AGENDA
BOARD OF MAYOR & ALDERMEN
November 4, 2019 Meeting
Sevierville Civic Center
6:00 P.M.
A. CALL TO ORDER
   1. Pledge of Allegiance
   2. Invocation

B. ROLL CALL
C. MINUTES – October 21, 2019
D. PUBLIC FORUM
E. REPORTS
F. COMMUNICATIONS FROM MAYOR & ALDERMEN
G. OLD BUSINESS
   1. Consider approval of Ordinance O-2019-019 – 2nd reading – An Ordinance to close and abandon a portion of right-of-way at Red Cedar Ridge Road – Dustin Smith
   2. Consider approval of Ordinance O-2019-020 – 2nd reading – An Ordinance to repeal and replace Title 2, Chapter 2, of the Sevierville Municipal Code to abolish the City’s Trees, Trails, and Beautification Board and the Recreation Advisory Committee, and establish a Parks and Recreation Services Advisory Board – Bob Parker

H. NEW BUSINESS
   1. Consider approval of Resolution R-2019-016 – A Resolution directing payment of SCES in-lieu of property tax – Lynn McClurg
   2. Consider approval of Resolution R-2019-017 – A Resolution consenting to the Industrial Development Board of the City of Sevierville, Tennessee, negotiating and accepting payments in lieu of tax with respect to a certain project in the City of Sevierville, Tennessee, and finding that such payments are deemed to be in furtherance of the public purposes of The Board as defined in Tennessee Code Annotated, Section 7-53-305 – Russell Treadway
   3. Consider approval of Fee Payment Agreement with Wilderness Development Corporation for workforce housing development – Russell Treadway
   4. Consider approval to purchase budgeted replacement Turnout Gear in the amount of $26,376 from Municipal Emergency Services – Matt Henderson
   5. Consider approval of plan of action for Blueway Planning – Bob Parker
   6. Consider approval of donation of Winterfest displays to the City of New Market, Tennessee – Bob Parker
   7. Consider approval of emergency purchase of a new electrical gear box and professional evaluation for a sprinkler system at the Community Center – Bob Parker
   8. Consider approval of Agreement with Geotechnical Engineering Services for slope failure located on Red Bank Road in the amount of $7,500 – Bryon Fortner
   9. Consider approval of Tee Box Repair Bid from Charles Blalock and Sons in the amount not-to-exceed budget of $110,000 – Tracy Baker
   10. Consider approval of software from Tyler Technologies for Incode Public Safety Suite, Incode Court Suite, and Brazos Software and related services in the total about of $369,985 – Joseph Manning
   11. Consider approval/ratification of expenses in excess of $5,000 – Lynn McClurg

I. ADJOURNMENT
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 October 21, 2019 at 6:00 PM.

There were present and participating at the meeting:
Robbie Fox, Mayor
Wayne Helton, Alderman
Devin Koester, Vice Mayor
Travis L. McCroskey, Alderman
Jim McGill, Alderman
Mitch Rader, Alderman

Senior Staff present:
Steve Flynn, Water & Sewer Director
Bryon Fortner, Public Works Director
Matt Henderson, Fire Chief
Joseph Manning, Police Chief
Lynn McClurg, Chief Financial Officer & City Recorder
Ed Owens, City Attorney
Bob Parker, Parks & Recreation Director
Russell Treadway, City Administrator

Mayor Fox chaired the meeting with Lynn K. McClurg as secretary of the meeting. A motion was made by Vice Mayor Koester and seconded by Alderman Rader to approve the minutes of the October 7, 2019 meeting and to dispense with the reading. Motion carried.

PUBLIC FORUM
Mayor Fox opened the public forum section of the meeting. Fox opened a public hearing on ordinance O2019-018 entitled “AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF SEVIERVILLE, TENNESSEE, AS SET FORTH IN THE SEVIERVILLE MUNICIPAL CODE, SECTION 14-201 TO REZONE PROPERTY AT 815 MIDDLE CREEK ROAD FROM ARTERIAL COMMERCIAL (AC/C-4) DISTRICT TO INTERMEDIATE COMMERCIAL (IC/C-3) DISTRICT.” There being no comments, the public hearing was closed.

Mayor Fox presented a proclamation naming October 31, 2019 Hollyce Kirkland Day within the City of Sevierville. Fox recognized the Girl Scouts present at the meeting. Fox recognized Mark Berg and Brett Barley, each of whom expressed concerns and requested an update regarding the nuisance situation at Glow Sky Lounge. Fox recognized Jonathan Ball, who expressed support of the Parks and Recreation Foundation. There being no further comments, the public forum was closed.

OLD BUSINESS
Mayor Fox presented and placed for passage an ordinance O2019-018 entitled “AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF SEVIERVILLE, TENNESSEE, AS SET FORTH IN THE SEVIERVILLE MUNICIPAL CODE, SECTION 14-201 TO REZONE PROPERTY AT 815 MIDDLE CREEK ROAD FROM ARTERIAL COMMERCIAL (AC/C-4) DISTRICT TO INTERMEDIATE COMMERCIAL (IC/C-3) DISTRICT.” A motion was made by Alderman Rader and seconded by Alderman Helton to approve the ordinance as presented and to dispense with the reading. Those voting Yes: Helton, Koester,
McCroskey, McGill, Rader. Those voting No: None. Fox declared the ordinance passed on third and final reading.

NEW BUSINESS

Mayor Fox presented and placed for passage an ordinance O2019-019 entitled “AN ORDINANCE TO CLOSE AND ABANDON A PORTION OF RIGHT-OF-WAY, RED CEDAR RIDGE ROAD.” A motion was made by Vice Mayor Koester and seconded by Alderman McGill to approve the ordinance as presented and to dispense with the reading. Those voting Yes: Helton, Koester, McCroskey, McGill, Rader. Those voting No: None. Fox declared the ordinance passed on first reading.

Mayor Fox presented and placed for passage an ordinance O2019-020 entitled “AN ORDINANCE TO REPEAL AND REPLACE TITLE 2, CHAPTER 2 OF THE SEVIERVILLE MUNICIPAL CODE, TO ABOLISH THE CITY TREES-TRAILS AND BEAUTIFICATION BOARD AND THE RECREATION ADVISORY COMMITTEE, AND TO ESTABLISH A PARKS AND RECREATION SERVICES ADVISORY BOARD.” A motion was made by Alderman McGill and seconded by Alderman Rader to approve the ordinance with amendments to be presented at second reading and to dispense with the reading. Those voting Yes: Helton, Koester, McCroskey, McGill, Rader. Those voting No: None. Fox declared the ordinance passed on first reading.

Mayor Fox recognized Russell Treadway, who presented and placed for passage a Resolution R2019-015 of the City of Sevierville, Tennessee Authorizing Sevier Solid Waste to Construct Landfill Expansion at 2106 Ridge Road, Pigeon Forge, Tennessee. A motion was made by Alderman Helton and seconded by Alderman McCroskey to approve the resolution as presented. Motion carried.

Mayor Fox recognized Bob Parker, who requested approval of the Charter of Incorporation and By Laws for the Parks and Recreation Foundation of Sevierville. Parker noted that a five members board will be appointed to head the Foundation. A motion was made by Vice Mayor Koester and seconded by Alderman Rader to approve the Charter of Incorporation and By Laws subject to City Attorney changes. Motion carried.

Mayor Fox recognized Bryon Fortner, who presented a contract for construction engineering inspection (CEI) for the CMAQ Traffic Signal Project in an amount not to exceed $385,480.00. Fortner noted that the TDOT qualifications-based selection process resulted in this recommendation. A motion was made by Alderman Rader and seconded by Alderman McGill to approve the contract as presented. Motion carried.

Mayor Fox recognized Dustin Smith, who requested approval of a lease amendment with Ra-Tel Broadcasting Company to allow additional equipment on the communication tower, an additional generator and pad to the site, and an additional propane tank and pad to the site. Smith noted that the amendment continues the lease for the remaining three years for $19,200.00 annually with the current year prorated and $7,862.27 due upon execution. A motion was made by Alderman McCroskey and seconded by Alderman McGill to approve the lease amendment as presented. Motion carried.

Mayor Fox recognized Matt Henderson, who requested approval to purchase a sole source new radio communications tower from LandAir Total Communications at a cost of $20,000.00. A motion was made by Alderman Rader and seconded by Alderman Helton to approve the purchase by the Industrial Development Board. Motion carried.

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

1. SE Diving Services Water tank inspections $7,000.00 Low price
A motion was made by Alderman Helton and seconded by Alderman McGill to approve the expenditure(s) as presented. Motion carried.

There being no further business to discuss, the meeting adjourned at 6:28 PM.

Approved: __________________________________________
Robbie Fox, Mayor

Attest: __________________________________________
Lynn K. McClurg, City Recorder
DATE: 11/2/2019

AGENDA ITEM: Consider Adoption of Ordinance O-2019-019 2nd reading

RESPONSIBILITY: Dustin Smith, Development Director

PRESENTATION: As presented in the Staff report attached, W. C. Whaley, Engineering and Surveying has requested the abandonment of Red Cedar Ridge Road.

REQUESTED ACTION: Passage of the Ordinance on 2nd reading.
ORDINANCE NO. O-2019-019

AN ORDINANCE TO CLOSE AND ABANDON A PORTION OF RIGHT-OF-WAY, RED CEDAR RIDGE ROAD

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

Section 1. After recommendation by the Sevierville Planning Commission, a portion of right-of-way shown as ‘Red Cedar Ridge Road’ on Plat Book LM2, Page 169, and as shown on the attached map, is hereby closed and abandoned.

Section 2. The Mayor is hereby authorized to quit claim a deed of the abandoned right-of-way to the Oak Haven Homeowners Association. All quit claim deeds shall specifically reserve and state that the conveyance of the abandoned right-of-way is subject to the preservation of any existing utility easements.

Section 3. This Ordinance shall become effective, five (5) days following its final passage, the public welfare requiring it.

APPROVED: ________________________________
Robbie Fox, Mayor

ATTEST:

_______________________________________
Lynn K. McClurg, City Recorder

Passed on 1st reading: 10/21/2019
Passed on 2nd reading: __________, 2019
Passed on 3rd reading: __________, 2019
Request to Abandon Portion of Right-of-Way
Red Cedar Ridge Road

<table>
<thead>
<tr>
<th><strong>Applicant:</strong></th>
<th>W. C. Whaley, Engineering and Surveying</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Owner of Adjoining Parcels:</strong></td>
<td>Multiple – see background and comments</td>
</tr>
<tr>
<td><strong>Tax ID Numbers of Affected Properties:</strong></td>
<td>Multiple – see background and comments</td>
</tr>
<tr>
<td><strong>Zoning Classification:</strong></td>
<td>LDR, (Low Density Residential)</td>
</tr>
<tr>
<td><strong>Notification:</strong></td>
<td>Appropriate notice will be provided prior to a public hearing by the Board of Mayor and Aldermen.</td>
</tr>
<tr>
<td><strong>Exhibits:</strong></td>
<td>Application and Map</td>
</tr>
<tr>
<td><strong>Staff:</strong></td>
<td>Dustin Smith</td>
</tr>
<tr>
<td><strong>Request</strong></td>
<td>Abandonment of a portion of Red Cedar Ridge Road that serves Oak Haven Resort.</td>
</tr>
<tr>
<td><strong>Background</strong></td>
<td>The portion of right-of-way (r-o-w) proposed for abandonment lays within Oak Haven Resort. Sometime during the economic downturn Oak Haven placed a gate at the southern most portion being requested for abandonment due to theft and vandalism. At the time, the City allowed the gate to stay up so long as Oak Haven obtained agreements with the HOA and anyone else who used the road for access back out to Old Knoxville Highway. There are several lots which use Red Cedar Ridge Road for access to their properties who are not part of Oak Haven Resort. In 2011 a previous abandonment request of this portion of Red Cedar Ridge Road was approved by the Planning Commission subject to the proper documents and agreements being put in place prior to any quit claim deeds being performed. It did not proceed any further at that point in time and was not presented to the Board of Mayor and Alderman for approval.</td>
</tr>
<tr>
<td><strong>Staff Comments</strong></td>
<td>Staff felt it necessary to gain new approval from the Planning Commission before presenting the request to the Board of Mayor and Alderman due to the amount of time that has passed since the last approval in 2011. The access agreements have been established for the additional properties who are not part of Oak Haven and staff has copies on file. The City has also not maintained this portion of Red Cedar Ridge Road since the gate was put in place.</td>
</tr>
<tr>
<td><strong>Public Comments</strong></td>
<td>None to date.</td>
</tr>
<tr>
<td><strong>Staff Recommendation</strong></td>
<td>Staff can recommend approval of the requested r-o-w abandonment.</td>
</tr>
</tbody>
</table>
DATE: November 4, 2019

AGENDA ITEM: Ordinance O-2019-020 – 2nd reading – An Ordinance to Repeal and Replace Recreation Advisory Committee and Trees/Trails and Beautification Board with: Parks and Recreation Services Advisory Board

RESPONSIBILITY: Bob Parker-Director of Parks and Recreation

PRESENTATION: Ordinance O-2019-020 passed on the 1st reading on October 14, 2019. However, both the City Attorney and one Member requested changes to the proposed Ordinance. Attached is a copy of the Ordinance with the changes as requested.

REQUESTED ACTION: Approval of proposed Ordinance O-2019-020 as presented.
ORDINANCE NO. O-2019-020

AN ORDINANCE TO REPEAL AND REPLACE TITLE 2, CHAPTER 2 OF THE SEVIERVILLE MUNICIPAL CODE, TO ABOLISH THE CITY TREES-TRAILS AND BEAUTIFICATION BOARD AND THE RECREATION ADVISORY COMMITTEE, AND TO ESTABLISH A PARKS AND RECREATION SERVICES ADVISORY BOARD

WHEREAS, by Resolution No. R97-031, the Board of Mayor and Aldermen of the City of Sevierville, Tennessee, established a Recreation Advisory Committee; and

WHEREAS, by Ordinance No. O-2003-013, Board of Mayor and Aldermen of the City of Sevierville, Tennessee, enacted Title 2, Chapter 2 of the Sevierville Municipal Code, regarding the City Trees-Trails and Beautification Board; and

WHEREAS, the Board of Mayor and Aldermen of the City of Sevierville, Tennessee, deem it necessary and desirable that the aforesaid Committee and Board be abolished and replaced with a Parks and Recreation Services Advisory Board, to advise the Board of Mayor and Alderman concerning the administration of services, facilities, and programs managed by the City Parks and Recreation Department.

NOW, THEREFORE, be it ordained by the BOARD OF MAYOR and ALDERMEN of the CITY OF SEVIERVILLE, TENNESSEE, as follows:

SECTION 1. The City Trees-Trails and Beautification Board and the Recreation Advisory Committee are hereby abolished.

SECTION 2. Title 2, Chapter 2 of the Sevierville Municipal Code is hereby repealed in its entirety and replaced with the following:

SECTION
2-201. Creation and Establishment of a Parks and Recreation Services Advisory Board and Membership.
2-203. Compensation.
2-204. Duties and Responsibilities
2-205. Chairman and Meetings.

2-201. Creation and Establishment of a Parks and Recreation Services Advisory Board. There is hereby created and established a Parks and Recreation Services Advisory Board for the City of Sevierville, Tennessee (the “Board”), consisting of six (6) voting members appointed by the Mayor and approved by the Board of Aldermen, as follows: Three (3) members shall be citizens and residents of the City; one (1) member may be a resident of the services area of the Parks and Recreation Department; one (1) member shall be a representative of the Sevier County Electric System Supervisor of Vegetation Management;
and one (1) member shall be a member of the Board of Aldermen. In addition, the City Director of Parks and Recreation will serve *ex-officio* as a non-voting member and shall serve as the administrative recording agent.

2-202. **Term of Office.** The three Board members who hold their positions as City citizens and residents shall serve initial terms beginning January 15, 2020 and ending June 30, 2023; and thereafter shall serve three-year terms beginning July 1, 2023. The Board member who may be a service area resident, or any other person serving in that designated position, shall serve an initial term beginning January 15, 2020 and ending June 30, 2022; and thereafter shall serve two-year terms beginning July 1, 2022. The Board Member who is a representative of the Sevier County Electric System Supervisor of Vegetative Management shall serve at the pleasure of the Supervisor of Vegetative Management. The Board Member who is a member of the Board of Aldermen shall serve at the pleasure of the Mayor.

2-203. **Compensation.** Members of the Board or related committee shall serve without compensation.

2-204. **Duties and Responsibilities.** It shall be the responsibility of the Board to study and investigate the services, facilities, and programs managed by the Parks and Recreation Department, for the purpose of advising the Board of Mayor and Aldermen as to desirable policies and plans. Among other things, the Board shall:

1. Understand and be familiar with all aspects of the responsibilities of the Parks and Recreation Department;
2. Offer constructive suggestions and criticism regarding the operation of the Parks and Recreation Department;
3. Determine the wishes and desires of citizens and users of the Department facilities;
4. Recommend policies and procedures for urban forestry management including, but not limited to, the following areas: species of trees that may be planted on public property; spacing of trees on public property; distance of trees from public curbs and sidewalks; distance of trees from public street corners and fire hydrants; utilities and proper tree planting under or near utilities; public tree care including, but not limited to, tree-topping, pruning, and removal of dead or diseased trees on public property; and management of a memorial tree program; and
5. Recommend a comprehensive fee and charges policy and cost recovery program for use of Parks and Recreation Department facilities. This policy and program, along with all fees and charges, will be updated annually as part of the City’s annual budget process, or as directed by the Board of Mayor and Aldermen.

2-205. **Chairman and Meetings.** At each annual meeting, the voting members of the Board shall elect one of their number to be the Chairman of the Board. The first annual meeting of the Board shall be held on or before January 15, 2020. Thereafter, the Board shall hold an annual meeting each year during the month of January on 30 days’ notice from the Chairman. Special meetings may be scheduled by the Chairman upon 15 days’ notice from the Chairman.
This Ordinance shall take effect five (5) days from and after its final passage, the public welfare requiring it.

APPROVED: ____________________________
          Robert W. Fox, Mayor

ATTEST:

_____________________________________
Lynn K. McClurg, City Recorder

Passed on 1st reading: ________

Passed on 2nd reading: ________

Passed on 3rd reading: ________
DATE: November 4, 2019

AGENDA ITEM: Consider adoption of a Resolution R-2019-016 – A Resolution directing payment of SCES in-lieu of property tax.

RESPONSIBILITY: Lynn McClurg, Chief Financial Officer

PRESENTATION: After having received revenue and net investment figures from the Sevier County Electric System, in-lieu of property tax calculations were made in accordance with the Tennessee Code Annotated. Attached is a worksheet detailing the payment calculations, the methodology of which is identical to FY2019. The balance of the tax equivalent will be deposited into the General Fund of the City of Sevierville and a portion of the revenue is budgeted as a transfer to the TDZ fund.

REQUESTED ACTION: Adoption of Resolution R-2019-016.
RESOLUTION R2019-016
DIRECTING PAYMENT OF TAX EQUIVALENT

WHEREAS, TENNESSEE CODE ANNOTATED SECTION 7-52-304 empowers a municipality to cause to be paid from its electric system revenues for each fiscal year an amount for payments in lieu of taxes, called "tax equivalents" on its electric system and electric operations; and

WHEREAS, the necessary data has been supplied by the electric system of the CITY OF SEVIERVILLE and the calculation of total tax equivalents in the amount of $2,684,928.56 has been made in accordance with the provisions of Tennessee Code Annotated Section 7-52-304;

NOW, THEREFORE, BE IT RESOLVED by the BOARD OF MAYOR AND ALDERMEN of the CITY OF SEVIERVILLE, TENNESSEE:

SECTION 1: In accordance with Tennessee Code Annotated Section 7-52-307, the CITY OF SEVIERVILLE hereby directs the Sevier County Electric System to make in-lieu of tax payments for the fiscal year beginning July 1, 2019 to following taxing jurisdictions:

<table>
<thead>
<tr>
<th>JURISDICTIONS</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>GATLINBURG</td>
<td>$ 12,534.56</td>
</tr>
<tr>
<td>PIGEON FORGE</td>
<td>15,085.96</td>
</tr>
<tr>
<td>PITTMAN CENTER</td>
<td>4,903.62</td>
</tr>
<tr>
<td>TOWNSEND (no property tax)</td>
<td>0.00</td>
</tr>
<tr>
<td>SEVIER COUNTY</td>
<td>574,480.37</td>
</tr>
<tr>
<td>BLOUNT COUNTY</td>
<td>21,976.33</td>
</tr>
<tr>
<td>JEFFERSON COUNTY</td>
<td>7,652.23</td>
</tr>
</tbody>
</table>

The balance of the total in lieu tax payment that remains following the above payments shall be paid into the General Fund of the City of Sevierville. This Resolution passed this 4th day of November 2019.

APPROVED: ______________________________________

Robbie Fox, Mayor

ATTEST: ____________________________________________________________________________

Lynn K. McClurg, City Recorder
City of Sevierville  
Sevier County Electric System  
Fiscal Year 2020 In Lieu Tax

Code 7-52-304 Tax Equivalents Authorized
The total amount so paid as tax equivalents shall not exceed the sum of the following:
A. The equalized tax rate multiplied by the net plant value multiplied by the assessment ratio.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Net Investment</th>
<th>Assessment Ratio</th>
<th>Tax Rate</th>
<th>Equalization Ratio</th>
<th>Tax Equivalent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sevierville</td>
<td>38,216,579.64</td>
<td>0.55</td>
<td>0.4970</td>
<td>0.8632</td>
<td>90,174.21</td>
</tr>
<tr>
<td>Gatlinburg</td>
<td>16,584,104.13</td>
<td>0.55</td>
<td>0.1592</td>
<td>0.8632</td>
<td>12,534.56</td>
</tr>
<tr>
<td>Pigeon Forge</td>
<td>15,887,983.19</td>
<td>0.55</td>
<td>0.2000</td>
<td>0.8632</td>
<td>15,085.96</td>
</tr>
<tr>
<td>Pittman Center</td>
<td>1,215,133.48</td>
<td>0.55</td>
<td>0.8500</td>
<td>0.8632</td>
<td>4,903.62</td>
</tr>
<tr>
<td>Townsend</td>
<td>1,676,351.53</td>
<td>0.55</td>
<td>0.0000</td>
<td>1.0000</td>
<td>0.00</td>
</tr>
<tr>
<td>Sevier County</td>
<td>135,062,149.20</td>
<td>0.55</td>
<td>1.8600</td>
<td>0.8632</td>
<td>1,192,671.17</td>
</tr>
<tr>
<td>Blount County</td>
<td>5,166,705.11</td>
<td>0.55</td>
<td>2.4700</td>
<td>1.0000</td>
<td>70,189.69</td>
</tr>
<tr>
<td>Jefferson County</td>
<td>1,799,063.64</td>
<td>0.55</td>
<td>2.1900</td>
<td>1.0000</td>
<td>21,669.72</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,407,228.93</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Equalization Rate is capped at 1.0 for utilities

B. Four percent of the average of revenue less power costs from electric operations for the preceeding three fiscal years.

Three year average x .04 provided by Sevier County Electric System $1,277,699.63

Total Tax Equivalent to be paid by Sevier County Electric System $2,684,928.56

County Distribution: Code 7-52-307(1) Distribution of Tax Equivalents
The municipality shall allocate 22.5% of the total tax equivalent for the benefit of county taxing jurisdictions...shall divide the amount in proportion to the ratios of the net plant values of the respective jurisdictions to the total net plant value.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Net Investment</th>
<th>% of Total Investment</th>
<th>22.5% of Total Allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sevier County</td>
<td>135,062,149.20</td>
<td>95.10%</td>
<td>$574,480.37</td>
</tr>
<tr>
<td>Blount County</td>
<td>5,166,705.11</td>
<td>3.64%</td>
<td>$21,976.33</td>
</tr>
<tr>
<td>Jefferson County</td>
<td>1,799,063.64</td>
<td>1.27%</td>
<td>$7,652.23</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>142,027,917.95</strong></td>
<td>100.00%</td>
<td><strong>$604,108.93</strong></td>
</tr>
</tbody>
</table>

Municipality Distribution: Code 7-52-307(2) Tax Equivalent Amounts
The municipality shall allocate to each city taxing jurisdiction, other than itself, in lieu of all taxes...of that city taxing jurisdiction, an amount equal to the equalized property tax rate of such other city taxing jurisdiction multiplied by the net plant value of the electric plant, plus the book value of materials and supplies located within the boundaries of such other city taxing jurisdiction multiplied by the assessment ratio...

The amount to be paid into Sevierville's general fund shall be the balance of the total tax equivalent after deducting the amounts paid to county and municipality jurisdictions.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Total Tax to be Paid</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gatlinburg</td>
<td>$12,534.56</td>
<td>0.47%</td>
</tr>
<tr>
<td>Pigeon Forge</td>
<td>$15,085.96</td>
<td>0.56%</td>
</tr>
<tr>
<td>Pittman Center</td>
<td>$4,903.62</td>
<td>0.18%</td>
</tr>
<tr>
<td>Townsend</td>
<td>$0.00</td>
<td>0.00%</td>
</tr>
<tr>
<td>Sevier County</td>
<td>$574,480.37</td>
<td>21.40%</td>
</tr>
<tr>
<td>Blount County</td>
<td>$21,976.33</td>
<td>0.82%</td>
</tr>
<tr>
<td>Jefferson County</td>
<td>$7,652.23</td>
<td>0.29%</td>
</tr>
<tr>
<td>Sevierville</td>
<td>$2,048,295.49</td>
<td>76.29%</td>
</tr>
</tbody>
</table>

C:EXCEL\LYNN\BUDGET\SCE5 In Lieu Tax  
20-Oct-10
DATE: November 4, 2019

AGENDA ITEM: Consider approval of Resolution R-2019-017 - “A Resolution Consenting to the Industrial Development Board of the City of Sevierville, Tennessee, Negotiating and Accepting Payments In Lieu of Tax with Respect to a Certain Project in the City of Sevierville, Tennessee, and Finding That Such Payments Are Deemed to be in Furtherance of the Public Purposes of The Board as Defined in Tennessee Code Annotated Section 7-53-305.”

RESPONSIBILITY: Russell Treadway, City Administrator

PRESENTATION: The purpose of this resolution is to authorize the Industrial Development Board (IDB) to negotiate and accept payments in lieu of taxes for Soaky Mountain Waterpark, a project of the Wilderness Development Corporation.

Included is a letter from the Wilderness’ attorney describing the need and stating that the project would not be financially feasible without the PILOT.

REQUESTED ACTION: Motion and affirmative vote to adopt the Resolution as presented.
RESOLUTION R-2019-017

A RESOLUTION CONSENTING TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF SEVIERVILLE, TENNESSEE, NEGOTIATING AND ACCEPTING PAYMENTS IN LIUE OF AD VALOREM TAX WITH RESPECT TO A CERTAIN PROJECT IN THE CITY OF SEVIERVILLE, TENNESSEE, AND FINDING THAT SUCH PAYMENTS ARE DEEMED TO BE IN FURTHERANCE OF THE PUBLIC PURPOSES OF THE BOARD AS DEFINED IN TENNESSEE CODE ANNOTATED SECTION 7-53-305.

WHEREAS, the Board of Mayor and Aldermen (the “Governing Body”) of the City of Sevierville, Tennessee (the “City”) has met pursuant to proper notices; and

WHEREAS, the City has previously authorized the incorporation of The Industrial Development Board of the City of Sevierville, Tennessee (the “Board”) as an industrial development board duly organized and existing under the provisions of Title 53 of Chapter 7, Tennessee Code Annotated; and

WHEREAS, the City has been informed that Wilderness Development Corporation (the “Developer”) intends to cause the construction and development of a significant tourist attraction project known as “Soaky Mountain Waterpark” (the “Project”), located within the City Tourism Development Zone (the “Property”); and

WHEREAS, the Developer of the Project has requested the Board to hold a leasehold interest in the Property and hold ownership of certain personal property located thereon; and

WHEREAS, the Developer has furthermore requested the Board to lease the Project to the Developer and to permit the Developer to make payments in lieu of ad valorem taxes; and

WHEREAS, Tennessee Code Annotated Section 7-53-305(b) authorizes the City to delegate to the Board the authority to negotiate and accept from the lessees of the Board payments in lieu of ad valorem tax upon the finding that such payments are deemed to be in furtherance of the public purposes of the Board as defined in said Code Section.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Sevierville, Tennessee, as follows:

1. The Governing Body hereby finds that the negotiation and acceptance by the Board of payments in lieu of ad valorem taxes consistent with this Resolution are deemed to be in furtherance of the public purposes of the Board as defined in Tennessee Code Annotated Section 7-53-305, and the Governing Body hereby consents and delegates to the Board the right to negotiate and accept such payments from the Developer, as a lessee of the Board with respect to the Project.
2. The Board is furthermore authorized to retain such payments in lieu of taxes and apply such payments to debt service incurred by the Board relating to the development of the Project.

3. The Board’s agreements concerning payments in lieu of ad valorem taxes relating to the Property may contain such administrative provisions not inconsistent with this Resolution as the Board deems appropriate.

4. All other Resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, and this Resolution shall be in immediate effect from and after its adoption.

Adopted this the ____ day of _____________________, 2019.

APPROVED: _______________________
Robert W. Fox, Mayor

ATTEST:

________________________________
Lynn McClurg, City Recorder
Mr. Robert W. Fox, Mayor of City of Sevierville
120 Gary Wade Blvd.
Sevierville, TN 37862

Mr. Russell Treadway, City Administrator
120 Gary Wade Blvd.
Sevierville, TN 37862

Re: Sevierville zoning/planning research

Dear Mayor Fox and Mr. Treadway:

On behalf of Wilderness Development Corporation, a Wisconsin corporation, I would like to formally request that the City of Sevierville Board of Aldermen consider at its November 4, 2019 meeting whether to adopt a resolution delegating authority to the City of Sevierville Industrial Development Board to consider and negotiate a payment-in-lieu-of-taxes agreement with Wilderness Development Corporation for a significant tourist attraction project known as “Soaky Mountain Waterpark” being developed at 175 Gists Creek Road in Sevierville.

The project is currently underway, but both actual and projected construction and other cost overruns are making the project’s future uncertain, and this project may not be completed but for abatement of ad valorem taxes by the City of Sevierville. If completed, the project will result in attracting numerous tourists and guests, and their tax dollars, to the City of Sevierville. This and other secondary benefits to the City of Sevierville resulting from the project as completed demonstrate that a payment-in-lieu-of-taxes agreement for the project would be in furtherance of the City of Sevierville Industrial Development Board’s public purposes.

Sincerely,

[Signature]

Benjamin C. Mullins
FRANTZ, McCONNELL & SEYMOUR, LLP

REG:dmn
S:\WDDOX\CLIENTS\8029\0000003\CORRESP001924029.DOCX
DATE: November 4, 2019

AGENDA ITEM: Consider approval of fee payment agreement with Wilderness Development Corporation for workforce housing development.

RESPONSIBILITY: Russell Treadway, City Administrator

PRESENTATION: As part of their expansion, Wilderness Development is developing workforce housing. This agreement provides for payment of all fees owed to the City for permitting services, tap fees and connections, and water and sewer utility improvements related to the workforce housing project be payable to the City over 20 years. The agreement holds the developer responsible for meeting agreed rental rates and maintaining certain occupancy levels of residents that employed within the City and County.

REQUESTED ACTION: Motion and affirmative vote to approve fee payment agreement.
FEE PAYMENT AGREEMENT

This Agreement is made effective the _____ day of _____________, 2019, by and between the City of Sevierville, Tennessee (City) and Wilderness Development Corp. (Developer).

Whereas, Developer wishes to construct housing units within the corporate limits of the City; and

Whereas, the City desires to increase the number of affordable housing units within the corporate limits of the City; and

Whereas, in exchange for the City’s acceptance of installment payments of fees due the City relating to development of the housing units, Developer is willing to offer housing units at affordable rates.

Now, therefore, the parties agree as follows:

1. Developer shall construct two residential units with a total of at least one-hundred and thirty-eight (138) units with at least five-hundred and thirty (530) beds, to be marketed as residences for persons who form the workforce of businesses located within the City and within Sevier County, Tennessee. Said housing construction is occurring in conjunction with the development of an outdoor waterpark.

2. With regard to the development, payment of all fees owed, or future expenses that will be owed, to the City for all permitting services, building permit fees, review fees, site plan review fees, tap fees, connection fees, erosion control fees, and lift-station fees and expenses (including but not limited to the estimated fees itemized on Exhibit A, attached) charged by the City will be deferred and will be paid to the City in two-hundred forty (240) equal, monthly installments, plus interest at the rate of one and one-half percent (1.5%) per annum, compounded
monthly. The first payment shall be due one (1) year from the date that a certificate of occupancy is issued for the final constructed building, or three (3) years from the beginning date of construction, whichever is sooner.

3. During the twenty (20) year fee payment term, rental rates for the housing units shall be tied to the Area Median Income (AMI) for Sevier County, Tennessee, published by the United States Department of Housing and Urban Development (HUD). Rental rates, with utility inclusion, for each housing unit shall be a figure no higher than thirty percent (30%) of one hundred twenty percent (120%) AMI for the size of the household renting that unit. For the purpose of calculating the maximum allowable rental rates, the size of the household shall be based on the total number of beds per unit. In the case rental rates are charged per bed and not per unit, the maximum rental rate shall be charged equally per bed.

4. During the twenty (20) year fee payment period, Developer shall submit annually, by January 31, for the previous calendar year, a listing of the rental for each housing unit, the work address of each tenant and the length of time that each tenant has been a resident.

5. Developer shall use all reasonable efforts to maintain an occupancy level where at least eighty percent (80%) of residents are employees of businesses located in Sevier County, and at least fifty percent (50%) of residents are employees of businesses located in the City. Should percentages drop below those goals, Developer shall demonstrate to the City’s reasonable satisfaction that Developer has a marketing plan designed to increase those percentages.

6. Should the annual report submitted by Developer in January show that Developer has failed to maintain the rental rates required by Section 3 of this Agreement, then the remaining balance of fees due the City shall be accelerated and shall be immediately due and payable with an acceleration/default fee of twenty percent (20%).
CITY OF SEVIERVILLE, TENNESSEE

By: ______________________
Its:  ______________________
Date:  ______________________

WILDERNESS DEVELOPMENT CORP.

By: ______________________
Title:  ______________________
Date:  ______________________
<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
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<tr>
<td>Employee housing</td>
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<td>Phase I building permit and review fee</td>
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<td>Phase II building permit</td>
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<td>Planning and Zoning Permits:</td>
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<td>Plan Review Fee:</td>
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<td>City water tap and sewer fees:</td>
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<tr>
<td>Lift Station:</td>
<td>$500,000 to $1,000,000.00</td>
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DATE: November 4, 2019

AGENDA ITEM: Consider Approval to Purchase budgeted replacement Turnout Gear in the amount of $26,376.00 from Municipal Emergency Services.

RESPONSIBILITY: Matt Henderson, Fire Chief

PRESENTATION: Consider approval to Purchase Replacement Turnout Gear, via NPPGov, a Publicly Solicited Contract for Fire Departments Nationwide as part of our budgeted Turnout Gear Replacement Program. Resolution (R-2016-003) was approved April 18, 2016 authorizing the City of Sevierville’s membership in NPPGov-Fire Rescue.

REQUESTED ACTION: Request Approval.
<table>
<thead>
<tr>
<th>Item</th>
<th>Specification</th>
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<tr>
<td>LTOTOS17G</td>
<td>LTO Tail Outer Shell - Armor AP - 6.5 osy Twill - Gldn Brown</td>
</tr>
<tr>
<td>LTOTTLI</td>
<td>LTO Tail Thermal Liner - 7.1 osy Synergy II 2 Layer</td>
</tr>
<tr>
<td>LTOTMBG</td>
<td>LTO Tail Moisture Barrier - 5.5 osy Stedair 4000</td>
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<tr>
<td>CFCCS-17G</td>
<td>Std - Coat Cuffs</td>
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<tr>
<td>IPLC</td>
<td>(O20) Std - Inspection Port Liner</td>
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<tr>
<td>LNDC</td>
<td>Std - Liner detachable</td>
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<tr>
<td>LNSETTE</td>
<td>Std - SET Thermal Enhancement</td>
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<tr>
<td>PKTLSTD</td>
<td>Std - Liner Label Pocket</td>
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<tr>
<td>RS-RRSAC</td>
<td>(R01) Std - Articulating Rapid Rescue Strap</td>
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<tr>
<td>SATUPST-17G</td>
<td>(O01) Std - Take Up Straps - 2 Postman</td>
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<td>TR-DSS</td>
<td>Std - Trim Double-Stitched</td>
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<tr>
<td>TRC301M-TL</td>
<td>Trim - (1) NFPA - lime 2-tone Scotchlite (3&quot;)</td>
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<tr>
<td>LTHEMV-17G</td>
<td>Hem Patch w/ Velcro - Armor AP - Gldn Brown</td>
</tr>
<tr>
<td></td>
<td>- FF LAST NAME (1st INITIAL when specified)</td>
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<tr>
<td></td>
<td>- Avg. 7 letters</td>
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<tr>
<td></td>
<td>- OK to use 2&quot; letters to fit</td>
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<td>LT3S07-SL</td>
<td>7 - 3&quot; sewn letters - lime Scotchlite</td>
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<td>LTSTC</td>
<td>Lettering Applied Directly to Back</td>
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<td>&lt; S F D &gt; * Straight - No Periods</td>
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<td>PO-EUS-L</td>
<td>(O17) Embroidered American Flag</td>
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<tr>
<td></td>
<td>-- left sleeve</td>
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<tr>
<td>CLZV2-17G</td>
<td>(E10) 2&quot; Velcro/Zipper Coat Closure</td>
</tr>
<tr>
<td>CL-TAB</td>
<td>pull tab - Arashield - Black</td>
</tr>
</tbody>
</table>

This quote, which received special pricing in consideration for services you as a dealer provided, cannot be used to offer pricing to any Federal Agency US Military branch, the National Guard or the Coast Guard. If you receive inquiries from such agencies, please contact your inside customer service representative. Additionally, these prices cannot be used to bid on specs developed by other dealers. Finally, since this special pricing was developed in response to services provided by you for your direct customer, it cannot be used to provide prices to other companies whose purpose would be to re-sell the products.
### Honeywell First Responder Products
### Clothing Specification Quote

<table>
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<th>Fire Dept.</th>
<th>Sevierville Fire Dept.</th>
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<td>We pay</td>
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**Specid** TNSEVR00026  **Spec Date** 10/17/2019  **Quote #** 81395TNSEVR

To assure you receive this special pricing, the above quote number must appear on all orders referenced to same. Any additions or deviations from original quote must be on order and are subject to additional cost.

---

**LTO 17IG Tails Golden Brown**

- **CCLTO-17G** (Q02) LTO Comfort Chinstrap
- **CCLTO-NF** No Fold Chinstrap
- **CCBLK** Black Knit Material on Comfort Chinstrap

- **LNDAPC** (O50) Dead Air Panels
- **LNTL-EMLIB** (S44) Easy Move Liner Combo - TL I & -TLB

- **PKFCV-17G** Flashlight Clip w/Velcro on Strap - Armor AP -Gldn Brown
  - right chest

- **PKHBLN-17G** Half Hi Bellows Pockets - Armor AP- Golden Berown
  - 7 x 9 x 1.5

- **PKBLCHW-FLC** Handwarmers behind Bellows Pockets - Fleece

- **PKBLC-V1** 3 Vertical Strips Velcro on Flap/Full Velcro on Pocket

- **PKRCFF-KV** Full Kevlar Lined

- **PKMT-17G** Mic Tab - Armor AP- Gldn Brown
  - left chest
  - 0.5 x 2.5

- **PKMT-17G** Mic Tab - Armor AP- Gldn Brown
  - on shield (stormflap)
  - 0.5 x 2.5
  - Place 4" below top of shield @ 1:00 O'clock

- **PKMT-17G** Mic Tab - Armor AP- Gldn Brown
  - right chest
  - 0.5 x 2.5
  - Place above Flashlight clip w/Velcro strap

- **PKRD-17G** Radio Pocket - Armor AP Gloden Brown
  - left chest
  - 9 x 3.5 x 3

- **PKRD-FN2** Notch Flap - Double Notches (both left & right)

- **WWSTLNH-BLK** (W50) Sub Wristlets -Long Hybrid with tabs -Nomex - black

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PROFIT ******PRO FIT DESIGN ******

**REV1**

*** Revision 1 ***

MPL 17BG Pants Golden Brown

- MPLPOS17G: MPL PRO FIT-Pants Outer Shell -Armor AP Twill - Golden Brown
- MPLPTLB: MPL PRO FIT -Pants Thermal Liner -Glide 2 Layer Thermal Liner
- MPLPMBG: MPL PRO FIT Pants Moisture Barrier -Stedair 4000
- IPLP: (O21) Std -Inspection Port Liner
- LNDP: Std -Liner Detachable
- TR-DSSP: Std -Trim Double-Stitched
- TRP307M-TL: Trim -(7) NFPA -lime 2-tone Scotchlite (3”)
- CLNFV2ZJ130-17G: (J130) R/LNarrow 2” Velcro/Zip Fly - No Hook -1 Snap
- CFANPF-ARB: (O03) Angled Cuffs - Arashield - Black
- CFPCPF-ARB: Pant Cuffs - Arashield - Black
- KBFBS-65B: (K05) BiFlex Heat Channel Knees - GBX -Black
- KNBFHVS-ARB: (K53) Both center sections in BiFlex Knee to be Arashield - Blac
- SATUP2PF-17G: (O01) Std Take Up Straps - 2 Postman - Armor AP Gldn Brown
- PKBLPS-17G: Std Bellows Pockets -Pants - Armor AP - Gldn Brown
  --  9 x 9 x 2
- PKBLPS-V1: Std 3 Strips Velcro on flap/full Velcro on pocket
- PKGFP-17G: Std E Z Grip Flaps - Armor AP - Golden Brown
- PKRPFFS-KEV: Std Full Kevlar Lined
- OPSSAS: (X02) Std Snap Style Suspender Attachment
- RSLADLOWRPF: (H16) R/L Life Grip Ladder/Escape Pant Adapt Lower Placement
- SPPPF: Basic H-Back Suspenders w/ Snap Attach & Quick Adjust Install
- SPPPF: Suspender Padding

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MPL 17BG Pants Golden Brown

WWP-TPSH (W05) Telescoping Particulate Shield

*28 WAIST & LARGER

Spec Limitations

Ladder Belt Adaptation will not fit on a 26 waist & smaller - A SPEC MUST BE CREATED
PRIOR TO SUBMITTING ON ORDER

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DATE: November 4, 2019

AGENDA ITEM: Blueway Planning

RESPONSIBILITY: Bob Parker - Director of Parks and Recreation

PRESENTATION:
The Parks and Recreation Master Plan recommended the establishment of a Blueway System in Sevierville. Both TDEC and the National Park Service have now approved providing limited technical assistance to City Staff. City Staff would like to begin the planning process in early Calendar Year 2020. In order to do this, it will be necessary to have a Plan of Action; which is provided on the following pages.

REQUESTED ACTION:

Approval of Plan of Action for Blueway Planning as per the Parks and Recreation Master Plan
Blueway Planning Project

A. Project Summary & Goals

The project objective is to combine technical and planning assistance in the leading towards developing a Plan of Action for Blueway Development. This Plans of Action will be to identify community partners, stakeholders, including federal and state agencies in the development of a Blueway System for the City of Sevierville. Development of Blueways surfaced as a high priority project in the Recreation Master Plan, approved by the City’s Board of Mayor and Aldermen in 2018.

The major goals to be achieved are:

- Establishment of public access points to the West Prong and the Middle Prong of Little Pigeon River. The convergence of these rivers from the Great Smokys National Park within the City provides a unique opportunity for outdoor recreational pursuits for area residents as well as visitors to Sevierville and Sevier County.
- Identify the requirements from all agencies and property providers along the Blueway System.

B. Project Long Term Benefits

The proposed new blueway system will benefit the personal health and well-being of citizens and visitors by creating new outdoor recreational opportunities and provide a positive economic impact on the City. Actions by several different groups over the years presents both challenges and opportunities for development of Blueway Systems. Some of these are:

- Re-channeling of rivers by Tennessee Valley Authority (TVA) in the 1966.
- The City’s entry into the National Flood Insurance Program, along with the adoption and enforcement of the City’s flood damage prevention ordinance and stormwater management ordinance.
- Sevierville’s rivers over the years seem to have been viewed as a liability due to the flooding and property destruction caused by the rivers over a course of many years.
- Our goal is to turn rivers in Sevierville from being our enemy into becoming our friend for both recreation and economic development.

As the result of efforts by the City in recent years with the development greenways along the rivers; rivers in Sevierville have now become picturesque and useable assets in the community. The City’s goal is to establish identifiable blueways with access points along their banks which will further support the City’s efforts to provide a wide range of valuable recreation experiences to its citizens and the millions of tourists that visit annually.
Blueway Planning Project

C. Role of State Agencies/Federal Agencies/City Staff/Others

- The Department of Parks and Recreation Master Plan approved in 2018; identified Blueways as both potential opportunities for economic development and increased recreational activities within the City of Sevierville. Below is a list of agencies that would/could or should become part of this Blueway planning and development project. If there are others identified, then that agency would be invited to participate.

<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Project Projected Role(s) and Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Sevierville Parks and Recreation Department and Other City Departments</td>
<td>• The Department will assist as a principal coordinator and be the primary point of contact working side by side with other agencies. Outreach to the public will be facilitated by City staff. The final design will require approval by Sevierville's Mayor and Board of Alderman.</td>
</tr>
<tr>
<td>Other City Departments:</td>
<td></td>
</tr>
<tr>
<td>-Department of Planning and Development</td>
<td>• The Department of Planning and Development will provide GIS data to the PARTAS and any economic impact information that would assist PARTAS in the design of our blueway system.</td>
</tr>
<tr>
<td>-Department of Public Works City</td>
<td>• The Department of Public Works is responsible for coordination for river bank maintenance and ADA compliant facilities.</td>
</tr>
<tr>
<td>--Marketing Coordinator</td>
<td>• The City Marketing Coordinator will be responsible for conducting a marketing campaign to show why we need to provide recreational opportunities on our rivers and how that commitment will result in positive economic impact.</td>
</tr>
<tr>
<td>-Tennessee Wildlife Resource Agency (TWRA)</td>
<td>• TWRA is responsible for approving any point of access into rivers in Tennessee.</td>
</tr>
<tr>
<td>-Walters State Community College</td>
<td>• Walters State Community College has provided a Support Letter in for Blueway Development for possible access on their campus.</td>
</tr>
<tr>
<td>-Private Property Owners</td>
<td>• Identity Private Property Owners allowing the City to use some private property for parking and river access.</td>
</tr>
<tr>
<td>-TDEC/National Park Service</td>
<td>• TDEC and NPS has committed to provide technical assistance.</td>
</tr>
<tr>
<td>-US Army Corps of Engineers</td>
<td>• Sevierville is committed to the National Flood Insurance Program and the US Army Corps of Engineers is responsible for &quot;whatever happens on the rivers&quot; whereas the relationship to National Flood Insurance program is provided.</td>
</tr>
<tr>
<td>-Tennessee Valley Authority (TVA)</td>
<td>• TVA's role will be to ensure that the improvements made to the river bank will be preserved and maintained when access points to the rivers are being considered.</td>
</tr>
</tbody>
</table>
AGENDA ITEM: Request from City of New Market, Tennessee to donate Winterfest Displays

RESPONSIBILITY: Bob Parker-Director of Parks and Recreation

PRESENTATION: Mayor Tucker of New Market, Tennessee contacted the City about the possibility of donating some old displays. He and the Director of Public Works visited our Winterfest Operation. The Mayor has since provided the attached letter and will be present at the meeting.

We can justify donating these displays because these are displays that we do not use for the following reasons:

- 3- Metal Ground Mounted Trees (Only used at Winterfest Kickoff Event-This event is no longer held and the sequencers no longer are operational)
- 20-Ground Mounted Snowflakes (Part of another ground mounted display that was damaged by a vehicular crash)
- 30- Small Snowflakes (These items were portions of a larger display that went over a roadway and was damaged by a vehicular crash)

REQUESTED ACTION:

Approval of donation of Winterfest Displays noted above to the City of New Market, Tennessee.
Dear Bob,

Thanks again for taking the time to meet with your sister city of New Market and trying to help us out. My Head of Public Works and I really enjoyed coming and seeing all the amazing lights Sevierville has to hopefully offer. I would personally like to request the Sevierville Board of Mayor and Alderman to please donate, “to their sister city of New Market” all the fore mentioned displays discussed in this email. This would be a tremendous help to get our little town back in a place where we can start doing a few lights for Christmas again.

Our citizens really miss us having a few lights up for Christmas. We have not been able to have any lights up here in over seven years.

We would greatly appreciate any help that Sevierville is willing to offer. Thanks again for your time and dedication to help get our little town back on track.

Sincerely,

Mayor Beau Tucker
Town of New Market
(865) 850-9933
Beau.R.Tucker@gmail.com
DATE: November 4, 2019

AGENDA ITEM: Request Emergency Purchase of New Electrical Gear Box and Professional Evaluation of Sprinkler System at Community Center

RESPONSIBILITY: Bob Parker - Director of Parks and Recreation

PRESENTATION: During the install of the new AC/Heating Unit at the Community Center by the City’s Facility Maintenance Department, it was discovered that the 37-year old Main Electrical Gear Box failed which resulted in the Sprinkler System Charging; which then resulted in a major line in the Sprinkler System breaking over the Bowling Center.

City Staff have evaluated the entire situation and recommends the below work to commence immediately:

- Replace the Main Electrical Gear Box in the Community Center. This work cannot be completed by City Staff; this would have to be done by an Electrical Contractor.

- Hire a professional Sprinkler Company to evaluate the condition of the entire Sprinkler System and offer recommendations and options.

- The above recommendations would consider any future improvements to the building and staff would make every effort to plan for any possible future expansion.

- Staff would obtain three written quotes for all emergency work performed.

REQUESTED ACTION:

Approval of recommendations as presented and allocate $23,000 from the Reserve Contingency Fund to pay for these unexpected and emergency purchases.
37-Year Old Sprinkler Pipe Broken above Bowling Lanes
37-Year Old
Main Electrical Gear
Box that will be replaced
DATE: November 4, 2019

AGENDA ITEM: Consider Agreement for Geotechnical Engineering Services on Red Bank Road Slope Failure

RESPONSIBILITY: Bryon Fortner, P.E., Public Works Director

PRESENTATION:
We have been experiencing a slope failure located along Red Bank Road for quite some time. During the February 2019 flooding, this area was again compromised by the swollen Middle Prong of the Little Pigeon River. We have money budgeted in the Capital budget for repairs of this roadway slope, but we are also working with the US Army Corps of Engineers (USACE) and the Federal Emergency Management Agency (FEMA) to secure funding for this project.

This contract with GEOServices will be to perform the necessary investigative work and develop specifications for this repair to be contracted in the near future.

REQUESTED ACTION: Approval of contract with GEOServices, LLC with a not-to-exceed amount of $7,500.00
October 14, 2019

CITY OF SEVIERVILLE
Sevierville City Hall
120 Gary Wade Blvd.
Sevierville, TN 37862

ATTENTION: Mr. Bryan Fortner, Engineering and Public Works Director

Subject: PROPOSAL FOR GEOTECHNICAL SERVICES
Red Bank Road Slope Failure
Sevierville, Tennessee
GEOServices Proposal No. 11-191063

Dear Mr. Fortner:

GEOServices, LLC is pleased to provide you with our proposal for geotechnical services for the subject project. The following proposal outlines our understanding of the project requirements based on information provided by you, the City of Sevierville, and a subsequent site visit. This proposal provides our understanding of the scope of services to be performed, an estimate of fees, proposed schedule, and establishes contractual agreements. Our Agreement for Services is attached to this proposal and is incorporated as a part of this proposal.

PROJECT REQUIREMENTS

The City of Sevierville engineering staff has identified an impending slope failure located along Red Bank Road, directly adjacent to the West Prong of the Pigeon River, in Sevierville, Tennessee. The impending slope failure is manifested as tension cracking and vertical displacement within the eastbound lane of Red Bank Road approximately 600 feet west of the intersection with Red Bank Circle. The distress was identified after constituent complains of the “failing roadway” following the massive rain event and subsequent flooding that occurred during the multiple heavy rain events of 2019. The following sections outline our requested visual
evaluation of the slope movement as well as provides our current recommendations, including cost implications for exploration, design, and remedial efforts to stabilize the roadway and protect the adjacent waterway from impacts.

GEOTECHNICAL SERVICES

Geotechnical Exploration

We propose to explore the site subsurface conditions with four (4) soil borings, two drilled at each failure locations and each drilled within the roadway near the failing roadway edge. The borings will be extended to a depth of auger refusal, which has been assumed to be 25 feet. Therefore, the maximum total drilling footage is estimated as 100 linear feet. Standard penetration resistance tests (SPT) will be performed at 2.5 feet intervals in the upper 10 feet and then at 5 feet intervals to the termination depth. Rock coring to explore refusal materials is not included in our scope of services at this time. The borings will be backfilled with soil cuttings prior to leaving the site.

All soil samples will be returned to our laboratory where they will be reviewed by a geotechnical engineer or staff professional to visually classify the soils and to select representative samples for
testing. Laboratory testing of selected soil samples may include natural moisture content
determinations, Atterberg limits tests and organic content tests.

Our services will culminate with a written report prepared by a geotechnical engineer or project
staff professional under the review of a senior engineer licensed in Tennessee. The report will
provide a summary of the subsurface conditions encountered in the test borings, present our opinion
as to the cause of the observed failures, and provide a remediation option for the failure. All field
data required to be recorded according to the ASTM standards or other standard test methods
employed shall be obtained, recorded in the field and documented in the report.

Design Services
We understand that the anticipated remediation is to consist of the construction of a MSE retaining
wall or another acceptable remedial system to stabilize the roadway from future failure during high
water events. We propose to design the necessary slope remediation which will include a full set of
construction plans and a calculation packet that can be submitted to the City of Sevierville for
review and approval.

FEES

Geotechnical Exploration
Based on the scope of services described above, the lump sum cost to perform our geotechnical
drilling, including two borings (up to 100 linear feet of drilling) and engineering services will be
$3,500.

Design Services
Based on the scope of services described above, we recommend a budget of $4,000. This budgetary
cost assumes the survey work will be completed in-house by the City of Sevierville. Our actual
services will be performed on a unit rate basis and you will only be charged for the actual time
spent. If additional services or revisions are requested, the additional services will be performed at
an hourly rate of $125 per hour.
Should conditions be encountered such that additional services appear to be in the best interest of the project, we would contact you with our recommendations prior to proceeding with any services beyond the scope of this proposal. We will not exceed this cost portions of this proposal without written authorization from you.

**SCHEDULE AND AUTHORIZATION**

Based on our current schedule, we are prepared to initiate our geotechnical services within 2 to 4 days upon receipt of your written authorization to proceed. Per Tennessee law, a three-day utility clearance period is required before any excavation or drilling can begin. Upon your authorization, we will contact Tennessee One Call for utility clearance. The Tennessee One Call will provide location of public utilities; any private utility location will be the responsibility of the owner. We anticipated that the field exploration will be completed in one to two working days. Verbal preliminary information can be provided at the completion of the field work, if necessary. The subsurface report will be submitted approximately 15 working days after completion of the field exploration. The design plans will be submitted approximately 10 days upon completion of our geotechnical exploration.

Our Agreement for Services is attached and is incorporated as a part of this proposal. Please indicate your acceptance of our proposal by signing and returning one copy to our office. A facsimile transmittal of the signature page of the contract will be considered suitable written authorization. However, GEOServices will issue the Geotechnical Report only after the receipt of a signed copy of this contract intact. If you elect to indicate acceptance of our proposal by issuing a purchase order, then please reference this proposal number and date. Your purchase order will be an acceptance of our Agreement for Services and an authorization to proceed with the performance of our services. The terms and conditions included in any purchase order shall not apply, as our agreement is for services, which are not compatible with purchase order agreements.
GEOServices sincerely appreciates the opportunity to provide you with this proposal. If you have any questions, please contact us.

Sincerely,
GEOServices, LLC

[Signature]

Lloyd R. Monday, P.E
Principal

Attachments: Agreement for Services Form
AGREEMENT FOR SERVICES

Date: October 14, 2019

GEO Services, LLC
(thereafter Consultant)

Client Name: City of Sevierville
(thereafter Client)

Address: 2561 Willow Point Way
Address: 310 Robert Henderson Road

City: Knoxville
City: Sevierville

State: Tennessee Zip: 37931
State: Tennessee Zip: 37862

Telephone: (865) 573-6130
Telephone:

Fax: (865) 573-6132
Fax:

Email: lmonday@geoservicesllc.com

PROJECT

Project Name: Red Bank Road Slope Failure
Project Location: Sevierville, Tennessee

SERVICES TO BE RENDERED

Proposal Number: 11-191063 Dated: October 14, 2019 is incorporated into this Agreement For Services. This Agreement For Services is incorporated into the above Proposal.

WITNESSETH: WHEREAS, Client desires to contract with Consultant to furnish Services to Client's project identified above.

WHEREAS, Consultant is engaged in the business of providing Services and related labor, materials, and equipment. (Herein individually and collectively referred to as Services.)

NOW, THEREFORE, in consideration of the Mutual Covenants and Promises included herein, Client and Consultant agree as follows:

1. OFFER ACCEPTANCE: Client hereby accepts Consultant's offer to provide Services as described in Consultant's proposal for Services referenced under "SERVICES TO BE RENDERED" and agrees that such Services and any additional Services authorized by Client shall be governed by this Agreement. If Client requests Consultant to start performing Services prior to receipt of this Agreement, Client agrees that Consultant's beginning of performance is based on reliance that Client will accept and execute this Agreement for Services. If Client requests Consultant to start performing Services prior to the execution of this Agreement For Services by the Client, then such request is an acceptance of this Agreement for Services to the same extent as if Client had executed this Agreement. Should Client choose to accept this Agreement for Services through the use of a Purchase Order, all preprinted terms and conditions on Client's purchase order are inapplicable to this Agreement as this Agreement is for Services that are not compatible with purchase order agreements. Unless this offer is previously accepted, it will be withdrawn automatically at 5:00 pm EST, ninety (90) days from the date of issue.

2. CONTRACT DOCUMENTS: "Contract Documents" shall mean this document as well as the proposal listed under "SERVICES TO BE RENDERED" each of which is incorporated into the other.

3. PAYMENT: Client will pay Consultant for Services and expenses in accordance with the Contract Documents. If prices for Services are not established under SERVICES TO BE RENDERED, then the current fee schedule in effect for the location providing the Services shall be used as the amount to be paid by Client for Services provided. Consultant will submit progress invoices to Client monthly and a final invoice upon completion of its Services. Payment is due upon receipt of the invoice unless otherwise agreed to in writing prior to the submittal of the invoice. Invoices are past due 30 calendar days after the date of the invoice. Past due amounts are subject to a late payment fee of one and one-half percent per month (18 percent per annum) or the highest amount allowed by applicable law on the outstanding balance, whichever is less. Attorney's fees and other costs incurred in collecting past due amounts shall be paid by Client. The Client's obligation to pay under this Agreement is in no way dependent upon the Client's ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or upon the Client's successful completion of the Project. Consultant shall be paid in full for all Services rendered under this Agreement, including any additional Services authorized by Client in excess of those stated in this Agreement.
Without incurring any liability to the Client, Consultant may either suspend or terminate this Agreement if Client fails to pay any undisputed invoice amounts within 60 calendar days of the invoice date, or if Client states its intention not to pay forthcoming invoices. Such suspension or termination will not waive any other claim Consultant may have against Client. Following such suspension or termination, Consultant may resume work by mutual agreement with Client after payment by Client of all outstanding invoiced amounts and collection expenses. In case of such suspension or termination, Client waives all claims for damages or delay as a result of such suspension or termination.

Any invoices that are not paid within thirty (30) calendar days of Client’s receipt of letter from Consultant demanding payment of the invoices or a collection action notification by an attorney or collection agency shall constitute a release of Consultant by Client from any and all claims whatsoever, including, but not limited to, tort or contractual claims which Client may have against Consultant for Services performed under said invoice(s).

4. STANDARD OF CARE: Consultant and its agents, employees and subcontractors shall endeavor to perform Services for Client using that degree of care and skill ordinarily exercised, under similar circumstances, by others ordinarily providing Services in the same or similar locality as the project at the time Services are provided. In the event any portion of the Services fails to substantially comply with this standard of care obligation and Consultant is promptly notified in writing prior to one year after completion of such portion of the Services, Consultant will re-perform such portion of the Services, or if re-performance is impractical, Consultant will refund the amount of compensation paid to Consultant for such portion of the Services. THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE. This STANDARD OF CARE is in lieu of all other warranties and standards of care. No other warranty or standard of care, expressed or implied, is made or intended by this Agreement, or by the proposal, by oral communications, or by any representations made regarding the Services included in this Agreement.

LIMITATION OF LIABILITY: CONSULTANT AND CLIENT MUTUALLY AGREE THAT THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT INVOLVE RISKS OF LIABILITY WHICH CANNOT BE ADEQUATELY COMPENSATED FOR BY THE PAYMENTS CLIENT WILL MAKE UNDER THIS AGREEMENT. THEREFORE, THE TOTAL CUMULATIVE LIABILITY OF CONSULTANT, ITS AGENTS, EMPLOYEES, AND SUBCONTRACTORS WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE (WHETHER SOLE OR CONCURRENT), PROFESSIONAL ERRORS OR OMISSIONS, BREACH OF WARRANTY (EXPRESS OR IMPLIED), NEGLIGENT MISREPRESENTATION, AND STRICT LIABILITY, OR OTHERWISE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL FEES PAID BY CLIENT OR ONE MILLION DOLLARS, WHICHERSOEVER IS GREATER. CLIENT AGREES THAT PAYMENT OF THE LIMIT OF LIABILITY AMOUNT IS THE SOLE REMEDY TO THE EXCLUSION OF ALL OTHER REMEDIES AVAILABLE FOR THE TOTAL CUMULATIVE LIABILITY OF CONSULTANT, ITS AGENTS, EMPLOYEES, AND SUBCONTRACTORS ARISING OUT OF, CONNECTED WITH OR RESULTING FROM THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT. AT ADDITIONAL COST, CLIENT MAY OBTAIN A HIGHER LIMIT OF LIABILITY PRIOR TO COMMENCEMENT OF SERVICES. THE ADDITIONAL COST IS COMPENSATION TO CONSULTANT FOR INCREASING THE CONSULTANT'S LIMIT OF LIABILITY. THE ADDITIONAL COST IS NOT AN INSURANCE COST. THE HIGHER LIMIT OF LIABILITY APPLIES ONLY IF MUTUALLY AGREED TO IN WRITING BY CONSULTANT AND CLIENT AT THE TIME CLIENT ACCEPTS THIS AGREEMENT FOR SERVICES AND THE ADDITIONAL COST PAID WITHIN SEVEN DAYS OF THE DATE OF THE MUTUAL AGREEMENT TO INCREASE THE LIMIT OF LIABILITY.

5. DISCLAIMER OF CONSEQUENTIAL DAMAGES: In no event shall Consultant or Client be liable to the other for any special, indirect, incidental or consequential loss or damages, including, but not limited to, lost profits and loss of use rising from or related to Services provided by Consultant.

6. REPORTS: In connection with the performance of the Services, Consultant shall deliver to Client one or more reports or other written documents reflecting Services provided and the results of such Services. All reports and written documents delivered to Client are instruments reflecting the Services provided by Consultant pursuant to this Agreement and are made available for Client's use subject to the limitations of this Agreement. Instruments of Service provided by Consultant to Client pursuant to this Agreement are provided for the exclusive use of Client, and Client's agents and employees for the Project and are not to be used or relied upon by third parties or in connection with other projects. Subject to the authorized use of Client, and Client's agents, and employees, all Instruments of Service, other written documents, all original data gathered by Consultant and work papers produced by Consultant in the performance of or intrinsic to the Services included in the Services are, and shall remain, the sole and exclusive property of Consultant. Unless a shorter period is stated in the Instrument of Service, all Instruments of Service provided pursuant to this Agreement will be valid for a period of three years from the date of this Agreement after which the Instruments of Service are void and can no longer be used or relied upon by anyone for any purpose whatsoever. The period for which an Instrument of Service is valid may be extended by mutual written consent of the Consultant and Client.

Documents that may be relied upon by Client are limited to the printed copies (also known as hardcopies) that are signed or sealed by Consultant. Files in electronic media format of text, data, graphics or of other types that are furnished by Consultant to Client are only for the convenience of Consultant and Client. Any conclusion or information obtained or derived from such electronic files will be at the Client's or other user's sole risk. Data stored in electronic format can deteriorate or be modified inadvertently or otherwise. Consultant shall not be responsible to maintain documents stored in electronic media.

Consultant shall not be responsible for any alterations, modifications, or additions made in the electronic data by the Client or any reuse of the electronic data by the Client or any other party for this project or any other project without Consultant's written consent. Client shall indemnify, and hold Consultant harmless against any claims, damages or losses arising out the reuse of the electronic data.
data without Consultant’s consent or arising out of alterations, modifications, or additions to the electronic data made by anyone other than Consultant.

Any Instruments of Service, including reports, generated as part of this Agreement are intended solely for use by Client. Client shall indemnify and hold harmless Consultant from and against any action or claim brought by any person or entity claiming to rely on the information or opinions contained in the Instrument of Service without Consultant’s written authorization.

7. SAFETY: Consultant specifically disclaims any authority or responsibility for general job safety and for the safety of persons who are not employed by Consultant. Should Client, or third parties, be conducting activities on the Site, then each shall have responsibility for their own safety and compliance with applicable safety requirements. Field Personnel: The presence of Consultant’s field personnel, either full-time or part-time, may be for the purpose of providing project administration, assessment, observation or field testing of specific aspects of the project as authorized by Client. Should Client retain the Services of a Contractor(s) for the project, Consultant is not responsible in any way whatsoever for the supervision or direction of the work of the Contractor(s), its’ employees or agents. The presence of Consultant’s field personnel for project administration, assessment, observation or testing shall not relieve the Contractor(s) of his responsibility for performing work in accordance with the project plans and specifications. If a Contractor (not a subcontractor of Consultant) is involved in the project, Client agrees, in accordance with generally accepted construction practices, that the Contractor will be solely responsible for working conditions on the jobsite, including safety of all persons and property during performance of the work, and compliance with OHSA regulations. These requirements will apply continuously and will not be limited to normal working hours. It is agreed that Consultant will not be responsible for job or jobsite safety on the project, other than for Consultant's employees and subcontractors, and that Consultant does not have the duty or right to stop the work of the Contractor.

8. CONFIDENTIALITY: Subject to any obligation Consultant may have under applicable law or regulation, Consultant will endeavor to release information relating to the Services only to its employees and subcontractors in the performance of the Services, to Client's authorized representative(s) and to persons designated by the authorized representative to receive such information.

9. SAMPLES: Unless otherwise requested, test specimens or samples will be disposed of immediately upon completion of tests and analysis. Upon written request, Consultant will retain samples for a mutually acceptable storage charge and period of time. In the event that samples contain or may contain hazardous materials, Consultant shall, after completion of testing and at Client's expense, return such samples to Client or make samples available for disposal by Client's agent. Client recognizes and agrees that Consultant is acting as a bailee and at no time assumes title to said samples.

10. REPRESENTATIONS OF CLIENT: Client warrants and covenants that sufficient funds are available or will be available upon receipt of Consultant's invoice to make payment in full for the Services rendered by Consultant. Client warrants that all information provided to Consultant regarding the project and project location are complete and accurate to the best of Client's knowledge.

11. CLIENT OBLIGATIONS: Client agrees to furnish Consultant, its agents, employees, and subcontractors a right-of-entry and any authorizations needed for Consultant to enter onto the project site to perform the Services included in this Agreement. Consultant will take reasonable precautions to minimize damage to the Project Site from Consultant's activities and use of equipment. Consultant recognizes that the performance of the Services included in this Agreement may cause alteration or damage to the site. Client accepts the fact that this is inherent in the work and will not look to Consultant for reimbursement or hold Consultant liable or responsible for any such alteration or damage. Should Client not be owner of the property, then Client agrees to notify the owner of the aforementioned possibility of unavoidable alteration and damage and to indemnify, and hold harmless Consultant against any claims and claims related costs including attorney's fees by the owner or persons having possession of the site through the owner which are related to such alteration or damage.

12. UTILITIES: Client agrees to disclose the identity of all utilities serving the Project Site and the presence and accurate location of hidden or obscure man-made objects known to Client relative to field tests or boring locations. To the extent permitted by Tennessee Law, but no further or otherwise, Client agrees to indemnify and hold harmless Consultant from all claims, suits, losses, personal injuries, death, and property liability including costs and attorney's fees resulting from damage or injury to utilities or subterranean structures (pipes, tanks, etc.) arising from the performance of Consultant’s Services when the existence of such are not called to Consultant's attention or the location not correctly identified in information furnished Consultant.

13. CERTIFICATIONS: Client agrees not to require that Consultant execute any certification with regard to work performed, tested or observed under this Agreement unless: 1) Consultant believes that it has performed sufficient work to provide a sufficient basis to issue the certification; 2) Consultant believes that the work performed, tested or observed meets the criteria of the certification; and 3) Consultant has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by Consultant is limited to an expression of professional opinion based upon the Services performed by the Consultant, and does not constitute a warranty or guarantee, either expressed or implied.

14. FAILURE TO FOLLOW RECOMMENDATIONS: The Client agrees that it would be unfair to hold the Consultant liable for problems that may occur if the Consultant’s recommendations are not followed. Accordingly, the Client waives any claim against the Consultant, and agrees to indemnify, and hold harmless the Consultant from any claim or liability for injury or loss that results from failure to implement the Consultant’s recommendations or from implementation of the Consultant’s recommendations in a manner that is not in strict accordance with them.
15. **TERMINATION:**
   For Convenience - Upon written notice, Client or Consultant may terminate the performance of any further Services included in this Agreement if the terminating party determines termination is in the terminating party's interest. Upon dispatch or receipt of the termination notice, Consultant shall stop work on all Services included in this Agreement and deliver any Instruments of Service complete at that time to Client and Consultant shall pay Consultant within 30 days for all Services performed up to the dispatch or receipt of the termination notice. Upon Termination for Convenience, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.

For Cause – In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon 10 days written notice delivered or mailed to the other party, which notice must identify the material breach. The Agreement may not be terminated for cause if the breaching party cures the breach within ten days of receipt of the written notice. Upon Termination for Cause, Consultant shall stop work on all Services included in this Agreement and deliver any instruments of service complete at that time to Client and Consultant shall pay Consultant within 30 days for all Services performed up to the termination. Upon Termination for Cause, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.

16. **UNFORESEEN CONDITIONS OR OCCURRENCES:** If, during the performance of service hereunder, any unforeseen hazardous substance, material, element or constituent or other unforeseen conditions or occurrences are encountered which, in Consultant's judgment significantly affects or may affect the services, the risk involved in providing the Services, or the recommended scope of Services, Consultant will notify Client thereof. Subsequent to that notification, Consultant may: (a) If practicable, in Consultant's judgment and with approval of Client, complete the original scope of Services in accordance with the procedures originally intended in the Proposal; (b) Agree with Client to modify the scope of Services and the estimate of charges to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or (c) Terminate the Services effective on the date of notification pursuant to the terms of TERMINATION FOR CONVENIENCE. Client is responsible for reporting any releases of hazardous substances to appropriate government agencies as required by law. Client waives any claim against Consultant and will indemnify and hold Consultant harmless from any claim, injury or loss arising from the discovery of unforeseen hazardous substances.

17. **FORCE MAJEURE:** Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of an obligation (other than the payment of money) results from any causes beyond its reasonable control and without its fault or negligence. For this purpose, such acts or events shall include, but are not limited to, storms, floods, usually severe weather, epidemics, civil disturbances, war, riot, strikes, lockouts or other industrial disturbances, and inability within reasonable diligence to supply personnel, information or material to the project. In the event that such acts or events occur, it is agreed that both parties shall attempt to overcome all difficulties arising and to resume as soon as reasonably possible the normal pursuit and schedule of the Services covered by this Agreement. The time for performance shall be extended for a period equal to the delay.

18. **INSURANCE:** Consultant shall maintain at its own expense Professional Liability Insurance with limits of $1,000,000. A certificate can be issued upon request identifying details and limits of coverage.

19. **INDEMNITY:** Client agrees to indemnify, and save harmless Consultant, its agents, employees, and subcontractors from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees), which Consultant, its agents, employees, and subcontractors may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Consultant's negligence or willful misconduct. Subject to the Limitation of Liability in Article 5, Consultant agrees to indemnify, and save harmless Client from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees) which Client may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Consultant's negligence or willful misconduct. Consultant agrees to indemnify, and save harmless Client from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees) which Consultant may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Consultant's negligence or willful misconduct. Subject to the Limitation of Liability in Article 5, Consultant agrees to indemnify, and save harmless Client from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees) which Consultant may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Consultant's negligence or willful misconduct. Subject to the Limitation of Liability in Article 5, Consultant agrees to indemnify, and save harmless Client from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees) which Consultant may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Consultant's negligence or willful misconduct.

20. **DISPUTE RESOLUTION:** Consultant may in Consultant's sole discretion pursue collection of past due invoices by litigation in a court of competent jurisdiction. Other than Consultant's collection of past due invoices, in the event of a dispute between Consultant and Client with regard to any matter arising out of or related to this Agreement, the Parties will use their best efforts to resolve the dispute amicably within fifteen (15) calendar days. If the dispute cannot be settled amicably, the Parties agree that the dispute shall be subject to mediation in accordance with the mediation rules of the American Arbitration Association or similar Dispute Resolution organization. Mediation in good faith shall be a condition precedent to the institution of legal or equitable proceedings by either party. Once a party files a request for mediation with the other party and with the American Arbitration Association, or similar Dispute Resolution organization, the parties agree to commence such mediation within thirty (30) days of the filing of the request. The costs of such mediation shall be borne equally by both parties. If the dispute is not resolved after such mediation, then the dispute shall be resolved by litigation in a court of competent jurisdiction.

21. **CAPTIONS AND HEADINGS:** The captions and headings throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, modify, or add to the interpretation, construction, or meaning of any provision of or scope or intent of this Agreement.
22. **SEVERABILITY**: If any provision of this Agreement, or application thereof to any person or circumstance, shall to any extent be invalid, then such provision shall be modified if possible, to fulfill the intent of the parties as reflected in the original provision, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

23. **ASSIGNMENT AND SUBCONTRACTS**: Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, except for an assignment of proceeds for financing purposes. Consultant may subcontract for the Services of others without obtaining Client's consent if Consultant deems it necessary or desirable to have others perform Services.

24. **NO WAIVER**: No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or different in character.

25. **LAW TO APPLY**: The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the state in which the project is located.

**CONSULTANT HEREBY ADVISES CLIENT THAT ITS PERFORMANCE OF THIS AGREEMENT IS EXPRESSLY CONDITIONED ON CLIENT'S ASSENT TO THE TERMS AND CONDITIONS DETAILED HEREIN.**

**ENTIRE AGREEMENT** – This Agreement represents the entire understanding and agreement between the parties hereto relating to the Services and supersedes any and all prior negotiations, discussions, and Agreements, whether written or oral, between the parties regarding same.

TO THE EXTENT that any additional or different Provisions conflict with the Provisions of this Agreement, the Provisions of this Agreement shall govern. No amendment or modification to this Agreement or any waiver of any provisions hereof shall be effective unless in writing, signed by both parties.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representative.

---

**CLIENT: City of Sevierville**

**GEOservices, LLC**

---

**BY: ___________________________**

(Signature)

**BY: ___________________________**

(Signature)

**Lloyd R. Monday, P.E. / Principal**

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**DATE: ___________________________**

**DATE: October 14, 2019**

**PROPOSAL NUMBER: 11-191063**

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*Faxed signature to be treated as original signature*
DATE: November 4, 2019

AGENDA ITEM: Tee Box Repair Bid

RESPONSIBILITY: Tracy Baker

PRESENTATION: This is one of two large restoration projects at the Golf Club as a result of the flooding in February. Both projects are reimbursable by FEMA.

A slope failure occurred on Highlands Tee Box #8, requiring site grading, remedial work, and a reconstruction of the tee box to restore the area. Installation of permanent erosion control material and earth anchors (Option #3) is the least costly option and the least disruptive to the golf course.

Prices quoted are based on square footages, which may vary once work begins. We request a not to exceed budget of $110,000 to cover the cost of Option #3 ($86,613.50) and the tee box restoration ($15,000). Charles Blalock and Sons was the sole bidder.

Costs for the two FEMA reimbursable Golf Course restoration projects are not budgeted and will require a transfer of funds.

REQUESTED ACTION: Approval of not-to-exceed budget of $110,000 for tee box restoration to be awarded to Charles Blalock and Sons.
## City of Sevierville

### Item: Tee Box Repair

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Option #1</th>
<th>Option #2</th>
<th>Option #3</th>
<th>Tee Box Restoration</th>
<th>Time to Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charles Blalock &amp; Sons</td>
<td>$109,764.00</td>
<td>$94,077.50</td>
<td>$86,013.50</td>
<td>$15,000.00</td>
<td>90 days</td>
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</table>

Opening Date: 11/08/19  
Time: 3:00 PM  
Location: City Hall
DATE: November 4, 2019

AGENDA ITEM: Consider approval for Tyler Technologies Incode Public Safety Suite, Incode Court Suite, and Brazos Software and Related Services.

RESPONSIBILITY: Joseph Manning, Chief of Police

PRESENTATION: The Sevierville Police Department is requesting to purchase the above software to replace software purchased in 2013 that is no longer beneficial for the efficient and effective operation of our police services. The Sevierville Police Department worked closely with the Sevierville IT Department in identifying software that would assist in improved efficiency. The Police Department, with the assistance of the IT Department received demonstrations of public safety software. The software chosen complies with state and federal reporting mandates. The software will also allow for a more streamlined process of collecting, storing, retrieving, and sharing critical information using a centralized repository. The Brazos Electronic Citation Software allows officers to instantly identify subjects using a handheld device to scan driver’s license and registration information. This information can be transmitted to other officers, dispatchers and the court application saving time and making it safer for the officer on the street. The Incode Court Suite will interact with both the Incode Public Safety Suite and the Brazos Electronic Citation Software streamlining the process and eliminating paperwork. Currently, the software in use will expire by July of 2020 if the upgrade is not purchased. If approved, Tyler Technologies implementation phase is between eight (8) to ten (10) months. The total price of the software is $369,985.00. Working
with the Finance Department, the Police Department has identified funding sources to include current Capital funding, savings through the current Police Department budget, and future Capital budget. This purchase would be made using Sourcewell satisfying the state contract price. Contract agreement reviewed by the city attorney on 10/29/2019.

**REQUESTED ACTION:** Approval for the Tyler Technologies Incode Public Safety Suite, Incode Court Suite, and Brazos Software and Related Services for the price of $369,985.00 using Sourcewell for the state contract.
LICENSE AND SERVICES AGREEMENT

This License and Services Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to license the software products and perform the services set forth in the Investment Summary and Tyler desires to perform such actions under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- “Agreement” means this License and Services Agreement.
- “Business Travel Policy” means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- “Client” means City of Sevierville, Tennessee.
- “Defect” means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- “Developer” means a third party who owns the intellectual property rights to Third Party Software.
- “Documentation” means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- “Effective Date” means the date by which both your and our authorized representatives have signed the Agreement.
- “Force Majeure” means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- “Investment Summary” means the agreed upon cost proposal for the software, products, and services attached as Exhibit A.
- “Invoicing and Payment Policy” means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- “Maintenance and Support Agreement” means the terms and conditions governing the provision of maintenance and support services to all of our customers. A copy of our current Maintenance and Support Agreement is attached as Exhibit C.
- “Statement of Work” means the industry standard implementation plan describing how our professional services will be provided to implement the Tyler Software, and outlining your and our roles and responsibilities in connection with that implementation. The Statement of Work is attached as Exhibit E.
“Support Call Process” means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.

“Third Party Hardware” means the third party hardware, if any, identified in the Investment Summary.

“Third Party Products” means the Third Party Software and Third Party Hardware.

“Third Party Services” means the third party services, if any, identified in the Investment Summary.

“Third Party Software” means the third party software, if any, identified in the Investment Summary.

“Third Party Terms” means, if any, the end user license agreement(s) or similar terms for the Third Party Software, as applicable and attached as Exhibit F.

“Tyler” means Tyler Technologies, Inc., a Delaware corporation.

“Tyler Software” means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.

“we”, “us”, “our” and similar terms mean Tyler.

“you” and similar terms mean Client.

SECTION B – SOFTWARE LICENSE

1. License Grant and Restrictions.

1.1 We grant to you a license to use the Tyler Software for your internal business purposes only, in the scope of the internal business purposes disclosed to us as of the Effective Date. You may make copies of the Tyler Software for backup and testing purposes, so long as such copies are not used in production and the testing is for internal use only. Your rights to use the Tyler Software are perpetual but may be revoked if you do not comply with the terms of this Agreement.

1.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.

1.3 You may not: (a) transfer or assign the Tyler Software to a third party; (b) reverse engineer, decompile, or disassemble the Tyler Software; (c) rent, lease, lend, or provide commercial hosting services with the Tyler Software; or (d) publish or otherwise disclose the Tyler Software or Documentation to third parties.

1.4 The license terms in this Agreement apply to updates and enhancements we may provide to you or make available to you through your Maintenance and Support Agreement.

1.5 The right to transfer the Tyler Software to a replacement hardware system is included in your license. You will give us advance written notice of any such transfer and will pay us for any required or requested technical assistance from us associated with such transfer.

1.6 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating
to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at https://www.tylertech.com/about-us/compliance, and in the event of any change in our status, will comply with applicable notice requirements.

1.7 We reserve all rights not expressly granted to you in this Agreement. The Tyler Software and Documentation are protected by copyright and other intellectual property laws and treaties. We own the title, copyright, and other intellectual property rights in the Tyler Software and the Documentation. The Tyler Software is licensed, not sold.

2. **License Fees.** You agree to pay us the license fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.

3. **Escrow.** We maintain an escrow agreement with a third party under which we place the source code for each major release of the Tyler Software. You may be added as a beneficiary to the escrow agreement by completing a standard beneficiary enrollment form and paying the applicable annual beneficiary fee. You will be responsible for maintaining your ongoing status as a beneficiary, including payment of the then-current annual beneficiary fees. Release of source code for the Tyler Software is strictly governed by the terms of the escrow agreement.

4. **Limited Warranty.** We warrant that the Tyler Software will be without Defect(s) as long as you have a Maintenance and Support Agreement in effect. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect as set forth in the Maintenance and Support Agreement.

**SECTION C – PROFESSIONAL SERVICES**

1. **Services.** We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.

2. **Professional Services Fees.** You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.

3. **Additional Services.** The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. **Cancellation.** We make all reasonable efforts to schedule our personnel for travel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.

5. **Services Warranty.** We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.

6. **Site Access and Requirements.** At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us. You further agree to provide a reasonably suitable environment, location, and space for the installation of the Tyler Software and any Third Party Products, including, without limitation, sufficient electrical circuits, cables, and other reasonably necessary items required for the installation and operation of the Tyler Software and any Third Party Products.

7. **Client Assistance.** You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).

8. **Background Checks.** For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies.

**SECTION D – MAINTENANCE AND SUPPORT**

This Agreement includes the period of free maintenance and support services identified in the Invoicing and Payment Policy. If you have purchased ongoing maintenance and support services, and continue to make timely payments for them according to our Invoicing and Payment Policy, we will provide you with maintenance and support services for the Tyler Software under the terms of our standard Maintenance and Support Agreement.

If you have opted not to purchase ongoing maintenance and support services for the Tyler Software, the Maintenance and Support Agreement does not apply to you. Instead, you will only receive ongoing maintenance and support on the Tyler Software on a time and materials basis. In addition, you will:

(i) receive the lowest priority under our Support Call Process;
be required to purchase new releases of the Tyler Software, including fixes, enhancements and patches;

(iii) be charged our then-current rates for support services, or such other rates that we may consider necessary to account for your lack of ongoing training on the Tyler Software;

(iv) be charged for a minimum of two (2) hours of support services for every support call; and

(v) not be granted access to the support website for the Tyler Software or the Tyler Community Forum.

SECTION E – THIRD PARTY PRODUCTS

To the extent there are any Third Party Products set forth in the Investment Summary, the following terms and conditions will apply:

1. **Third Party Hardware.** We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.

2. **Third Party Software.** Upon payment in full of the Third Party Software license fees, you will receive a non-transferable license to use the Third Party Software and related documentation for your internal business purposes only. Your license rights to the Third Party Software will be governed by the Third Party Terms.

   2.1 We will install onsite the Third Party Software. The installation cost is included in the installation fee in the Investment Summary.

   2.2 If the Developer charges a fee for future updates, releases, or other enhancements to the Third Party Software, you will be required to pay such additional future fee.

   2.3 The right to transfer the Third Party Software to a replacement hardware system is governed by the Developer. You will give us advance written notice of any such transfer and will pay us for any required or requested technical assistance from us associated with such transfer.

3. **Third Party Products Warranties.**

   3.1 We are authorized by each Developer to grant or transfer the licenses to the Third Party Software.

   3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.

   3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.

4. **Third Party Services.** If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in
accordance with our Invoicing and Payment Policy.

5. **Maintenance.** If you have a Maintenance and Support Agreement in effect, you may report defects and other issues related to the Third Party Software directly to us, and we will (a) directly address the defect or issue, to the extent it relates to our interface with the Third Party Software; and/or (b) facilitate resolution with the Developer, unless that Developer requires that you have a separate, direct maintenance agreement in effect with that Developer. In all events, if you do not have a Maintenance and Support Agreement in effect with us, you will be responsible for resolving defects and other issues related to the Third Party Software directly with the Developer.

SECTION F – INVOICING AND PAYMENT; INVOICE DISPUTES

1. **Invoicing and Payment.** We will invoice you for all fees set forth in the Investment Summary per our Invoicing and Payment Policy, subject to Section F(2).

2. **Invoice Disputes.** If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION G – TERMINATION

1. **Termination.** This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section F(2).

1.1 **For Cause.** If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section I(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section I(3).

1.2 **Force Majeure.** Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of this Agreement for a period of forty-five (45) days or more.

1.3 **Lack of Appropriations.** If you should not appropriate or otherwise receive funds sufficient to purchase, lease, operate, or maintain the software or services set forth in this Agreement, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will
not be entitled to a refund or offset of previously paid license and other fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.

SECTION H – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. **Intellectual Property Infringement Indemnification.**

   1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party’s patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.

   1.2 Our obligations under this Section H(1) will not apply to the extent the claim or adverse final judgment is based on your: (a) use of a previous version of the Tyler Software and the claim would have been avoided had you installed and used the current version of the Tyler Software, and we provided notice of that requirement to you; (b) combining the Tyler Software with any product or device not provided, contemplated, or approved by us; (c) altering or modifying the Tyler Software, including any modification by third parties at your direction or otherwise permitted by you; (d) use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties; or (e) willful infringement, including use of the Tyler Software after we notify you to discontinue use due to such a claim.

   1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.

   1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; (c) replace it with a functional equivalent; or (d) terminate your license and refund the license fees paid for the infringing Tyler Software, as depreciated on a straight-line basis measured over seven (7) years from the Effective Date. We will pursue those options in the order listed herein. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. **General Indemnification.**

   2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in
writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.

2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

3. **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

4. **LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) PRIOR TO FORMAL TRANSITION TO MAINTENANCE AND SUPPORT, THE TOTAL ONE-TIME FEES SET FORTH IN THE INVESTMENT SUMMARY; OR (B) AFTER FORMAL TRANSITION TO MAINTENANCE AND SUPPORT, THE THEN-CURRENT ANNUAL MAINTENANCE AND SUPPORT FEE. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS H(1) AND H(2).

5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6. **Insurance.** During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least $1,000,000; (b) Automobile Liability of at least $1,000,000; (c) Professional Liability of at least $1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least $5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.
SECTION I – GENERAL TERMS AND CONDITIONS

1. **Additional Products and Services.** You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date, and thereafter at our then-current list price, by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.

2. **Optional Items.** Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.

3. **Dispute Resolution.** You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.

4. **Taxes.** The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.

5. **Nondiscrimination.** We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.

6. **E-Verify.** We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.

7. **Subcontractors.** We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. **Binding Effect; No Assignment.** This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.

9. **Force Majeure.** Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.

10. **No Intended Third Party Beneficiaries.** This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.

11. **Entire Agreement; Amendment.** This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.

12. **Severability.** If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.

13. **No Waiver.** In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.

14. **Independent Contractor.** We are an independent contractor for all purposes under this Agreement.

15. **Notices.** All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. **Client Lists.** You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.

17. **Confidentiality.** Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (e.g., social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:

   (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
   (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
   (c) a party receives from a third party who has a right to disclose it to the receiving party; or
   (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.

18. **Business License.** In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.

19. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law.

20. **Multiple Originals and Authorized Signatures.** This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.

21. **Cooperative Procurement.** To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.

22. **Contract Documents.** This Agreement includes the following exhibits:

   - Exhibit A  Investment Summary
   - Exhibit B  Invoicing and Payment Policy
IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.                        City of Sevierville, Tennessee

By: ________________________________                  By: ________________________________

Name: ________________________________               Name: ________________________________

Title: ________________________________             Title: ________________________________

Date: ________________________________             Date: ________________________________

Address for Notices:
Tyler Technologies, Inc.                          Address for Notices:
One Tyler Drive                                    City of Sevierville
Yarmouth, ME 04096                                  120 Gary Wade Boulevard
Attention: Chief Legal Officer                    Sevierville, TN 37862

Attention: ________________________________
AGENDA ITEM: Consider approval for Tyler Technologies Incode Public Safety Suite, Incode Court Suite, and Brazos Software and Related Services

EXHIBITS A – E
AVAILABLE UPON REQUEST

Remainder of page Intentionally left blank
DATE: November 4, 2019

AGENDA ITEM: Consider approval and/or ratification of the following expenses in excess of $5,000.00.

RESPONSIBILITY: Lynn McClurg, Chief Financial Officer

PRESENTATION:

1. Grainger – Ceiling Tiles & Grid – $9,627.50 low price

REQUESTED ACTION: Approval and/or ratification of the above-mentioned expenses.
## Bid Tabulation - Replace 37 Year Old Ceiling Tiles in Gym @ Community Center

<table>
<thead>
<tr>
<th>Item #</th>
<th>Description</th>
<th>Qty</th>
<th>Unit</th>
<th>Total</th>
<th>Unit</th>
<th>Total</th>
<th>Unit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>704 A XL 328/Armstrong Tile</td>
<td>125</td>
<td>70.40</td>
<td>$8,800.00</td>
<td>$63.58</td>
<td>$7,947.50</td>
<td>$97.40</td>
<td>$12,175.00</td>
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<tr>
<td>2</td>
<td>2 ft Grid</td>
<td>20</td>
<td>84.00</td>
<td>$1,680.00</td>
<td>$84.00</td>
<td>$1,680.00</td>
<td>$105.25</td>
<td>$2,105.00</td>
</tr>
</tbody>
</table>

**Recommendation:** Purchase Materials from Grainger, Inc. for $9,627.50

**Total Bid:**
- Bid #1: $10,480.00
- Bid #2: $9,627.50
- Bid #3: $14,280.00

Robert H. ‘Bob’ Parker  
Director of Parks & Recreation  
865-868-1896