customer's responsibility to ensure devices covered by the PM Contract are available for Preventative Maintenance at the scheduled times.

**EXTENDED WARRANTY & PREVENTIVE MAINTENANCE CONTRACT****Sevierville Fire Department (Customer # 7045)****ZOLL Medical Corporation**

269 Mill Road
 Chelmsford, MA 01824-4105
 (978) 421-9655 Main
 (800) 348-9011
 (978) 421-0022 Fax

Attn: Benny Pickens (865) 453-9276 / bpickens@seviervilletn.org**Bill To:** Sevierville Fire Department

P.O. Box 5500
 Sevierville, TN 37862

Ship To: Sevierville Fire Department

120 Gary Wade Boulevard
 Sevierville, TN 37862

From: Ken Massone

Senior Service Contracts Representative
 (978) 421-9587 / kmassone@zoll.com

QUOTATION: 00023326

Quote Date: January 11, 2018
 Quote Pricing: Valid for 60 Days

PM Contact: -**X Series**

Part No	Description	Contract Dates	Qty	Price	Adj. Price	Ext. Price
8889-0001	1 Year Extended Warranty - ZOLL X Series Includes: Discounts of 20% on new cables, 25% on lithium SurePower Batteries, 50% on Sealed Lead Acid Batteries. Shipping and use of a Service Loaner during repairs, no charge shipping. Extended warranty is a continuation of the EMS One Year Product Limited Warranty. Serial Number(s): AR14F008707 & AR14I009979	03/01/2018 to 02/28/2019	2	\$1,145.00	\$1,087.75	\$2,175.50
8889-1991	1 Year, 1 Preventive Maintenance Per X Series PM pricing is based on purchase of the extended warranty. It is the customers responsibility to ensure covered equipment is available for service at scheduled times within the term. Serial Number(s): AR14F008707 & AR14I009979	03/01/2018 to 02/28/2019	2	\$230.00	\$230.00	\$460.00

M Series

Part No	Description	Contract Dates	Qty	Price	Adj. Price	Ext. Price
8889-0001	1 Year Extended Warranty - ZOLL M Series Includes: Discounts of 20% on new cables, 25% on lithium SurePower Batteries, 50% on Sealed Lead Acid Batteries. Shipping and use of a Service Loaner during repairs, no charge shipping. Extended warranty is a continuation of the EMS One Year Product Limited Warranty. Serial Number(s): T08G104536	03/01/2018 to 02/28/2019	1	\$1,145.00	\$1,087.75	\$1,087.75
8889-1991	1 Year, 1 Preventive Maintenance Per M Series Notes: PM pricing is based on purchase of the extended warranty. It is the customers responsibility to ensure covered equipment is available for service at scheduled times within the term. Serial Number(s): T08G104536	03/01/2018 to 02/28/2019	1	\$230.00	\$230.00	\$230.00
8889-000011	1 Year, 1 Preventive Maintenance Per M Series Once an order for Preventive Maintenance is placed, ZOLL Technical Support Contracts Department will contact the customer to arrange the shipment of a loaner unit to the customer's facility for return of customer's unit or at ZOLL's discretion, send a ZOLL certified Biomed Technician on site. Serial Number(s): T01B19952 & T05K75097	03/01/2018 to 02/28/2019	2	\$255.00	\$255.00	\$510.00

TOTAL: \$4,463.25**COMMENTS:**

1. Applicable tax will be added at the time of invoicing.
2. Payment terms are Net 30.
3. 5% Multi-Unit Discount.



EXTENDED WARRANTY & PREVENTIVE MAINTENANCE CONTRACT

Sevierville Fire Dept (Customer # 7045)

Quote No: 00023326 Continued

ZOLL Medical Corporation

269 Mill Road
Chelmsford, MA 01824-4105
(978) 421-9655 Main
(800) 348-9011
(978) 421-0022 Fax

ZOLL Medical Corporation

Signature: _____

Name: Ken Massone

Title: Senior Service Contracts Representative

Date: _____

Sevierville Fire Department

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

ZOLL Medical Corporation
EXTENDED WARRANTY & PREVENTIVE MAINTENANCE CONTRACT for Sevierville Fire Department

Quote No:00023326

Preventive Maintenance Terms and Conditions

1. Preventive maintenance ("PM") will be invoiced upon ZOLL's receipt of quote with an authorized signature (the "PM Contract") and, if available, a purchase order.
2. Any PMs that remain unused as of the end of a one-year PM contract will be forfeited and no monies will be refunded to the customer. Any PMs that remains unused as of the end of the initial term of the Multi-year PM Contract will automatically roll over into the next year of the PM Contract. Any PMs that remains unused as of the end of the second and subsequent years of the PM Contract, will be forfeited and no monies will be refunded to the customer.
3. If the customer purchases new ZOLL equipment, unused PMs will be transferred to the new equipment at the end of the factory warranty.
4. If ZOLL determines during the course of performing PM that a repair is required and the device is not covered under warranty, ZOLL will request customer authorization in order to repair the device.
5. Upon the customer's request, a loaner will be provided free of charge pursuant to ZOLL's Loaner Policy. The loaner will be provided for use while the device is being serviced by ZOLL.
6. It is the customer's responsibility to ensure devices covered by the PM Contract are available for Preventative Maintenance at the scheduled times.

ZOLL Medical Corporation
EXTENDED WARRANTY & PREVENTIVE MAINTENANCE CONTRACT for Sevierville Fire Department

Quote No:00023326

Extended Warranty Terms and Conditions

1. The ZOLL Extended Warranty ("EW") extends the term of ZOLL's Factory Warranty by the number of years selected by the customer. EW coverage commences upon the expiration of the Factory Warranty, and is subject to the terms and conditions contained in the Factory Warranty. The EW does not apply to accessories.
2. The price of the EW will be invoiced upon ZOLL's receipt of quote with an authorized signature from the customer and, if available, a purchase order from the customer.
3. The EW is not transferrable and cannot be cancelled. However, if the customer replaces equipment covered by an EW with new ZOLL equipment, upon customer's request, the remaining time under the EW will be transferred to the new equipment at the end of the factory warranty. All requests to transfer the remaining balance of an EW must be submitted in writing to the ZOLL Service Contracts department within 60 days of date of shipment of new equipment. Failure to submit EW transfer request will result in the forfeiture of remaining EW.
4. If the customer has a claim under an EW, customer must call the ZOLL Help Desk (800-348-9011) to arrange for a Return Authorization in advance of sending the unit for evaluation at ZOLL Headquarters.
5. All repairs are performed at ZOLL headquarters in Chelmsford, MA. If a unit needs to be repaired, upon the customer's request, a loaner will be provided free of charge pursuant to ZOLL's Loaner Policy.
6. If no claims are made under the EW during the EW period, the purchase price of the EW is not refundable.



Board Memorandum

DATE: February 5, 2018

AGENDA ITEM: Agreement between City/Smoky Mountain Home for Children (SMHC) and Stars Futbol Club

RESPONSIBILITY: Bob Parker-Director of Parks and Recreation

PRESENTATION:

For the past several years there has been two agreements between the City/SMHC/FC Alliance for providing soccer at the SMHC.

Over the past couple of years changes have occurred which have resulted in the need to consider streamlining this arrangement to one agreement. The local soccer group is no longer affiliated with FC Alliance and the SMHC business model has changed as well.

All parties have agreed to the needed changes and attached is the proposed Agreement that has been provided by the City Attorney that meets everyone's goals based on today's situation.

REQUESTED ACTION:

Approval of Agreement as presented:



AGREEMENT

This Agreement is made effective January 8, 2018, by and among the City of Sevierville, Tennessee (the "City"), Starz Futbol Club ("Starz FC"), a Tennessee non-profit corporation, and the Smoky Mountain Children's Home ("SMCH").

WHEREAS, the City, Starz FC and SMCH desire to establish the terms and conditions under which SMCH will allow Starz FC to use soccer fields located on SMCH property for practices and private lessons under the management and supervision of the City, and under which the City will maintain and mow two soccer fields located on SMCH property for said purposes.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the parties have agreed as follows:

1. **Scheduling.** Starz FC shall submit to the City's Director of Parks and Recreation (the "Director") a proposed schedule of use of the soccer fields, including a detailed schedule for each date, setting beginning and ending times. The schedule shall be submitted 30 days in advance of any scheduled activity, in order to allow the City to plan adequate security for the activities on the schedule, in consultation with Starz FC. The schedule shall be subject to approval by SMCH administration and shall not be changed without advance approval by SMCH administration. No games or tournaments shall be played on the two soccer fields covered by this Agreement, except for practice scrimmages between Starz FC and other teams. SMCH soccer fields shall be used for soccer practices and private lessons only, all of which must be included in the final schedule agreed on by the parties. No proposed activities shall take place unless approved by the Director and SMCH. Starz FC shall provide to the City and SMCH the name and contact information for a person who shall serve as the contact between Starz FC and SMCH.
2. **Security.** Starz FC shall provide staff personnel who shall cooperate with City Parks and Recreation staff to enforce security and parking standards. Starz FC staff shall follow all instructions given by City staff. City Staff may contact a City Police Officer if necessary to oversee security at any event. In the sole discretion of the Police Officer, the Director, or the Director's designee, the event may be canceled and all persons may be required to leave the premises if necessary for the safety or security of persons at the event or the safety or security of SMCH property. Starz FC shall advise persons visiting the premises for soccer related purposes that they are not permitted to drive motor vehicles through the SMCH campus for any reason.
 - A. Starz FC shall be responsible for the daily management and administering of the security plan on SMCH property. The Security Plan is attached hereto as Exhibit A and incorporated by reference herein.
3. **Codes of Conduct.** Starz FC personnel and all participants in events shall at all times follow all Starz FC Codes of Conduct and the City of Sevierville Code of Conduct,



and shall at all times obey all instructions given by City Police Officers providing security for the event. The City Police Officer or his designee in charge of security at an event may, in the Officer's or designee's sole discretion, order any participant or other person to leave the premises if the Officer or designee deems it necessary for the safety or security of any person at the event or the safety or security of SMCH property. A copy of the City Code of Conduct is Exhibit B hereto and incorporated by reference herein.

4. **Maintenance of Grounds.** The City shall be responsible for general maintenance of the soccer fields from March 1 through October 31, 2018. For purposes of this Agreement, "general maintenance" includes, but is not necessarily limited to, having fields mowed and grounds maintained regularly, removal of all trash or waste related to soccer activities, and preparing fields for soccer events. Starz FC shall reimburse the City of Sevierville Department of Parks and Recreation at the fixed amount of One Thousand Dollars (\$1000) for general maintenance during the term of this Agreement.
5. **Insurance.** Starz FC shall carry at its own expense general liability insurance, including coverage for bodily injury and property damage. The minimum limits of general liability insurance for bodily injury, including death, and property damage shall be \$1,000,000 combined single limit. Such insurance will be for the joint benefit of the City and Starz FC, and shall name the City and SMCH Additional Insureds. All such policies shall provide that the City shall be given at least 30 days' notice of cancellation. This Agreement shall not become effective until Starz FC has furnished the City satisfactory proof of such insurance.
6. **Indemnification.** Regardless of insurance, Starz FC shall indemnify and save the City free and harmless of any and all claims, actions, damages, expenses (including without limitation reasonable attorneys' fees) and liability whatsoever arising out of or in any way connected with injury (including death) or property damage to any person, firm, corporation or other entity, including the City, arising directly or indirectly from the use or occupancy of the SMCH property, or any part thereof, by Starz FC, its agents, contractors, employees, invitees, event participants and spectators.
7. **Relationship of the Parties.** The provisions of this Agreement are not intended to create, and shall not be deemed or construed to create, any joint venture, partnership or other relationship between the City and Starz FC, other than that of independent entities contracting with each other solely for carrying out the provisions of this Agreement. Neither of the parties to this Agreement, nor any of their respective employees, agents, or other representatives, shall be deemed to be the agent, employee, or representative of the other party. Neither party shall have the authority to bind the other party, nor shall a party be responsible for the acts or omissions of the other party, except as otherwise provided in this Agreement.
8. **Term of Agreement/Termination.** This Agreement shall begin on March 1, 2018 and end October 31st, 2018. The City, Starz FC or SMCH may, in its sole discretion,



terminate this Agreement at any time. Termination shall become effective when notice is sent by the either party in any manner reasonably calculated to give notice to all parties; including but not limited to oral notice given in person or via telephone, and written notice delivered in person, by e-mail or by United States mail. Notice sent by United States mail shall be deemed received on the third day after mailing.

9. **Entire Agreement.** This Agreement contains the entire Agreement of the parties regarding the subject matter of this Agreement, and there are no other promises or conditions in any other agreement whether oral or written.
10. **Waiver.** No failure or delay by the City in exercising any of its rights under this Agreement shall prevent the City from later exercising that right.
11. **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that nay provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
12. **Amendment.** This Agreement may be modified or amended only if made in writing and signed by both parties.
13. The City Parks and Recreation Department requires all parent/youth organizations that contract with the city for use of facilities owned or leased are required to follow certain administrative requirements: Starz FC agrees to the following:
 - A. **Starz FC will:** Agree to follow the Inclement Weather Policy set forth in Exhibit C hereto.
 - B. **Starz FC will:** Provide the City of Sevierville with a proof of Liability Insurance as noted in this Agreement, with the City named as an additional insured.
 - C. **Starz FC will:** Maintain litter and cleanup around all fields used and will place litter in trash bags in the containers provided.
 - D. **Starz FC will:** Require all coaches and volunteers to provide a 24-hour notice of any cancellation or any changes to any game or practice schedule.
 - E. **Starz FC will:** End all practices during school nights (Mon-Friday) by sunset of same day.
 - F. **Starz FC will:** Hire and/or contract with a third-party vendor that is approved by the City Police Department to conduct and insure background checks are completed on every staff member or volunteer that is either on the field or in the concession stand and provide the City with a list of approved staff members and volunteers. Such background checks will check for a minimum of the following: Sex Offenses/Felony Violence/Misdemeanor Drug and Alcohol Offenses.
 - G. **Starz FC will:** Provide proof of coach's certifications for at least one (1) head coach and one (1) assistant coach from each team.



- H. **Starz FC will:** Require each volunteer to sign the City Code of Conduct, a copy of which is Exhibit B hereto.
- I. **Starz FC will:** Complete training as directed by the State of Tennessee Department of Health of coaches and umpires as required in Tennessee Code Annotated sec. 68-55-501, et. seq. and certify to the City in writing that said training has been completed.
- J. **Starz FC will:** Direct and require all players, volunteers and spectators to use the restrooms located at the Sevierville City Park, which are the designated restrooms for the soccer facility and which meet all ADA requirements.

THE CITY OF SEVIERVILLE,
TENNESSEE

STARZ FUTBOL CLUB

By: _____
Bryan C. Atchley, Mayor

By: _____

Attest: _____
Lynn K. McClurg, City Recorder

Its: _____

Smoky Mountain Home for Children

By:  1-18-18

Its: Director of Business & Records

Security Plan

City of Sevierville
SMCH
FA Alliance



Entrance and Exit Road for all Soccer Activities

Alternate Parking Lot

Smokey Mountain Children's Home

CONNIE HUST

Soccer Users are not allowed to enter or exit on Connie Huston Street for any reason

Mowing Footprint will not exceed (2) two soccer fields

Gate constructed in existing fence

Designated ADA Restroom

City Park

Parking at City Park

Alternate parking at City Park



CITY OF SEVIERVILLE INCLEMENT WEATHER POLICY

1. Lightning: when anyone sees lightning, clear the fields for 30 minutes. If lightning continues, the 30-minute rule continues. Players and coaches must be either in a vehicle or a substantial building if lightning is present. Dugouts, picnic shelters, and open wall buildings are not safe and are not to be used as shelter from lightning.
2. Other Dangerous Weather: The City of Sevierville reserves the right to pause or halt (stop) any activity / playing when dangerous weather is present.
3. Wet Conditions: the Recreation Supervisor / City Official present prior to or during the game will make the decision of when or if to play due to wet conditions. The Recreation Supervisor / City Official will then inform the league official of the decision.

This policy was created in order to provide a safe playing environment while maintaining a quality playing facility.

Address: 120 Gary Wade Boulevard, Sevierville, TN 37862
Voice: (865) 868-1896 Fax: (865) 428-2560



Board Memorandum

DATE: February 5, 2017

AGENDA ITEM:

Agreement Between City and Smoky Mountain Youth Baseball Association (SMYBA)

RESPONSIBILITY: Bob Parker-Director of Parks and Recreation

PRESENTATION:

Attached please find the proposed Agreement between the City and SMYBA for providing a Youth Baseball/Softball Program on City Facilities for 2018. The City Attorney has reviewed this agreement.

REQUESTED ACTION:

Approved as presented:



City of Sevierville-Department of Parks and Recreation
Agreement

This Agreement made and entered as of the 5th day of February 2018, by and between the City of Sevierville, through its Department of Parks and Recreation, hereinafter called CITY, and Smoky Mountain Youth Baseball Association, herein after referred to as UTILIZER. UTILIZER acknowledges and agrees that it is not a successor in interest to Greater Sevierville Little League, a dissolved Tennessee corporation, and that UTILIZER is not entitled to any rights or benefits under any agreement that may have existed between CITY and Greater Sevierville Little League.

For and in consideration of the terms and conditions contained herein, the parties agree as follows:

1. Subject to the terms and conditions contained herein, and of the Sub-Agreement which is attached hereto, CITY shall allow UTILIZER to use the following facilities of the City as per the approved daily schedule: City Park, Fields #1, #2 #3, #4 & #5; Northview Park Fields #1 #2; Baseball Field at J.B. Waters Park in Love Addition; and Storage Rooms in Concession Building at City Park during the days, dates, and times agreed upon and approved by the Department of Parks and Recreation for the period February 3, 2016 through October 31, 2018.

2. CITY shall not be liable to UTILIZER, or any of its participants, spectators, or any third party for any injury, damage, or claim whatsoever arising out of or related to baseball games, practices, or other events conducted by UTILIZER. UTILIZER assumes all liability for all such claims, including but not limited to claims for personal injuries, death, or property damage that any person, spectator, or participant sustains while participating in or viewing a baseball game, practice, or other event conducted by UTILIZER.

UTILIZER agrees to carry at its/their own expense general liability insurance (including coverage for bodily injury and property damage). Minimum limits of the liability insurance are \$1,000,000 for each occurrence. Such insurance shall be for the joint benefit of CITY and UTILIZER and shall name CITY as an additional insured. All such policies shall provide that CITY shall be given at least thirty (30) days' notice of cancellation. This Agreement shall not become effective until UTILIZER has furnished CITY satisfactory proof of such insurance. If the insurance lapses for any reason, CITY, in its sole discretion, may terminate this Agreement without any liability or obligation to UTILIZER.

Regardless of said insurance, UTILIZER shall indemnify and save CITY free and harmless from any and all claims, actions, damages, expenses (including without limitation reasonable attorneys' fees) and liability whatsoever arising out of or in any way connected with injury (including death) or property damage to any person, firm, corporation, or other entity, including CITY, arising directly or indirectly from the use or occupancy of the premises described in this Agreement or any part thereof by UTILIZER, its agents, sub-lessees, assigns, contractors, employees, invitees, and spectators.

3. UTILIZER shall pay to CITY for use of the facilities, the amounts set forth below at the times set forth below:

Amount Owed: \$0.00



City of Sevierville-Department of Parks and Recreation
Agreement

Method of Payment: NA

4. UTILIZER and all participants and spectators shall vacate the utilized facility within fifteen (15) minutes after the conclusion of the activity. (See Sub-Agreement-relating to when games must end on school nights).

5. CITY may cancel this Agreement at any time upon giving UTILIZER fifteen (15) days written notice.

6. CITY reserves the right to close any facility at any time in the event any condition exists that CITY determines makes it inappropriate for UTILIZER to use the facility.

7. UTILIZER agrees and acknowledges that CITY has priority of use over the facilities that are the subject of this Agreement and that in the event CITY determines that it wishes to use a facility at a time or times when UTILIZER has scheduled use of same, UTILIZER's use may be cancelled by CITY's giving UTILIZER notice either in writing or in person, not less than three (3) days in advance of UTILIZER's scheduled use of the facility.

8. In the event UTILIZER will not be using a facility, subject to this Agreement, UTILIZER shall notify CITY 24 hours in advance of the scheduled use, either in person or in writing, that the facility will not be used. If UTILIZER fails to give such notice, UTILIZER, in addition to any other fees provided for herein, shall pay CITY Fifty Dollars (\$50.00) as liquidated damages.

9. CITY shall make all final decisions regarding the scheduling and playability of the facilities. UTILIZER is responsible for submitting a written practice schedule to CITY one week prior to the first practice of the season. CITY will provide a written game schedule for every league once registration and teams are formed.

10. UTILIZER will allow the Parks and Recreation Department to appoint a staff member to serve on UTILIZER's Board of Directors or similar body as some ex-officio, non-voting member.

11. UTILIZER shall indemnify CITY and hold CITY harmless from any claims of any taxing authority for any form of taxation that may apply to UTILIZER's activity about its use of CITY's facilities.

12. UTILIZER agrees to all terms of the Sub-Agreement to operate a Youth Baseball and Softball Program between the City of Sevierville and the Smoky Mountain Youth Baseball Association, attached hereto.

13. This Agreement shall be binding upon the heirs, administrators, successors, and assigns of the parties hereto. UTILIZER's rights and obligations under this Agreement may not be assigned without prior written approval of CITY, which may be withheld in CITY's sole discretion.

14. Field user groups must follow Tennessee Code Annotated Title 68, Chapter 55, Part 5, relating to concussions, applying to both public and private schools and community recreational leagues, covering all sports, for children under the age of 18 that require a participation fee.



City of Sevierville-Department of Parks and Recreation
Agreement

15. Field user groups must follow Tennessee Code Annotated Title 68, Chapter 6, the Sudden Cardiac Arrest Prevention Act applying to both public and private schools and community recreational leagues, covering all sports, for children under the age of 18 that require a participation fee.

In witness whereof, the parties have here unto set their hands effective the day and date first above written.

CITY CONTACT PERSON

Print Name

200 Gary Wade Boulevard
Sevierville, TN 37862
Phone: (865) 453-5441

CITY OF SEVIERVILLE:

BY: _____
Signed by duly authorized signatory

Type name and title of signatory

UTILIZER/SMYBA:

(TYPE NAME)

BY: _____
Signed by duly authorized signatory

Type name and title of signatory

Type address of UTILIZER:

Phone number(s): (Home) _____
(Cell) _____

E-mail: _____



City of Sevierville-Department of Parks and Recreation
Agreement

Sub- Agreement to Operate a Youth Baseball / Softball Program
**Between the City of Sevierville Department of Parks and Recreation and the Smoky Mtn. Youth
Baseball Association**

The (City) Sevierville Department of Parks and Recreation will provide the following:

1. **City will:** Provide Fields #1#2#3, #4, #5 at the Sevierville City Park and Fields #1 & #2 at the Northview Optimist Park and baseball field at J.B. Waters Park in Love Addition for games and practices as by the approved daily schedule provided by the City of Sevierville. Fields #1 and #2 at City Park will be made available only if approved by the City or its Director of Baseball.
2. **City will:** Provide and maintain all fields for safe quality play, including but not limited to lining the field for all games when games have been approved for play by the City (J.B. Waters Park will not be lined nor any improvements made to the infield of that facility). Approved game schedules will be attached to this Sub-agreement once completed.
3. **City will:** Provide lighting for approved scheduled games and practices.
4. **City will:** Provide a schedule for games and practices. Any changes to such schedule must be approved by the Director of Baseball.
5. The Parks and Recreation Department personnel on duty have the sole right and final decision as to whether to play, cancel or postpone any scheduled practice or game for any reason.
6. **City will:** Provide one free weekend of use of all five baseball / softball fields at City Park for use by the Smoky Mtn. Youth Baseball Association for tournament play. Smoky Mtn. Youth Baseball Association must complete the required application which is attached to this Sub-agreement. (March 18-20, 2016)
7. **City will:** Permit Smoky Mtn. Youth Baseball to place league advertising only on the OUTFIELD fences on Fields # 3, #4, and #5 at City Park and such signs must be taken down at the end of the date noted in the Agreement as per City Policy. Policy: The City's intent in allowing signs on the Outfield Fences is to benefit the overall operation of the Youth Baseball/Softball League. No team, team sponsor or individual team member's signage will be allowed. Any non-compliant sign will be removed by the Director of Baseball. Team specific signage sponsors are NOT permitted. The City will not be responsible for damaged or stolen advertising signs.
 - a. **City will:** Permit Smoky Mtn. Youth Baseball to store items of equipment in the City owned Concession Building always during the term of this Agreement. The City shall have no responsibility or liability whatsoever for any loss, damage, injuries, or claims of any nature arising from or related to the use by Smoky Mtn. Youth Baseball of the City owned equipment. Smoky Mtn. Youth Baseball shall indemnify the City, and Hold the City harmless, from all claims and liabilities whatsoever arising or related to the use of the Storage Room located in the Concession Building or City owned equipment by Smoky Mtn. Youth Baseball on premises. No signage of any type will be placed on the Concession Building for any reason.



City of Sevierville-Department of Parks and Recreation
Agreement

8. **City will:** Require the Head Umpire for each game to verify all approved volunteers of Smoky Mtn. Youth Baseball before such volunteers will be allowed to be present on the playing field. City shall require the Head Umpire to be responsible for the daily pick up and return of all remote-control scoreboard devices.
9. **Miscellaneous:**
 - **Registration:** All registration will be handled by the Parks and Recreation Department and all monies will be deposited into a City Account-Due to SMYBA (hereinafter referred to as the "Account"). There will be **\$5.00 registration discount** for every child over one child per family.
 - **Entrance Fee:** The Parks and Recreation Staff and Leadership of SMYBA will develop an agreed upon Entrance Fee for each child and a mutually agreed upon budget based on numbers of registration participants.
 - **Budget:** A proposed budget for the 2018 season will be created by City Staff based on agreed upon anticipated registration numbers.
 - **City Account-DUE TO SMYBA:** All expenditures from registration fees received will be handled in the following manner. The City of Sevierville will act as the CUSTODIAN of the registration fees held in the Account. Funds may be expended from the Account only in response to a Request for Funds submitted to the Director of Baseball, signed by two representatives authorized in writing by SMYBA to make such a request. No funds from the Account may be used to make payment on any debt incurred by SMYBA on or before February 2, 2016.
 - **Umpires:** Umpires' pay rate will be set by SMYBA and payment to UMPIRES will come from the Account. The City will retain Umpires as Contract Employees and will pay Umpires based on the number of games called, as reflected on a GAMES CALLED SHEET signed by two representatives authorized in writing by SMYBA, recommended by the Director of Baseball and Approved by the Director of Parks and Recreation. Umpires will be paid on the same schedule as all other City Services employees (every other Friday). All issues concerning Umpires will be initially handled by an UMPIRE ADVISORY COMMITTEE made up of two representatives of SMYBA, who will make a recommendation to the Director of Baseball, whose decision will be final.
 - **INSURANCE:** SMYBA will be required to provide insurance and the cost of the insurance will be paid out of the Account. It will be SMYBA's responsibility to secure insurance and present the City a bill and a certificate of insurance with the City of Sevierville named as an additional insured.



City of Sevierville-Department of Parks and Recreation Agreement

- **Coaches' certification/Background Checks:** SMYBA will be allowed to use the City's membership in the National Youth Sports Coaches Association (NYSCA). NYSCA offers on line coach's certification. All coaches and assistant coaches will be required to go online and become certified through NYSCA and each individual person will pay the required fee directly to NYSCA. Background checks will be done through the Protect Youth Sports website and conducted by AVerity. All fees for background checks will be paid by the individual coach to the website; which is the sub-contractor to NYSCA for all background checks. Such background checks will check each volunteer for a minimum of the following: Sex Offenses/Felony Violence/Misdemeanor Drug and Alcohol Offenses.
- **Reimbursements:** Reimbursement requests for any reason from the SYMBA Due to Account must be approved by the SMYBA Board of Directors. Upon approval, SMYBA must present City Staff with a signed form with two signatures from the SMBA Board noting the amount and justification for any reimbursement.

The Smoky Mountain Youth Baseball Association (SMYBA) will provide the following:

1. **SMYBA will:** Agree to follow Inclement Weather Policy as provided in Attachment A.
2. **SMYBA will:** Provide the City of Sevierville with a proof of Liability Insurance as noted in Agreement with the City named as an additional insured.
3. **SMYBA will:** Remove litter around both the Dugouts of all fields and place litter in trash bags in the containers provided.
4. **SMYBA will:** Be allowed to Sell and place advertising only on the OUTFIELD FENCES of Fields # 3, #4, #5 as per City Policy Noted in Paragraph
5. **SMYBA will:** Be totally responsible for maintenance and upkeep of such signage and will remove such signage by the date specified in the Agreement.
6. **SMYBA will:** Require all coaches and volunteers to must provide a 24-hour notice to the Director of Baseball of any cancellation or any changes to any game or practice schedule.
7. **SMYBA will:** End all games or practices during the school nights (Sun-Thurs) by 10:00pm. (Exception-when extra-inning games are in progress).
8. **SMYBA will:** Provide proof of coach's certifications for at least one (1) head coach and one (1) assistant coach from each team.
9. **SMYBA will:** Require each volunteer to and sign the City's Code of Conduct; a copy of which is attached hereto.
10. **SYMBA will:** Complete training as directed by the State of Tennessee Department of Health of coaches and umpires as required in Tennessee Code Annotated Title 68, Chapter 55, Part 5, relating to concussions, and in Tennessee Code Annotated Title 68, Chapter 6, the Sudden Cardiac Arrest Prevention Act, (COPY PROVIDED) and will certify to the City of Sevierville in writing that said training has been completed. Training will be completed for both concussions and sudden cardiac arrest per state law.



City of Sevierville-Department of Parks and Recreation
Agreement

11. **SYMBA will:** Provide umpires and provide them with proper training and require them to maintain a professional appearance when umpiring games. City will determine what “professional appearance” is and reserves the right to remove any umpire that does not meet the City’s standards.
12. **SMYBA WILL:** Not allow steel baseball spikes to be used on any City owned pitching mounds.

[Signatures on following page}



City of Sevierville-Department of Parks and Recreation
Agreement

THE CITY OF SEVIERVILLE, TENNESSEE

By: _____
Director of Parks and Recreation

Date: _____

SMOKY MTN. YOUTH BASEBALL ASSOCIATION

By: _____
President

Date: _____

By: _____
Secretary



Board Memorandum

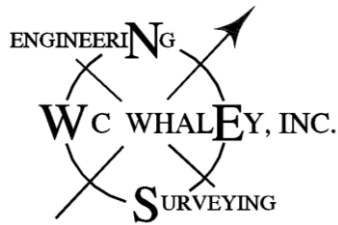
DATE: January 30, 2018

AGENDA ITEM: Extension of water and sewer lines for proposed 168 unit apartment complex at the corner of Newport Highway and Long Springs Rd.

RESPONSIBILITY: Steve Flynn, Director of Water & Sewer Department.

PRESENTATION: Marcus Whaley has sent the attached map and information for a proposed 168 unit apartment complex with an office/clubhouse at the corner of Newport Highway and Long Springs Rd. There are no capacity issues for water and sewer at this location.

BOARD ACTION: Approval by BOMA as desired.



W.C. WHALEY INC.

635 Wall Street, Suite 4
Sevierville, TN 37864
Phone: 865-453-1258

January 30, 2018

CITY OF SEVIERVILLE WATER AND SEWER DEPARTMENT
ATTN: STEVE FLYNN
120 GARY R WADE BLVD
SEVIERVILLE, TN 37862

RE: WATER & SEWER EXTENSION REQUEST FOR STEVE LAYMAN PROPERTY;
TAX MAP 50 PARCEL 69.02 & TAX MAP 51 PARCEL 2.17

Steve,

In response to the request for information by the BOMA, I have provided information for items 1-7 that were outlined in the letter that you sent to me.

1. This property is within the Urban Growth Boundary for The City of Sevierville.
2. The current zoning of the property is C-2 (County).
3. This property does not currently have an approved site plan. All site planning is dependent upon public water & sewer being available.
4. The total acreage for the sewer request is approximately 10.71 acres.
5. This request is for a proposed 168 unit apartment complex with an office/clubhouse. The estimated average water and sewage flow will be 29.2 gal/min.
6. The proposed 6" water lines will tie into the existing water line along Newport Highway. The proposed sewer lines will be 8" gravity lines that will empty into the existing pump station located on the property of the KenJo Market at the corner of Newport Highway and Long Springs Road. This existing pump station will be upgraded to allow for the increased sewage flow.

Thanks,

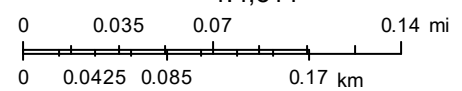
Marcus Whaley, PE, RLS

Sevier County GIS

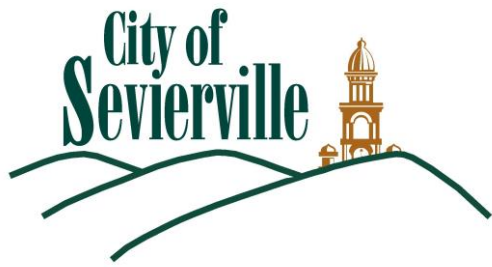


January 23, 2018

1:4,514



Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Board Memorandum

DATE: January 30, 2018

AGENDA ITEM: Supplement #1 to Contract #8484 with TDOT

RESPONSIBILITY: Steve Flynn, Director of Water & Sewer Department.

PRESENTATION: TDOT contract #8484 was entered into incorrectly due to time constraints caused by the administrator of the contracts for TDOT. It is for sewer relocation on Chapman Highway in the Ford Hill area. At the time this contract was done initially, we had to enter an amount for possible betterments for that area. Subsequently the decision has been made not to do the betterments for the area. Supplement #1 to contract #8484 removes the betterments from the contract. Attached are the original contract #8484 and supplement #1 to contract #8484.

BOARD ACTION: Approval by BOMA as desired.

HPP-71(16) / 78008-2250-14



Contract No. 8484

SUPPLEMENT TO UTILITY RELOCATION CONTRACT

THIS SUPPLEMENT **#1** to Contract No. **8484** made and entered into by and between the **State of Tennessee** acting through its Department of Transportation, hereinafter called "TDOT", and **City of Sevierville (Sewer)**, hereinafter called the "Utility".

WITNESSETH:

WHEREAS, TDOT and the Utility entered into Contract No. **8484**, dated the **2nd day of June, 2016**, in which the parties agreed to certain matters concerning the relocation of utilities on PIN No. **104959.01, US-41 / SR-71 From US-411 (SR-35 / SR-388) to Macon Lane**, located in **Sevier County**, Tennessee.; and

WHEREAS, it is desired by the parties that the hereinafter mentioned changes be made in said original contract;

NOW, THEREFORE, for a valuable consideration it is agreed by and between the parties as follows:

To change the paragraph,

WHEREAS, the Utility has furnished TDOT with an estimate, plans, and specifications showing the cost and manner of relocating these facilities, which estimate is in the amount of **\$707,813.20**, including the amount of **\$73,053.20** for the cost of engineering; including the amount of **\$0.00** for the cost of inspection provided by the Utility; including the amount of **\$84,825.00** for the cost of betterment to the Utility's facilities (hereinafter called the "Betterment Cost"), and including the amount of **\$84,825.00** for deposit for the utility work in the State contract, and of which **0** percent represents the pro-rata share to which the Utility is entitled to reimbursement for relocation of utility facilities located on private utility right-of-way, and **100** percent represents the pro-rata share for relocation of utility facilities located on public highway right-of-way, reimbursement being for the cost of construction, engineering and inspection, excluding betterment and the cost over the maximum TDOT reimbursement amount; and

To the following,

WHEREAS, the Utility has furnished TDOT with an estimate, plans, and specifications showing the cost and manner of relocating these facilities, which estimate is in the amount of **\$707,813.20**, including the amount of **\$73,053.20** for the cost of engineering, which may be inclusive of preliminary engineering authorized on **February 9, 2015**; including the amount of **\$0.00** for the cost of inspection provided by the Utility; including the amount of **\$0.00** for the cost of betterment to the Utility's facilities (hereinafter called the "Betterment Cost"), and including the amount of **\$0.00** for deposit for the utility work in the State contract, and of which **0** percent represents the pro-rata share to which the Utility is entitled to reimbursement for relocation of utility facilities located on private utility right-of-way, and **100** percent represents the pro-rata share for relocation of utility facilities located on public highway right-of-way, reimbursement being for the cost of construction, engineering and inspection, excluding betterment and the cost over the maximum TDOT reimbursement amount; and

It is understood that the above are the only changes made in said contract.

IN WITNESS WHEREOF, the parties have EXECUTED this agreement

UTILITY

City of Sevierville (Sewer)

BY: _____

TITLE: _____

DATE: _____

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

BY: _____
John C. Schroer
Commissioner

DATE: _____

APPROVED AS TO FORM:

BY: _____
John H. Reinbold
General Counsel



UTILITY RELOCATION CONTRACT

THIS CONTRACT made and entered into by and between the **State of Tennessee** acting through its Department of Transportation, hereinafter called "TDOT", and **City of Sevierville (Sewer)**, hereinafter called the "Utility".

WITNESSETH:

WHEREAS, TDOT plans to construct PIN Number **104959.01, US-41 / SR-71 From US-411 (SR-35 / SR-388) to Macon Lane**, located in **Sevier County**, Tennessee (hereinafter called the "Project"), and for said Project to be constructed it will be necessary for the Utility to relocate certain of its facilities, **100** percent of which are located on public highway right-of-way and **0** percent of which are located on private utility right-of-way; and

WHEREAS, TDOT is liable for the relocation of utility facilities located on private utility right-of-way and is authorized, in accordance with TCA 54-5-804, to reimburse the Utility for the relocation of utility facilities located on public highway right-of-way but is not liable for any utility betterment costs; and

WHEREAS, in accordance with TDOT policy, the reimbursement of actual allowable costs for relocating utility facilities on public highway right-of-way for municipally owned utilities, Utility Districts, or Utility Cooperatives, as defined in TDOT's Policy #340-07, shall be capped at a maximum reimbursement of \$1,750,000, and for all other utilities the reimbursement shall be limited to 75% of actual allowable costs up to a maximum reimbursement cap of \$1,750,000.

WHEREAS, the Utility has furnished TDOT with an estimate, plans, and specifications showing the cost and manner of relocating these facilities, which estimate is in the amount of **\$707,813.20**, including the amount of **\$73,053.20** for the cost of engineering; including the amount of **\$0.00** for the cost of inspection provided by the Utility; including the amount of **\$84,825.00** for the cost of betterment to the Utility's facilities (hereinafter called the "Betterment Cost"), and including the amount of **\$84,825.00** for deposit for the utility work in the State contract, and of which **0** percent represents the pro-rata share to which the Utility is entitled to reimbursement for relocation of utility facilities located on private utility right-of-way, and **100** percent represents the pro-rata share for relocation of utility facilities located on public highway right-of-way, reimbursement being for the cost of construction, engineering and inspection, excluding betterment and the cost over the maximum TDOT reimbursement amount; and

WHEREAS, the parties want to enter into a contract to provide for the relocation of the Utility's facilities in conjunction with this highway construction project, and the Utility has requested TDOT to undertake the hereinafter described utility relocation work in its highway construction contract as provided in TCA 54-5-804; and

WHEREAS, it is in the mutual interest of the parties that this utility relocation work be performed together with the proposed highway construction;

NOW, THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

1 (a) TDOT will show the proposed relocation of the Utility's facilities on TDOT's highway construction plans as project cost items and will receive bids for same by its highway contractor as a part of the contract for construction of the above mentioned Project. TDOT will be responsible for having its contractor perform the aforesaid utility relocation work in accordance with TDOT's construction contract, including the project plans, standard specifications, special provisions, and the utility relocation plans and specifications heretofore agreed upon by and between the parties hereto, all of which are incorporated herein by reference.

(b) The Utility agrees to reimburse TDOT for the Betterment Cost and the cost over the maximum TDOT reimbursement amount. Reimbursement shall be based on the agreed percentage of the actual cost of the Betterment Cost items as shown on the project plans incorporated herein by reference. It is further agreed that the Utility will make payment to TDOT in the amount of the estimated cost of the Betterment Cost items and the estimated cost over the maximum TDOT reimbursement amount prior to advertisement for bids. The Utility may provide these funds by one of the following means:

A. A check made payable to the order of and sent to TDOT; or

B. Documentation of a deposit made only by wire or by immediate credit transfer with the Treasurer of the State.

In the event said deposit exceeds the aggregate amount of the Betterment Cost charges, the difference will be refunded to the Utility. In the event said Betterment Cost charges exceed the deposit, the Utility agrees to reimburse TDOT for such additional amount.

(c) The Utility agrees that TDOT may advertise for and receive bids for the construction of the Project, including the proposed relocation of the Utility's facilities, and award and enter into contract with the lowest responsible bidder.

(d) The Utility agrees that any memoranda or other information concerning the estimated cost of the proposed relocation of the Utility's facilities will not directly or indirectly be released or disclosed to potential bidders except to the extent that the utility may otherwise be required to do so by law.

(e) Neither the Utility nor any affiliate or subsidiary thereof shall participate directly or indirectly as a bidder for any part of the Utility's relocation work to be performed under a contract to be awarded by TDOT. The Utility further agrees that no employee, officer, or agent of the Utility shall participate in any subcontract for

the performance of any part of the Utility's relocation work if a real or apparent conflict of interest would be involved. Such a conflict of interest would arise when the employee, officer, or agent, or any member of his or her immediate family, or his or her partner, or an organization which employs or is about to employ any of the above, has a substantial financial interest, such as five-percent (5%) or greater ownership interest, or other interest in the firm selected for a subcontract to perform the Utility's relocation work for this Project.

- (f) It is also understood and agreed that TDOT, in its sole discretion, may reject any and all bids submitted for the construction of said Project without any liability whatsoever to the Utility.
2. (a) It is further agreed that in letting the contract with respect to the proposed relocation of the Utility's facilities, TDOT is acting solely in accommodation of the Utility and shall have no liability to the Utility for any damages or claims arising out of acts or omissions on the part of TDOT's contractor. The Utility agrees that it will not hold TDOT responsible for any claims arising out of the inclusion of the Utility's items of work in TDOT's highway construction contract. Under this contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment with the State of Tennessee.
- (b) The utility relocation plans and specifications heretofore agreed upon by and between the parties hereto, all of which are incorporated herein by reference are provided by the utility, signed and sealed in accordance with State regulations by a licensed engineer employed by the utility, and the utility is solely responsible for said relocation plans and specifications. The utility shall be responsible for all direct or indirect costs resulting from errors and omissions of said relocation plans and specifications included in the TDOT construction contract. The utility shall be responsible to provide to TDOT any and all necessary plans, electronic files, documentation, or anything else that is deemed necessary by TDOT to include the utility work in the in the TDOT construction contract.
3. (a) The Utility has acquired or shall acquire all utility rights-of-way outside of the available public highway right-of-way as may be needed to relocate its utility facilities, including any betterment, and the Utility shall provide TDOT and its contractor with the rights to use these utility rights-of-way for construction purposes. The Utility further agrees that it has acquired or will acquire these rights-of-way at no cost to TDOT except insofar as TDOT may be liable to reimburse the Utility for the replacement of previously owned private utility rights-of-way as may be provided in a separate contract between the parties.
- (b) The Utility agrees to transfer to TDOT that portion of the previously owned private utility rights-of-way being vacated by the Utility and within the Project proposed right-of-way as needed for highway purposes.
4. The Utility shall have the right and responsibility to inspect and approve, prior to TDOT's release of its highway contractor's bond, all items of utility relocation work, including betterment, to be performed under the proposed highway construction contract to ensure that the relocation is completed in accordance with this Contract

and all applicable specifications and safety codes. The Utility shall provide progressive inspection reports to TDOT in accordance with the current TDOT Construction Circular Letters section 105.07 "Utilities Diaries and Inspection Procedures" incorporated herein by reference. TDOT agrees that it will reimburse the Utility the pro-rata share for the inspection of utility facilities on private utility right-of-way when the utility relocation is completed in accordance with the approved relocation plans, incorporated herein by reference. The inspection of utility facilities on public highway right-of-way shall be performed at no cost to TDOT.

5. The Utility agrees that:

(a) The Utility will perform the utility engineering work provided for in this Contract by its own forces and/or consultant engineering services approved by TDOT.

(b) It will develop the utility engineering costs in accordance with the current provisions of 23 CFR 645.117.

6. Subject to the provisions of this paragraph and as otherwise provided in this Contract, TDOT agrees to reimburse the Utility for the Utility's reimbursable engineering and inspection costs associated with the relocation of the Utility's facilities, as follows:

(a) The Utility shall perform the engineering and inspection work in accordance with the estimate of cost and plans as approved by TDOT and incorporated herein by reference. The estimate of cost and schedule of work are attached hereto as Exhibit "A".

(b) Any change in the approved estimate of cost or plans shall require the prior written approval of TDOT. TDOT agrees to review and, if acceptable, approve such requests for change in a timely manner, and TDOT agrees to cooperate with the Utility to resolve, if possible, any objections TDOT may have to such requested changes.

(c) TDOT shall reimburse the Utility for such direct and indirect costs as are allowable under the current provisions of 23 CFR 645A. Any claim for costs that would be ineligible for Federal reimbursement under 23 CFR 645A on a federal-aid project shall be ineligible for reimbursement by TDOT on this Project, whether it is or is not a federal-aid project.

(d) The Utility shall develop and record engineering and inspection costs in a manner consistent with the current provisions of 23 CFR 645.117 as of the effective date of this Contract and as approved by TDOT.

- (e) The Utility shall submit all requests for payment by invoice, in form and substance acceptable to TDOT, with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amount charged for the period invoiced, and the total amount charged under the Contract to date.
 - (f) The Utility may submit invoices for interim payments during the progress of the work; provided, however, that such interim payments may be approved only up to a maximum of eighty percent (80%) of the approved estimate of cost attached hereto as Exhibit "A" to this Contract, and any remaining reimbursable costs must be submitted on the final bill. Such invoices for interim payments shall be submitted no more often than monthly.
 - (g) TDOT shall, unless it has good faith and reasonable objections to the Utility's invoice for interim payment, use its best efforts to issue payment based on the Utility's invoice within forty-five (45) days after receipt. If, however, TDOT has good faith and reasonable objections to the Utility's invoice(s) or any part thereof, TDOT shall specifically identify those objections in writing to the Utility so as to allow the parties to address them in a prompt manner. If the invoice is otherwise acceptable, TDOT shall only withhold payment(s) as to those cost items it has specified in its written notice of objections to the Utility. All other reimbursable cost items set out in the Utility's invoice shall be paid by TDOT.
 - (h) Subject to the Utility's right to bill on an interim basis as described above, the Utility shall by invoice provide one final and complete billing of all costs incurred within one year following the completion of the Utility relocation work in its entirety. Otherwise, any previous payments to the Utility shall be considered final, and the Utility shall be deemed to have waived any claim for additional payments, except as TDOT and Utility may have agreed otherwise in writing before the end of that year.
 - (i) The Utility's invoice(s) shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by TDOT, on the basis of audits or monitoring conducted in accordance with the terms of this Contract, not to constitute allowable costs. The payment of an invoice shall not prejudice TDOT's right to object to or question any invoice or matter in relation thereto. Such payment by TDOT shall neither be construed as acceptance of the work nor as final approval of any of the costs invoiced therein.
7. The Utility agrees that its cost records will be subject to inspection at any reasonable time by representatives of TDOT before or after final payment for reimbursable work. In the event any costs are determined not to be allowable under provisions of this Contract, the Utility agrees to repay TDOT such amount of ineligible costs included within payments made by TDOT.

8. The Utility shall keep and maintain accurate records by which all invoices can be verified. The books, records, and documents of the Utility, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years after final payment has been received by the Utility and shall be subject to audit at any reasonable time and upon reasonable notice by TDOT, the Comptroller of the Treasury, or their duly appointed representatives during this three year period. The financial statements shall be prepared in accordance with generally accepted accounting principles.
9. In the event that funds are not appropriated or are otherwise unavailable, TDOT reserves the right to terminate this Contract upon written notice to the Utility. Said termination shall not be deemed a breach of Contract by TDOT. Upon receipt of the written notice, the Utility shall cease all work associated with the Contract, except as may be reasonably necessary to return the Utility's facilities to safe operation. Should such an event occur, the Utility shall be entitled to compensation for all costs of relocation reimbursable under 23 CFR 645A (in accordance with paragraph 6(c) of this Contract) for work completed as of the termination date or in accordance with this provision. Upon such termination, the Utility shall have no right to recover from TDOT any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
10. The Utility agrees, to the extent provided by law, that it will be solely responsible for any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Utility or its employees in the performance of the Utility's engineering and inspection work relating to this Contract. The Utility agrees that it will not hold TDOT responsible for any claims arising out of the inclusion of the Utility's items of work in TDOT's highway construction contract. Under this contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment with the State of Tennessee.

In the event that TDOT is sued for damages arising from acts, omissions, or negligence by the Utility or its employees, the Utility shall cooperate in TDOT's defense. TDOT shall give the Utility written notice of any such claim or suit, and the Utility shall have full right and obligation to conduct the Utility's own defense thereof. Nothing contained herein shall be deemed to accord to the Utility, through its attorney(s), the right to represent TDOT in any legal matter, such rights being governed by Tennessee Code Annotated, Section 8-6-106.

11. TDOT shall have no liability except as specifically provided in this Contract.
12. This Contract may be modified only by a written amendment executed by the parties hereto.
13. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term, covenant, condition or provision of this

Contract shall be held to be waived, modified, or deleted except by written amendment signed by the parties hereto.

14. The Utility hereby agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Utility on the grounds of disability, age, race, color, religion, sex, national origin, or any classification protected by the Constitution or statutes of the United States or the State of Tennessee. The Utility shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
15. The Utility shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility agrees that failure of the Utility to comply with this provision may subject the Utility to the repayment of all State funds expended under this Contract.
16. This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Time is of the essence of this Contract.
17. The parties hereto, in the performance of this contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
18. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Utility acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.
19. If any terms, covenants, conditions or provisions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms, covenants, conditions and provisions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
20. TDOT and the Utility agree that any notice provided for in this Contract or concerning this Contract shall be in writing and shall be made by personal delivery, by certified mail (return receipt requested), by nationally recognized overnight delivery service (such as FedEx or UPS), or by facsimile transmission (provided that notice shall also be given in one of the other methods prescribed herein) addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

To TDOT:

Tennessee Department of Transportation
Attention: State Utility Coordinator
Suite 600, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0329
Facsimile Number: (615) 532-1548

With a copy if requested by TDOT to:

John H. Reinbold, General Counsel
Suite 300, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0326
Facsimile Number: (615) 532-5988

To the Utility:

Attention: _____

Facsimile Number: _____

With a copy if requested by Utility to:

Attention: _____

Facsimile Number: _____

IN WITNESS WHEREOF, the parties have executed this contract.

UTILITY

City of Sevierville (Sewer)

STATE OF TENNESSEE
DEPARTMENT OF
TRANSPORTATION

BY: 

TITLE: DIRECTOR

DATE: April 28, 2016

BY: _____

John C. Schroer
Commissioner

DATE: _____

APPROVED AS TO FORM:

BY: _____

John H. Reinbold
General Counsel

CIRCULAR LETTER

Section: 105.07 Cooperation with Utilities

Number: 105.07-04

Subject: Utility Diaries and Inspection Procedures

Date: December 15, 2007

On all projects requiring utility relocations, Form DT-0667 "Project Utility Diary" is to be used to document said relocations whether the work is reimbursable or not. When a utility is relocating at its own expense or under a lumps sum reimbursement contract, the "Description of Work Performed" section will be the only notation required. The notation shall indicate if the relocation is a non reimbursable or lump sum reimbursable contract. Form DT-0667 fulfills the requirements for documentation detailed in Section 109.05 of the Department of Transportation Construction Manual and Section 18-7 of the Standard Utility Procedures Manual.

- 1 Form DT-0667 is to be completed in the field by the utility inspector.
- 2 The original or white sheet is to be transmitted to the TDOT Project Supervisor's office and bound.
- 3 The first copy or yellow sheet is to be transmitted to the utility company on reimbursable relocations.
- 4 The second copy or pink sheet is to be retained in the utility diary.

If the utility relocation is included in the state contract, the utility will be responsible for inspecting all phases of the relocation, per TCA 54-5-804, 2003 Public Chapter 86. The TDOT inspector shall document the utility work activities performed in the daily project diaries. The inspector provided by the utility company will:

- 1 Complete Form DT-0667 as described above and submit it each estimate period, as directed by the TDOT Project Supervisor. Along with the item descriptions, the inspector will include the quantities and stations of installed items.
- 2 Complete "Installed Item Certification" portion of Form DT-1716 and submit it each estimate period, as directed by the TDOT Project Supervisor. This form will be signed to certify that the items installed during that estimate period met all applicable specifications.
- 3 Complete and attach Form DT-1716A to DT-1716 and submit it each estimate period, as directed by the TDOT Project Supervisor. This form will be used to summarize, by project number, the utility items installed during that estimate period. The TDOT inspector shall sign Form DT-1716A after ensuring it is consistent with the utility diaries and daily project diaries. The completed Form DT-1716A shall be referenced in the progress pay quantity documentation.
- 4 Complete "Final Acceptance of Work" portion of Form DT-1716 and submit it to the TDOT Project Supervisor's office when the utility relocation work is complete.

CONTRACT NO: _____
PROJECT NO: _____
REF. NO: _____
DATE: _____

RECORDED BY: _____
PROJECT ENGINEER _____

UTILITY COMPANY _____
UTILITY CONTRACT NO. _____

UTILITY REPRESENTATIVE: _____
(For "Work Order" Reimbursable Projects)

[illegible][illegible]

Distribution of copies:

White:	Reg. Eng.
Yellow:	Utility Co.
Pink:	Field

UTILITY ITEM CERTIFICATION/FINAL ACCEPTANCE

Contract Number: _____ **Utility Company:** _____

Project Number(s): _____ **Utility Inspector:** _____

Print

County(ies): _____

Instructions: Please check appropriate box (or boxes) and fill out required information. For **Installed Item Certification**, attach **Summary of Installed Utility Items** sheet(s) for each project number and submit each estimate period as directed by the TDOT Project Supervisor.

☐ **Installed Item Certification**

On behalf of the above utility company, I certify that the materials used for the item(s) listed on the following page(s) meet and were installed in accordance with all applicable specifications. Any pertinent shop drawings or engineering changes have been approved.

Estimate Period: _____ to _____

Utility Inspector Signature

Date

☐ **Final Acceptance of Work**

I certify that the utility relocation work is complete and is accepted by the above utility company.

Utility Inspector Signature

Date

SUMMARY OF INSTALLED UTILITY ITEMS

Contract Number: _____ **Utility Company:** _____

Project Number: _____ **Utility Inspector:** _____

Print

County: _____

Estimate Period: _____ **to** _____

[illegible]