



**CITY COMMISSION MEETING
AGENDA FOR FEBRUARY 27, 2024
5:00 PM
CITY HALL COMMISSION CHAMBERS
300 SOUTH FIFTH STREET**

*Any member of the public who wishes to make comments to the Board of Commissioners is asked to fill out a Public Comment Sheet and place it in the box located at the end of the Commissioner's desk on the left side of the Commission Chambers. The Mayor will call on you to speak during the **Public Comments** section of the Agenda.*

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

INTRODUCTION Brett Woodall, Commonwealth Creative Entertainment - Mary Hammond

ADDITIONS/DELETIONS

PUBLIC COMMENTS

MAYOR'S REMARKS

Items on the Consent Agenda are considered to be routine by the Board of Commissioners and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Board member so requests, in which event the item will be removed from the Consent Agenda and considered separately. The City Clerk will read the items recommended for approval.

	I.	<u>CONSENT AGENDA</u>
	A.	Approve Minutes for February 6th, 10th, & 13th, 2024, Board of Commissioners meetings
	B.	Receive & File Documents
	C.	Reappointment of Jennifer Colwell and Charles Leon Owens to the Civil Service Commission
	D.	Personnel Actions
	E.	Approval of Contract Modification for increase of Scope in Contract with Valley Contracting Services, LLC for the Probation & Parole Office Building construction change of \$1,347.94 - C. YARBER
	F.	Authorize a Contract with Mott Electric for the Fire Station 5 Generator project in the amount of \$77,400 - C.YARBER
	G.	Permission to File Suit - D. JORDAN
	II.	<u>MUNICIPAL ORDER(S)</u>
	A.	Approve an Interlocal Agreement For Automatic-Mutual Aid - G. CHERRY

		B.	Approve the Application for a Paul Bruhn Historic Revitalization Grant in the amount of \$750,000 - N.HUTCHISON
		C.	Adopt the 2024 Commission Priorities - M. SMOLEN
	III.	<u>ORDINANCE(S) - ADOPTION</u>	
		A.	Adopt an Ordinance Creating a Natural Gas Franchise - M. SMOLEN
		B.	Amend Paducah Code of Ordinances Chapter 108 Related to Telecommunications - M. SMOLEN
	IV.	<u>ORDINANCE(S) - INTRODUCTION</u>	
		A.	Approve an Agreement with Complete Demolition in the amount of \$221,000 for Demolition Services for the property located at 1501 Broadway (Katterjohn Building) and authorize a Budget Amendment for the expenditure - G. CHERRY
	V.	<u>COMMENTS</u>	
		A.	Comments from the City Manager
		B.	Comments from the Board of Commissioners
	VI.	<u>EXECUTIVE SESSION</u>	

February 6, 2024

At a Called Meeting of the Paducah Board of Commissioners held on Tuesday, February 6, 2024, at 1:00 p.m., in the Commission Chambers of City Hall located at 300 South 5th Street, Mayor George Bray presided. Upon call of the roll by the City Clerk, the following answered to their names: Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5).

COMMISSION PRIORITIES DISCUSSION

OPENING REMARKS

Mayor Bray and City Manager Daron Jordan welcomed the Commission and City Leadership Team and thanked everyone for joining the meeting.

LEADERSHIP TEAM PRESENTATIONS – TOP TWO PRIORITIES

HUMAN RESOURCES

Human Resources Director Stefanie Wilcox presented the following priorities:

- Minority Inclusion
- Organizational Development

FINANCE

Finance Director Jon Perkins presented the following priorities:

- 2020A GOB Arbitrage Issues and Continued Financial Transparency
- Property Tax Collection Changes (1 payment with discounts)

ENGINEERING

Assistant City Engineer Greg Guebert presented the following priorities (a copy of the presentation is contained in the Minute File):

- Stormwater
- Street Rehabilitation

POLICE DEPARTMENT

Police Chief Brian Laird presented the following priorities (a copy of the print-out is contained in the Minute File):

- New Facility
- Full Staffing of all Positions

CUSTOMER EXPERIENCE/CITY CLERK

City Clerk & Director of Customer Experience Lindsay Parish presented the following priorities:

- CX Initiatives of Special Events and Open Counter Integration
- Clerk Initiatives of Board Leadership Training and Board Management Tools

FIRE

Fire Chief Steve Kyle presented the following priorities (a copy of the print-out is contained in the Minute File):

February 6, 2024

- Facilities
- Staffing

TECHNOLOGY

Director of Technology Eric Stuber presented the following priorities:

- Data Analytics and Business Analysis
- Continued Network Infrastructure Improvements

PLANNING

Planning Director Nicholas Hutchison presented the following priorities (a copy of the print-out is contained in the Minute File):

- Strategic Growth
- Neighborhood Redevelopment

PARKS

Parks Director Amie Clark presented the following priorities (a copy of the print-out is contained in the Minute File):

- Relocation of Maintenance and Recreation Divisions
- Parks & Facility Improvements

PUBLIC WORKS

Assistant Public Works Director Randy Crouch presented the following priorities (a copy of the presentation is contained in the Minute File):

- Facilities
- Beautification

COMMUNICATIONS

Communications Manager Pam Spencer presented the following priorities (a copy of the presentation is contained in the Minute File):

- Promotion of Commission Priorities, City Projects, and City Services
- Creation of a Recycling Educational Campaign

OPEN DISCUSSION & WRAP UP

The Mayor and City Manager thanked all of the Directors for their work and dedication. The next Commission Priorities Workshop meeting will be on Saturday, February 10, 2024. The Commission will develop their top priorities for 2024.

ADJOURN

Commissioner Wilson offered motion, seconded by Commissioner Henderson, to adjourn the meeting of the Paducah Board of Commissioners.

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, Mayor Bray (5).

TIME ADJOURNED: Approximately 4:49 p.m.

February 6, 2024

ADOPTED: February 27, 2024

George P. Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

February 10, 2024

At a Special Called Meeting of the Paducah Board of Commissioners held on Saturday, February 10, 2024, at 8:00 a.m., in the Training Room of City Hall located at 300 South 5th Street, Mayor George Bray presided. Upon call of the roll by the City Clerk, the following answered to their names: Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5).

COMMISSION COMMENTS

Mayor Bray welcomed everyone and emphasized that this process of creating Commission Priorities is key to the creation of the annual budget.

CITY MANAGER CHALLENGE

City Manager Daron Jordan opened the meeting by challenging the City Commission to be bold in decision-making. One of the legislative functions is to establish the annual budget. The City Manager plans to bring a draft of the annual budget to the second City Commission meeting in May.

2023 COMMISSION PRIORITIES KEY ACCOMPLISHMENTS

Assistant City Manager Michelle Smolen presented the Key Accomplishments from the 2023 Commission Priorities (a copy of the presentation is in the Minute File).

- Bike Lanes and Trails
- City Facilities
- Community Growth
- Downtown
- Housing
- Minority Inclusion
- Neighborhoods
- Quality of Life
- Revenue Equity
- Southside Improvements
- Stormwater
- Joint City/County Sportsplex
- 911 Radio Equipment Upgrade, Governance & Revenue
- Protecting Key Historical & Cultural Resources
- Continue Efforts to Improve Operational Efficiencies

COMMISSION PRIORITIES WORKSHOP

The City Commission discussed potential priorities for the 2024 calendar year. Each Commission member brought two (2) items from last year's Commission Priorities list to keep and two (2) new items to be added for the 2024 calendar year. A list of the items discussed by the Commission is included in the Minute file.

After discussion, the Commission created the following list of Commission Priorities and Continuing Improvement Items.

Commission Priorities:

- Beautification and Wayfinding
- Downtown
- Housing
- Minority Inclusion
- Operational Efficiencies
- Protecting Key Historical and Cultural Resources
- Quality of Life
- Southside
- Stormwater
- Trails and Bike Lanes

Continuous Improvement:

- Mental Health Awareness
- City Facilities

February 10, 2024

- Revenue Equity
- Paducah Sports Park
- 911

ADJOURN

Commissioner Henderson offered motion, seconded by Commissioner Wilson, to adjourn the meeting of the Paducah Board of Commissioners.

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, Mayor Bray (5).

TIME ADJOURNED: Approximately 12:19 p.m.

ADOPTED: March 27, 2024

George P. Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

February 13, 2024

At a Regular Meeting of the Paducah Board of Commissioners held on Tuesday, February 13, 2024, at 5:00 p.m., in the Commission Chambers of City Hall located at 300 South 5th Street, Mayor George Bray presided. Upon call of the roll by the City Clerk, Lindsay Parish, the following answered to their names: Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5).

INVOCATION

Commissioner Smith led the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Bray led the pledge.

PRESENTATIONS

Communications Manager Pam Spencer provided the following summary:

Southside Update - Walter Jetton Housing Program

“Director of Planning Nic Hutchison and Planner Palmer Stroup provided an update on the Southside Neighborhoods Initiative, specifically related to the residential incentive programs. After collaborations with the Southside Steering Committee and community stakeholders, the City launched in July 2023 two residential grant programs with the initial focus on a section of the Walter Jetton and Uppertown neighborhoods roughly from Washington Street to Caldwell and from 13th to 18th Street.

So far, the Planning Department has received a total of 14 applications with eight currently approved (six microgrant and two rehab/new construction applications). Each application is scored and reviewed for completeness. To date, the City has awarded nearly \$28,000 in microgrant incentive funds and nearly \$35,000 in rehab/new construction grants. Microgrant projects, which will match up to \$5000 of the first \$10,000 of a homeowner’s investment, include a roof replacement and plumbing repairs. For the home rehab/new construction grant, Stroup showed a picture of a home under construction on Oscar Cross Avenue. The home is being built through the Paducah Alliance of Neighbors and will received the maximum grant award of \$27,000.

Stroup outlined the various outreach and engagement completed to date including town hall meetings, informational mailers and tables at events, door hangers, door-to-door neighborhood walks, and engagements with the faith-based community. In looking ahead, Stroup recommends continuing to target this section of the Walter Jetton and Uppertown neighborhoods with a goal of receiving more applications. Additional community engagement and outreach activities will be held to assist residents in the application process. To learn more about the incentives, visit <https://paducahky.gov/southside-incentive-programs>.”

Paducah Police Department Annual Crime Statistics Presentation

“Police Chief Brian Laird presented an update on the community’s annual crime statistics. A few highlights are as follows:

- In 2023, there were 3658 total crimes (Part 1 and Part 2 crimes) reported. This is a 0.14 percent decrease as compared to 2022.
- Part 1 crimes saw a two percent decrease as compared to 2022. Part 1 crimes, as classified by the FBI, consist of “major” crimes including murder, rape, and robbery. One of the most

February 13, 2024

significant reductions was the number of homicides in the city: There were six in 2022, compared to one in 2023. The number of arson, rape, and robbery reports also decreased in 2023. Aggravated assaults saw an increase.

- From 2019 through 2023, the Part 1 crime trend is declining with a 31 percent decrease over that five-year period.
- Part 2 crime saw a slight change as compared to 2022 with a 0.48 percent increase. Part II crimes include simple assaults, forgery and counterfeiting, fraud, criminal mischief, weapons offenses, sexual offenses (other than rape), drug abuse violations, liquor violations, and offenses against family and children.
- Officers investigated 1826 collisions in 2023 which is almost the same number as 2022. Injuries were reported in 311 of the crashes.
- There was one fatal crash in the city in 2023. There were three fatalities in 2022.
- Regarding traffic enforcement, officers issued 3810 traffic citations, a 65 percent increase as compared to 2022. Officers also increased the number of written warnings.
- There were 323 DUI arrests in 2023, a 33 percent increase as compared to 2022.
- The 911 dispatch center received a total of 134,830 emergency and non-emergency calls in 2023, a five percent decrease as compared to 2022. However, the total number of dispatches from 911 increased by 16 percent from 2022 to 2023 with a total number of 103,600 dispatches in 2023. Paducah Police had 50,604 dispatches with 40,565 for the McCracken County Sheriff's Office. The remaining dispatches were to Paducah Fire, the County fire departments, emergency management, animal control, coroner, and Mercy."

CONSENT AGENDA

Mayor Bray asked if the Board wanted any items on the Consent Agenda removed for separate consideration. No items were removed for separate consideration. Mayor Bray asked the City Clerk to read the items on the Consent Agenda.

I(A)	Approve Minutes for the January 23 and January 25, 2024, Board of Commissioners Meetings
I(B)	Receive & File Documents <u>Contract File:</u> 1. Marine Solutions – Accepted Proposal for Dredging Paducah Transient Dock – signed by City Manager 2. Dredge America, Inc. – Paducah Transient Dock Dredging Project – Form of Labor and Material Payment Bond, Form of Performance Bond and Certificate of Liability Insurance – MO #2668 3. Fleet Maintenance Service Agreement with Ballard Fiscal Court – MO #2842 4. AssetWorks – GSA Contract for Public Works and Parks – MO #2843 5. Tyler, Inc. Contract Amendment - \$2,995 – MO #2844 <u>Financials File:</u> 1. Paducah Water Works – Month Ended November 30 2023 2. Paducah Water Works – Month Ended December 31, 2023 3. City of Paducah – Annual Comprehensive Financial Report (CFR) Year ended June 30 2023 – Entire document can be found in LaserFiche – City Clerk/Finance Documents/2024

February 13, 2024

I(C)	Appointment of Matthew Turley and Tara Sawvel to the Code Enforcement Board. Matthew Turley will replace Melinda Winchester, who resigned. Said term shall expire August 22, 2026. Tara Sawvel will replace Ines Rivas-Hutchins, whose term expired. Said term will expire February 26, 2027.
I(D)	Personnel Actions
I(E)	A MUNICIPAL ORDER AMENDING THE FY2023-2024 POSITION AND PAY SCHEDULE FOR THE FULL-TIME EMPLOYEES OF THE CITY OF PADUCAH, KENTUCKY). (MO #2850; BK 13)
I(F)	A MUNICIPAL ORDER AMENDING THE FISCAL YEAR 2024 PAY GRADE SCHEDULE FOR THE EMPLOYEES OF THE CITY OF PADUCAH, KENTUCKY (MO #2851; BK 13)
I(G)	MUNICIPAL ORDER ACCEPTING A 2024 COMMUNITY DEVELOPMENT BLOCK GRANT IN THE AMOUNT OF \$200,000 THROUGH THE DEPARTMENT FOR LOCAL GOVERNMENT FOR THE FOUR RIVERS BEHAVIORAL HEALTH'S CENTERPOINT RECOVERY CENTER AND AUTHORIZING THE MAYOR TO EXECUTE ALL REQUIRED GRANT AWARD DOCUMENTS). (MO #2852; BK 13)
I(H)	A MUNICIPAL ORDER AMENDING THE RENTAL RATES FOR THE ROBERT CHERRY CIVIC CENTER, PURSUANT TO CHAPTER 70-32, PARKS AND RECREATION, OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH TO INCLUDE FEES FOR SECOND CONSECUTIVE DAY RENTALS). (MO #2853; BK 13)

Commissioner Guess offered Motion, seconded by Commissioner Henderson, that the items on the consent agenda be adopted as presented.

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5).

BOARD APPOINTMENTS

Commissioner Henderson offered Motion, seconded by Commissioner Guess, that the Board of Commissioners approve the action of Mayor Bray in the following Brooks Stadium Commission appointments and reappointments:

- Reappoint Joshua Tyler Parker for a term that shall expire December 31, 2027
- Reappoint Chris Cappock for a term that shall expire December 31, 2027
- Reappoint Alex Blackwell for a term that shall expire December 5, 2027
- Appoint Neel Carroll, to replace William Cox who has resigned, for a term that shall expire December 5, 2027
- Appoint Phillip Hudson, to replace Sam Goode who has resigned, for a term that shall expire December 5, 2026

February 13, 2024

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5).

MUNICIPAL ORDERS

UPDATE CITY INVESTMENT POLICY

Commissioner Smith offered Motion, seconded by Commissioner Wilson, that the Board of Commissioners adopt a Municipal Order entitled, “A MUNICIPAL ORDER ADOPTING A REVISED INVESTMENT POLICY FOR THE CITY OF PADUCAH, KENTUCKY, PURSUANT TO KRS CHAPTER 66.480.”

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5). **(MO #2854; BK 13)**

APPROVE EPAD PROGRAM FINANCING AGREEMENT AND NOTICE OF ASSESSMENT FOR THE BLOCKWARE MINING, INC. PACE FINANCING

Commissioner Wilson offered Motion, seconded by Commissioner Guess, that the Board of Commissioners adopt a Municipal Order entitled, “A MUNICIPAL ORDER APPROVING AN ENERGY PROJECT ASSESSMENT DISTRICT (EPAD) PROGRAM FINANCING AGREEMENT, NOTICE OF ASSESSMENT, AND FINAL ENERGY PROJECT NOTICE OF ASSESSMENT FOR THE BLOCK MINING, INC. PACE FINANCING PROJECT AND AUTHORIZING THE EXECUTION OF ALL DOCUMENTS RELATED TO SAME.”

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5). **(MO #2855; BK 13)**

ACCEPT RECOMMENDATION FROM THE SPORTS TOURISM COMMISSION, APPROVE DESIGN OF STUART NELSON PARK ROAD, AUTHORIZE ARCHITECT TO ADVERTISE A REQUEST FOR BIDS

Commissioner Guess offered Motion, seconded by Commissioner Henderson that the Board of Commissioners adopt A Municipal Order entitled, “A MUNICIPAL ORDER APPROVING THE PROPOSED CONSTRUCTION DESIGN OF STUART NELSON PARK ROAD AS RECOMMENDED BY THE MCCracken COUNTY SPORTS TOURISM COMMISSION AND IN ACCORDANCE WITH THE INTERLOCAL AGREEMENT FOR THE DEVELOPMENT AND OPERATION OF THE PADUCAH MCCracken COUNTY ATHLETIC COMPLEX AND AUTHORIZING PFGW ARCHITECTS TO ADVERTISE THE REQUEST FOR BIDS.”

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5). **(MO #2856; BK 13)**

APPROVE PLEDGE OF \$500,000 FOR STABILIZATION OF COLUMBIA THEATRE FAÇADE

Commissioner Henderson offered Motion, seconded by Commissioner Guess that the Board of Commissioners adopt A Municipal Order entitled, “A MUNICIPAL ORDER

February 13, 2024

ALLOCATING \$500,000 AS A PLEDGE FOR THE STABILIZATION OF THE COLUMBIA THEATER FAÇADE AS LOCAL MATCHING FUNDS FOR THE COLUMBIA ART HOUSE.”

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5). (MO #2857; BK 13)

ORDINANCE INTRODUCTIONS

CREATING NATURAL GAS FRANCHISE

Commissioner Smith offered Motion, seconded by Commissioner Wilson, that the Board of Commissioners introduce an Ordinance entitled, “AN ORDINANCE CREATING A NATURAL GAS FRANCHISE.” This Ordinance is summarized as follows: This Ordinance creates a new chapter in the City's Code of Ordinances to enact a non-exclusive Natural Gas Franchise. The purpose of the ordinance is to protect and preserve the City's public right-of-way and infrastructure and to provide for the orderly administration of the Franchise through specific requirements as contained within the ordinance. In consideration of the right to make use of Public Right-of-Way, the Franchisee must pay a sum equal to two percent (2%) of its Revenues to the City of Paducah during the life of the Franchise. Further, the ordinance outlines the requirements for interested parties to bid to become a Franchisee.

AMEND PADUCAH CODE OF ORDINANCE CHAPTER 108 – TELECOMMUNICATIONS

Commissioner Wilson offered Motion, seconded by Commissioner Smith, that the Board of Commissioners introduce an Ordinance entitled, “AN ORDINANCE AMENDING CHAPTER 108 “TELECOMMUNICATIONS” OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH, KENTUCKY.” This Ordinance is summarized as follows: The ordinance amends Chapter 108, “Telecommunications” of the Code of Ordinances of the City of Paducah, to simplify the application process, remove the requirement for bonds to be AAA rated, clarify language regarding franchise fee payments, and update the length of time required to have the telecommunications services available from 180 days to 365 days from the date of the award of the franchise

PUBLIC COMMENT

Audra Ursini made a comment in support of quarterly franchise fee payments.

DISCUSSIONS

Communications Manager Pam Spencer provided the following summaries:

Quarterly Grants Update

City of Paducah Grants Administrator Hope Reasons provided an update of grants activity. The City of Paducah currently manages \$19.7 million in grant funding. This quarter, the City submitted six grant applications requesting a total of \$245,585. Awards for October through December 2023 include a KY Office of Homeland Security grant, GameTime playground equipment, a KLC Liability grant, and a Safe Streets and Roads for All grant. Reasons also mentioned that two

February 13, 2024

meetings including a strategic planning meeting have been held for the National Park Service grant that is helping Paducah determine the next phase for the Greenway Trail. City Manager Jordan mentioned that the City is looking at developing a training opportunity to assist local non-profits in their search for grant funding.

2023 Commission Priorities Annual Report

Assistant City Manager Michelle Smolen shared the 2023 Commission Priorities Annual Report. This report showcases the achievements on the priority action items and continuous improvement items selected by the Board more than a year ago. Over the weekend, the Board worked to select the 2024 priorities. To read the entire 2023 report, visit [Commission Priorities](#). Each action item has a dedicated webpage.

EXECUTIVE SESSION

Commissioner Guess offered motion, seconded by Commissioner Henderson, that the Board of Commissioners go into closed session for discussion of matters pertaining to the following topics:

- Future sale or acquisition of a specific parcel(s) of real estate, as permitted by KRS 61.810(1)(b)
- Discussions of proposed or pending litigation against or on behalf of the public agency KRS 61.810(1)(c)

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson and Mayor Bray (5)

RECONVENE IN OPEN SESSION

Commissioner Smith offered motion, seconded by Commissioner Guess, that the Paducah Board of Commissioners reconvene in open session.

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson and Mayor Bray (5)

ADJOURN

Commissioner Henderson offered Motion, seconded by Mayor Bray that the meeting be adjourned.

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5).

TIME ADJOURNED: 7:59 p.m.

ADOPTED: February 27, 2024

George Bray, Mayor

ATTEST:

Lindsay R. Parish, City Clerk

February 27, 2024

RECEIVE AND FILE DOCUMENTS:

Minutes File:

1. Notice of Special Called Meeting on February 6, 2024
2. Notice of Special Called Meeting on February 10, 2024

Contract File:

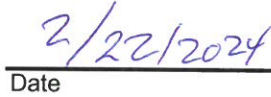
1. Paducah Fire Location and Staffing Study

CITY OF PADUCAH
February 27, 2024

Upon the recommendation of the City Manager's Office, the Board of Commissioners of the City of Paducah order that the personnel changes on the attached list be approved.



City Manager's Office Signature



Date

CITY OF PADUCAH
PERSONNEL ACTIONS
February 27, 2024

NEW HIRES - FULL-TIME (F/T)

<u>HUMAN RESOURCES</u>	<u>POSITION</u>	<u>RATE</u>	<u>NCS/CS</u>	<u>FLSA</u>	<u>EFFECTIVE DATE</u>
Johnson, Daisha S.	Diversity Specialist	\$29.81/hr	NCS	Ex	March 7, 2024
<u>PUBLIC WORKS</u>					
Daniels, Jerome Q.	Solid Waste Truck Driver	\$20.88/hr	NCS	Non-Ex	March 7, 2024

PAYROLL ADJUSTMENTS/TRANSFERS/PROMOTIONS/TEMPORARY ASSIGNMENTS (FULL-TIME)

<u>ENGINEERING</u>	<u>PREVIOUS POSITION AND BASE RATE OF PAY</u>	<u>CURRENT POSITION AND BASE RATE OF PAY</u>	<u>NCS/CS</u>	<u>FLSA</u>	<u>EFFECTIVE DATE</u>
Reno, Richard A.	ROW Maintenance \$21.58/hr	Floodwall Operator \$21.87/hr	NCS	Non-Ex	March 7, 2024
<u>FIRE - SUPPRESSION</u>					
Smith, Joseph	Lieutenant \$19.97/hr	Captain \$21.96/hr	NCS	Non-Ex	March 7, 2024

TERMINATIONS - FULL-TIME (F/T)

<u>POLICE</u>	<u>POSITION</u>	<u>REASON</u>	<u>EFFECTIVE DATE</u>
Kindred, Caleb A.	Police Officer	Resignation	February 14, 2024

Agenda Action Form

Paducah City Commission

Meeting Date: February 27, 2024

Short Title: Approval of Contract Modification for increase of Scope in Contract with Valley Contracting Services, LLC for the Probation & Parole Office Building construction change of \$1,347.94 - **C. YARBER**

Category: Municipal Order

Staff Work By: Chris Ferrell,
Marcey Simmons
Presentation By: Chris Yarber

Background Information: On June 2, 2023, sealed bids were opened for the Probation & Parole Office Building Construction. One bid was received from Valley Contracting Services LLC, with a responsive evaluated bid in accordance with the specifications, at a price of \$111,400.00.

On July 25, 2023, the Board of Commissioners approved Municipal Order 2763 for a contract in the amount of \$111,400.00 with Valley Contracting Services LLC. During the construction contract, it was discovered that additional labor was necessary to complete the scope of work. This makes the total contract amount \$112,747.94.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name: Probation & Parole Building Reno

Account Number: PF0085

Staff Recommendation: Authorize the Mayor to sign Contract Modification for the construction contract with Valley Contracting Services, LLC for the increase in the scope of the Probation & Parole renovation for \$1,347.94.

Attachments:

1. MO - change order 1 - Valley Contracting Services – Probation & Parole
2. Probation & Parole change order \$1,347.94

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER ADOPTING CONTRACT MODIFICATION NO. 1 TO THE CONSTRUCTION CONTRACT WITH VALLEY CONTRACTING SERVICES, LLC FOR THE PROBATION & PAROLE OFFICE BUILDING CONSTRUCTION FOR AN INCREASE IN THE AMOUNT OF \$1,374.94, AND AUTHORIZING THE MAYOR TO EXECUTE THE CHANGE ORDER

WHEREAS, by Municipal Order No. 2763, the City of Paducah authorized a Construction Contract with Valley Contracting Services, LLC, in the amount of \$111,400 construction at the Probation & Parole Office Building; and

WHEREAS, during the construction contract it was discovered that additional labor was necessary to complete the scope of work.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. The City Commission hereby approves Change Order No. 1 to the Construction Contract with Valley Contracting Services, LLC for a total price increase of \$1,374.94, and authorizes the Mayor to execute Change Order No. 1 on behalf of the City.

SECTION 2. The adoption of Change Order No. 1 increases the Contract Amount by a total of \$1,374.94, henceforth increasing the total agreement to an amount of \$112,774.94.

SECTION 3. This Order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, February 27, 2024
Recorded by Lindsay Parish, City Clerk, February 27, 2024
mo\change order 1 - Valley Contracting Services – Probation & Parole

APPLICATION AND CERTIFICATE FOR PAYMENT**Page 1**

To (OWNER): City of Paducah
300 South 5th Street
Paducah, KY 42003

Project: McCracken Co. Probation/Parole
400 S 6th Street
Paducah, KY 42003

Application No: 5
Invoice No: 66
Period To: 12/15/2023

From: Valley Contracting Services LLC
4072 US Highway 62
Calvert City, KY 42029

PO#: 20241283

Contract Date: 7/24/2023

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.
Continuation Sheet is attached.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Approved previous months	1,347.94	0.00
Approved this month	0.00	0.00
TOTALS	1,347.94	0.00
Net change by change orders	1,347.94	

1.	ORIGINAL CONTRACT SUM	\$	111,400.00
2.	Net change by Change Orders	\$	1,347.94
3.	CONTRACT SUM TO DATE (LINE 1+/-2)	\$	112,747.94
4.	TOTAL COMPLETED & STORED TO DATE (Column G on Continuation Sheet)	\$	112,747.94
5.	RETAINAGE	\$	0.00
6.	TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5)	\$	112,747.94
7.	LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	111,400.00
8.	SALES TAX	\$	0.00
9.	CURRENT PAYMENT DUE	\$	1,347.94
10.	BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6)	\$	0.00

State of: _____ County of: _____
Subscribed and sworn to before me this _____ day of _____

Notary Public:

My Commission expires:

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payment received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: Valley Contracting Services LLC
By: _____

Date: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

AMOUNT CERTIFIED.....\$
(Attach explanation if amount certified differs from the amount applied for.)

CONTINUATION SHEET

APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification is attached.

Application Number: 5
Application Date: 12/15/2023
Period To: 12/15/2023
PO #: 20241283

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

ARCHITECT:

By _____ Date _____
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK BILLED FROM PREV APPLICATION (D+E+F)	WORK BILLED THIS PERIOD	MATERIALS STORED THIS PERIOD	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G/C)	BALANCE TO FINISH (C-G)	RETAINAGE
10	General Conditions	26,797.64	26,797.64	0.00	0.00	26,797.64	100	0.00	0.00
200	Architectural	44,307.36	42,959.42	1,347.94	0.00	44,307.36	100	0.00	0.00
400	Mechanical	9,295.00	9,295.00	0.00	0.00	9,295.00	100	0.00	0.00
500	Electrical	31,000.00	31,000.00	0.00	0.00	31,000.00	100	0.00	0.00
700	Change Order #1	1,347.94	1,347.94	0.00	0.00	1,347.94	100	0.00	0.00
		112,747.94	111,400.00	1,347.94	0.00	112,747.94	100	0.00	0.00

Agenda Action Form

Paducah City Commission

Meeting Date: February 27, 2024

Short Title: Authorize a Contract with Mott Electric for the Fire Station 5 Generator project in the amount of \$77,400 - **C.YARBER**

Category: Municipal Order

Staff Work By: Chris Ferrell, Marcey
Simmons

Presentation By: Chris Yarber

Background Information: On Thursday, February, 15, 2024, sealed bids were opened for the Fire Station 5 Generator project. Three bids were received, with Mott Electric submitting the lowest responsive evaluated bid in accordance with the specifications, at a price of \$77,400.00.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name: Fire Station #5 Generat/Elect

Account Number: PF0087

Staff Recommendation: For a Municipal Order allowing the Mayor to authorize a Contract with Mott Electric for the Fire Station 5 Generator project in accordance with the specifications, at the price of \$77,400.00.

Attachments:

1. MO Mott Electric – Fire Station 5 Generator Project
2. Bid Recommendation Letter _Bid Tab Roster
3. Mott Electric Proposal
4. Beltline Electric Proposal
5. Jay's Electric Proposal

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER ACCEPTING THE BID OF MOTT ELECTRIC FOR
FIRE STATION 5 GENERATOR PROJECT IN THE AMOUNT OF \$77,400
AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR
SAME

BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. The City of Paducah accepts the bid of Mott Electric in the amount of \$77,400, for the Fire Station 5 Generator Project, said bid being in substantial compliance with the bid specifications, advertisement for bid, and as contained in the bid of Mott Electric of February 15, 2024.

SECTION 2. The Mayor is hereby authorized to execute a contract with Mott Electric in the amount of \$77,400 for the Fire Station 5 Generator Project according to the specifications, bid proposal and all contract documents heretofore approved and incorporated in the bid.

SECTION 3. This purchase shall be charged to Fire Station #5 Generator/Elect. Account No. PF0087.

SECTION 4. This Order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, February 27, 2024
Recorded by Lindsay Parish, City Clerk, February 27, 2024

MO\Mott Electric – Fire Station 5 Generator Project



February 19, 2024

Mr. Chris Ferrell
1120 North 10th Street
Paducah, KY 42001

Re: Proposal Recommendation
Paducah Fire Station #5 Generator
Paducah, KY
Marcum No. 23599

Dear Mr. Ferrell,

A Bid Opening was held on February 15, 2024, for the Paducah Fire Station 5 Generator project. Marcum Engineering has reviewed the low proposal by Mott Electric. Based on the attached Bid Tabulation, proposal, and budget; Marcum Engineering recommends acceptance of Mott Electric proposal in addition to the Owner requested Alternate in the amount of \$77,400.

Sincerely,

A handwritten signature in black ink that reads 'Matt Morgan'.

Matt Morgan, PE
Electrical Engineer/Project Manager

Enclosure: Bid Tabulation

BID TABULATION

PADUCAH FIRE STATION #5 - NEW GENERATOR

CITY OF PADUCAH

PADUCAH, KENTUCKY

MARCUM ENGINEERING NO. 23599

Thursday, February 15, 2024

CONTRACTOR	BID BOND INCLUDED	ADDENDUM RECOGNIZED	BASE BID AMOUNT	Alt. Bid No. 1 Owner Preferred Cummins Generator	TOTAL BID AMOUNT
Beltline Electric	X	X	\$102,064.28	\$4,073.24	\$106,137.52
Jay's Electric	X	X	\$79,900.00	\$3,600.00	\$83,500.00
Mott Electric	X	X	\$74,900.00	\$2,500.00	\$77,400.00

FORM OF PROPOSAL

NEW GENERATOR

PADUCAH FIRE STATION #5

PADUCAH, KENTUCKY

TO: City of Paducah
1120 North 10th Street
Paducah, KY 42001

FROM: Mott Electric, LLC
632 South 3rd St
Paducah, KY 42003

1. In compliance with your Project Manual and Drawings, the undersigned hereby proposes to furnish all materials and perform all the labor necessary for the **New Generator located in Paducah, Kentucky** in strict accordance with the Contract Documents as prepared by Marcum Engineering, Paducah, Kentucky. For consideration of the following proposal.

2. PROPOSAL AMOUNT:

TOTAL ANNUAL BID AMOUNT \$ 74,900.00
Seventy Four Thousand Nine Hundred DOLLARS Zero CENTS
(Use Words)

3. The undersigned acknowledges receipt of Addenda as follows:

Addenda No. 1.00 Date February 8th, 2024
Addenda No. _____ Date _____
Addenda No. _____ Date _____

4. ALTERNATE BIDS: (LEAVE BLANK IF NOT APPLICABLE)

Alternate Bid No.	Alternate Description	+ (Add to the Base Bid)	- (Deduct from the Base Bid)	No Cost Change from the Base Bid)
Alt. No. 1	Owner Preferred Cummins	\$2500.00		☐

5. In submitting this bid, it is understood that the right is reserved by the Owner to reject any and all bids. If written notice of the acceptance of this bid is mailed, telegraphed or delivered to the undersigned within **Thirty (30)** days after the opening thereof, or at any time thereafter before this bid is withdrawn, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required bonds within ten (10) days after the Contract is presented to him for signature.

6. OFFICIAL ADDRESS:

Mailing: POB 322, Paducah, KY 42002

Shipping: 632 S. 3rd St., Paducah, KY 42003

OFFICER SIGNATURE: Adm Mott

DATE: 2-15-2024

NOTICE: The following completed items must accompany this bid form.

- Bid Bond
- **LIST OF UNIT PRICES**
- List of Proposed Subcontractors
- List of Proposed Materials

7. LIST OF PROPOSED UNIT PRICES

This list of proposed unit prices is required to be submitted with each Bid Form. All unit prices are subject to approval of the Owner and the Engineer. Failure to submit this list, completed as applicable, may be cause for rejection of the bidder's proposal. Unit prices shall be for the unit of measurement indicated for materials, equipment, or services added to or deducted from the Contract Sum by appropriate modification.

1. None

8. LIST OF PROPOSED SUBCONTRACTORS

This list of proposed approved sub-subcontractors is required to be submitted with each Bid Form. All sub-subcontractors are subject to approval of the Owner and the Engineer. Failure to submit this list, completed as applicable to respective Prime Contracts, may be cause for rejection of the bidder's proposal. If certain branches of the work are to be done by the prime subcontractor, so state. The prime subcontractor has full responsibility for execution of the total work as specified.

2. CONCRETE Mott Electric, LLC

3. ELECTRICAL N/A

9. LIST OF PROPOSED MATERIALS

This List of Materials and Equipment is required to be completed with each bid form. Failure to submit this list, completed as applicable to the Contractor's bid, may be cause for rejection of the bidder's proposal. Each item listed shall be clearly identified as to what the Bidder proposes to furnish. The use of a dealer's name or stating "per Plans and Specifications" will not be considered sufficient identification. Where more than one manufacturer is listed for any one item, the Architect reserves the right to select the one to be used.

1. GENERATOR Generac

2. AUTOMATIC TRANSFER SWITCH Generac

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Mott Electric LLC
632 S 3rd St.
Paducah, KY 42003

OWNER:

(Name, legal status and address)

City of Paducah
1120 North 10th Street
Paducah, KY 42001

SURETY:

(Name, legal status and principal place of business)

The Ohio Casualty Insurance Company
175 Berkeley Street
Boston, MA 02116
Mailing Address for Notices
Liberty Mutual Surety Claims
P O Box 34526, Seattle, WA 98124

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

BOND AMOUNT: 5% Five Percent of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

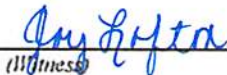
Paducah Fire Station #5 Emergency Generator, This project will consist of installation of new generator, transfer switch and required electrical connections., 1714 Broadway, Paducah, KY 42003

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

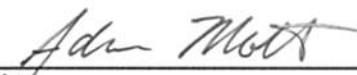
Signed and sealed this 15th day of February, 2024.


(Witness)

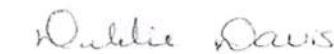
Mott Electric LLC

(Principal)

(Seal)

By: 

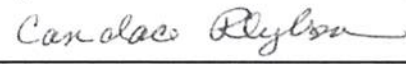
(Title)


(Witness)

The Ohio Casualty Insurance Company

(Surety)

(Seal)

By: 

(Title) Candace Plybon, Attorney-in-Fact





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint Candace Plybon all of the city of Lexington, state of KY its true and lawful attorney-in-fact, with full power and authority hereby conferred to sign, execute and acknowledge the following surety bond:

Principal Name: Mott Electric LLC

Obligee Name: City of Paducah

Surety Bond Number: Bid Bond

Bond Amount: See Bond Form

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 15th day of February, 2024.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey

David M. Carey, Assistant Secretary



STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 15th day of February, 2024, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, of Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company do hereby certify that this power of attorney executed by said Companies is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 15th day of February, 2024.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

FORM OF PROPOSAL
NEW GENERATOR
PADUCAH FIRE STATION #5
PADUCAH, KENTUCKY

TO: **City of Paducah**
1120 North 10th Street
Paducah, KY 42001

FROM: Beltline Electric
2701 Wayne Sullivan Drive
Paducah, KY 42003-0546

1. In compliance with your Project Manual and Drawings, the undersigned hereby proposes to furnish all materials and perform all the labor necessary for the **New Generator located in Paducah, Kentucky** in strict accordance with the Contract Documents as prepared by Marcum Engineering, Paducah, Kentucky. For consideration of the following proposal.

2. PROPOSAL AMOUNT:

TOTAL ANNUAL BID AMOUNT \$ 102,064.28

One Hundred Two Thousand Sixty-Four DOLLARS Twenty-Eight CENTS
(Use Words)

3. The undersigned acknowledges receipt of Addenda as follows:

Addenda No. 1.0 Date 2-8-2024

Addenda No. _____ Date _____

Addenda No. _____ Date _____

4. ALTERNATE BIDS: (LEAVE BLANK IF NOT APPLICABLE)

Alternate Bid No.	Alternate Description	+ (Add to the Base Bid)	- (Deduct from the Base Bid)	No Cost Change from the Base Bid
Alt. No. 1	Owner Preferred Cummins	\$ 4,073.24		☐

5. In submitting this bid, it is understood that the right is reserved by the Owner to reject any and all bids. If written notice of the acceptance of this bid is mailed, telegraphed or delivered to the undersigned within **Thirty (30)** days after the opening thereof, or at any time thereafter before this bid is withdrawn, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required bonds within ten (10) days after the Contract is presented to him for signature.

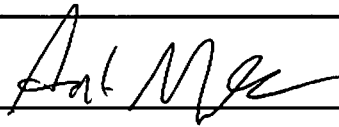
6. OFFICIAL ADDRESS:

Beltline Electric

2701 Wayne Sullivan Drive

Paducah, KY 42003-0546

OFFICER SIGNATURE: _____



Aaron Martin

DATE: February 15, 2024

NOTICE: The following completed items must accompany this bid form.

- Bid Bond
- **LIST OF UNIT PRICES**
- List of Proposed Subcontractors
- List of Proposed Materials

7. LIST OF PROPOSED UNIT PRICES

This list of proposed unit prices is required to be submitted with each Bid Form. All unit prices are subject to approval of the Owner and the Engineer. Failure to submit this list, completed as applicable, may be cause for rejection of the bidder's proposal. Unit prices shall be for the unit of measurement indicated for materials, equipment, or services added to or deducted from the Contract Sum by appropriate modification.

1. None

8. LIST OF PROPOSED SUBCONTRACTORS

This list of proposed approved sub-subcontractors is required to be submitted with each Bid Form. All sub-subcontractors are subject to approval of the Owner and the Engineer. Failure to submit this list, completed as applicable to respective Prime Contracts, may be cause for rejection of the bidder's proposal. If certain branches of the work are to be done by the prime subcontractor, so state. The prime subcontractor has full responsibility for execution of the total work as specified.

2. CONCRETE Pinnacle General Contractors

3. ELECTRICAL Beltline Electric

9. LIST OF PROPOSED MATERIALS

This List of Materials and Equipment is required to be completed with each bid form. Failure to submit this list, completed as applicable to the Contractor's bid, may be cause for rejection of the bidder's proposal. Each item listed shall be clearly identified as to what the Bidder proposes to furnish. The use of a dealer's name or stating "per Plans and Specifications" will not be considered sufficient identification. Where more than one manufacturer is listed for any one item, the Architect reserves the right to select the one to be used.

1. GENERATOR Kohler Co.

2. AUTOMATIC TRANSFER SWITCH Kohler Co.



AIA Document A310™ – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Beltline Electric Co., LLC
2701 Wayne Sullivan Drive
Paducah, KY 42003

OWNER:

(Name, legal status and address)

City of Paducah
1120 North 10th Street
Paducah, KY 42001

BOND AMOUNT:

Five Percent (5%) of the Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

New Generator - Paducah Fire Station #5

SURETY:

(Name, legal status and principal place of business)

Travelers Casualty and Surety
Company of America
One Tower Square
Hartford, CT 06183

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

Project Number, if any:

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 15th day of February, 2024


(Witness)


(Witness) Elizabeth Dawson

Beltline Electric Co., LLC

(Principal)


(Title)

Travelers Casualty and Surety Company of America

(Surety)


(Title) William A. Kantlehner, III, Attorney-in-Fact



Init.

AIA Document A310™ – 2010. Copyright © 1963, 1970 and 2010 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was created on 01/27/2012 07:23:12 under the terms of AIA Documents-on-Demand™ order no. 2008397483, and is not for resale. This document is licensed by The American Institute of Architects for one-time use only, and may not be reproduced prior to its completion. 001110



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint Andrea Cortes, Elizabeth Dawson, William A. Kantlehner III, William A. Kantlehner IV, Ryan P. Mitchell, Thomas J. Mitchell, S. Annette Mullet, Christopher E. von Allmen, Andrew O. Mucci, Kevin H. Bowling, Adam Terry, and Andrew G. Windhorst Jr. of Louisville, Kentucky their true and lawful Attorney (s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies, business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 21st day of April, 2021.



State of Connecticut

City of Hartford ss.

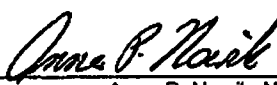
By: 
Robert L. Raney, Senior Vice President

On this the 21st day of April, 2021, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2026




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

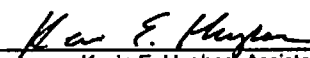
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 15th day of February, 2024




Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.

FORM OF PROPOSAL
NEW GENERATOR
PADUCAH FIRE STATION #5
PADUCAH, KENTUCKY

TO: City of Paducah
1120 North 10th Street
Paducah, KY 42001

FROM: JAY'S ELECTRIC
156 Ross Lane
Benton, KY 42025

1. In compliance with your Project Manual and Drawings, the undersigned hereby proposes to furnish all materials and perform all the labor necessary for the **New Generator located in Paducah, Kentucky** in strict accordance with the Contract Documents as prepared by Marcum Engineering, Paducah, Kentucky. For consideration of the following proposal.

2. PROPOSAL AMOUNT:

TOTAL ANNUAL BID AMOUNT \$ 79,900⁰⁰/100
Seventy Nine Thousand Nine Hundred DOLLARS — CENTS
(Use Words)

3. The undersigned acknowledges receipt of Addenda as follows:

Addenda No. ONE Date 2-8-24
Addenda No. _____ Date _____
Addenda No. _____ Date _____

4. ALTERNATE BIDS: (LEAVE BLANK IF NOT APPLICABLE)

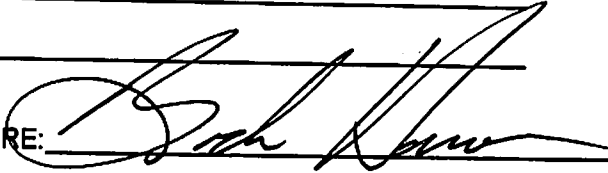
Alternate Bid No.	Alternate Description	+ (Add to the Base Bid)	- (Deduct from the Base Bid)	No Cost Change from the Base Bid
Alt. No. 1	Owner Preferred Cummins	<u>\$ 3,600⁰⁰</u>		☐

5. In submitting this bid, it is understood that the right is reserved by the Owner to reject any and all bids. If written notice of the acceptance of this bid is mailed, telegraphed or delivered to the undersigned within **Thirty (30)** days after the opening thereof, or at any time thereafter before this bid is withdrawn, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required bonds within ten (10) days after the Contract is presented to him for signature.

6. OFFICIAL ADDRESS:

156 ROSS LANE
BENTON, KY 42025

OFFICER SIGNATURE:



DATE:

02-15-2024

NOTICE: The following completed items must accompany this bid form.

- Bid Bond
- **LIST OF UNIT PRICES**
- List of Proposed Subcontractors
- List of Proposed Materials

7. LIST OF PROPOSED UNIT PRICES

This list of proposed unit prices is required to be submitted with each Bid Form. All unit prices are subject to approval of the Owner and the Engineer. Failure to submit this list, completed as applicable, may be cause for rejection of the bidder's proposal. Unit prices shall be for the unit of measurement indicated for materials, equipment, or services added to or deducted from the Contract Sum by appropriate modification.

- 1. None**

8. LIST OF PROPOSED SUBCONTRACTORS

This list of proposed approved sub-subcontractors is required to be submitted with each Bid Form. All sub-subcontractors are subject to approval of the Owner and the Engineer. Failure to submit this list, completed as applicable to respective Prime Contracts, may be cause for rejection of the bidder's proposal. If certain branches of the work are to be done by the prime subcontractor, so state. The prime subcontractor has full responsibility for execution of the total work as specified.

2. CONCRETE JAY'S ELECTRIC

3. ELECTRICAL JAY'S ELECTRIC

9. LIST OF PROPOSED MATERIALS

This List of Materials and Equipment is required to be completed with each bid form. Failure to submit this list, completed as applicable to the Contractor's bid, may be cause for rejection of the bidder's proposal. Each item listed shall be clearly identified as to what the Bidder proposes to furnish. The use of a dealer's name or stating "per Plans and Specifications" will not be considered sufficient identification. Where more than one manufacturer is listed for any one item, the Architect reserves the right to select the one to be used.

1. GENERATOR KOHLER

2. AUTOMATIC TRANSFER SWITCH KOHLER

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Jay's Electric Inc.
156 Ross Lane
Benton, KY 42025

OWNER:

(Name, legal status and address)

City of Paducah
1120 North 10th Street
Paducah, KY 42001

SURETY:

(Name, legal status and principal place of business)

The Ohio Casualty Insurance Company
175 Berkeley Street
Boston, MA 02116
Mailing Address for Notices
Liberty Mutual Surety Claims
P O Box 34526, Seattle, WA 98124

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

BOND AMOUNT: 5% Five Percent of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

New Generator Paducah Fire Station #5, Purchase and install a new generatory and transfer switch, 1714 Broadway, Paducah, KY 42003

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 15th day of February, 2024.

Holly Wyatt
(Witness)

Jay's Electric Inc.
(Principal)

By: [Signature]

(Title)

Secretary / Treasurer

The Ohio Casualty Insurance Company
(Surety)

By: Candace Plybon

(Title) Candace Plybon, Attorney-in-Fact



Dulcie Davis
(Witness)

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

POWER OF ATTORNEY

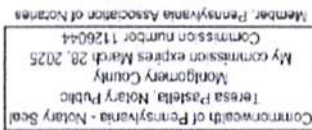
KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint Candace Plybon all of the city of Lexington, state of KY, its true and lawful attorney-in-fact, with full power and authority hereby conferred to sign, execute and acknowledge the following surety bond.

Principal Name: Jay's Electric Inc.
Obligee Name: City of Paducah
Surety Bond Number: Bid Bond
IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 15th day of February 2024



By:
David M. Carey, Assistant Secretary
Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY
On this 15th day of February 2024, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Pymouth Meeting, Pennsylvania, on the day and year first above written.



By:
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.
Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.
ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings
Any officer of the Company authorized in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.
Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.
Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.
I, Renee C. Llewellyn, the undersigned, Assistant Secretary, of Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company do hereby certify that this power of attorney executed by said Companies is in full force and effect and has not been revoked.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 15th day of February 2024



By:
Renee C. Llewellyn, Assistant Secretary

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

Agenda Action Form

Paducah City Commission

Meeting Date: February 27, 2024

Short Title: Permission to File Suit - **D. JORDAN**

Category: Municipal Order

Staff Work
By: Stefanie
Wilcox
Presentation
By: Stefanie
Wilcox

Background Information: The City Manager requests permission for Stacey Blankenship, with Keuler, Kelly, Hutchins, Blankenship, and Sigler, LLP, to institute litigation against all potential liable parties who were involved in the vehicle accident that caused damage to the Robert Cherry Civic Center which occurred on September 27, 2022.

Does this Agenda Action Item align with a Commission Priority? No
If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Grant permission to file suit.

Attachments:

1. MO lawsuit – Robert Cherry Civic Center

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER OF THE CITY OF PADUCAH AUTHORIZING THE CITY MANAGER TO ENGAGE THE SERVICES OF STACEY BLANKENSHIP OF KEULER, KELLY, HUTCHINS, BLANKENSHIP & SIGLER, LLP, TO FILE A LAWSUIT AGAINST ALL POTENTIAL LIABLE PARTIES INVOLVED IN THE VEHICLE ACCIDENT ON SEPTEMBER 27, 2022, THAT CAUSED DAMAGE TO THE ROBERT CHERRY CIVIC CENTER

WHEREAS, On September 27, 2022, the Robert Cherry Civic Center sustained damage as a result of a motor vehicle wreck; and

WHEREAS, the City now wishes to engage Stacey Blankenship of the law firm of Keuler, Kelly, Hutchins, Blankenship and Sigler, LLP, to represent their interest in a lawsuit against all potentially liable parties, in order to recover damages as a result of the September 27, 2022, incident.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the City of Paducah hereby authorizes the City Manager to engage the services of Stacey Blankenship to represent the City's interest and file a lawsuit against all potentially liable parties involved in the vehicle accident on September 27, 2022, that caused damage to the Robert Cherry Civic Center.

SECTION 2. This Municipal Order shall be effective from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners February 27, 2024
Recorded by Lindsay Parish, City Clerk, February 27, 2024
\\mo\lawsuit – Robert Cherry Civic Center

Agenda Action Form

Paducah City Commission

Meeting Date: February 27, 2024

Short Title: Approve an Interlocal Agreement For Automatic-Mutual Aid - **G. CHERRY**

Category: Municipal Order

Staff Work
By: Steve Kyle
Presentation
By: Steve Kyle

Background Information: The City of Paducah and City of Metropolis had previously entered into an automatic aid agreement for water rescue services. It was acknowledged later after that agreement was initiated that there is also a need to have the ability to call for mutual aid from one another for land-based incidents. These requests would come when circumstances might warrant it, like interstate response, disaster response, and other types of calls that are out of the ordinary. This agreement gives us the ability to have the proper paperwork in place in the event mutual aid is needed.

Does this Agenda Action Item align with a Commission Priority? No
If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approve the agreement.

Attachments:

1. MO interlocal agreement – Fire and Rescue Services- Metropolis, Illinois 2024
2. INTERLOCAL AGREEMENT METROPOLIS AND PADUCAH FIRE DEPARTMENT

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL COOPERATION AGREEMENT FOR AUTOMATIC MUTUAL AID BETWEEN THE CITY OF PADUCAH, KENTUCKY, AND THE CITY OF METROPOLIS, ILLINOIS

WHEREAS, on July 27, 2021, the Board of Commissioners adopted Municipal Order 2487, authorizing the Mayor to enter into an Interlocal Agreement for Fire and Rescue Services between the City of Paducah and Metropolis, Illinois, to coordinate joint responses to water-related emergencies; and

WHEREAS, it has now been determined that there is also a need for mutual aid for land-based incidents, such as interstate responses, disaster responses, and other types of calls that are out of the ordinary; and

WHEREAS, executing a new Interlocal Agreement will enable the parties to have proper paperwork in place in the event mutual aid is needed.

BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the Mayor is hereby authorized to execute an Interlocal Agreement for Automatic-Mutual Aid in substantially the form attached hereto and made part hereof (**Exhibit A**).

SECTION 2. This order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, February 27, 2024
Recorded by Lindsay Parish, City Clerk, February 27, 2024
\\mo\\interlocal agreement- Fire and Rescue Services- Metropolis, Illinois 2024

**INTERLOCAL AGREEMENT
FOR AUTOMATIC-MUTUAL AID**

THIS INTERLOCAL AGREEMENT made this _____ day of _____, 202__, by and between the City of Paducah, Kentucky, ("Paducah"), and the City of Metropolis, Illinois, ("Metropolis").

WITNESSETH:

WHEREAS, the City of Paducah Fire Department is the municipal fire department for the City of Paducah and regularly performs land and water fire prevention, extraction and rescue operations in the City of Paducah;

WHEREAS, the City of Metropolis Fire Department is the municipal fire department for the City of Metropolis and regularly performs land and water fire prevention, extraction and rescue operations in the City of Metropolis;

WHEREAS, the parties desire to coordinate joint responses by the City of Paducah Fire Department and the City of Metropolis Fire Department to water fire and rescue emergencies in Paducah and McCracken County and the Ohio and Tennessee Rivers; and

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements contained in the Agreement, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Requirements of Interlocal Agreement. This is an Interlocal Cooperative Agreement by and between Paducah and Metropolis, entered into under the authority of the Interlocal Cooperation Act, KRS 65.210 *et seq.* Pursuant to KRS § 65.250, the purpose of this Agreement is as set forth in Section 2, *Purpose*. Its duration is as set forth in Section 3, *Duration*. Its method of Termination is set forth in Section 4, *Termination*. Its manner of administration is set forth in Section 5, *Administration*. No party to this Agreement shall be required to pay compensation to any other party for services rendered hereunder. No property shall be acquired pursuant to this Agreement which will need to be disposed of upon a complete or partial termination of this Agreement. This Agreement shall be effective upon the later of the date above, or approval of this Agreement from the Attorney General or the Department for Local Government of the Commonwealth of Kentucky.

2. Purpose. Pursuant to the Interlocal Cooperation Act, KRS 65.210 *et seq.*, Paducah and Metropolis hereby enter into this Agreement to provide for a joint response by the City of Paducah Fire Department and the City of Metropolis Fire Department to land and water fire and rescue emergencies in the City of Paducah, Kentucky and the City of Metropolis, Illinois, and the Ohio and Tennessee Rivers as delineated herein.

3. Duration. This Agreement shall remain in full force and effect for a period beginning on the effective date of this Agreement and ending on January 1, 2021. Unless notice of

termination is given at least ninety (90) days before January 1 of each year, this Agreement shall automatically renew for an unlimited number of successive one (1) year renewal terms.

4. Termination. Paducah or Metropolis may terminate this Agreement with or without cause by providing ninety (90) days advance written notice. Any notice of termination or non-renewal given by one party shall in no way affect the agreement among the remaining parties to this Agreement.

5. Administration. This Agreement shall be administered jointly by the City of Paducah Fire Chief and the City of Metropolis Fire Chief. The City of Paducah Fire Department and the Metropolis Fire Department shall each liaison with the other to:

- a. establish a mutual aid or joint action plan for each incident;
- b. organize and facilitate joint training of personnel for responding mutually to land based Incidents;
- c. organize and facilitate joint training of personnel for responding to water-related Incidents;
- d. maintain and at least annually exchange a list of certified personnel qualified to respond to incidents; and
- e. maintain and at least annually exchange a list of equipment available for response to land and water related incidents.

6. Mutual Aid to Land Incidents. Mutual aid may be requested for any land response event, including but not limited to a fire, rescue, spill or natural disaster. Requests for Mutual Aid shall occur as follows:

- a. *Jurisdictional Department* means the Department within whose jurisdiction a fire occurs.
- b. *Non-Jurisdictional Department* means the Department responding to an alarm outside its jurisdiction.
- c. Additional and/or special apparatus, additional alarms, or specific equipment or personnel resources may be requested by the Jurisdictional Department on a case-by-case basis.
- d. The Jurisdictional Department shall only request Mutual Aid from the Non-Jurisdictional Department after dispatching resources from the Jurisdictional Department, except that, if an emergency is of such a magnitude that immediate assistance is needed or a specific resource is needed, the Jurisdictional Department may request Mutual Aid immediately.

7. Joint Response To Water Incidents. The City of Paducah Fire Department and the Metropolis Fire Department shall jointly respond to any water-related Incident within any of the following geographic areas:

- a. Ohio River – between Mile Marker 944 (Harrah's and Fort Massac Area) upriver to Mile Marker 939 (Livingston Point);
- b. Tennessee River – Mile Marker 0 (Port of Paducah) upriver to Mile Marker 5.6 (Marathon Oil Terminal).

An Incident shall be any of the following:

- a. River-based fire; or
- b. Swift water or flood water rescue.

8. Unified Command. The parties shall utilize a unified command structure in any joint response under this agreement.

9. Limitations, Duties, and Level of Services

a. Rendition of service, standards of performance, discipline of employees, and other matters incident to performance of services and control of personnel shall remain with each respective party.

b. Disputes and disagreements as to the level of services and standards of performance required of any party shall be reported to the party's chief officer for resolution.

c. The Partys shall have no obligation to provide an extra-jurisdictional response where when doing so could seriously jeopardize its emergency service status as determined by that party's chief available officer. In the event that the responding non-jurisdictional party becomes aware of an emergency within its jurisdiction, the non-jurisdictional party may, upon coordination with other responding parties, recall whatever equipment and personnel as may be needed to respond to the emergency within its jurisdiction.

d. No party to this agreement shall be required to pay compensation to the any other party for services rendered under this agreement.

10. Liability-Indemnification. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pensions and relief, disability, worker's compensation and other benefits which apply to the activity of officers or employees of any party when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties outside their respective jurisdictions pursuant to this Agreement. The parties hereto, their respective officers and employees, shall be deemed not to assume any liability for the acts, omissions, and negligence of any other party. Except as otherwise provided, all liability for injury to personnel, and for loss or damage of equipment shall be borne by the party employing such personnel and owning such equipment, and all parties shall carry sufficient insurance to cover all such liabilities. The cost of fuel and other expendable supplies shall be borne by the party incurring them. All compensation for personnel shall be borne by the party employing such personnel. All parties shall be held harmless against any and all third-party claims for bodily injury, sickness, disease, personal injury or death or damage to property or loss of use resulting from, arising out of this Agreement, or any, service provided by the other parties pursuant to this Agreement. All parties expressly retain all rights, benefits, and immunities of sovereign immunity in accordance with applicable law.

11. Miscellaneous Provisions.

(a) This Agreement represents the entire understanding and agreement reached between the parties, and all prior covenants, agreements, presentations and understandings are merged herein.

(b) This Agreement shall not be modified or altered, except by written amendment approved by all parties hereto.

(c) Notices made or given by either party in connection with this Agreement must be in writing to be effective. They shall be deemed given if delivered personally (which includes notices given by messenger) or, if delivered by U.S. mail.

(d) The validity of this Agreement and of any of its terms and provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the Commonwealth of Kentucky. The venue of any legal dispute shall be the courts of the Commonwealth of Kentucky.

(e) Any term or provision of this Agreement, which is invalid or unenforceable by virtue of any statute, ordinance, court order, court ruling, final administrative order or otherwise, shall be ineffective to the extent of such invalidity or unenforceability, without rendering invalid or unenforceable the remaining terms and provisions of this Agreement.

(f) Each party binds itself, its successors, assigns and legal representatives to the other parties with respect to all covenants, agreements and obligations contained in this Agreement. No party shall assign this Agreement or any rights or obligations hereunder.

(g) No action or failure to act by any party will constitute a waiver of any right or duty of such party under this Agreement, nor will any such action or failure to act constitute an approval of or acquiescence in any breach thereunder.

12. Effective Date. This Agreement shall be effective on the date when this Agreement is executed by all undersigned parties after the approval by governing body of each.

IN WITNESS WHEREOF the parties hereto have set their hands on the date below written.

By: _____
George Bray, Mayor of the City of Paducah, Kentucky

By: _____
Don Canada, Mayor of the City of Metropolis, Illinois

Agenda Action Form

Paducah City Commission

Meeting Date: February 27, 2024

Short Title: Approve the Application for a Paul Bruhn Historic Revitalization Grant in the amount of \$750,000 - **N.HUTCHISON**

Category: Municipal Order

Staff Work By: Nicholas Hutchison, Palmer
Stroup, Hope Reasons
Presentation By: Nicholas Hutchison

Background Information: The Paul Bruhn Historic Revitalization Grant Program fosters economic development in rural communities through the rehabilitation of historic properties. The intent of the program is to provide funds to the recipient (referred to as the prime grantee) that is regranted to projects that have been selected through a locally administered competitive process. Prime grantees determine the focus and criteria for their subgrant program and develop their own application process and criteria for choosing which buildings will receive subgrants. All properties awarded subgrants through this program must be listed in the National Register of Historic places by the end of the grant period. Properties may be listed individually or identified as contributing to a listed historic district.

The Planning Department is requesting \$750,000 to award subgrants for the rehabilitation of historic properties in the Central Business District, Market House District, and Southside Community. Funds will also be used to provide environmental technical support to those organizations receiving subgrants. Matching funds are not required for this grant program.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority: Southside Enhancements; Protecting Key Historical and Cultural Resources (Continuous Improvement)

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approve the application for Paul Bruhn Historic Revitalization Grant and authorize the Mayor to sign all documentation related to same.

Attachments:

1. MO - app – Paul Bruhn Historic Revitalization Grant 2024

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER AUTHORIZING THE APPLICATION FOR A PAUL BRUHN HISTORIC REVITALIZATION GRANT IN THE AMOUNT OF \$750,000 TO AWARD SUBGRANTS FOR THE REHABILITATION OF HISTORIC PROPERTIES IN THE CENTRAL BUSINESS DISTRICT, MARKET HOUSE DISTRICT AND SOUTHSIDE COMMUNITY

BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. The City of Paducah hereby authorizes the submission of a Paul Bruhn Historic Revitalization Grant in the amount of \$750,000 to award subgrants for the rehabilitation of historic properties in the Central Business District, Market House District and Southside Community, and authorizes the Mayor to sign all documents related to same. No local cash or in-kind match is required.

SECTION 2. This order will be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, February 27, 2024
Recorded by Lindsay Parish, City Clerk, February 27, 2024
mo\grants\app – Paul Bruhn Historic Revitalization Grant 2024

Agenda Action Form

Paducah City Commission

Meeting Date: February 27, 2024

Short Title: Adopt the 2024 Commission Priorities - **M. SMOLEN**

Category: Municipal Order

Staff Work
By: Michelle
Smolen
Presentation
By: Michelle
Smolen

Background Information: The Commission Priorities and Continuous Improvements Items reflect the highest priorities of the Board of Commissioners for calendar year 2024. These were developed as a result of the Board of Commissioners and Leadership Team meeting on February 6th and the Commission Priorities Setting meeting on February 10th.

Commission Priorities:

- Beautification and Wayfinding
- Downtown
- Housing
- Minority Inclusion
- Operational Efficiencies
- Protecting Key Historical and Cultural Resources
- Quality of Life
- Southside
- Stormwater
- Trails and Bike Lanes

Continuous Improvement:

- Mental Health Awareness
- City Facilities
- Revenue Equity
- Paducah Sports Park
- 911

Does this Agenda Action Item align with a Commission Priority? Yes

If yes, please list the Commission Priority: All Priorities.

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approval.

Attachments:

1. MO Commission Priorities 2024
2. 2024 Commission Priorities

MUNICIPAL ORDER NO. _____

**A MUNICIPAL ORDER OF THE CITY OF PADUCAH,
KENTUCKY, ADOPTING THE CITY COMMISSION
PRIORITIES FOR THE CALENDAR YEAR 2024**

WHEREAS, the Board of Commissioners of the City of Paducah believes that it is in the best interest of the citizens of Paducah for the City to formulate Commission Priorities for the future success of the community; and

WHEREAS, the Board of Commissioners participated in two planning sessions to discuss their priorities for the calendar year 2024; and

WHEREAS, the Board of Commissioners now desires to adopt the Commission Priorities and Continuous Improvement items for the calendar year 2024.

**NOW, THEREFORE, BE IT ORDERED BY THE CITY OF PADUCAH,
KENTUCKY:**

SECTION 1. That the Board of Commissioners hereby adopts the Paducah City Commission Priorities and Continuous Improvement Items as listed below for the calendar year 2024.

Commission Priorities

- Beautification and Wayfinding
- Downtown
- Housing
- Minority Inclusion
- Operational Efficiencies
- Protecting Key Historical and Cultural Resources
- Quality of Life
- Southside
- Stormwater
- Trails and Bike Lanes

Continuous Improvements

- Mental Health Awareness
- City Facilities
- Revenue Equity
- Paducah Sports Park
- 911

SECTION 2. That this Municipal Order shall become effective on the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners February 27, 2024
Recorded by the City Clerk February 27, 2024
\\mo\Commission Priorities 2024



2024 Commission Priorities

Priority	Tactics
Beautification & Wayfinding	Evaluate Current Strategy and Make Recommendations to Improve Entrance Signage Maintenance
	Design and Install Neighborhood Entrance Signage
	Collaborate with Community Partners to Update Highway Signage
	Explore Grants Opportunities
	Explore Opportunities to Partner with the CVB
Downtown	Initiate Construction and Pursue Additional Funding for the Riverfront BUILD Grant
	Work Closely with Weyland Ventures on Next Steps for the City Block Project
	Continue Progress on Activating the Downtown TIF District
	Focus on the Beautification Through Upgraded Amenities and Landscaping
	Focus on Downtown Business Recruitment and Retention
Housing	Evaluate Incentives and Expand Financial Support to Incentivize Developers
	Increase Residential Downtown Development
	Support Development of Katterjohn Building Site for Midtown Housing Site
	Work with Paducah Alliance of Neighbors and Developers To Expand Their Role in Building New Housing
Minority Inclusion	Continue to support the Human Rights Commission and the Paducah Diversity Advisory Board
	Support the Diversity Specialist Diversity Initiatives
	Proactively Seek a Diverse Candidate Pool for City Boards and Committees
Operational Efficiencies	Complete a Pros and Cons Analysis of Driving Improvement in the User Experience Related to the Current Development Review Process
	City Manager's Office to Bring Analysis and Recommendation of Operational Enhancements to Electrical Permitting and Inspections
Protecting Key Historical & Cultural Resources	Implement the Rhodes Heritage Group Recommendations on the Hotel Metropolitan
	Provide \$500,000 match to the Columbia Theater to Stabilize the Façade Contingent Upon Columbia Successfully Raising the Remaining Funds
Quality of Life	Create Marketing Campaign to Promote Benefits of Living in the City
	Continue Efforts to Reduce Nuisances for City Residents such as speeding, noise, litter abatement, etc.
	Support Community Efforts to Address Homelessness by Encouraging and Facilitating Coordination of Various Community Services



2024 Commission Priorities Continued

Priority	Tactics
Southside	Upgrade Amenities in Southside Neighborhoods
	Evaluate Current Walter Jetton Incentives as Appropriate and Consider Incentives for Other Southside Neighborhoods
	Evaluate Land/Lot Acquisitions to Expand Housing Options
	Develop New Community Gardens on Vacant City Lots and Make Garden Resources Available to Residents
Stormwater	Complete the 24th Street Detention Basin Project
	Identify the Next Stormwater Abatement Project
	Work with Consultant to Create a Drainage Manual and Update City Ordinances to Comply with Current Industry Standards
Trails and Bike Lanes	Work with the National Park Services to Adopt a Greenway Trail Master Plan
	Utilize Community Engagement throughout the Bike Lanes and Trails Planning Process
	Begin Exploring Grant Opportunities for Trail Construction

Continuous Improvements
Mental Health Awareness
City Facilities
Revenue Equity
Paducah Sports Park
911

Agenda Action Form

Paducah City Commission

Meeting Date: February 27, 2024

Short Title: Adopt an Ordinance Creating a Natural Gas Franchise - **M. SMOLEN**

Category: Ordinance

Staff Work By: Michelle Smolen, Daron
Jordan, Lindsay Parish
Presentation By: Michelle Smolen

Background Information: The Constitution of the Commonwealth of Kentucky, Sections 163 and 164, and Chapter 96 of the Kentucky Revised Statutes authorize cities to require public utilities, including providers of natural gas, to operate under franchise agreements and to grant them the right to use public right-of-way upon certain terms. Construction, operation, maintenance, and utilization of a natural gas franchise over, across, or under public right-of-way benefits the utility company and its customers but can also cause gradual degradation of the City's streets and sidewalks.

This item creates a new chapter in the City's Code of Ordinances to enact a Natural Gas Franchise. The ordinance requires approved natural gas franchisees to make quarterly payments to the City of two percent (2%) of the franchisee's revenues. The ordinance also requires any franchisee to repair any damage that they cause to the right of way and restore the right-of-way to substantially its condition prior to the work beginning.

Upon passage of this ordinance, the City will advertise for bids for natural gas franchisees and bring back any franchise agreements for Board of Commissioners approval.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approval.

Attachments:

1. ORD Natural Gas Franchise Creation

CITY OF PADUCAH
ORDINANCE NO. _____

**AN ORDINANCE CREATING A NATURAL GAS
FRANCHISE**

WHEREAS, the Constitution of the Commonwealth of Kentucky, Sections 163 and 164, and Chapter 96 of the Kentucky Revised Statutes authorize municipal corporations to require public utilities, including providers of natural gas within their boundaries, to operate under franchise agreements and to grant utilities the right to use public right-of-way on such terms and conditions as are deemed reasonable and necessary; and further KRS 82.082 authorizes the City to exercise any and all powers within its boundaries that are not in conflict with the Kentucky Constitution or state statutes; and

WHEREAS, the Board of Commissioners of the City of Paducah, Kentucky, has found and determined that the construction, operation, maintenance and utilization of a natural gas franchise over, across or under public right-of-way in the City of Paducah, benefits said utility and the customers it serves and the Board has further found and determined that the construction, installation, removal, maintenance and/or repair of utility-owned facilities and other infrastructures does periodic and unavoidable disturbance that gradually results in the degradation of the City's streets and sidewalks, for which the City is entitled to reasonable compensation in order to offset and recover the costs of reconstructing, removing, repairing or resurfacing damaged public right-of-way; and,

WHEREAS, in order to protect the health, safety and welfare of the citizens of Paducah, Kentucky, to protect and preserve the City's public right-of-way and infrastructure and to provide for the orderly administration of the franchise contemplated herein, it is necessary and appropriate to require the successful franchisee to conduct its business and operations in a lawful manner in compliance with the terms and conditions set forth hereinbelow.

NOW THEREFORE be it ordained by the Board of Commissioners of the City of Paducah as follows:

SECTION A. Chapter 24 “Natural Gas” of the *Code of Ordinances of the City of Paducah, Kentucky* is hereby created as follows:

Secs. 24-1. - Short title.

This article shall be known and may be cited as the “Paducah Natural Gas Franchising Ordinance of 2023.”

Sec. 24-2. – Purpose.

The purpose and intent of this article is to:

- 1) Establish a local policy concerning natural gas providers and services;

- 2) Secure fair and reasonable compensation to the City and the residents of the City for permitting private use of the Rights-of-way; and
- 3) Ensure that the City can continue to fairly and responsibly protect the public health, safety and welfare.

Sec. 24-3. – Definitions.

As used in this Ordinance, the following words and phrases shall have the following meanings:

(A) “Commission” refers to and is the Kentucky Public Service Commission, the state utility regulatory Commission having jurisdiction over the rates, services and operations of Grantee within the State of Kentucky or other administrative or regulatory authority succeeding to the regulatory powers of the Commission.

(B) “Board of Commissioners” means the Board of Commissioners of the City of Paducah.

(C) “City” refers to and is the City of Paducah, McCracken County, Kentucky, and includes such territory as currently is or may in the future be included within the boundaries of the City of Paducah.

(D) “Force Majeure” shall mean any and all causes beyond the control and without the fault or negligence of Grantee. Such causes shall include but not be limited to acts of God, acts of the public enemy, insurrections, terrorism, riots, labor disputes, boycotts, labor and material shortages, fires, explosions, flood, breakdowns of or damage to equipment of facilities, interruptions to transportation, embargoes, acts of military authorities, or other causes of a similar nature whether or not foreseen or foreseeable which wholly or partly prevent Grantee from performing one or more of its obligations hereunder.

(E) “Franchise” shall mean the rights and privileges granted by the Grantor to Grantee under the terms and provisions of this Ordinance.

(F) “Grantee” shall mean a legal entity that is granted a Franchise by the Grantor.

(G) “Grantor” shall mean the City of Paducah, Kentucky.

(H) “Public Right-of-Way” shall mean the surface, the airspace above the surface and area below the surface of any street, highway, alley, avenue, boulevard, sidewalk, pedestrian/bicycle lane or trail, driveway, bridge, utility easement or any other public ways owned, dedicated by plat, occupied or used by the public and within Grantor’s geographical limits or boundaries established by applicable law.

(I) “Revenues” refer to and are those amounts of money which the Grantee receives from its customers within the Grantor’s geographical limits or boundaries for the retail sale of gas under rates, temporary or permanent, authorized by the Commission and represents amounts billed under such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments. Revenues do not include miscellaneous service charges, including but not limited to turn ons, meter sets, nonsufficient funds, late fees and interest, which are related to but are not a part of the actual retail sale of gas.
retail sale of gas.

(J) “System” shall mean the system of works, pipes, pipelines, facilities, fixtures, apparatus, lines, machinery, equipment, structures, appliances, appurtenances or other infrastructure reasonably necessary for the storage, transportation, distribution or sale of natural, artificial or mixed gas to residential and commercial customers and the public generally, within the geographical limits or boundaries of the Grantor.

Sec. 24-4. – Grant of Franchise.

(A) There is hereby created a non-exclusive Franchise to enter upon, acquire, construct, operate, maintain and repair in the Public Right-of-Way the System, subject to the provisions of this Ordinance. The Franchise granted hereunder shall be extended to territories that are annexed by Grantor upon the same terms and conditions herein, subject to the approval of the Commission, if any such approval is required.

(B) The Franchise granted to Grantee by the Grantor shall not be exclusive and the Grantor reserves the right to grant a similar Franchise to any other person or entity at any time. In the event the Grantor shall grant to another person or entity during the term hereof a Franchise for a System within the geographical boundaries or limits of Grantor similar to the one herein granted to the incumbent Grantee, the terms of any such Franchise agreement shall be no more favorable to such new additional grantee than those terms contained herein. Additionally, any such new/additional grantee shall have no right to use any portion of the System without the incumbent Grantee's written consent.

Sec. 24-5. – Term, Effective Date, and Acceptance of Franchise.

(A) The term of this Franchise shall be for a term of twenty (20) years.

(B) The Franchise created hereby shall become effective upon its final passage and approval by the City, in accordance with applicable laws and regulations, and upon acceptance by the Grantee by written instrument within sixty (60) days of passage by the governing body and filed with the Clerk of the Grantor. If the Grantee does not, within sixty (60) days following passage of this Ordinance, express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, the Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

(C) The terms and conditions of any previous perpetual Franchise agreement are superseded by the terms and conditions hereof.

(D) On the expiration of a Franchise granted pursuant to this Ordinance, in the event the same is not renewed, or on the termination of any renewal of said Franchise, or on termination of said Franchise for any other reason, the plant and facilities of the Grantee installed, constructed and operated hereunder shall, at the option of the City become the property of the City, upon payment to the Grantee, its successors and/or assigns, of a fair valuation thereof, such fair valuation to be determined by agreement between the City and the Grantee, its successors and/or assigns. Grantor agrees that, at the time of such transfer of facilities, it shall assume Grantee's contractual and regulatory obligations maintained in connection with the System. If the City does not exercise the option hereunder, then Grantee may exercise its rights under Sec. 24-12(B).

Sec. 24-6. – Grantee's Rights in and to Public Right-of-Way.

The Grantee shall have the right and privilege of constructing, erecting, laying, operating, maintaining, replacing, removing and/or repairing a System through, along, across and under the Public Right-of-Way within the geographical boundaries or limits of the Grantor as it now exists

or may hereafter be constructed or extended, subject to the inherent police powers conferred upon or reserved unto the Grantor and the provisions of this Ordinance.

Sec. 24-7. – Operation of System; Excavation of Public Right-of-Way:

(A) The System shall at all times be installed, operated and maintained in good working condition as will enable the Grantee to furnish adequate and continuous service to all of its residential, commercial and industrial customers. The System shall be designed, installed, constructed and replaced in locations and at depths which comply with all applicable federal and state laws and regulations regarding minimum safety standards for design, construction, maintenance and operation of gas distribution systems.

(B) Grantee shall have the right to disturb, break, and excavate in the Public Right-of-Way as may be reasonable and necessary to provide the service authorized hereby.

(C) Grantee will repair any damage caused solely by Grantee to any part of the Public Right-of-Way and will restore, as nearly as practicable, such property to substantially its condition immediately prior to such damage.

(D) Grantee shall use reasonable care in conducting its work and activities in order to prevent injury to any person and unnecessary damage to any real or personal property.

(E) Grantee shall, when reasonably practicable, install all pipelines underground at such depth and in such manner so as not to interfere with the existing pavement, curbs, gutters, underground wires or cables or water or sewer pipes owned or controlled by the Grantor.

Sec. 24-8. – Degradation/Restoration of Public Right-of-Way.

(A) In the event that Grantor or any other entity acting on behalf of Grantor requests or demands that Grantee remove, move, modify, relocate, reconstruct or adjust any part of the System from their then-current locations within the streets, alleys, and public places of Grantor in connection with a public project or improvement, then Grantee shall relocate, at its expense, the System facilities affected by such project or improvement. Grantee's obligations under this paragraph shall apply without regard to whether Grantee has acquired, or claims to have acquired, an easement or other property right with respect to such System facilities and shall not affect the amounts paid or to be paid to Grantee under the provisions of this Ordinance. Notwithstanding the foregoing provisions of this paragraph, Grantee shall not be obligated to relocate, at its expense, any of the following: (i) System facilities that are located on private property at the time relocation is requested or demanded; (ii) System facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; or (iv) System facilities that are converted from an overhead configuration or installation to an underground configuration or installation.

(B) When it is necessary to relocate any of Grantee's facilities within the boundaries of Grantor, Grantor and Grantee shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, Grantor and Grantee shall communicate in a timely fashion to coordinate projects included in Grantor's five-year capital improvement plan, Grantor's short-term work program, or Grantor's annual budget in an effort to minimize relocation of Grantee's facilities. Such

communication may include, but is not limited to, (i) both parties' participation in a local utility's coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any alternative comparable systems or successor to such system mutually acceptable to both parties).

Sec. 24-9. – Compensation for Use of Public Right-of-Way and Consideration for Franchise.

(A) In consideration for the granting and exercise of the rights and privileges created hereunder, and in further consideration of the grant to the Franchisee of the right to make use of Public Right-of-Way, Grantee shall pay to the Grantor, during the entire life of the Franchise, a sum equal to two percent (2%) of its Revenues. The fee prescribed herein shall be paid to the Grantor quarterly on or before the 30th day after the end of each calendar quarter after the effective date hereof, and the Grantee shall furnish to the Grantor quarterly a statement of Grantee's Revenues.

(B) Grantee may add a line-item surcharge to the monthly bills of each of its customers located within the geographical boundaries or limits of Grantor, which surcharge may be designated as a Franchise fee, in an amount that is sufficient to recover the portion of the Franchise fee paid by the Grantee to the Grantor that is attributable to the Revenue derived by Grantee from such customer.

(C) The Franchise fee provided herein, together with any charges of the Grantor for water, sewage and garbage services provided by the Grantor to Grantee, and any applicable occupational license fees or sales, ad valorem or other taxes payable to the Grantor by the Grantee under applicable law, shall constitute the only amounts for which Grantee shall be obligated to pay to the Grantor and shall be in lieu of any and all other costs, levies, assessments, fees or other amounts, of any kind whatsoever, that the Grantor, currently or in the future, may charge Grantee or assess against Grantee's property. The Franchise fee herein contemplated shall be uniformly and equally applied to all natural gas utilities, of like services or any other natural gas service that compete with the Grantee, such that Grantee will be excused from collecting and paying Franchise fees and/or taxes if Grantee's competitors are not also required to do so.

(D) The Grantor, through its duly authorized representative and at all times reasonable, shall have access to, and the right to inspect Grantee's books and records that are necessary to confirm the accuracy of the amount of Franchise fee being paid to the City.

Sec. 24-10. – Service To New Areas.

If during the term of any Franchise granted pursuant to this Ordinance, the boundaries of the Grantor are expanded, the Grantor will promptly notify Grantee in writing of any geographic areas annexed by the Grantor during the term hereof ("Annexation Notice"). Any such Annexation Notice shall be sent to Grantee by certified mail, return receipt requested, and shall contain the effective date of the annexation, maps showing the annexed area and such other information as Grantee may reasonably require in ascertaining whether there exist any customers of Grantee receiving natural gas service in said annexed area. To the extent there are such customers therein, then the revenue of Grantee derived from the retail sale of natural gas to such customers shall become subject to the Franchise fee provisions hereof effective on the first day

of Grantee's billing cycle immediately following Franchisee's receipt of the Annexation Notice. The failure by the Grantor to advise Grantee in writing through proper Annexation Notice of any geographic areas which are annexed by the Grantor shall relieve Grantee from any obligation to remit any Franchise fees to Grantor based upon revenues derived by Grantee from the retail sale of natural gas to customers within the annexed area prior to Grantor delivering an Annexation Notice to Grantee in accordance with the terms hereof.

Sec. 24-11. – Breach of Franchise; Remedies.

In the event of a breach by Grantee of any material provision hereof, the Grantor may terminate the Franchise and rights granted to Grantee hereunder, provided, however, that such termination shall not be effective unless and until the procedures described below have been followed:

(A) Grantor must deliver to Grantee, by certified or registered mail, a written notice signed by the mayor or other duly authorized member of Grantor's governing body, attested by the Grantor's secretary, and sealed with the official seal of the Grantor. Such notice must (i) fairly and fully set forth in detail each of the alleged acts or omissions of Grantee that the Grantor contends constitutes a substantial breach of any material provision hereof, (ii) designate which of the terms and conditions hereof the Grantor contends Grantee breached, and (iii) specify the date, time, and place at which a public hearing will be held by the governing body of the Grantor for the purpose of determining whether the allegations contained in the notice did in fact occur, provided, however, that the date of such hearing may not be less than thirty (30) days after the date of such notice.

(B) Within thirty (30) days following the adjournment of the public hearing described in Subsection (A) above, the Grantor must deliver to Grantee, by certified or registered mail, a written notice signed by the mayor or other duly authorized member of Grantor's governing body, attested by the Grantor's City Clerk, and sealed with the official seal of the Grantor, setting forth (i) the acts and omissions of Grantee described in the first notice that the governing body of the Grantor determines to have in fact occurred and (ii) the specific terms and conditions hereof listed in the first notice that the governing body of the Grantor determines to have in fact been breached by such acts or omissions of Grantee. (C) The Grantor must permit Grantee the opportunity to substantially correct all of the breaches hereof set forth in the written notice described in Subsection (B) above within sixty (60) days after Grantee's receipt of such notice.

Sec. 24-12. – ADDITIONAL REQUIREMENTS; MISCELLANEOUS PROVISIONS

(A) Grantee shall at all times indemnify and hold harmless the Grantor from and against any and all lawful claims for injury to any person or property by reason of Grantee's or its employees' failure to exercise reasonable care in installing, maintaining and operating the System. Provided, however, that none of the provisions of this paragraph shall be applicable to the extent the Grantor, its officials, officers, employees, contractors, or agents, were negligent and such negligence was the sole or contributing factor in bringing about injury to any person or property. In such event, any liability shall be apportioned between the Grantor and the Grantee based upon the percentage of fault assigned to each by a court of competent jurisdiction.

(B) Subject to the City's option under Sec. 24-12(D), Grantee may remove all or any part of its System upon the expiration or termination of the Franchise and rights granted hereby.

(C) Grantee may transfer or assign the Franchise created by this Ordinance to any other person, proprietorship, partnership, firm or corporation with written notification to the Grantor.

(D) If any section, subsection or provision of this Ordinance or any part thereof is for any reason found or held to be in conflict with any applicable statute or rule of law, or is otherwise held to be unenforceable, the invalidity of any such section, subsection or provision shall not affect any or all other remaining sections and provisions of this Ordinance, which shall remain in full force and effect.

(E) Any Franchise subject to this Ordinance shall extend to, be binding upon, and inure to the benefit of, the parties hereto, and their respective successors and assigns.

(F) To the extent that any other ordinances of the Grantor or portions thereof are in conflict or inconsistent with any of the terms or provisions hereof, then the terms of this Ordinance shall control. When this Ordinance becomes effective, all previous agreements of Grantor granting Franchises for gas delivery purposes that were held by Grantee shall be automatically canceled and annulled and shall be of no further force and effect.

Sec. 24-13. – Advertising for Bids.

It shall be the duty of the City Manager or his designee to offer the terms of this Ordinance to the public. In the event that additional interested bidders are identified or express an interest in obtaining a franchise after this initial offering, the additional offering and advertisement to accommodate such bidders is hereby authorized. Said franchise and privilege shall be sold to the highest and best bidder or bidders at a time and place fixed by the City Manager or his or her designee after due notice thereof by advertisement or publication as required by law.

Sec. 24-14. – Bid Process.

(A) Bids and proposals for the purchase and acquisition of the franchise hereby created shall be in writing and shall be delivered to the City Manager or his/her designee upon the date(s) and at the time(s) fixed by the City Manager in said advertisement(s) for receiving same. An opening time for each bid shall be stated in any advertisement and invitation for bids. The time set for opening of bids shall be established by a clock in the office of the City Clerk. It is the bidder's responsibility to ensure the bidder's bid is in the office before the time set for bid openings. At the set time, the City Clerk shall declare bids to be closed. All bids shall be opened publicly and read aloud when the structure of the invitation for bids permits. The City Manager or his/her designee shall with reasonable promptness prepare a tabulation of all bids received and make the documents available to the public upon reasonable request.

(B) Immediately after bids are opened, the City Manager or his/her designee shall review all bids for compliance with specifications, terms and conditions. If, in the judgment of the City Manager or designee, a portion of a bid is uncertain or unclear, the bidder shall be required to clarify all such portions which are in question. Any clarification of this nature shall be sent to the City Manager's office in written form.

(C) The City Manager reserves the right to reject any and all bids, and to waive technicalities and minor irregularities in bids. Grounds for the rejection include, but are not limited to:

- 1) Failure of a bid to conform to established requirements of an invitation for bids;

- 2) Failure to conform to specifications contained in or referred to in any invitation for bids, unless the invitation authorized submission of alternative bids, and the alternative proposal meets the requirements specified in the invitation for bids;
- 3) Failure to conform to a delivery schedule established in an invitation for bids;
- 4) Determination that a bid was submitted by a bidder determined to be not responsible;
- 5) Failure to furnish a bid guarantee when a guarantee is required by an invitation for bids; or
- 6) Imposition of conditions which would modify the terms and conditions of the invitation for bids, or which would limit the bidder's liability to the City under terms of the contract awarded, on the basis of such invitation for bids.

(D) Thereafter, the City Manager shall report and submit to the Mayor and Board of Commissioners, at the time of its next regular meeting or as soon as practicable thereafter, said bids and proposals for its approval.

(E) The Board of Commissioners reserves the right, for and on behalf of the City, to reject any and all bids for said franchise; and, in case the bids reported by the City Manager shall be rejected by the Board of Commissioners, it may direct said franchise and privilege to be again offered for sale, from time to time.

SECTION B. SEVERABILITY. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION C. COMPLIANCE WITH OPEN MEETINGS LAWS. The Board of Commissioners hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this City Commission, and that all deliberations of this Board of Commissioners and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

SECTION D. EFFECTIVE DATE. This Ordinance shall be read on two separate days and will become effective upon summary publication pursuant to KRS Chapter 424.

MAYOR

ATTEST:

City Clerk

Introduced by the Board of Commissioners, _____, 2024

Adopted by the Board of Commissioners, _____, 2024

Recorded by City Clerk, _____, 2024

Published by *The Paducah Sun*, _____, 2024

Ord\Natural Gas Franchise Creation

Agenda Action Form

Paducah City Commission

Meeting Date: February 27, 2024

Short Title: Amend Paducah Code of Ordinances Chapter 108 Related to Telecommunications - **M. SMOLEN**

Category: Ordinance

Staff Work By: Daron Jordan, Michelle
Smolen, Lindsay Parish
Presentation By: Michelle Smolen

Background Information: The City of Paducah Telecommunications Ordinance governs local policy as it relates to telecommunications providers and services. The ordinance establishes clear local guidelines, promotes competition in telecommunications services, and conserves the limited physical capacity of City rights-of-ways where telecommunication services implement their infrastructure. The ordinance was mostly recently updated on August 9, 2022. Staff is recommending changes to the Applications, Insurance and Bond, Compensation and Additional Requirements sections.

Does this Agenda Action Item align with a Commission Priority? No
If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Adopt the Telecommunications Ordinance Update

Attachments:

1. TELECOMMUNICATIONS ORDINANCE AMEND 2024

CITY OF PADUCAH
ORDINANCE NO. 2022-08-8745

**AN ORDINANCE ~~REPEALING AND~~
~~REPLACING~~AMENDING CHAPTER 108
“TELECOMMUNICATIONS”, OF THE CODE OF
ORDINANCES OF THE CITY OF PADUCAH, KENTUCKY**

WHEREAS, the City of Paducah adopted Ordinance No. 2022-08-8745 which repealed and replaced Chapter 108 “Telecommunications” of the Code of Ordinances of the City of Paducah, Kentucky; and

~~**WHEREAS**, is aware of increased interest in providing Telecommunications Services in the City; and the City now desires to amend said Ordinance to enact certain updates to the Ordinance; and~~

~~**WHEREAS**, the City is required to publicly bid all franchises for the use of its Rights-of-way; and~~

WHEREAS, the City of Paducah has determined that it is in the best interest of the City to amend Chapter 108 “Telecommunications” of the *Code of Ordinances of the City of Paducah, Kentucky*, which governs telecommunications franchises, ~~by repealing the chapter in its entirety and replacing it as stated herein;~~

NOW THEREFORE be it ordained by the City Commission of the City of Paducah as follows:

SECTION A. Chapter 108 “Telecommunications” of the *Code of Ordinances of the City of Paducah, Kentucky* is hereby ~~revoked in its entirety and replaced~~amended as follows with the following:

Secs. 108-1—108-25. - Reserved.

Sec. 108-26. - Short title.

This article shall be known and may be cited as the “Paducah Telecommunications Systems Franchising Ordinance of 2022.”

Sec. 108-27. – Purpose.

The purpose and intent of this article is to:

- 1) Establish a local policy concerning telecommunications providers and services;
- 2) Establish clear local guidelines, standards and time frames for the exercise of local authority with respect to the regulation of telecommunications providers and Telecommunications Services;
- 3) Promote competition in telecommunications;
- 4) Encourage the provision of advanced and competitive Telecommunications Services on the widest possible basis to the businesses, institutions and residents of the City;
- 5) Permit and manage reasonable access to the Rights-of-ways of the City for telecommunications purposes on a competitively neutral basis;
- 6) Conserve the limited physical capacity of the Rights-of-way held in public trust by the City;
- 7) Ensure that the City's current and ongoing costs of granting and regulating private access to and use of the Rights-of-way are fully paid by the Persons seeking such access and causing such costs;
- 8) Secure fair and reasonable compensation to the City and the residents of the City for permitting private use of the Rights-of-way;
- 9) Ensure that all telecommunications carriers providing Facilities or services within the City comply with the ordinances, rules and regulations of the City;
- 10) Ensure that the City can continue to fairly and responsibly protect the public health, safety and welfare;

- 11) Enable the City to discharge its public trust consistent with rapidly evolving Federal and State regulatory policies, industry competition and technological development.

Sec. 108-28. – Creation of Franchise.

There is hereby created a non-exclusive franchise granting to the Grantee thereof whose bid may be accepted the right to construct, erect, operate, and maintain upon, through, along, under, and over the Rights-of-way of the City of Paducah, a Telecommunications System (or a related system which is not otherwise a Cable System) embracing Equipment and apparatus necessary, essential, used or useful to and in the operation a of Telecommunications System, subject to all of the provisions of this Ordinance. This franchise does not excuse the Grantee thereof from complying with any and all applicable existing and future local laws and ordinances as may be adopted or amended in the future, and their pursuant regulations. It shall be unlawful for any Person to erect, construct, maintain, or operate a Telecommunications System in, upon, along, across, over, above, and under the Rights -of-way of the City without a valid franchise therefore.

Sec. 108-29. – Existing Legislation.

The City has already adopted legislation and regulations pertaining to, and including but not limited to, permitting, construction, Street projects, and other related activities by Grantees, Grantees, and others in its Rights-of-way. Therefore, the terms and provisions of the City of Paducah's existing ordinances and regulations, (the "Ordinances"), and as they may be amended in the future, are incorporated herein by reference, and shall apply as if fully set forth herein.

Sec. 108-30. – Definitions.

The definitions and terminology of any terms contained in this Ordinance which are not specifically defined in this section may be contained in the applicable provisions of the Ordinances (as they may be amended in the future) which are hereby incorporated herein by reference.

- (a) "Applicant" means a Person who is applying for a franchise.
- (b) "Application" shall refer to the list of documents and information set forth in Section 108-31 required from new entrants, including any written responses provided on City forms or written correspondence provided in response to City inquiries and investigations. Applications must comply with the requirements of this Ordinance in its entirety.
- (c) "Board of Commissioners" or "City Commission" means the Board of Commissioners of the City of Paducah.
- (d) "Cable Service" shall have the meaning in this Ordinance as it is defined in Section 602(6) of the Communications Act of 1934, as amended as it may be amended (hereinafter cited as 47 U.S.C. § 522(6)).
- (e) "Cable System" shall have the meaning in this Ordinance as it is defined in Section 602(7) of the Communications Act of 1934, as it may be amended (47 U.S.C. § 522(7)).
- (f) "City" means City of Paducah, Kentucky, its elected and appointed officials, employees, agents, boards, authorities, commissions, consultants, assigns, volunteers and successors in interest.
- (g) "Communications Act" means the Communications Act of 1934, as amended from time to time (47 U.S.C. § 151 et seq.).
- (h) "Customer" means a Person located within the territorial limits of the City who is legally receiving Telecommunications Service from the Grantee.
- (i) "Equipment and apparatus" means any manholes, underground conduits, ducts, nodes, electronic devices, Poles, Towers, Support structures—, cables, boxes, wires, fixtures, conductors, or other Facilities necessary, essential, used or useful to and operated by the Telecommunications System.
- (j) "Facility" or "Facilities" means any tangible component of Grantee's Telecommunication System.
- (k) "FCC" means the Federal Communications Commission, or its lawful successor.
- (l) "Franchise Fee" means for the purposes of this Ordinance any fee that may be imposed by the City on Grantee as compensation for Grantee's use of Rights-of-way. Use of this definition in this Ordinance is without prejudice to any rights Grantee or the City may have under Federal and Kentucky law as they may be amended.
- (m) "Grantee" means a Person to which a franchise under this Ordinance is granted by the Board of Commissioners, or its successors and assigns.

- (n) "Gross Revenues" means after adjustment for the net write-off of uncollectible accounts, any and all revenues derived by Franchisee within the City of Paducah from Franchisee's Telecommunications System, including, but not limited to: revenues from the sale of and use of Telecommunications Services originating or terminating in the City of Paducah; revenues charged to or attributable to a circuit location in the City of Paducah, regardless of where the circuit is billed or paid; revenues from the use, rental, or lease of Franchisee's operating Facilities within the City of Paducah, revenues from the provision of any and all products, services, or charges (including installation, maintenance and service charges) and revenues from any leases or Indefeasible Right of Use interests ("IRU") of any portion of Franchisee's Telecommunications System within the City of Paducah. "IRU" or "Indefeasible Right of Use" means any form of acquired capital interest in Franchisee's Telecommunications System in which the holder possesses a right to use the Telecommunications System but not the right to control, maintain, construct or revise the Telecommunications System.
- (o) "Material Alteration" means an alternation that palpably or perceptively varies or changes the form, shape, elements, or specifications of a Facility in such a manner as to appreciably affect or influence its function, use, or appearance.
- (p) "Minimum Annual Franchise Fee" means ~~six~~ ~~fifteen~~ thousand dollars (~~\$6,000.00~~~~\$15,000~~) in the first year of the Grantee's franchise and shall increase by one thousand dollars (\$1,000.00) annually.
- (q) "PSC" means the Kentucky Public Service Commission or its lawful successor.
- (r) "Person" is any person, firm, partnership, association, corporation, company, governmental entity (with the exception of the City) or organization of any kind. The City shall not be included the definition of Person.
- (s) "Pole" means a utility, lighting, or similar Pole made of wood, concrete, metal, or other material, located or to be located within the Rights-of-way. The term does not include a Tower or Support structure.
- (t) "Road" or "Street" or "Rights-of-way" shall mean the surface of and the space above and below any public road, street, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the City for the purpose of public travel and shall include other rights-of-way as shall be now held or hereafter held by the City which shall, within their proper use and meaning entitle the City and its Grantees to the use thereof for the purposes of installing or transmitting Telecommunication System transmissions over Poles, Towers, or Support structures, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a Telecommunication System.
- (u) "Shall" or "shall" is mandatory, not merely directive.
- (v) "Small wireless facilities" are Wireless facilities that meet each of the following conditions:
- (1) The Facilities are mounted on Poles, Towers, or Support structures fifty-five (55) feet or less in height including their antennas;
 - (2) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three (3) cubic feet in volume;
 - (3) All other Wireless equipment associated with the structure, including the Wireless equipment associated with the antenna and any associated equipment on the structure, including collations, is no more than fifteen (15) cubic feet in volume, cumulatively. The following types of associated, ancillary equipment are not included in the calculation of equipment volume: electric meter, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for connection of power and other services;
 - (4) The Facilities do not require antenna structure registration under federal law;
 - (5) The Facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards provided in federal law; and
 - (6) Small wireless facilities do not include Poles, Towers, or Support structures.
- (w) "Support structure" means a structure in the Rights-of-way other than a Pole or a Tower to which a Wireless facility is attached at the time of the application for an Installation permit
- (x) "Telecommunications Service" means any service provided for consideration for the purpose of provision, transmission, conveyance, or routing of information including, but not limited to, voice, video, images data, or any other information signals without regard to the transmission protocol employed, whether or not the transmission medium is owned by the provider itself and whether or not the transmission medium is wireline. As used in this

definition, the word “video” does not pertain to Cable Service. By way of example, and not limitation, Telecommunications Service includes, but is not limited to the following:

1. telecommunications service (as defined by 47 USC §153(53) (as such term is now, or may in the future be, defined under federal law);
 2. telephone exchange service (as defined by 47 USC §153(54) (as such term is now, or may in the future be, defined under federal law);
 3. exchange access (as defined by 47 USC §153 (20) (as such term is now, or may in the future be, defined under federal law);
 4. mobile service (as defined by 47 USC §153(33) (as such term is now, or may in the future be, defined under federal law);
 5. advanced communications services (as defined by 47 USC §153(1) (as such term is now, or may in the future be, defined under federal law);
 6. long distance, inter-exchange and inter-LATA services, which may include MTS, WATS, 800, operator services, directory assistance and travel card services;
 7. private line point to point service for end users of voice and data transmission; non-entertainment video, videoconferencing, or point to point private line service; and
 8. any other intrastate or interstate telecommunication services which the PSC or the FCC has authorized, or services provided by radio common carrier.
- (y) “Telecommunications System” means all fiber optics, wires, cables, ducts, conduits, vaults, Poles, Towers, Support structures , anchors, nodes, antennas, cabinets, fixtures, transformers, Equipment and apparatus and apparatus and other necessary Facilities owned or used by Grantee for the purpose of providing Telecommunications Service and located in, above or below the Streets.
- (z) “Tower” means any structure in the Rights-of-way built for the sole or primary purpose of supporting a Wireless facility. A Tower does not include a Pole or a Support structure.
- (aa) “Transfer” means any sale, lease, mortgage, assignment, merger or other form of transfer of the Grantee, or of the rights and privileges granted or authorized by this Ordinance or any franchise granted pursuant to this ordinance.
- (bb) “Wireless facility” means a Telecommunications System that enables Wireless services but does not include: (i) the Support structure, Tower, or Pole on, under, or within which the equipment is located or collocated; or (ii) coaxial, fiber-optic or other cabling that is between Telecommunications System or Poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A Small wireless facility is one (1) example of a Wireless facility.
- (cc) “Wireless services” means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

Sec. 108-31. Applications.

- (a) Applications shall be accompanied by a non-refundable Application fee of five thousand dollars (\$5,000.00) payable to the City. Said Application fee shall not be considered Franchise Fee payments.
- (b) The City reserves the right to reject any and all Applications that fail to comply with the Application requirements of this Ordinance, and waive informalities, and/or technicalities where the best interest of the City may be served.
- (c) All questions regarding the meaning or intent of the Ordinance or Application documents shall be submitted to the City in writing. Replies will be issued by addenda mailed or delivered to all parties recorded by the City as having received the Application documents. The City reserves the right to make extensions of time for receiving Applications as it deems necessary. Only replies to questions by written addenda will be binding. All Applications must contain an acknowledgment of receipt of all addenda.
- (d) Applications must be submitted at the time and place indicated in the Application documents. Applications may be modified at any time prior to the opening of the Applications, provided that any modifications must be duly executed in the manner that the Applicant's Application must be executed.
- (e) Before submitting its Application, each Applicant must (i) examine the Ordinance and the Application documents thoroughly, (ii) familiarize itself with local conditions that may in any manner affect performance under this Ordinance, and (iii) familiarize itself with federal, state and local laws, Ordinances, rules and regulations affecting performance under the franchise.
- (f) The City may make such investigations as it deems necessary to determine the ability of the Applicant to perform under the franchise, and the Applicant shall furnish to the City

all such information and data for this purpose as the City may request. The City reserves the right to reject any Application if the evidence submitted by, or investigation of, such Applicant fails to satisfy the City that such Applicant is properly qualified to carry out the obligations of the franchise and to complete the work contemplated therein. Conditional Applications will not be accepted.

(g) All Applications received by the City from the Applicants will become the sole property of the City. Applicants shall submit all requested information as provided by the terms of this Ordinance. The following information must be complete and verified as true by the Applicant:

1. *Name and address of Applicant.* The Applicant's name, address, e-mail address and telephone and facsimile numbers; date of Application and signature of Applicant or appropriate corporate officer(s); the name, address and e-mail address, and telephone and facsimile numbers of a local representative who shall be available at all times; and information regarding how to contact the local representative in an emergency.
2. *Description of proposed Telecommunications System.* A description of the Applicant's proposed Telecommunications System design.
3. *Services.* A statement setting forth a description of all the types of Telecommunications Services proposed.
4. *Applicant organization.* The Applicant shall be a corporation or limited liability company authorized to do business in the Commonwealth of Kentucky, as certified by the Secretary of State. Applicant must fully disclose the ownership of the Facilities to be used in rendering the Telecommunications Service.
5. *Technical description.* Applicant shall provide a technical description of the type of Telecommunication System proposed by the Applicant and Applicant's plan for the installation of the Telecommunications System. Telecommunications System designs are to be submitted in bullet format detailing equipment start point, routes and end point location accompanied by network routing maps(s) and shall include a .~~The following information shall be included:~~
 - ~~(a) If the Applicant is proposing an underground installation in existing ducts or conduits within the Rights-of-way, information in sufficient detail to identify the location of the existing ducts or conduits to be occupied.~~
 - ~~(b) If Applicant is proposing an underground installation within new ducts or conduits to be constructed within the Rights-of-way, the location, depth, size and quantity of proposed new ducts or conduits;~~
 - ~~(c) A preliminary installation schedule and completion date.~~
6. *Engineering statement.* A statement from the Applicant's senior technical staff member, or consultant, advising that the Applicant's planned Telecommunications System and operations thereof would meet all the requirements set forth herein.
7. *Additional requirements.*
 - (a) Supplementary, additional or other information that the Applicant deems reasonable for consideration may be submitted at the same time as its Application but must be separately bound. The City may, at its discretion, consider such additional information as part of the Application.
 - (b) A copy of the Applicant's certificate of authority from the PSC where the Applicant is lawfully required to have such certificate from the PSC.
 - (c) A copy of all insurance policies or certificates required under this Ordinance.
 - (d) A statement signed by the Applicant that the Applicant agrees to be bound by all provisions of this Ordinance and its franchise and agrees to obtain all applicable permits and authorizations prior to constructing, installing, or operating a Telecommunications System in the Rights-of-way.
 - (e) A statement signed by the Applicant that the Applicant is registered as a member of Kentucky 811 (commonly referred to as

“Call Before You Dig”) and Applicant that agrees to contact Kentucky 811 before performing any excavation in the City.

- (h) The information provided by Applicant shall be certified as true and correct and Applicant shall be responsible to certify to the City any material changes to the information provided in the completed Application during the term of any franchise.
- (i) The City reserves the right to require such supplementary, additional or other information that it deems reasonably necessary for its determinations.
- (j) The City reserves the right to waive all formalities and/ or technicalities where the best interest of the City may be served.

Any work involving a Material Alteration of any portion of the (a) Telecommunications System or Facilities or (b) the Rights-of-way itself, such as any significant excavation or deviation thereof, must be approved in advance by: (1) a licensed structural engineer at Grantee's sole cost and expense if applicable and (2) all City departments.

Sec. 108-32. - Rights Under Franchise.

- (a) The Grantee shall have the non-exclusive right and privilege of constructing, erecting, operating, and maintaining a Telecommunications System upon, through, along, under and over the Rights-of-way within the City of Paducah as they now exist or may hereafter be extended; subject to the provisions hereof and to all powers (including police power) inherent in, conferred upon or reserved to the City, including but not limited to those contained in the Ordinances. The City reserves the right to grant similar franchises to more than one Grantee.
- (b) This Ordinance does not give the Grantee the right nor the privilege of attaching its Telecommunications System to any buildings, Poles, Towers, or Support structures, streetlights, Equipment and apparatus, or other facilities owned by the City. Additionally, this Ordinance does not give the Grantee the right nor the privilege of constructing, erecting, operating and maintaining a Telecommunications System upon, through, along, under and over real property over the City (other than Rights-of-way.) If Grantee desires to attach its Telecommunications System to any buildings, Poles, Towers, or Support structures-, street lights, Equipment and apparatus, or other facilities owned by the City or construct, erect, operate and maintain a Telecommunications System upon, through, along, under and over real property owned by the City(other than Rights-of-way), the Grantee shall be required to enter into separate agreements with the City.
- (c) This Ordinance does not include the right or privilege to provide Cable Service or open video system (as defined by 47 CFR 76.1500 (a)), which shall be subject to separate franchising requirements in accordance with Chapter 22 of the City of Paducah Code of Ordinances and also does not apply to (1) private communications system services provided without using the Rights-of-way; (2) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and (3) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996.
- (d) References to Grantee's Poles, Towers, or Support structures- throughout this Ordinance shall not be construed as permission to install Grantee's Poles, Towers, or Support structures in the Rights-of-way absent the issuance of a permit or approval by the City.

Sec. 108-33. – Standards.

The Grantee shall conform to all standards or requirements in federal, state, and local law or regulation in the operation of its Telecommunications System pursuant to this Ordinance. In addition to complying with all applicable law and regulations in state, federal, and local law, the Grantee shall ensure:

- (a) All working Facilities and conditions used during construction, installation and maintenance of Facilities (including clearance of wires and cables above the Rights-of-way and placement of any underground facilities) shall comply with the standards of the Occupational Safety and Health Administration, the National Electric Safety Code, and the National Electric Code.
- (b) All materials and Equipment and apparatus used or installed in construction shall be of first-class quality, and any defect in the work, materials or Equipment and apparatus, whether latent or patent, will be remedied by the Grantee at its cost;
- (c) Construction, reconstruction, maintenance, or removal of any Facilities shall be performed with due regard for the rights of the City and others, and shall not unnecessarily interfere with, or in any way injure the property of the City or others under,

on, or above the ground, or otherwise unduly interfere with the public use of the Rights-of-way;

- (d) Placement of lights, danger signals or warning signs shall be undertaken by the Grantee in compliance with applicable law;
- (e) Facilities shall be installed underground at any location where all other utilities' Facilities that are used to provide customer service are then being installed underground, or when otherwise required under the Ordinances, and shall be in conformance with the applicable requirements of this Ordinance and those set forth in the Code, the Zoning Ordinance, or any other applicable local law or regulation. The Grantee assumes all responsibility for damage or injury resulting from its placement or maintenance of any above-ground Facilities;
- (f) With respect to any Facilities and ~~Equipment~~ and apparatus of Grantee that are or have been installed aboveground in the Rights-of-way, Grantee may be required subsequently, in order to protect public safety, to bury those facilities which are capable of being placed underground at its expense subject to the provisions of this Ordinance and/or City ordinances, rules and regulations. Once Grantee is permitted to install its Facilities aboveground, the City may require Grantee to bury its Facilities in conformance with City ordinances, rules or regulations only on the condition that all utilities in the Rights-of-way are also required to bury their Facilities. The Grantee may contract and agree with other affected utilities so that all costs for common trenching, common utility vaults and other costs not specifically attributable to the undergrounding of any particular Facility are borne fairly and proportionately by all utilities involved in the underground project.
- (g) Grantee shall identify all of its Facilities, new and existing, by tagging or marking its Facilities with the Grantee's name and telephone number. Additionally, Grantee shall provide the City annually with an electronic map (compatible with the City's GIS System) which contains the location of all of its Facilities;
- (h) The City, through its City Manager or his or her designee, or through such assistants as the City may employ or designate, may, at all times and under reasonable conditions with prior notice, have reasonable access to all or any of the property or used in part or in whole by the Grantee in its operating and maintaining the Telecommunications System under this Ordinance and located within the Rights-of-way;
- (i) The Grantee shall provide the City and/ or its Board of Commissioners with information pertaining to its provision of Telecommunications Services pursuant to this Ordinance upon reasonable request. This shall include, but is not necessarily limited to, attending public meeting(s) at which some or all of the Board of Commissioners members are in attendance (in order to provide such information upon reasonable advance notice) and providing an annual update to the Board of Commissioners upon its request;
- (j) Facilities of the Telecommunications System shall be concealed or enclosed as much as possible in a box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off Poles, Towers, or Support structure shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible. All such Equipment and apparatus, boxes, cabinets and units shall be painted and maintained to prevent any deterioration, degradation or rusting of such Equipment and apparatus, boxes, cabinets and units. Failure of Grantee to comply with this section, after a thirty (30) day right-to-cure period, shall constitute an event of default;
- (k) As soon as practical, but not later than five (5) days from the date Grantee receives notice thereof, Grantee shall remove all graffiti on any of its Telecommunications System, Facilities, ~~Poles~~, Towers, or Support structures and related Equipment and apparatus located in the Rights-of-way. In the event Grantee does not remove the graffiti within the time period specified in this section or should the City deem any graffiti to be overtly offensive or obscene and reasonable discretion dictates its immediate removal, then the City may remove or cause the graffiti to be removed promptly at the reasonable cost and expense of Grantee. Grantee shall reimburse the City within thirty (30) days of billing by the City accompanied by an itemized statement of the City's reasonable costs. Any removal of graffiti effected by painting over the graffiti shall be done with the same color and type of paint as is on the Telecommunications System, Facilities, Poles, Towers, or Support structures or related Equipment and apparatus. The foregoing shall not relieve Grantee from complying with any City graffiti or visual blight ordinance or regulation.
- (l) If at any time the City or other agency or authority of competent jurisdiction determines that any work being done in the Rights-of-way by Grantee or its contractors presents a danger to the public health, safety or welfare, the City may require Grantee to cease and

desist all work until Grantee and/or its contractors, at its or their own expense, take the necessary corrective action. Should the City have to correct any condition, the City shall bill the Grantee for the actual cost of such correction and the Grantee shall promptly reimburse the City for its actual costs. If the Grantee fails to promptly reimburse the City, the City may take whatever actions necessary to enforce this Ordinance or Grantee's Franchise awarded pursuant to this Ordinance, including revoking Grantee's Franchise.

- (m) Grantee shall not allow or install power generators or back-up generators in the Rights-of-way without the express written consent of the City.
- (n) In order to minimize Street cuts, excavation and additional Poles, Towers, or Support structures in the Rights-of-way, while preserving the rights of Grantee and other Grantees to provide Telecommunications Services or other services, prior to applying for an encroachment permit to construct or install, or perform work on, the Telecommunications System Facilities, Poles, Towers, or Support structures, or other Equipment and apparatus in the Rights-of-way, Grantee shall seek to use an existing Poles, Towers, Support structures, conduit, duct, conduit system or other Facility where available in the Rights-of-way. If there is an existing Pole, Tower, or Support structure or other arial option available for Grantee's use, the use of which will not require excavation of the Rights-of-way, the Grantee shall be required to utilize such Poles, Towers, or Support structures. The Grantee shall secure and place on file with the City Clerk an agreement with each utility within the City currently owning such Poles, Towers, Support structures, conduits, and/or other Facilities that are to be used by the Grantee. If an existing Poles, Towers, Support structures, conduit, duct, pipe or other Facilities are unavailable to accommodate the proposed installation or the conditions required by other Grantees owning the Poles, Towers, Support structures, conduit system, conduit, duct, pipe and/or other Facilities that Grantee seeks to use are commercially unreasonable, Grantee shall indicate the reason(s) as part of its encroachment permit and the City may consider the reasons given in its evaluation of issuance of the permit.
- (o) It is the policy of the City to encourage shared use of Poles, Towers, Support structures, conduit, conduit system, duct and or pipe by Grantees whenever practicable or feasible. Accordingly, Grantee shall make available and grant permission to other Grantees of the Rights-of-way the right to utilize Grantee's Poles, Towers, Support structures, conduit, conduit system, duct, and or pipe; provided, however, that such utilization, attachment or location is practicable or feasible and provided, the other Person enters Grantee's standard agreement, the terms and pricing provisions of which shall be in accordance with Federal and State laws and regulations.
- (p) The City may require Grantee to relocate its Telecommunications System, Facilities, Poles, Towers, Support structures and related Equipment and apparatus at the expense of Grantee: (i) in order to allow the City to make any public use of or improvements to the Rights-of-way; (ii) as made necessary due to a change in grade or other change in the Rights-of-way made by the City; (iii) as a result of traffic conditions or public safety or the widening or reconfiguring Streets, highways or lanes; (iv) as a result of the construction or installation of any public structure or public improvement by the City, the State or other public agency or district; or (v) in connection with any decision or action by the City to abandon or vacate Rights-of-way. Nothing in this Ordinance or the Franchise granted pursuant hereto shall abrogate the right of the City, or any governmental authority, to perform or carry out any public works or public improvements of any description, provided that the City shall comply with the provisions of the Telecommunications Act. The City shall not be liable for lost revenues sustained by Grantee, however caused, because of damage to, modification, alteration, or destruction of Grantee's Facilities in the Rights-of-way or from the construction, installation, operation, and/ or maintenance of City facilities, structures and/or the Rights-of-way.
 - 1. The City shall provide thirty (30) days' prior written notice of the necessary relocation. Grantee shall have no more than ninety (90) days to complete the relocation.
 - 2. If Grantee fails to complete the work within the time allotted by the City, the City or other public agency or district may perform the work at the expense of Grantee.
 - 3. In the event Grantee refuses or neglects to alter or relocate its Telecommunications System, Facilities, Poles, Towers, Support structures or related Equipment and apparatus in a timely fashion, the City or other public agency shall have the right to break through, remove, alter or relocate such Facilities, Equipment and apparatus, Poles, Towers, or Support structures as

necessary without any damages or liability owing to Grantee, and Grantee shall pay to the City the costs incurred in connection with such breaking through, removal, alteration or relocation. Grantee shall pay to the City, within thirty (30) days of billing accompanied by an itemized statement, the actual costs incurred by the City in connection with its relocation, removal and/or alteration of Grantee's Telecommunications System, Facilities, Poles, Towers, Support structures and/or related Equipment and apparatus.

4. In cases of emergency, the City shall notify Grantee promptly upon learning of the emergency and the City may take necessary action to remediate the emergency situation, exercising reasonable efforts to avoid an interruption of Grantee's service. In cases of emergency, the City may cut, remove, or relocate the Grantee's Telecommunications System, Facilities, Poles, Towers, Support structures, —and related Equipment and apparatus immediately at Grantee's expense without notice to Grantee, provided that the City shall undertake efforts to notify Grantee as soon as practicable after any remediation is complete. Grantee shall bear all costs of reinstallation, repair or other costs arising out of the emergency cutting, removal or relocation. All costs incurred by the City in cutting, removing or relocating such Facilities, Poles, Towers, or Support structures, and Equipment and apparatus shall be paid by Grantee within thirty (30) days of billing accompanied by an itemized statement by the City.

Sec. 108-34. – Permits and Tree Trimming.

- (a) The Grantee shall, at the request of any Person, temporarily raise or lower its wires to permit the moving of buildings or other structures. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five (5) days advance notice to arrange for such temporary wire changes.
- (b) The Grantee shall have the authority to trim trees upon the overhanging Rights-of-way so as to prevent the branches of such trees from coming in contact with the wires or cables of the Grantee. Any trimming, removal or other disturbance of trees shall conform to all applicable laws or regulations including, but not limited to, Chapter 118 of the Paducah Code of Ordinances as it may be amended in the future. and customary industry practices.

Sec. 108-35. – Indemnification.

The Grantee shall indemnify, hold harmless, and defend the City from any and all losses or claims of whatever kind to the extent that they arise from or are alleged to have arisen, directly or indirectly from the execution, performance or breach of this franchise by Grantee, its employees, agents, servants, owners, principals, lessees, contractors and subcontractors, excluding negligence and misconduct on the part of the City. This indemnity shall in no way be limited by any financial responsibility, insurance, or loss control requirements below and shall survive to the extent permitted by the applicable statute of limitations.

For purposes of this indemnity provision:

- 1) The word "defend" includes, but is not limited to, investigating, handling, responding to, resisting, providing a defense for, and defending claims, at Grantee's expense, using an attorney selected by the Grantee and approved in writing by the City which approval shall not be unreasonably withheld.
- 2) The word "claims" includes, but is not limited to, claims, demands, liens, suits, and other causes of action of whatever kind.
- 3) The word "losses" includes, but is not limited to: attorneys' fees and expenses; costs of litigation; court or administrative agency costs; judgments; fines; penalties; interest, all environmental cleanup and redemption costs of whatever kind; and any liability arising from death, injury or damage of any kind to any Person, including employees and agents of Grantee, its servants, owners, principals, licensees, vendees, lessees, contractors and subcontractors or the City, and damage to or destruction of any property, including the property of the City.

Sec. 108-36. – Insurance and Bond.

(a) Insurance.

- 1) The Grantee shall procure and maintain for the duration of the franchise the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance hereunder by the Grantee:
 - i. Commercial General Liability Insurance as follows:
 - a. Bodily Injury with limits of not less than \$5,000,000.00 per person and \$10,000,000.00 per occurrence
 - b. Property damage with limits of not less than \$5,000,000.00 per occurrence, \$10,000,000.00 in the aggregate
 - c. Products-Completed Operations coverage;
 - d. Personal and Advertising Injury coverage;
 - e. Explosion, collapse & underground coverage;
 - f. Grantee's Commercial General Liability insurance policy will list as additional insureds, "the City of Paducah, its elected and appointed officials, employees, volunteers and consultants for their vicarious liability from the negligent acts or omissions of Grantee.
 - g. Additionally, such insurance shall contain endorsement that Grantee's insurance coverage shall be primary insurance with respect to the City. Any insurance or self-insurance maintained by the City shall be in excess of the Grantee's insurance and shall not contribute to it.
 - ii. Comprehensive Automobile Liability Insurance providing limits of not less than \$3,000,000.00 per person/\$5,000,000.00 per occurrence for bodily injury, and property damage not less than \$3,000,000.00 per occurrence.
 - iii. Workers' Compensation Insurance as required by the Kentucky Revised Statutes and Employers Liability Coverage equal to \$1,000,000.00 with endorsement that insurer shall agree to waive all rights of subrogation against the City for losses arising from work performed by the Grantee for the City; and
- 2) The Grantee shall abide by all local, state, and federal insurance regulations.
- 3) Insurance is to be placed with insurers qualified to do business in the Commonwealth of Kentucky;
- 4) Grantee shall furnish the City with Certificates of Insurance reflecting the above coverages, and Grantee shall provide to the City the following:
 - i. Signed renewal Certificates for expiring policies; and
 - ii. New Certificates of Insurance if policies or carriers change during the term of this franchise, showing compliance with the above requirements.
- 5) The City may review, audit, and inspect any and all of Grantee's relevant records and operations to ensure compliance with these Insurance requirements.
- 6) Grantee shall to adhere to and comply with all Federal, State and Local safety and environmental laws, regulations and Ordinances. The Grantee shall provide all safeguards, safety devices and protective Equipment and apparatus necessary to protect the life, health, safety and property of all persons on the job site, the public and the owner as required by applicable Federal, State and local law.
- 7) The insurance required herein shall not be suspended, voided, canceled by the Grantee, reduced in coverage or in limits, except upon thirty (30) days prior written notice by certified mail, return receipt requested, to the City.
- 8) If Grantee fails to comply with any of these insurance, safety or loss control provisions within ten (10) business days after notice from the City, then the Grantee shall be in noncompliance which noncompliance shall constitute a default under this Ordinance. The City may elect, at its option, any single remedy or any combination of remedies, as available, including but not limited to, purchasing insurance and charging Grantee for any such insurance premiums purchased, or terminating the Grantee's franchise. The date of default shall relate back to the date of breach, without regard to the date on which notice of such breach is provided by the City.

(b) Performance Bond.

Upon the effective date of the franchise agreement requiring Telecommunications System construction, the Grantee shall furnish proof of the posting of a faithful performance bond running to the City, with good and sufficient surety approved by the City, in a sum equal to the lesser of (a) one-fourth (1/ 4) of the fair estimated cost of the Telecommunications System to be erected. or (b) one hundred thousand dollars (\$100,000.00). ~~Said bond shall be enforceable in case the Grantee should fail, within three hundred sixty-five-one hundred eighty (365180) days, to establish and begin rendering the Telecommunications Service in the manner set forth in this Ordinance. Any bond required by this Ordinance shall be AAA-rated.~~

Upon completion of any Telecommunication System construction/upgrade the bond shall be reduced to fifty thousand dollars (\$50,000.00). The bond shall be conditioned that the Grantee shall well and truly observe, fulfill and perform each and every term and condition of this Ordinance and the franchise agreement, and that, in the case of any breach of condition of the bond, the amount thereof shall be recoverable from the principal and the surety, jointly and severally, thereof by the City for all damages resulting from the failure of the Grantee to well and truly observe and perform any provisions of this Ordinance or the franchise agreement. The aforesaid bond shall be maintained by the Grantee throughout the term of the franchise and written evidence of the payment of the required payments shall be filed and maintained with the office of the City Clerk Engineer.

Sec. 108-37. – Non-discrimination and Affirmative Action.

The Grantee shall comply with all applicable federal, state or local nondiscrimination and affirmative action requirements of any laws, regulations and executive directives, and shall not discriminate in its employment practices against any employee or applicant for employment because of race, color, religion, national origin, sex, age or disability.

Sec. 108-38. – Transfer of Control and General Rate Cases.

- (a) In the event that the Grantee files for a Transfer of the Grantee, or a general rate case with the PSC, it will furnish the City Manager- or his or her designee with timely notice of such filing. In the event the City should choose to intervene in such PSC action, the Grantee shall not oppose such intervention.
- (b) No Transfer shall take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition, without prior notice to and approval by the City which shall not be unreasonably refused, withheld, or delayed. The notice shall include full identifying particulars of the proposed transaction, and the Board of Commissioners shall act by resolution. The City shall have one hundred twenty (120) days within which to approve or disapprove a Transfer- if no action is taken within such one hundred twenty (120) days; approval shall be deemed to have been given.
- (c) Subsection (b) above is not intended to apply to assignments to a parent, subsidiary or affiliate of the Grantee,
- (d) In making a determination on whether to grant an application for a Transfer, the City may consider the financial, technical and other qualifications of the transferee (assignee) to operate the Telecommunication System; whether the incumbent Grantee is in compliance with this Ordinance and, if not, the proposed transferee's (assignee's) commitment to cure such noncompliance and any other criteria allowed by applicable law.
- (e) The consent or approval of the City to any Transfer of the Grantee shall not constitute a waiver or release of the rights of the City in and to the Streets.
- (f) The Person to whom the Franchise is transferred ("Transferee") shall complete a Transfer application in a form required by City and pay a five thousand dollars (\$5,000.00) application fee, providing the following information:
 - i. Address and telephone number of local office of Transferee, if any;
 - ii. Method to contact Transferee on a 24-hour basis in case of emergency with respect to its Telecommunications System, Facilities, poles, and Equipment and apparatus;
 - iii. The articles of incorporation or organization of Transferee, the state in which Transferee was formed, and whether Transferee is in good standing in that state;

- iv. Whether Transferee is qualified to do business in the Commonwealth of Kentucky;
 - v. The name, address and telephone number of Transferee's agent for service of process in Kentucky;
 - vi. A statement signed by an officer of Transferee certifying that Transferee has obtained authorization from the PSC to provide Telecommunications Services in Kentucky, and a copy of the document constituting that authorization. If no approval is required by the PSC, the Transferee shall identify the statute or regulation exempting Transferee from the necessity to obtain approval;
 - vii. An agreement signed by Transferee and Grantee stating that Transferee: (a) has read this Ordinance, (b) will comply with all its terms and conditions, and (c) has accepted and assumed all obligations and liabilities arising under this Ordinance and/or franchise agreement.
- (g) Should Grantee attempt to affect a Transfer of its Franchise without fully complying with this Section, or should Transferee fail to comply with the requirements of this Section, such assignment or Transfer shall be invalid, unless ratified by the City. The Transferee shall be liable for all costs incurred by the City with regard to the Transfer of the Franchise, including attorneys' fees, and shall reimburse City within thirty (30) days of billing accompanied by an itemized statement.
- (h) Notwithstanding a Transfer of a Franchise to the Transferee, Grantee shall remain liable and obligated for any debts or obligations incurred to the City by Grantee prior to the date of the Transfer.

Sec. 108-39. – Duration of Franchise.

- (a) The franchise hereby created shall be for a period of ten (10) years from the date of acceptance by the Board of Commissioners.
- (b) The franchise created by this Ordinance creates no vested rights in the Grantee other than those provided by this Ordinance or at law, and any installation or placement of Facilities by the Grantee in the Rights-of-way is at the Grantee's risk.

Sec. 108-40. – Penalties.

- (a) If, after the Grantee is provided the opportunity to appear and present evidence before the Board of Commissioners, the Board of Commissioners finds that the Grantee has violated any of the following provisions of this Ordinance, the following penalties shall be recoverable. The decision of the Board of Commissioners shall be the final administrative decision and shall be in writing and provide the basis for the decision. The decision may be appealed to a court of competent jurisdiction.
 - 1) For failure to complete or remove any construction project by no later than the ending term of any franchise awarded pursuant to this Ordinance or any extension thereof, the Grantee shall forfeit five hundred dollars (\$500.00) per day or part thereof that the violation continues;
 - 2) For failure to provide data and reports requested by the City and as required by this Ordinance the Grantee shall forfeit five hundred dollars (\$500.00) per day or part thereof that the violation continues.
 - 3) For failure to pay a permit fee or Franchise Fee when due pursuant to local law, the Grantee shall forfeit five hundred dollars (\$500.00) per day or part thereof that the violation continues.
- (b) If the Grantee fails to comply within thirty (30) days of any Board of Commissioners resolution directing compliance with any other provisions of this Ordinance, the Grantee shall forfeit five hundred dollars (\$500.00) per day or part thereof that the violation continues. The decision of the Board of Commissioners may be appealed to a court of competent jurisdiction.
- (c) The Grantee shall not be excused from complying with any of the terms and conditions of this Ordinance by any failure of the City, upon any one or more occasions, to insist upon the Grantee's performance or to seek the Grantee's compliance with any one or more of such terms or conditions. Payment of penalties shall not excuse non-performance under this Ordinance. The right of the City to seek and collect penalties as set forth in this

section is in addition to its right to terminate and cancel as set forth in Section 108-42 of this Ordinance.

Sec. 108-41. – Maintenance of Telecommunication System.

The Grantee shall maintain its Telecommunication System in reasonable operating condition at all normal times during the term of its Franchise. An exception to this is automatically in effect when Telecommunications Service furnished by the Grantee is interrupted, impaired or prevented by fires, strikes, riots or other occurrences beyond the control of the Grantee, or by storms, floods or other casualties, in any of which events the Grantee shall do all things reasonably within its power to restore normal Telecommunications Service within a reasonable period of time.

Sec. 108-42. – Right to Terminate and Cancel the Franchise.

- (a) In addition to all other rights and powers pertaining to the City by virtue of this Ordinance or otherwise, the City, by and through its Board of Commissioners, reserves the right to terminate and cancel the franchise and all rights and privileges of the Grantee hereunder in the event that the Grantee:
 - 1) Willfully violates any provision of this Ordinance, the franchise or any material rule, order, or determination of the City made pursuant to the franchise, except where such violation is without fault or through excusable neglect or due to a force majeure act;
 - 2) Willfully attempts to evade any provision of this Ordinance or the franchise or practices any fraud or deceit upon the City;
 - 3) Fails to begin or complete construction as provided under this Ordinance or the franchise;
 - 4) Knowingly makes a material misrepresentation of any fact in the Application, proposal for renewal, or negotiation of the franchise; or
 - 5) In the event of entry of a final and non-appealable order by the PSC which revokes any authority of the Grantee to provide Telecommunications Service in the City of Paducah, Kentucky.
- (b) The City may make a written demand that the Grantee do or comply with any such provision, rule, order or determination. The Grantee will be provided the opportunity to appear and present evidence before the City Manager or his or her designee, whose decision shall be the final administrative decision, and shall be in writing and provide the basis for the decision. If the violation by the Grantee continues for a period of thirty (30) days following such a decision by the City Manager or his or her designee without written proof that the corrective action has been taken or is being actively and expeditiously pursued by the Grantee, the City may place its request for termination of the franchise as early as the next regular Board of Commissioners meeting agenda. The City shall cause to be served upon Grantee, at least ten (10) days prior to the date of such Board of Commissioners meeting, a written notice of intent to request such termination and the time and place of the meeting and shall publicly notice the same.
 - 1) It shall be a defense to any attempt to terminate and cancel the franchise that the Grantee was relying on federal law, state law, or a valid tariff in acting or not acting on the issue in dispute.
 - 2) The Board of Commissioners shall consider the request of the City and shall hear any Person interested therein, and shall determine in its discretion, whether or not any violation by the Grantee was with just cause.
 - 3) If such violation by the Grantee is found to have been with just cause, the Board of Commissioners shall direct the Grantee to comply therewith within such time and manner and upon such terms and conditions as are just and reasonable within the City's lawful authority.
 - 4) If the Board of Commissioners determines such violation by the Grantee was without just cause, then the Board of Commissioners may, by resolution, declare that the franchise of the Grantee shall be terminated and forfeited unless there is compliance by the Grantee within such reasonable period as the Board of Commissioners may fix. Any such determination by the Board of Commissioners is a final appealable action to a court of competent jurisdiction.

Sec. 108-43. – Foreclosure or other Judicial Sale.

The Grantee shall provide the City, in the form and manner required by the appropriate court or judicial body, at least thirty (30) days advance written notice, if at all possible, of the foreclosure or other judicial sale of all or a substantial part of the Grantee's Facilities within the City of Paducah, or upon the termination of any lease covering all or a substantial part of its Facilities, and such notification shall be treated as a notification that a Transfer or assignment of the franchise has taken place.

Sec. 108-44. – City's Rights after the Appointment of a Receiver or Trustee.

The Board of Commissioners shall have the right to cancel a Grantee's franchise thirty (30) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said thirty (30) days, unless:

- (a) Within thirty (30) days after his election of appointment, such receiver or trustee shall have fully complied with all the provisions of this Ordinance and remedied all defaults thereunder; and,
- (b) Such receiver or trustee, within said thirty (30) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Ordinance and the franchise granted to the Grantee.

Sec. 108-45. – Advertising for Bids.

It shall be the duty of the City Manager or his designee to offer the terms of this Ordinance to the public. In the event that additional interested bidders are identified or express an interest in obtaining a franchise after this initial offering, the additional offering and advertisement to accommodate such bidders is hereby authorized. Said franchise and privilege shall be sold to the highest and best bidder or bidders at a time and place fixed by the City Manager or his or her designee after due notice thereof by advertisement or publication as required by law.

Sec. 108-46. – Bid Process.

- (a) Bids and proposals for the purchase and acquisition of the franchise hereby created shall be in writing and shall be delivered to the City Manager or his/her designee upon the date(s) and at the time(s) fixed by the City Manager in said advertisement(s) for receiving same. An opening time for each bid shall be stated in any advertisement and invitation for bids. The time set for opening of bids shall be established by a clock in the office of the City Clerk. It is the bidder's responsibility to ensure the bidder's bid is in the office before the time set for bid openings. At the set time, the City Clerk shall declare bids to be closed. All bids shall be opened publicly and read aloud when the structure of the invitation for bids permits. The City Manager or his/her designee shall with reasonable promptness prepare a tabulation of all bids received and make the documents available to the public upon reasonable request.
- (b) After bids are opened, the City Manager or his/her designee shall review all bids for compliance with specifications, terms and conditions. If, in the judgment of the City Manager or designee, a portion of a bid is uncertain or unclear, the bidder shall be required to clarify all such portions which are in question. Any clarification of this nature shall be sent to the City Manager's office in written form.
- (c) The City Manager reserves the right to reject any and all bids, and to waive technicalities and minor irregularities in bids. Grounds for the rejection include, but are not limited to:
 - 1) Failure of a bid to conform to established requirements of an invitation for bids;
 - 2) Failure to conform to specifications contained in or referred to in any invitation for bids, unless the invitation authorized submission of alternative bids, and the alternative proposal meets the requirements specified in the invitation for bids;
 - 3) Failure to conform to a delivery schedule established in an invitation for bids;
 - 4) Determination that a bid was submitted by a bidder determined to be not responsible;

- 5) Failure to furnish a bid guarantee when a guarantee is required by an invitation for bids; or
 - 6) Imposition of conditions which would modify the terms and conditions of the invitation for bids, or which would limit the bidder's liability to the City under terms of the contract awarded, on the basis of such invitation for bids.
- (c) Thereafter, the City Manager shall report and submit to the Mayor and Board of Commissioners, at the time of its next regular meeting or as soon as practicable thereafter, said bids and proposals for its approval.
 - (d) The Board of Commissioners reserves the right, for and on behalf of the City, to reject any and all bids for said franchise; and, in case the bids reported by the City Manager shall be rejected by the Board of Commissioners, it may direct said franchise and privilege to be again offered for sale, from time to time.
 - (e) Each bid made by a Person not already holding a franchise within the territorial limits of the City of Paducah sufficient to render the Telecommunications Service required by this Ordinance, shall be accompanied by cash or a certified check drawn on a bank of the Commonwealth of Kentucky, or a national bank, equal to the lesser of five percent (5%) of the fair estimated cost of the Telecommunications System required to render the Telecommunications Service or One Hundred Thousand Dollars (\$100,000.00). Said check or cash shall be forfeited to the City in case the bid should be accepted and the bidder should fail, for thirty (30) days after the confirmation of the sale, to give a good and sufficient performance bond in favor of the City in accordance with Section 108-36.
 - (f) Bids made by a Person not already holding a franchise within the territorial limits of the City of Paducah shall include such documentation as is necessary to support the bidder's determination of the fair estimated cost of the Telecommunications System and compliance with all applicable state, federal and local statutes, ordinances and regulations.

Sec. 108-47. – Compensation.

- (a) The Franchise fee imposed under this Ordinance is not in lieu of any tax, fee or other assessment except as specifically provided in this Ordinance, or as required by applicable law. By way of example, and not limitation, permit fees and business license taxes are not waived and remain applicable as provided by law. Additionally, the City may at any time impose any fees or taxes consistent with state or federal law, including, but not limited to property taxes, and occupational license fees.
- (b) Grantee shall pay a ~~quarterly~~ Franchise Fee to the City, which shall be equal to the greater of (a) the Minimum Annual Franchise Fee as defined herein and amended from time to time (“Minimum Annual Franchise Fee”); or (b) an amount equal to either (i) five percent (5%) of Grantee’s Gross Revenues, which shall be payable quarterly and may be passed through to Grantee’s Customers, if Grantee provides Telecommunications Service to Customers within the City of Paducah (“Gross Revenue-based Franchise Fee”), or (ii) an amount equal to two dollars (\$2.00) per lineal foot of Facilities plus three thousand dollars (\$3,000.00) per each Wireless facility (other than Small wireless facilities) and two hundred seventy dollars (\$270.00) per each Small wireless facilities if Grantee does not provide Telecommunications Service to end-users within the City of Paducah (“Facilities-Based Franchise Fee”);
- (c) ~~Grantee’s first Franchise Fee payable under this Ordinance shall be paid to the City forty-five (45) days after the City gives notice to the Grantee that the City has exercised its constitutional right to collect Franchise Fees. Such payment will be prorated for the remaining calendar year (rounded to the nearest month). Thereafter, Grantee shall pay each Franchise Fee (as applicable) in accordance with the schedule below.~~
- (d) Grantee’s first Minimum Annual Franchise Fee payment, if applicable, shall be paid in lump sum forty-five (45) days after execution of the Franchise Agreement. All Subsequent Minimum Annual Franchise Fee payments, if applicable, to the City shall be in lump sum paid on or before April 15th of each calendar year during the term of the franchise.
- (e) Gross Revenue-Based Franchise Fee payments, if applicable, to the City shall be computed based on Grantee’s Gross Revenues from each calendar year quarter period (January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31); and paid Grantee’s first Gross Revenue-Based Franchise Fee payment shall be paid on or before the forty-fifth (45th) day following the

first full calendar quarter after execution of the Franchise Agreement. All subsequent Gross Revenue-Based Franchise Fee payments shall be paid and paid on or before the forty-fifth (45th) day following each calendar quarter period during the term of the franchise.

- (f) Facilities-Based Franchise Fee payments, if applicable, to the City shall be computed based on Grantee's ~~lien~~ lineal foot of Facilities in the City of Paducah as of January 1 of each calendar year, ~~and paid~~ Grantee's first Facilities-Based Franchise Fee Payment shall be paid on or before the forty-fifth (45th) day following the execution of the Franchise Agreement. All subsequent Facilities-Based Franchise fee payments shall be paid on or before April 15th of each calendar year during the term of the franchise.
- (g) Payment not received by the City by the due date shall be assessed interest equal to the lesser of (i) one percent (1%) per month, or (ii) the highest rate permitted by law. Interest shall be compounded annually. Interest shall be due on the entire late payment from the date on which the payment was due until the date on which the City receives payment.
- (h) ~~Prior to making each payment to the City,~~ Upon making each payment to the City, Grantee shall file with the City a written report, in the form as provided by the City, containing an accurate statement in summarized form, as well as in detail, of its calculation of the amount of the payment, verified by an officer or other authorized representative of Grantee, setting forth its Gross Revenues according to their accounting subdivisions, and any deductions claimed for the period upon which the payment is computed. ~~Such reports shall be in form satisfactory to the City.~~
- (i) If any Franchise Fee is owed to the City, upon reasonable notice, the City shall have the right to inspect the Grantee's income records, the right to audit and to re-compute any amounts determined to be payable under any Franchise granted pursuant to this Ordinance; provided, however, that such audit shall take place within twelve (12) months following the close of each of the Grantee's fiscal years. If, as a result of such audit or review, the City determines that Grantee has underpaid its fees to the City in any twelve (12) month period by ten percent (10%) or more, then, in addition to making full payment of the relevant obligation, Grantee shall reimburse the City for all expenses incurred as a result of an audit or review and such payments shall be paid within the thirty (30) days following written notice to the Grantee by the City, which notice shall include a copy of the audit report and copies of all invoices for which the City seeks reimbursement.
- (j) If any Franchise Fee is owed to the City, in the event that any Franchise Fee payment or recomputed amount is not made to the City on or before the applicable dates heretofore specified, interest shall be charged from such date as defined in this Ordinance.
- (k) No accord and satisfaction. No acceptance by the City of any Franchise Fee or any other payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any Franchise Fee or any other payment be construed as a release of any claim of the City
- (l) The City reserves the right to require the Grantee to collect any consumer or other tax or other fee that may be imposed by the City, the Commonwealth of Kentucky, or the federal government on Telecommunications Services.
- (m) Notwithstanding any other provision of this Ordinance, the Grantee shall be required to pay the Government an amount intended to adequately compensate it for its permitting and inspection of the Grantee's construction activities in the Rights-of-way pursuant to the Code and all attorney's fees that the Government may incur relating to the franchising process, including but not limited to any attorneys' fees incurred relating granting of the franchise and any transfer, renewal or modification of the franchise.

Sec. 108-48. – Aesthetic standards.

Unless otherwise approved by the City in order to prevent an effective prohibition of service in accordance with federal regulations, as applicable, no Person shall locate or maintain a Facility, Pole, Tower, or Support structure, except in accordance with the following design standards:

- (a) All Facilities shall be located and designed so as to minimize visual impact on surrounding properties and from Rights-of-way.
- (b) All new or replacement Poles, Towers, or Support structures placed in the Rights-of-way shall be the same color, shape, material, and general height as those existing Poles, Towers or Support Structures adjacent to the location of the new or replacement Pole, Tower, or Support structure.

(c) All coaxial, fiber-optic, or other cabling and wires shall be contained inside any new or replacement Tower, Pole, or Support structure. On existing Poles, Towers, or Support structures, or new wooden Poles, where it is impossible to place wiring inside the Pole, Tower or Support structure, all coaxial, fiber-optic, or other cabling and wires shall be flush-mounted and covered with a metal, plastic, or similar material matching the color of the Pole, Tower or Support structure. All coaxial, fiber-optic, or other cabling and wires shall be contained inside any new Tower, Support structure or Pole placed in the Rights-of-way.

(d) No Tower shall be placed in the Rights-of-way within two hundred fifty (250) feet on the same street of an existing Tower. Replacing an existing Tower with a Tower, or a lighted Pole with another lighted Pole housing Wireless facilities, in the same location shall not violate this provision.

(e) All new Towers, Support structures and Poles should be located on the same side of the street as existing Towers, Poles, or Support structures. However, this does not preclude an applicant from locating its Wireless facilities on existing lighted Poles under a decommissioning agreement in which the applicant takes ownership of the lighted Pole.

(f) The centerline of any new Pole, Support structure or Tower shall be aligned with the centerline of adjacent Poles or trees, unless the new structure's height conflicts with overhead power utility lines. Replacing an existing Pole, Support structure, or Tower with another Pole, Support structure, or Tower in the same location shall not violate this provision.

(g) All new Poles, Towers, Support Structures or Facilities proposed to be fronting a dwelling shall be placed on property lines, unless it would obstruct sight distance at driveways or other accesses to roadways. In those instances where placement of a new Pole, Support structure, Tower, or Facilities on the property line would obstruct sight distance, the Pole, Support Structure or Tower, or Facilities shall be placed in such a location as to prevent the obstruction of sight distance at driveways or other accesses to roadways. Replacing an existing Pole, Support structure, Tower or Facility with a Pole, Support structure, Tower, or Facility in the same location shall not violate this provision.

(h) New Poles, Support Structures, Towers, or Facilities shall not be placed in front of store front windows, walkways, entrances or exits, or in such a way that would impede deliveries. Replacing an existing Pole, Support structure, Tower, or Facility with a Pole, Support structure, Tower, or Facility in the same location shall not violate this provision.

(i) No new Poles, Support Structures or Towers shall be placed in front of driveways, entrances, or walkways. Replacing an existing Pole, Support structure, or Tower with a Pole, Support Structure, or Tower in the same location shall not violate this provision.

(j) No applicant shall locate or maintain a Pole, Support structure, Tower, or equipment associated with a Wireless facility, as to interfere with the health of a tree.

(k) In areas where the undergrounding of utilities has occurred, but lighted Poles are present, the applicant shall locate its Wireless facilities on existing lighted Poles or seek to decommission the lighted Pole to replace it with a lighted Pole to house its Wireless facilities.

(l) If the applicant elects to decommission an existing lighted Pole in order to install a Wireless facility in its location, the applicant shall comply with this Ordinance, including these aesthetic standards, and any decommissioning agreement between the applicant and the City or its equivalent.

(m) In those locations where the undergrounding of utilities has occurred, all Facilities shall be placed underground.

(n) No equipment associated with any Facility shall impede, obstruct, or hinder ADA access, or pedestrian or vehicular access, or block driveways, entrances, or walkways. The installation of new ground furniture is prohibited.

(o) To protect the health and safety of the public from the harms of noise pollution, all Facilities shall have a low noise profile.

(p) Within twenty-one (21) calendar days from the date the operator receives notice thereof, operator shall remove all graffiti on any of its Facilities located in the Rights-of-way.

(q) All Facilities, Poles, Towers, and Support structures shall comply with such additional design standards as may be set forth in any written policies or guidelines issued by the City.

(r) All Poles, Towers, Support structures, and other lines and equipment installed or erected by Grantee under this Ordinance shall be located so as to minimize any interference with the proper use of the Rights-of-way with the rights and reasonable convenience of property owners whose property adjoins or abuts any affected Rights-of-way. Subject to applicable codes, overhead drops shall be as close as possible to other utility drops in order to

concentrate the drops in as small an area as possible to minimize visual clutter and interference with the use of private property.

Sec. 108-49. – Additional Requirements.

(a) Operation of Telecommunications System – Excavation of the Rights-of-way.

- 1) The Telecommunications System shall, at all times, be installed operated and maintained in good working condition as will enable the Grantee to furnish adequate and continuous service to all of its residential, commercial, and industrial Customers. The Telecommunications System shall be designed installed, constructed, and replaced in locations and at depths which comply with all applicable federal and state laws and regulations regarding minimum safety standards for design, construction, maintenance, and operation of a Telecommunications System.
- 2) The Grantee shall have the right to disturb, break, and excavate in the Rights-of-way of the City as may be reasonable and necessary to provide the service authorized by the franchise subject to the provisions of this Ordinance and the provisions of the applicable City Code of Ordinances.
- 3) Grantee agrees to give prior notification to the City of any construction work by Grantee on or in any Rights-of-way that will necessarily involve the cutting of any blacktop or concrete on ~~a~~ the Rights-of-way, or any other excavation or work in the Rights-of-way that is reasonably expected to interrupt the flow of traffic on the Rights-of-way. In the event a Street, sidewalk, curb or gutter is to be cut, the Grantee agrees to obtain the applicable permit from the City. Grantee's notice to the City shall include traffic control plans to be implemented during the construction work and specific traffic control devices to be utilized. Additionally, Grantee shall notify the City of the hours the construction will take place at least seven (7) days prior to beginning construction.

Nothing in the above provisions is intended to require Grantee to give a notification for any routine maintenance or repair work not involving the cutting of the Rights-of-way, curb, or gutter or not involving an interruption of traffic flow on a City Street. Nothing in the above is intended to impose on Grantee any obligation to give notification or obtain a City permit for work on Customers' service lines, unless such work extends into the Rights-of-way. However, Grantee shall be required to give advance notification to the City of the installation of a new service line within the City limits and provide a copy of the plans for the new service line.

- 4) To the extent reasonably practicable, Grantee agrees to notify the City and to schedule and coordinate installation, construction, maintenance, replacement, or repairs of its Telecommunications System with proposed improvements to the Rights-of-way that have been designated (and which Grantee has been specifically advised of) for improvement, resurfacing, or repair prior to the commencement thereof. In the event Grantee develops a written program for the replacement or repair of its Telecommunications System located in the Rights-of-way, Grantee shall provide a copy of that written program to the City's Public Works Department. Any replacement or repair program shall, to the extent reasonably practical, be developed to coincide with the City's pavement program.
- 5) The Grantee agrees to provide the City and other emergency response officials on an annual basis the names, addresses, and phone numbers of emergency 24-hour on-call personnel. After being notified of an emergency by the City, the Grantee shall cooperate with the City and make every effort to respond as quickly as possible with actions to minimize damage and to protect the health and safety of the public and property.

(b) Degradation/Restoration of Rights-of-way.

- 1) In the event Grantee enters upon any Rights-of-way for the purposes of constructing, erecting, installing, operating, maintaining, repairing and/or removing any part of its Telecommunication System, it shall promptly and diligently prosecute the work to completion at its sole expense and shall repave, cover, and restore all trenches and exposed areas as quickly as circumstances permit and shall leave all Rights-of-way in as good a condition as existed when Grantee entered upon them. Grantee agrees to perform such restoration work in compliance with all applicable City standards. Any repairs to Rights-of-way

necessitated by reason of Grantee's failure to comply with City standards shall be performed by Grantee, at its expense, for a twelve (12) month period following the date Grantee completed the particular restoration work. However, notwithstanding the foregoing requirements, Grantee shall upon the request of the City and at its sole expense, repave all Street pavement located within an entire Street block if Grantee, its employees, contractors, or agents undertook an authorized excavation of Rights-of-way that has been repaved within two (2) years of the excavation where Grantee knew or should have known that it would need to excavate the pavement within two (2) years of the City notifying Grantee of the Streets that will be repaved. The above provisions shall not apply to the extent the excavation was necessitated by an act of the City or by an act of God or by an act of a third party with whom Grantee is not in privity or contract or over whom Grantee has no control or, in order to fix or repair a potentially or actual dangerous condition or to accommodate a request for service by a new Customer. In the event Grantee is required to repave an entire Street block of pavement or Rights-of-way and the work by the Grantee is determined to be in compliance with the applicable City requirements, the City shall assume responsibility for the maintenance of the improved Rights-of-way. All restorations or repairs of Rights-of-way shall be performed in compliance with applicable City requirements and may be subject to inspection by the City at any time. In the event Grantee fails, refuses, or neglects to comply with the applicable City provisions, or to repair to restore the affected Rights-of-way, the City may undertake such repairs and the costs and expenses incurred by the City shall be paid to the City by the Grantee within ten (10) days from the date on which an itemized bill is submitted to the Grantee.

- 2) In the construction, installation, maintenance, repair, or removal of any of its Telecommunications System, or any part thereof, Grantee shall exercise due regard for the rights of the City, pedestrians, and motorists and shall not unreasonably or unnecessarily interfere with or injure City property or the private property of others. Grantee shall comply with all applicable laws with respect to signalization, placement of lights, danger signals, or warning signs. All work performed by Grantee shall be done in a workmanlike manner and shall not unnecessarily interfere with the public use of the Rights-of-way.
- 3) Grantee shall, upon request by the City, remove, move, modify, relocate, reconstruct, or adjust any of its Telecommunications System located within the Rights-of-way, at its own expense, if the City, in its sole discretion, constructs, reconstructs, widens, alters, excavates, repairs, changes, or improves any Rights-of-way as part of any public improvement project and such work requested by the City shall be accomplished by Grantee within thirty (30) days after notice by the City; provided, however, if the work requested of Grantee cannot be reasonably completed within that time period, Grantee shall have such additional time to complete its work as may be mutually agreed upon between Grantee and the City.
- 4) If the City requires the Grantee to adapt or conform its Telecommunications System or to in any way construct, reconstruct, remove, alter, relocate, adjust, or its Telecommunications System to enable any other Person, firm, corporation, entity, whether public or private, other than the City, to utilize Rights-of-way, Grantee shall be reimbursed for all costs incurred by the Grantee from the Person, firm, Grantee, corporation, or entity requesting or required by the City to perform such change, construction, removal, repair, maintenance, alteration, or relocation.
- 5) In the event that the Grantee is a party to a Poles, Towers, or Support structures attachment agreement, and the owner of such Poles, Towers, or Support structures elects to replace its Poles, Towers, or Support structures, the Grantee shall be required to remove its Facilities and Equipment and apparatus from the affected Poles, Towers, or Support structures immediately. If the Grantee fails to remove its Facilities and Equipment and apparatus from the affected Poles, Towers, or Support structures within thirty (30) days of the Poles, Towers, or Support structures owner's removal of its own Facilities or Equipment and apparatus from the Poles, Towers, or Support structures the Grantee shall be assessed a fine of up to One Thousand Dollars (\$1,000.00) per day until such Facilities and Equipment and apparatus are removed or relocated.

- (c) Unless otherwise provided an extension by the Board of Commissioners, the Grantee must make Telecommunications Services available within the City of Paducah within ~~one hundred eighty (180)~~ three hundred and sixty-five (365) days from the date of the award of the franchise. This requirement shall not apply to a Grantee that does not provide, or has no intention of providing, any Telecommunications Services to the City of Paducah Customers.
- (d) The Grantee shall maintain accurate Telecommunications System design drawings, maps and improvement plans of the Telecommunications System, in a form acceptable to the City, in a manner consistent with industry construction standards. The Grantee shall furnish the City, without charge, with a complete set of "as-built" drawings within sixty (60) days of completion of construction of the Telecommunications System. Such maps and improvement plans shall also be furnished to City in digital form and shall be provided pursuant to a lawful protective agreement.
- (e) The City shall have the right, during the term of any franchise granted pursuant to this Ordinance, to install and maintain, free of charge, upon the Poles, Towers, or Support structures owned by Grantee and located in the Streets, any wire or fiber optic cables, pole fixtures and antennas that do not unreasonably interfere with the Telecommunication System operations of Grantee.

Sec. 108-50. – Discontinuing Use of Facilities.

If Grantee decides to discontinue use of Facilities within all or a portion of the Streets and does not intend to use those Facilities again in the future, the City may direct Grantee to remove the Facilities or may permit the Facilities to be left in place as abandoned, which permission shall not be unreasonably withheld or delayed. If Grantee is permitted to abandon its Facilities in place, upon written consent of the City, the ownership of Facilities in the City's Streets shall transfer to the City and Grantee shall have no further obligation therefor. Notwithstanding Grantee's request that any such Facility remain in place, the City may require Grantee to remove the Facility from the street area or modify the Facility in order to protect the public health and safety or otherwise serve the public interest. The City may require Grantee to perform a combination of modification and removal of the Facility. Grantee shall complete such removal or modification in accordance with a reasonable schedule set by the City. Until such time as Grantee removes or modifies the Facility as directed by the City, or until the rights to and responsibility for the Facility are accepted by another Person having authority to construct and maintain such Facility, Grantee shall be responsible for all necessary repairs and relocations of the Facility, as well as restoration of the Street, in the same manner and degree as if the Facility were in active use, and Grantee shall retain all liability for such Facility.

Sec. 108-51. – Governing Law.

This Ordinance and any franchise awarded pursuant to it shall be governed by the laws of the Commonwealth of Kentucky, both as to interpretation and performance. The venue for any litigation related to this Ordinance or any franchise shall be in the court of competent jurisdiction in McCracken County, Kentucky.

Sec. 108-52. – Non-enforcement by the City.

Grantee shall not be relieved of its obligations to comply with any of the provisions of this Ordinance by reason of any failure of the City to enforce prompt compliance, nor does the City waive or limit any of its rights under this Ordinance by reason of such failure or neglect.

Sec. 108-53. – Agent.

The Grantee shall designate in writing a local agent to oversee and manage all activities required pursuant to this Ordinance to accept service of any legal proceeding initiated by the City.

Sec. 108-54. – Third Parties.

This Ordinance and any franchise awarded pursuant to it does not create a contractual relationship with or right of action in favor of a third party against either the City or the Grantee.

SECTION B. SEVERABILITY. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION C. COMPLIANCE WITH OPEN MEETINGS LAWS. The City Commission hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this City Commission, and that all deliberations of this City Commission and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

SECTION D. CONFLICTS. Upon the publication and on the effective date of this Ordinance, the following Chapter shall be repealed in its entirety and superseded with this Ordinance: Chapter 108.

SECTION E. EFFECTIVE DATE. This Ordinance shall be read on two separate days and will become effective upon summary publication pursuant to KRS Chapter 424.

MAYOR

ATTEST:

City Clerk

Introduced by the Board of Commissioners, July 26 _____, 2022 _____

Adopted by the Board of Commissioners, August 9 _____, 2022 _____

Recorded by City Clerk, August 9 _____, 2022 _____

Published by *The Paducah Sun*, August 11, 2022 _____, 2022 _____

ORD\TELECOMMUNICATIONS ORDINANE AMEND 2024

Prepared by Denton Law Firm and Linda Ain, Attorney at Law

Agenda Action Form

Paducah City Commission

Meeting Date: February 27, 2024

Short Title: Approve an Agreement with Complete Demolition in the amount of \$221,000 for Demolition Services for the property located at 1501 Broadway (Katterjohn Building) and authorize a Budget Amendment for the expenditure - **G. CHERRY**

Category: Ordinance

Staff Work
By: Greg
Cherry
Presentation
By: Greg
Cherry

Background Information: On February 12, 2024, the City issued bids for the demolition of the property located at 1501 Broadway (aka the Katterjohn Building). On February 20, 2024, the City opened bids. A total of 9 bids were received, with 5 of those bids being responsive. Of the 5 bids, the lowest bidder was Complete Demolition of Carrollton, GA, for a price of \$221,000. This action accepts the bid of Complete Demolition and authorizes the Mayor to execute an agreement in the amount of \$221,000 for the demolition of 1501 Broadway. Funding for this expenditure will come from Project Account No. MR0098. In order to cover this expenditure, funding must be transferred via a budget amendment from Investment Fund Fund Balance to the Project Account. This ordinance also authorizes that budget amendment in an amount of \$221,000.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:

Account Number: MR0098

Staff Recommendation: Approval.

Attachments:

1. ORD budget amend FY2024 and Contract Approval – Katterjohn – 1501 Broadway Complete Demolition Services
2. 22-246a Bid Tab
3. Complete Demolition Bid
4. Katterjohn Demolition Contract

ORDINANCE NO. 2024-____ - _____

AN ORDINANCE AUTHORIZING A CONTRACT WITH COMPLETE DEMOLITION SERVICES, LLC, IN THE AMOUNT OF \$221,000 FOR THE DEMOLITION OF 1501 BROADWAY AND AMENDING ORDINANCE NO. 2023-06-8777, ENTITLED, “AN ORDINANCE ADOPTING THE CITY OF PADUCAH, KENTUCKY, ANNUAL OPERATING BUDGET FOR THE FISCAL YEAR JULY 1, 2023, THROUGH JUNE 30, 2024, BY ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE OPERATION OF CITY GOVERNMENT”

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. The City of Paducah accepts the bid of Complete Demolition Services, LLC in the amount of \$221,000, for the demolition of the property located at 1501 Broadway (Katterjohn Building), said bid being in substantial compliance with the bid specifications, advertisement for bid, and as contained in the bid of Complete Demolition Services, LLC of February 20, 2024.

SECTION 2. The Mayor is hereby authorized to execute a contract with Complete Demolition Services, LLC, in the amount of \$221,000 for the demolition of the property located at 1501 Broadway according to the specifications, bid proposal, and all contract documents heretofore approved and incorporated in the bid.

SECTION 3. That the annual budget for the fiscal year beginning July 1, 2023, and ending June 30, 2024, as adopted by Ordinance No. 2023-06-8777, be amended by the following re-appropriation:

- Move \$221,000 from Investment Fund Fund Balance to Project Account No. MR0098.

SECTION 4. That the expenditure authorized in Section 2 above be charged to Project Account No. MR0098.

SECTION 5. This ordinance shall be read on two separate days and will become effective upon summary publication pursuant to KRS Chapter 424.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Introduced by the Board of Commissioners, _____

Adopted by the Board of Commissioners, _____

Recorded Lindsay Parish, City Clerk, _____

Published by *The Paducah Sun*, _____

\\ord\\finance\\budget amend FY2024 and Contract Approval – Katterjohn – 1501 Broadway Complete Demolition
Services

CONTRACT

This CONTRACT made and entered into this ____ day of _____, 2024, by and between the **CITY OF PADUCAH**, hereinafter called “City”, and _____ hereinafter called “Contractor”.

WITNESSED: That the City and the Contractor for the consideration stated herein, mutually agree as follows:

I. LUMP SUM PAYMENT:

The City will pay the Contractor the lump sum of \$ _____ for demolition of the structure located at **1501 Broadway** known as the Katterjohn Building, including removal of all debris, to be completed as required by this Agreement and all other governing documents including but not limited to all technical specifications and requirements contained in the Invitation for Bids (the “Contract Documents”). Said sum shall only be payable for work performed in compliance with all conditions required by the Contract Documents.

The lump sum shall be paid to the Contractor upon completion of all work required by the Contract Documents and upon City’s satisfaction that such work has been completed in accordance with the Contract Documents. The lump sum payment is conditioned upon Contractor delivering an invoice for the entire lump sum along with the following documents:

- a. An affidavit or final waiver of lien, in such form as the City may request, certifying payment of all its subcontractors, laborers, suppliers, vendors and materialmen;
- b. Releases and final waivers of the subcontractors, materialmen, suppliers and vendors of Contractor of liens arising out of or in connection with performance of the work under the Agreement;
- c. A release by Contractor of all claims against the City arising out of the Contract Documents and/or performance of the work.

II. RIGHT TO WITHHOLD PAYMENT:

The City shall have the right to withhold payment for any of the following reasons:

- a. Contractor fails to obtain a business license in accordance with the Code of Ordinances of the City of Paducah;
- b. Contractor fails to comply with the City of Paducah Demolition Policy;
- c. Contractor fails to obtain a Demolition Permit from the Paducah Fire Department, Fire Prevention Division within ten (10) days of the date of execution of this contract by the City Manager;
- d. Contractor fails to raze said structure, clean property of all debris, and to complete demolition and clearing of lot within forty-five (45) days of the date of Demolition Permit. Leave lot capable of being mowed;
- e. Contractor fails to call 811 seventy-two hours (72) hours before work starts;
- f. Contractor fails to have Paducah McCracken Joint Sewer Agency (JSA) locate the sewer lateral, contractor to plug in accordance with method approved by JSA or to uncover and allow JSA to plug at JSA’s discretion and have JSA inspection approval document with invoice for payment;
- g. Contractor fails to correct defective non-performing work;

- h. Claims or liens have been filed or threatened;
- i. Contractor has failed to make time and adequate payments to any subcontractors or others.
- j. The City incurs costs and expenses to cancel or discharge any lien of a subcontractor, laborer, or materialman of Contractor;
- k. The Contractor defaults in its obligations under this Agreement.

III. INSURANCE AND BONDING

Contractor agrees to procure and maintain insurance and bonding of the types and in the limits specified in the Invitation for Bids.

IV. INDEMNITY:

Contractor shall indemnify, keep, and save harmless, the City, its agents, officials, and employees, against all injuries, death, loss, damage, fines, penalties, claims, patent claims, suits, liabilities, judgements, costs, and expenses, including reasonable attorney fees, which may or otherwise result wherefrom, the negligence or acts and omissions of the Contractor. The Contractor shall, at his own expense, appear, defend, and pay all charges of attorneys and all costs and other expenses arising wherefrom or incurred in connection therewith, and if any judgment shall be rendered against the City in any such action, the Contractor shall at his expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this Agreement, or otherwise provided by Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City as herein provided.

V. TERMINATION OF CONTRACTS:

TERMINATION OF CONTRACT FOR CAUSE: If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under the Contract Documents, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement or other requirements governing the work, the City shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination unless in the reasonable discretion of the City, the circumstances dictate a shorter notice period. In such event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the Agreement shall, at the option of the City, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

If City terminates this Agreement as a result of a Termination for Cause, the City is not obligated to make any further payments to Contractor until the work that remained outstanding on the date of termination has been completed by or on behalf of the City. Any payment to Contractor shall be subject to the City's right to set off from such amount owed the Contractor from the costs incurred by the City to complete the Contractor's unfinished work and/or any other losses or damages incurred as a result of Contractor's default.

VI. MISCELLANEOUS

Governing Law. The validity of this Agreement, its interpretation and performance shall be governed exclusively by the laws of the Commonwealth of Kentucky.

Venue. The Parties hereby agree that any legal action relating to this Agreement shall be filed exclusively in the State Courts located in McCracken County, Kentucky.

Entire Agreement. This Agreement, including any exhibits, contains the entire agreement by and between the City and Contractor pertaining to the subject matter of this Agreement and fully supersedes all prior contracts and understandings between the City and Contractor pertaining to such transaction. Any modifications shall be made in writing and with the mutual consent of the Parties.

Severability. Any provisions of this Agreement later held to be unenforceable for any reason shall be deemed void and all remaining provisions shall continue in full force and effect. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the Parties shall survive the completion of the services hereunder and the termination of this Agreement.

Non-Waiver. The failure at any time to enforce any provision of this Agreement or failure to exercise any right herein granted shall not constitute a waiver of such provision or such right thereafter to enforce any or all of the provisions of this Agreement.

Headings. The Section headings contained herein are for reference only and shall not be construed as substantive parts of this Agreement.

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

COMPLETE DEMOLITION SERVICES, LLC

CITY OF PADUCAH:

_____(date)_____
Signature

_____(date)_____
Mayor, City of Paducah, Kentucky