



**CITY COMMISSION MEETING
AGENDA FOR JANUARY 14, 2020
5:30 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

ADDITIONS/DELETIONS

EMPLOYEE INTRODUCTIONS Aiden Yarbrough, Hakeem Tyler, Rodney Spillane, Joshua Guess, Seth Harrell & Michaela Gossum

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 December 17, 2019
	B.	Receive & File Documents
	C.	Appoint Karami Underwood to the Paducah-McCracken County Senior Citizens Board
	D.	Appointment of Emerson Goodwin and Ashley Johnson and reappointment of Dann Patterson to the Barkley Regional Airport Authority Board
	E.	Personnel Actions
	F.	A Municipal Order Authorizing the City Manager to distribute vacation days to certain employees of the City of Paducah as part of the 2019 Employee Appreciation Christmas Luncheon Charity Food Collection - J ARNDT
	G.	Purchase of one (1) 1/2 Ton Pickup 4x4 SSV in the amount of \$34,677.96 for use by Fire Prevention Division - R MURPHY

	II.	<u>ORDINANCE(S) - ADOPTION</u>	
		A.	Paducah Parks and Recreation Master Plan Change Order #1 (\$5,000) - M THOMPSON
		B.	Repeal and Replace Chapter 22 - Cable Communications - P SPENCER
	III.	<u>ORDINANCE(S) - INTRODUCTION</u>	
		A.	City of Paducah Special Event Cost Recovery Program - M THOMPSON
		B.	Closure of a Portion of Colonial Court Between 100, 104, 106 & 107 Colonial Court - R MURPHY
		C.	Execute an Agreement with Plante Moran not to Exceed \$90,000 for Technical Assistance with Energov Codes & Permitting Software Implementation - M SMOLEN
		D.	Amend Code of Ordinances Section 70-52 to Add One Additional Member to the Brooks Stadium Commission - J ARNDT
	IV.	<u>COMMENTS</u>	
		A.	Comments from the City Manager
		B.	Comments from the Board of Commissioners
		C.	Comments from the Audience
	V.	<u>EXECUTIVE SESSION</u>	

December 17, 2019

At a Called Meeting of the Board of Commissioners, held on Tuesday, December 17, 2019, at 5:30 p.m., in the Commission Chambers of City Hall located at 300 South 5th Street, Mayor Harless presided, and upon call of the roll by the City Clerk, the following answered to their names: Commissioners Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).

INVOCATION:

Commissioner McElroy led the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Harless led the pledge.

DELETION OF AGENDA ITEMS

The City Manager removed Item IV – Discussion – Quarterly Financial Report from the Agenda

EMPLOYEE INTRODUCTIONS

Assistant City Manager Michelle Smolen introduced Human Resources Director Stefanie Suazo and Police Chief Brian Laird introduced Records Clerks Sabrina Miller and Mary Farrell

PRESENTATION

Mark Thompson and Molly Johnson presented trophies to the following winners of the 2019 Paducah Christmas Parade:

Themed Float Division

- 1st Place Dippin Dots
- 2nd Place Highland Cumberland Pres. Church
- 3rd Place Paducah Power
- 4th Place BFW Engineering
- 5th Place Cub Scout Pack 2018

Religious Float Division

- 1st Place Broadway Church of Christ
- 2nd Place West KY Christian Alliance
- 3rd Place Trinity United Methodist

Non-float Division

- 1st Place MelRhea Balloons
- 2nd Place AMPA
- 3rd Place Goodwin Farms

School Float Division

- 1st Place McNabb

Drill Team Division

- 1st Place SAB
- 2nd Place Center Stage
- 3rd Place Paducah Quick Step Cloggers

Band Division

- 1st Place MCHS
- 2nd Place PTHS

December 17, 2019

****New Annual Award****

2019 Community Spirit Award (this award is given to a parade entry—doesn't have to be competing, that best portrays community spirit)

Ingram Barge Company

CONSENT AGENDA

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

I(A)	Approve Minutes for the December 10, 2019 Board of Commissioners Meeting
I(B)	Receive and File Documents <u>Deed File:</u> 1. Deed of Conveyance – Sabrina, Inc. to City of Paducah 831 Campbell Street (MO #2298) 2. Commissioner's Deed – 2706 Ohio Street <u>Contract File:</u> 1. Interlocal Cooperative Agreement – McCracken County PVA and City of Paducah (ORD 2019-11-8596) 2. Agreement between City of Paducah and the Emerald Foundation "Fit For Duty" assessments – First Responders – Signed by Michelle Smolen – Acting City Manager on behalf of James Arndt – City Manager 3. Municipal Advisory Services Agreement – Robert W. Baird & Co. bond advisor (ORD 2019-11-8598) <u>Financials File:</u> 1. Barkley Reginal Airport Authority – Years ended June 30, 2019 and 2018 2. Luther F. Carson Four Rivers Center, Inc. – Year Ended June 30, 2019
I(C)	Personnel Actions
I(D)	A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SERVICES WITH MIDTOWN ALLIANCE OF NEIGHBORS IN AN AMOUNT OF \$140,000 FOR OPERATING FUNDS AND AFFORDABLE HOUSING CONSTRUCTION AND REPAIR (MO #2308; Book 40)
I(E)	A MUNICIPAL ORDER DECLARING THE REAL PROPERTY LOCATED AT 164 CLEMENTS STREET TO BE SURPLUS PROPERTY, ACCEPTING THE BID OF JAMES HARDIN IN THE AMOUNT OF \$350.00 FOR PURCHASE OF SAID REAL PROPERTY AND AUTHORIZING THE MAYOR TO EXECUTE THE DEED AND ALL DOCUMENTS RELATED TO SAME (MO #2309; Book 40)

Mayor Harless offered motion, seconded by Commissioner Wilson, that the consent agenda be adopted as presented.

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).

ORDINANCE(S) – ADOPTIONS

BUDGET AMENDMENT – GENERAL FUND RESERVE FUNDS – OHIO RIVER RECONSTRUCTION PROJECT

Commissioner Wilson offered motion, seconded by Commissioner Watkins, that the Board of Commissioners adopt an Ordinance entitled, “AN ORDINANCE AMENDING ORDINANCE NO. 2019-6-8578, ENTITLED, “AN ORDINANCE ADOPTING THE CITY OF PADUCAH, KENTUCKY, ANNUAL OPERATING BUDGET FOR THE FISCAL YEAR JULY 1, 2019, THROUGH JUNE 30, 2020, BY ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE OPERATION OF CITY GOVERNMENT” AND AUTHORIZING THE FINANCE DIRECTOR TO MAKE PAYMENT TO THE UNITED STATES ARMY CORPS OF ENGINEERS LOUISVILLE DISTRICT” This Ordinance is summarized as follows: That the annual budget for the fiscal year beginning July 1, 2019, and ending June 30, 2020, Ordinance No. 2019-6-8578, be amended by the following re-appropriation: Transfer \$687,900 from the FY2020 General Fund Reserve to the Floodwall Cash Match (FW0016) Project Account. Further, this ordinance authorizes the Finance Director to make Payment to the United States Army Corps of Engineers Louisville District in the amount of \$687,894.00 in accordance with the Project Partnership Agreement for the City of Paducah’s Local Flood Protection Project.

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).
(ORD #2019-12-8602; BK 35)

BROCKENBOROUGH ROTARY HEALTH PARK SPRAY PAD RESTROOMS PROJECT CHANGE ORDER #1

Commissioner Watkins offered motion, seconded by Commissioner Wilson, that the Board of Commissioners adopt an Ordinance entitled “AN ORDINANCE AUTHORIZING A CONTRACT AMENDMENT WITH EVRARD STRANG CONSTRUCTION COMPANY IN AN AMOUNT OF \$16,951.32 FOR THE PAT AND JIM BROCKENBOROUGH ROTARY HEALTH PARK PHASE 2 PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATED TO SAME.” This Ordinance is summarized as follows: the Mayor is authorized to execute a Contract Amendment with Evrard Strang Construction Company for an increase in the amount of \$24,451.32 and a decrease in the amount of \$7,500 for a net increase to the contract in an amount of \$16,951.32 for the Paducah Health Park Phase 2 Project. Prior to amending the contract, the Mayor must receive lien waivers provided by the contractor from each and every subcontractor hired to perform labor or provide materials for the Paducah Health Park Phase 2 Project.

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson and Mayor Harless (5). .
(ORD #2019-12-8603; BK 35)

PROMISSORY NOTE FORGIVENESS PAXTON PARK GOLF MUNICIPAL GOLF COURSE

Commissioner McElroy offered motion, seconded by Commissioner Abraham, that the Board of Commissioners adopt an Ordinance entitled “AN ORDINANCE AUTHORIZING AND APPROVING THE FORGIVENESS OF A LOAN OWED BY THE PADUCAH GOLF COMMISSION AND REPEALING ORDINANCE NO. 2013-12-8109 AND ORDINANCE NO. 2015-1-8208, WHICH

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AUTHORIZED AND MODIFIED THE LOAN BETWEEN THE CITY OF PADUCAH AND THE PADUCAH GOLF COMMISSION FOR CAPITAL IMPROVEMENTS TO PAXTON PARK MUNICIPAL GOLF COURSE.” This Ordinance approves the forgiveness of a certain promissory note owed by Paducah Golf Commission, also known as Paxton Park Municipal Golf Course Board, to the City of Paducah for certain capital improvements needed for the preservation of the Paxton Park Municipal Golf, a City owned municipal park and repeals the initial ordinances approving the financial assistance. The forgiveness is necessary due to current financial challenges encountered by the Golf Commission due to inclement weather. This Ordinance also approves and authorizes the Mayor to execute and deliver to the Golf Commission the Forgiveness of Debt Agreement which evidences this forgiveness.

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).
(ORD #2019-12-8604; BK 35)

ESTABLISH CREATIVE & CULTURAL COUNCIL

Commissioner Abraham offered motion, seconded by Commissioner McElroy, that the Board of Commissioners adopt an Ordinance entitled “AN ORDINANCE ESTABLISHING THE PADUCAH CREATIVE AND CULTURAL COUNCIL.” This ordinance is summarized as follows: This ordinance establishes the Paducah Creative and Cultural Council (“Council”) by adding sections 2-581, 2-582, 2-583, and 2-584 to the Paducah Code of Ordinances. The Council shall be composed of 5 citizens, the Paducah Director of Planning, the Paducah Neighborhood Project Planner and the Paducah Grants Administrator. This ordinance outlines the method by which Council members shall be appointed and the role and function of the Council. Council members shall serve without compensation and shall not incur any indebtedness to be paid by the City

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).
(ORD #2019-12-8605; BK 35)

ACCEPT PROPERTY FROM P&L RAILROAD

Commissioner Wilson offered motion, seconded by Commissioner Watkins, that the Board of Commissioners adopt an Ordinance entitled , “AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH PADUCAH & LOUISVILLE RAILWAY, INC.” This Ordinance authorizes the Mayor to execute a Purchase Agreement with the Paducah & Louisville Railway for conveyance of the property located near Adams Street, Jackson Street, and Tennessee Street whereby the Paducah & Louisville Railway will convey such property to the City of Paducah. Following satisfactory inspection, environmental assessment and zoning certification, the Mayor is further authorized to execute a quitclaim deed for conveyance of the property, together with all other documentation necessary to effectuate transfer of the Property

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).
(ORD #2019-12-8606; BK 35)

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AUTHORIZE CONTRACT WITH COMMONWEALTH ECONOMICS

Commissioner Watkins offered motion, seconded by Commissioner Wilson, that the Board of Commissioners adopt an Ordinance entitled "AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH COMMONWEALTH ECONOMICS PARTNERS, LLC IN AN AMOUNT OF \$43,824.80 PLUS DIRECT EXPENSES IN AN AMOUNT NOT TO EXCEED \$4,000 FOR CONSULTING SERVICES RELATED TO THE TAX INCREMENT FINANCING (TIF) PROGRAM FOR THE PADUCAH RIVERFRONT DEVELOPMENT PROJECT." This Ordinance authorizes the Mayor to execute a professional services agreement with Commonwealth Economics Partners, LLC, for the Tax Increment Financing (TIF) Program. This agreement is in the amount of \$19,824.80 for services rendered since June 2019, plus \$4,000 per month not to exceed \$24,000, for a total base contract amount of \$43,824.80 plus direct expenses in an amount not to exceed \$4,000.

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).
(ORD #2019-12-8607; BK 35)

CONSOLIDATE THE URBAN RENEWAL AND COMMUNITY DEVELOPMENT AGENCY (URCDA) WITH THE PADUCAH PLANNING COMMISSION

Commissioner McElroy offered motion, seconded by Commissioner Abraham, that the Board of Commissioners adopt an Ordinance entitled "AN ORDINANCE REGARDING THE URBAN RENEWAL AND COMMUNITY DEVELOPMENT AGENCY AND DESIGNATING MEMBERS OF THE PADUCAH PLANNING COMMISSION TO SERVE AS JOINT MEMBERS ON BOTH AGENCIES." This ordinance is summarized as follows: The Urban Renewal and Community Development Agency (URCDA) was established by Resolution on February 23, 1960. This ordinance creates a new section in Chapter 34, Article VI of the Paducah Code of Ordinances to establish the URCDA in said Code of Ordinances. The URCDA will be combined with the Planning Commission in that the 5 members appointed to the URCDA shall be members of the Planning Commission with the remaining members of the Planning Commission serving as alternate members. This ordinance further appoints the following members of the Paducah Planning Commission to the URCDA: Cathy Crecelius, David Morrison, Valerie Pollard, Lorraine Schramke and Bob Wade. The powers, functions and duties of the URCDA and its authority shall be in conformity with KRS Ch. 99.330 to 99.510, as amended from time to time.

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).
(ORD #2019-12-8608; BK 35)

AMEND CODE OF ORDINANCES CHAPTER 42 RELATED TO JUNK VEHICLES

Commissioner Abraham offered motion, seconded by Commissioner McElroy, that the Board of Commissioners adopt an Ordinance entitled "AN ORDINANCE AMENDING CHAPTER 42 OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH." This ordinance is summarized as follows: This ordinance amends Chapter 42 of the Code of Ordinances to address the nuisance of junked motor vehicles. Junk Motor Vehicles which are apparently abandoned or apparently inoperable as defined by the ordinance shall be fined at a rate of \$100 for the first occurrence (30 days after final order or waiver of hearing) and be subject to tow at owner's expense for the second occurrence (60 days after

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final order or waiver of hearing). Exceptions shall include classic or collector vehicles. Compliance by removal of a vehicle by the owner within seven (7) days after receipt of the notice of violation from the city shall be considered compliance and no further action or fine shall be imposed against the owner. The full text of each section that imposes fees shall be published in accordance with KRS 83A.060.

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).
(ORD #2019-12-8609; BK 35)

ORDINANCE(S) – INTRODUCTION

CHANGE ORDER #1 WITH BACON, FARMER AND WORKMAN ENGINEERING & TESTING, INC., IN THE AMOUNT OF \$5,000 FOR THE PADUCAH PARKS & RECREATION MASTER PLAN

Commissioner Wilson offered motion, seconded by Commissioner Watkins, that the Board of Commissioners introduce an Ordinance entitled, "AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER NO. 1 WITH BACON, FARMER AND WORKMAN ENGINEERING & TESTING, INC., IN THE AMOUNT OF \$5,000 FOR THE PADUCAH PARKS & RECREATION MASTER PLAN." This Ordinance is summarized as follows: This Ordinance authorizes the Mayor to execute Change Order No. 1, in an amount of \$5,000 with Bacon, Farmer and Workman Engineering & Testing, Inc. for work related to the addition of McCracken County residents in the statistically valid survey for a new total contract amount of \$107,500.

REPEAL AND REPLACE CHAPTER 22 – CABLE COMMUNICATIONS

Commissioner Wilson offered motion, seconded by Commissioner Watkins, that the Board of Commissioners introduce an Ordinance entitled, "AN ORDINANCE REPEALING CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH, KENTUCKY WHICH GOVERNS CABLE COMMUNICATIONS AND REPLACING IT IN ITS ENTIRETY." This ordinance is summarized as follows: This ordinance repeals the existing Chapter 22 of the Code of Ordinances of the City of Paducah and replaces it in its entirety. Changes include Applicable Law as a new defined term which includes any and all local law, state or federal law, statute, charter, ordinance, regulation, code, franchise, permit, judgment or decree in accordance with state and federal law. A stronger, more detailed "gross revenues" definition has been included to ensure maximum franchise fee payments to the City regarding cable service. The language in the Complimentary Services section has been revised and requires each franchise granted by the City to specify complimentary services as necessitated by recent action of the Federal Communications Commission. The Report section has been revised to allow the City to review a franchisee's books and records necessary to insure compliance with the terms of a franchise agreement; the City the right to request and review maps; and enforcement by the City if a franchisee does not comply with this section. Revisions were made to the franchise fee section to reflect a 5% franchise fee paid to the City quarterly, 45 days after the close of each calendar quarter. Revisions were also made to reflect the City's right to inspect the franchisee's records and to audit any amounts due under the franchise, the ordinance and applicable law as well as language regarding resolution of any disputes regarding audit results. The emergency alert section has been revised to comply with changes in technology and applicable law, including federal regulations and any Kentucky Emergency Management requirements. The section related to the Paducah Cable Communications Authority has been deleted in its entirety as this entity no longer meets.

December 17, 2019

ADJOURN

Mayor Harless offered motion, seconded by Commissioner McElroy, to adjourn the meeting. All in favor.

Meeting ended at approximately 6:07 p.m.

ADOPTED: January 14, 2020

Brandi Harless, Mayor

ATTEST:

Lindsay Parish, City Clerk

December 17, 2019

At a Joint Called Meeting of the Paducah Board of Commissioners and McCracken County Fiscal Court, held on Tuesday, December 17, 2019, at 5:00 p.m. in the Commissioner Chambers on the second floor of City Hall, located at 300 South 5th Street, Paducah, Kentucky. Mayor Harless and Judge Clymer presided. Upon call of the roll by the City Clerk, the following answered to their names: Commissioners Abraham, McElroy, Watkins, Wilson and Mayor Harless (5). Upon call of the roll, by the County Clerk, the following McCracken County Fiscal Court members answered to their names: Commissioners Bartleman, Jones, Parker and Judge Executive Clymer (4).

INVOCATION

Commissioner Abraham gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Harless led the pledge.

Parks Master Plan Presentation

Public Information Officer Pam Spencer offered the following summary:

"The Paducah Board of Commissioners and the McCracken County Fiscal Court held a joint meeting to hear the latest on the completion of the Parks & Recreation Master Plan. Both elected bodies met in April and June to discuss the plan's preliminary results. At this meeting, Pat Hoagland with Brandstetter/Carroll, Inc. provided a summary of the process and final results. The 11-month process has included input from a Steering Committee and about 2600 contacts with city and county citizens ranging from mailed surveys to face-to-face input. Regarding the Steering Committee's input, the top 10 priorities are:

- 1. Improve ADA accessibility at all parks;*
- 2. Redevelop Stuart Nelson Park;*
- 3. Build the Indoor Recreation and Aquatic Center;*
- 4. Improve site security at all parks;*
- 5. Provide more restroom facilities;*
- 6. Improve Riverfront Plaza/Schultz Park;*
- 7. Replace the McCracken County Soccer Complex;*
- 8. Redevelop Midtown Golf Course as a neighborhood park;*
- 9. Replace playground components; and*
- 10. Provide shade at playgrounds.*

Hoagland said, 'Think of this as the most positive service you provide for your citizens, parks and recreation, which helps people to enjoy their lives, which helps businesses want to come to Paducah-McCracken County. It helps people stay healthy. It gives them lifelong skills in sportsmanship, teamwork - all the things that help you in your entire life. '"

December 17, 2019

ADJOURN

Mayor Harless offered motion, seconded by Commissioner Wilson, to adjourn the meeting of the Paducah Board of Commissioners. All in favor.

The McCracken County Fiscal Court adjourned their meeting.

Meeting ended at approximately 5:26 p.m.

ADOPTED: January 14, 2020.

Brandi Harless, Mayor

ATTEST:

Lindsay Parish, City Clerk

January 14, 2020

Minute File:

1. Notice of Called Joint Meeting – Board of Commissioners of City of Paducah and McCracken County Fiscal Court – December 17, 2019 5:00 p.m.
2. Notice of Called Meeting – Board of Commissioners of City of Paducah – December 17, 2019 5:30 p.m.
3. Certificate of Liability Insurance – Centurion Development LLC
4. Right-of-Way Bond – Centurion Development LLC
5. Certificate of Liability Insurance – Ivitts Plumbing Contractors, Inc.

Deed File:

1. Deed of Conveyance – 2028 Clay Street Irene Salemi to City of Paducah - MO #2307

Contract File:

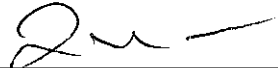
1. Forgiveness of Debt Agreement – City of Paducah – Paducah Golf Commission – ORD 2019-12-8604
2. City of Paducah – Commonwealth Economics – Downtown Riverfront TIF Project – ORD 2019-12-8607
3. Commonwealth of Kentucky – DLG Grant – Recreational Trails Program – MO #2293
4. Commonwealth of Kentucky – Kentucky office of Homeland Security Grant MO #2301
5. Agreement between Commonwealth of Kentucky Transportation Cabinet Dept. of Highways and City of Paducah – South 25th Street Project – MO #2306
6. Contract For Services – Midtown Alliance of Neighbors – MO #2308
7. Surplus Property Sale Sealed Bid Form – James Hardin – 164 Clements St. MO #2309
8. City of Paducah – Jim Smith Contracting – Resurfacing Program – One-year Renewal Agreement – ORD 2018-5-8553
9. Downtown Paducah Parking Assessment – Concepts21 – Signed by CM
10. Commonwealth of Kentucky – Contract Modification – Time Extension – Community Block Grant – MO #2014

Financials File:

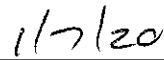
1. Paducah Junior College – Year ended June 30, 2019

CITY OF PADUCAH
January 14, 2020

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



City Manager's Signature



Date

**CITY OF PADUCAH
PERSONNEL ACTIONS
January 14, 2020**

NEW HIRE - FULL TIME (F/T)					
<u>FIRE-PREVENTION</u>	<u>POSITION</u>	<u>RATE</u>	<u>NCS/CS</u>	<u>FLSA</u>	<u>EFFECTIVE DATE</u>
Duran, Kristopher	Deputy Fire Marshall	\$18.93/hr	NCS	Non-Ex	January 30, 2020
<u>POLICE-OPERATIONS</u>					
Willett, Noah A.	Police Officer	\$21.79/hr	NCS	Non-Ex	January 30, 2020
Euteneier, Jaime R.	Police Officer	\$21.79/hr	NCS	Non-Ex	January 30, 2020
Vowell, Michael P.	Police Officer	\$21.79/hr	NCS	Non-Ex	January 30, 2020
Whitworth, James A.	Police Officer	\$21.79/hr	NCS	Non-Ex	January 30, 2020
PAYROLL ADJUSTMENTS/TRANSFERS/PROMOTIONS/TEMPORARY ASSIGNMENTS					
	<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>
<u>PARKS SERVICES</u>					
Wilson, Lessa	Executive Assistant I \$20.76/hr	Executive Assistant I \$21.38/hr	NCS	Non-Ex	January 16, 2020
Edwards, Kelsey	Recreation Specialist \$16.32/hr	Recreation Specialist \$16.98/hr	NCS	Ex	January 16, 2020
TERMINATIONS - FULL TIME (F/T)					
<u>POLICE-OPERATIONS</u>	<u>POSITION</u>	<u>REASON</u>			<u>EFFECTIVE DATE</u>
Stevenson, Paul K	Police Officer	Retirement			January 31, 2020

Agenda Action Form

Paducah City Commission

Meeting Date: January 14, 2020

Short Title: A Municipal Order Authorizing the City Manager to distribute vacation days to certain employees of the City of Paducah as part of the 2019 Employee Appreciation Christmas Luncheon Charity Food Collection - **J ARNDT**

Category: Municipal Order

Staff Work By: Claudia Meeks

Presentation By: James Arndt

Background Information: The City of Paducah hosted the 2019 Employee Christmas Luncheon on December 12, 2019. Employees were encouraged to bring canned goods and non-perishable items to donate to Family Service Society. For every ten items brought in the employee was given a ticket to put into a drawing for an opportunity to win a vacation day.

City staff collected over 300 items that were donated.

Five city staff members who participated in the food drive were selected at random to receive a free 8-hour vacation day. These employees were Melissa Franklin (EPW), Claudia Meeks (Clerk/Customer Experience), John Saxton (Solid Waste), Jessica Lott (IT) and Mark Thompson (Parks & Recreation).

Does this Agenda Action Item align with a Strategic Plan Action Step? No

If yes, please list the Action Step Item Codes(s):

Funds Available: Account Name:
Account Number:

Staff Recommendation: Authorize the City Manager to award one 8-hour vacation day to each of the 2019 Employee Christmas Luncheon Charity Food Collection winners.

Attachments:

1. Municipal Order

A MUNICIPAL ORDER AUTHORIZING THE CITY MANAGER TO
DISTRIBUTE VACATION DAYS TO CERTAIN EMPLOYEES OF THE CITY OF
PADUCAH AS PART OF THE ANNUAL EMPLOYEE APPRECIATION
CHRISTMAS LUNCHEON CHARITY FOOD COLLECTION

WHEREAS, the City of Paducah hosted the 2019 Employee Christmas Luncheon on December 12, 2019; and

WHEREAS, employees were encouraged to bring canned goods and non-perishable items to donate to the Family Service Society for an opportunity to win a vacation day; and

WHEREAS, City staff collected and donated more than 300 canned goods and non-perishable items that were donated to the Family Service Society of Paducah; and

WHEREAS, five city staff members who participated in the food collection, were selected at random to receive a vacation day; and

WHEREAS, the Board of Commissioners now wishes to authorize the City Manager to award said vacation days.

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

SECTION 1. That the City of Paducah hereby authorizes and directs the City Manager to award one 8-hour vacation day to each one of the 2019 Employee Christmas Luncheon Charity Food Collection winners. This Municipal Order will be retroactive, to allow for the vacation days to be utilized as of December 12, 2019.

SECTION 2. City of Paducah employees being awarded one 8-hour vacation day, as authorized in Section 1 above, are as follows:

1. Melissa Franklin (EPW)
2. Claudia Meeks (Clerk/Customer Experience)
3. John Saxton (Solid Waste)
4. Jessica Lott (IT)
5. Mark Thompson (Parks & Recreation)

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

Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, January 14, 2020

Recorded by Lindsay Parish, City Clerk, January 14, 2020

\mo\Employee 2019 Christmas Luncheon – Food Collection Vacation Days

Agenda Action Form

Paducah City Commission

Meeting Date: January 14, 2020

Short Title: Purchase of one (1) 1/2 Ton Pickup 4x4 SSV in the amount of \$34,677.96 for use by Fire Prevention Division - **R MURPHY**

Category: Municipal Order

Staff Work By: Debbie Collins, Randy Crouch

Presentation By: Rick Murphy

Background Information: On December 11, 2019 sealed bids were opened for the purchase of One (1) 1/2 Ton Pickup 4x4 SSV for use by the Paducah Fire Department- Fire Inspection Division. Linwood Motors is the lowest evaluated bidder at a price of \$34,677.96.

Does this Agenda Action Item align with a Strategic Plan Action Step? No

If yes, please list the Action Step Item Codes(s):

Funds Available: Rolling Stock/Vehicle Fleet Lease Trust Fund
Account Name: 71000210 540050
Account Number:

Staff Recommendation: Approve a Municipal Order for the Mayor to sign an agreement with Linwood Motors for the purchase of One (1) 1/2 Ton Pickup 4x4 SSV in the amount of \$34,677.96.

Attachments:

1. Municipal Order
2. Attachments 4x4 SSV bid

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER ACCEPTING THE BID OF LINWOOD MOTORS FOR SALE TO THE CITY OF ONE (1) ½ TON PICKUP 4X4 SSV IN A TOTAL AMOUNT OF \$34,677.96 FOR USE BY THE FIRE PREVENTION DIVISION, AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SAME

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

SECTION 1. The City of Paducah accepts the bid of Linwood Motors, in the amount of \$34,677.96, for sale to the City of one (1) ½ ton pickup 4x4 SSV, for use by the Paducah Fire Prevention Division, said bid being in substantial compliance with the bid specifications, and as contained in the bid of Linwood Motors of December 11, 2019.

SECTION 2. The Mayor is hereby authorized to execute a contract with Linwood Motors, for the purchase of one (1) ½ ton pickup 4x4 SSV, as authorized in Section 1 above, 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 the Rolling Stock/Vehicle Fleet Lease Trust Fund account, account number 71000210-540050.

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

Brandi Harless, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, January 14, 2019
Recorded by Lindsay Parish, City Clerk, January 14, 2019
\\mo\Pickup 4x4 SSV Fire Prevention 9-2019

CITY OF PADUCAH, KENTUCKY
ENGINEERING-PUBLIC WORKS DEPARTMENT

One (1) 1/2 Ton Pickup 4x4 SSV

LOWEST EVALUATED BID

BID OPENING: 2:00 p.m. CST on Wednesday Dec 11, 2019

OFFICIAL BIDDER OF RECORD Contact: Mailing Address:	Linwood Motors Jake Brenningmeyer 3345 Park Ave Paducah, KY 42001
One (1) 1/2 Ton Pickup 4x4 SSV	\$34,677.96

Delivery Time	70 days
Manufacturer:	Dodge Ram

DOCUMENTS REQUIRED FOR COMPLIANCE SUBMITTED:

1. Bidder's Required Certification	Yes
2. Manufacturer Specifications	Yes
3. Warranty Information	Yes
4. Compliance with Tech Specs form	Yes
5. Deviations with Information	None
Kentucky State Bidder	Yes

Responsive & Responsible Bidder:	Yes
Evaluation Score:	1000.00
BID RECOMMENDED FOR ACCEPTANCE	Yes

ENGINEERING-PUBLIC WORKS DEPARTMENT

One (1) 1/2 Ton Pickup 4x4 SSV - Fire

BID OPENING: Wednesday, December 11, 2019, 2:00 p.m., CST

No.	Official Bidder - Company/Business Name	Name of Person Picking up Specs/Plans	Mailing Address	Business Phone Number	Fax Number	E-Mail Address
1	Linwood of Paducah	Jake Brenningmeyer	3345 Park Ave Paducah, KY 42001	270-444-6901		jakebrenningmeyer@gmail.com via email 11/25/19 @ 11:21am TC
2	Prime Vendor	Alejandra Filippi	4622 Cedar Ave Wilmington, NC 28403	910-805-9630		work43@prime-vendor.com via email 11/25/19 @ 2:22pm TC
3	ELITE FORD	TONY HULL	2575 EDSAL LN COMPTON IN	812-785-3251		TONY.HULL@HULLMOTORSALES.COM
4						
5						
6						
7						
8						
9						
10						

ADVERTISEMENT FOR SEALED BIDS

The City of Paducah, Engineering-Public Works Department will receive sealed bids for the purchase of **ONE (1) ½ TON PICKUP 4x4 SSV** for use by the Paducah Fire Department-Fire Inspection Division at **2:00 P.M.CST, on Wednesday, December 11, 2019**. All bids received will be publicly opened and read aloud in the Commission Chambers, Second Floor, City Hall, 300 South 5th Street, Paducah, Kentucky. Copies of the specifications may be obtained at the office of the Engineering-Public Works Department located in City Hall. More information regarding this purchase may be found at the City of Paducah's website: www.paducahky.gov under Request for Bids.

PUBLISH ONCE: Under Legal Notice – Sunday November 24, 2019

AFTER RECEIPT: Please send an e-mail to: dcollins@paducahky.gov to verify placement of ad

INVOICE: City of Paducah Engineering-Public Works Department – Attention Audra Herndon

VIA E-MAIL: The Paducah Sun

ADVERTISEMENT FOR SEALED BIDS

The City of Paducah, Engineering-Public Works Department will receive sealed bids for the purchase of ONE (1) ½ TON PICKUP 4x4 SSV for use by the Paducah Fire Department-Fire Inspection Division at 2:00 P.M.CST, on Wednesday, December 11, 2019. All bids received will be publicly opened and read aloud in the Commission Chambers, Second Floor, City Hall, 300 South 5th Street, Paducah, Kentucky. Copies of the specifications may be obtained at the office of the Engineering-Public Works Department located in City Hall. More information regarding this purchase may be found at the City of Paducah's website: www.paducahky.gov under Request for Bids.

**CITY OF PADUCAH, KENTUCKY
ENGINEERING-PUBLIC WORKS DEPARTMENT**

**BID PROPOSAL for ONE (1) ½ TON PICKUP 4x4 SSV
for use by the
PADUCAH FIRE DEPARTMENT- FIRE INSPECTION DIVISION**

Proposal of L2NWOOD Motors
(hereinafter called Bidder), organized and existing under the laws of KY
(state) and doing business as L2NWOOD CORP*, as
applicable to the City of Paducah, Kentucky (hereinafter referred to as Owner.)
*Insert "A Corporation", A Partnership" or "An Individual"

In compliance with your Invitation for Bid, Bidder hereby proposes to furnish all the necessary labor, material, equipment, tools and services necessary for the purchase and delivery of ONE (1) ½ TON PICKUP 4x4 SSV for use by the Paducah Fire Department-Fire Inspection Division in accordance with the specifications and other contract documents prepared by the City Engineering-Public Works Department, at the prices stated below.

By submission of this Bid, each Bidder certifies that this Bid has been arrived at independent, without consultation, communication or agreement as to any matter relating to this Bid with any other Bidder or with any other competitor.

Bidder has submitted with this Bid Proposal the required signed and notarized Certifications as required by the laws of the Commonwealth of Kentucky. Failure of the Bidder to comply with these provisions will make the Bid Non-Responsive and shall result in disqualification of the submitted Bid Proposal.

If Notice of the Award is given to the Bidder within Sixty (60) days after the time of receipt of Bids, the Bidder agrees to execute and deliver a Contract Agreement in the prescribed form within ten (10) days after the Contract is presented for signature. Subsequent to the execution of the Contract, Bidder hereby agrees to commence Work and to deliver the vehicles as specified within the contract documents.

Prior to commencing Work, the successful Bidder shall furnish the Owner with a Certificate of Insurance showing that the required insurance as set forth in the specifications is in force.

In submitting this Bid, it is understood that the right is reserved by the Owner to reject any and all Bids in accordance with the City of Paducah's Code of Ordinances and the Specifications. Additionally, any Award may be made to the lowest Bidder for all items, groups of items, or on an individual item basis, whichever is deemed to be in the best interest of the City.

ADDENDUM

The Bidder hereby acknowledges receipt of the following Addenda, if any, and is fully aware of the implications of the addendums on the Bid:

Addendum No(s) _____ Dated _____

BID PROPOSAL:

The Bidder hereby satisfying all requirements of the specifications herein proposes and agrees to furnish ONE (1) ½ TON PICKUP 4x4 SSV in accordance with the Specifications for the total amount of:

TOTAL BID: \$ 34,677.94

THIRTY FOUR THOUSAND, SIX SEVENTY SEVEN AND ^{NINETY TWO CENTS}
(written bid)
Total Bid price shall be shown in both words and figures. The amount shown in words shall govern in case of a discrepancy.

Proposed Body Manufacturer, Model and Year: Ram 1500 SSV 19'

Proposed Delivery Time: 8-10 weeks

Location of the full service maintenance facility: 3345 PARK AVE
POUGHKEEPS, NY 12601

GRADING CRITERIA

The Bidder is aware that the Owner will evaluate the Bids submitted based on the Criteria listed on the "Owner Evaluation Form - Section 00330" as included within the Specifications.

ATTACHEMENTS TO THE BID PROPOSAL REQUIRED:

Failure of the Bidder to submit the following documents with the Bid Proposal will make the Bid Non-Responsive and shall result in disqualification of the submitted Bid Proposal.

<u>INCLUDED</u>	<u>ITEM</u>
<u> </u>	1. Bidder's Certification Section 00320, signed and notarized.
<u> </u>	2. "Compliance with Technical Specifications" form. Bidder shall indicate compliance by checking "YES" or "NO" adjacent to each individual item. A "YES" indicates full compliance with the specification and a "NO" indicates an exception and/or variation to the specification.
<u> </u>	3. All individual items marked by a "NO" on the "Compliance with Technical Specifications" form shall indicate the exception on a separate attached sheet.
<u> </u>	4. One Copy of Full Manufacturer Specifications and Warranty information, including a detailed description of the equipment proposed and the conformance to the Owner's specifications. The manufacturer's specifications shall include information regarding size, type model and make of all component parts and equipment.

PREFERENCE TO KENTUCKY BIDDERS

In accordance with KRS 45A.365, prior to a contract being awarded, a resident bidder of the Commonwealth shall be given a preference against a non-resident bidder registered in any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the non-resident bidder.

Bidder is a resident of the following state: KY

If Bidder is a non-resident of the Commonwealth of Kentucky, indicate if any preference is given by the resident's state: _____

BID DOCUMENTS:

Bid Documents shall be enclosed in an envelope clearly labeled with the words "Bid Documents, Name of Project, Name of Bidder, and Date and Time of Bid Opening," in order to guard against premature opening of the bid. Bids received late will be disqualified and returned to the sender unopened.

The Bidder herein certifies that all specifications have been reviewed and that any variations to the said specifications, including exceptions to or enhancements to same, are clearly indicated as an attachment to this bid.

THE ABOVE PROPOSAL IS HEREBY RESPECTFULLY SUBMITTED BY:

BIDDER: LENWOOD MOTORS

BY: JACK KENNEDY DATE: 12/2/15

TITLE: SALES MGR / FLEET

ADDRESS: 3345 PARK AVE

PADUCAH, KY 42001

PHONE: 444-6701 FAX: 442-2941

CELL PHONE: 994-2177 E-MAIL: JACKKENNEDY@CHAZCO.COM

FEDERAL TAXPAYER IDENTIFICATION NUMBER: 263707

KENTUCKY TAXPAYER IDENTIFICATION NUMBER: 20.4850057

CITY OF PADUCAH BUSINESS LICENSE NUMBER: 3553

**CITY OF PADUCAH, KENTUCKY
BIDDER'S REQUIRED CERTIFICATIONS**

The Bidder is hereby given notice that in accordance with the statutes of the Commonwealth of Kentucky, the Bidder is required to submit the following Certifications with the Bid Proposal. Failure to comply with this requirement will make the Bid Non-Responsive and shall result in disqualification of the submitted Bid Proposal.

1. NON-COLLUSION

The affiant does solemnly swear, under penalty of perjury under the Laws of the United States, that I, the undersigned Bidder, and/or any agents, officers, employees and/or subcontractors employed, or that may be employed for any activity covered by the above Project have not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken action in restraint of free competitive bidding in connection with this Bid Proposal.

2. WORKERS' COMPENSATION AFFIDAVIT

The affiant does solemnly swear, under penalty of perjury pursuant to KRS 198B.060(10), that I, the undersigned Bidder, and/or any agents, officers, employees and/or Subcontractors employed, or that may be employed, for any activity covered by the above Project shall be in full compliance with Kentucky's requirements for Workers' Compensation Insurance according to KRS 342, and Unemployment Insurance according to KRS Chapter 341.

The affiant acknowledges that failure on the affiant's part to comply with the foregoing assurances can result in a fine not to exceed four thousand dollars (\$4,000.00) or an amount equal to the sum of all uninsured and unsatisfied claims that might be prosecuted under the provisions of KRS 342 or unemployment insurance claims that might be prosecuted under the provisions of KRS 341, whichever is greater.

3. CAMPAIGN FINANCE LAWS

The affiant does solemnly swear, under penalty of perjury, that in accordance with KRS 45A.395, that I, the undersigned Bidder, and/or any agents, officers, employees and/or Subcontractors employed, or that may be employed, for any activity covered by the above Project have not knowingly violated any provisions of the Campaign Finance Laws of the Commonwealth of Kentucky; and that the award of a Contract to the Bidder or the entity in which he/she represents will not violate any provisions of the Campaign Finance Laws of the Commonwealth. This information provided by the Bidder will be considered confidential and exempt from the Kentucky Open Records Law.

4. KRS 45A.343

The affiant does solemnly swear, under penalty of perjury, that I, the undersigned Bidder, and/or any agents, officers, employees and/or Subcontractors employed, or that may be employed, for any activity covered by the above Project are fully aware of the requirements and penalties outlined in KRS 45A.343 requiring the following:

- (a) the Contractor and all Subcontractors performing the work under the Contract to reveal any final determination of a violation within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the Contractor or Subcontractor; and that
- (b) the Contractor and all Subcontractors performing the work under the Contract to be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the Contractor or Subcontractor for the duration of the Contractor.

Failure to reveal a final determination of a violation or to comply with the statutes for the duration of the contract shall be grounds for cancellation of the contract and disqualification of the eligibility for future contracts for a period of two (2) years.

5. **KY DEPT OF REVENUE**

The affiant does solemnly swear, under penalty of perjury, that in accordance with KRS 45A.395, that I, the undersigned Bidder, and/or any agents, officers, employees and/or Subcontractors employed, or that may be employed, for any activity covered by the above Project are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and will remain registered for the duration of any contract awarded.

6. **TAXES AND FEES**

The affiant does solemnly swear, under penalty of perjury, that in accordance with KRS 45A.395, that I, the undersigned Bidder, and/or any agents, officers, employees and/or Subcontractors employed, or that may be employed, for any activity covered by the above Project are not delinquent on any State, City or County taxes or fees owed to the Commonwealth of Kentucky, The City of Paducah, or any other governmental agency and will remain in good standing for the duration of any contract awarded.

Therefore, as a duly authorized representative for the Bidder, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge the City of Paducah, Kentucky is reasonably relying upon these statements in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds, and other available remedies under law.

Signature: [Signature]
Printed Name: PAUL DREWNING
Title: PAUL MC FLEET
Company: Linwood Motors
Date: 12/2/19

STATE OF KV)
COUNTY OF MC)

The foregoing instrument was sworn to and acknowledged before me this 2 day of December, 2019, by Pamela J. Downing, Title Clerk (title) of Linwood Motors (Name of Company).
My commission expires: 8/13/2022

Notary Public, State at Large

PAMELA J. DOWNING
NOTARY PUBLIC
STATE AT LARGE - KENTUCKY
MY COMMISSION EXPIRES AUGUST 13, 2022
NOTARY ID# 008849

ONE (1)1/2 TON PICKUP 4x4 SSV FOR USE BY THE FIRE DEPARTMENT- FIRE INSPECTION DIVISION

TECHNICAL SPECIFICATIONS and

Compliance with Technical Specifications Form

November-19

The Bidder is required to accurately and fully complete this "Compliance with Technical Specifications" form and submit with the Bid Proposal. Bidder shall indicate compliance with each Technical Item by marking "YES" or "NO" with a check mark to indicate if the item being bid is exactly as specified. If the item is not being bid as exactly specified, the "NO" column must be checked and a detailed description of the deviation shall be listed on a separate attached sheet.

Failure to accurately complete and submit the "Compliance with Technical Specifications" form, along with any and all deviations, shall be grounds for rejection of the bid. If no exceptions or deviations are shown, the bidder shall be required to furnish the material exactly as specified. The burden of proof for compliance with this specification shall be the responsibility of the bidder.

SUBMITTED BY: L. N. Wong M. U. A. S. (Bidder)

Vehicle Make, Model and Year Proposed: Ran 1500 SSV 19'
4x4

TRUCK SPECIFICATIONS:

	YES	NO
1. 1/2 Ton pick-up 4 Door Crew cab, 4WD, 6' bed	☒	☐
2. V-8 Automatic Transmission	☒	☐
3. Electric window power package w/cruise control	☒	☐
4. 40-blank-40 seats	☒	☐
5. Black Floor Cover – No Carpet	☒	☐
6. Towing package w/trailer brake controller	☒	☐
Bed topper Leer model DCC, 23", flush mount solid double doors in rear, solid side doors (left and right) with toolbox, painted red to match truck color. Include	☒	☐
7. one horizontal shelf in tool box.	☒	☐
8. Exterior color to be determined after bid awarded	☒	☐
9. Special Service Vehicle Package	☒	☐
10. Bluetooth Compatible	☒	☐

TRUCK TO BE EQUIPED WITH:

4 Red LED 500 Series Whelen #50R02ZCR lights mounted in the grill area.	☒	☐
1. Location to be finalized after brand of vehicle selected.	☒	☐
2. 100 watt Siren speaker mounted behind grill	☒	☐

SPECIFICATIONS PAGE 2

	<u>YES</u>	<u>NO</u>
One Red LED 700 Series Whelen #70R02FCR light mounted on left and right		
3. front fenders above wheel well	☒	☐
4. 12" Red LED strip light mounted on upper rear of topper on both sides	☒	☐
Red LED 500 Series Whelen Whelen #50R02ZCR lights mounted on left and		
5. right upper rear of topper	☒	☐
6. Flashing LED's mounted in tail lamps	☒	☐
Contour Console fitted in cab on transmission tunnel w/armrest for driver and		
7. passenger	☒	☐
8. Whelen Model 295SLSA6 Siren	☒	☐
9. Radio wiring and antenna cable ran to console	☒	☐
Whelen XLP IX39UFX/IX42UFX/IX45UFX Inner Edge Red light bar with no		
10. takedowns mounted inside cab on upper windshield.	☒	☐
11. Headlight Flasher	☒	☐
12. Black powder coated step bars	☒	☐
13. Back up Camera	☒	☐

LINWOOD MOTORS
3345 PARK AVE
PADUCAH, KY 420014039

Priced Order Confirmation (POC)

Date Printed: 2019-11-25 1:23 PM VIN: 1C6RR7XT8KS741288 Quantity: 01
Estimated Ship Date: VON: 44851352 Status: D - Firm schedule is assigned
Date Ordered: 2019-10-29 12:06 PM Ordered By: S33385P FAN 1: 00KDA City of Paducah
FAN 2:
Client Code:
Bid Number: TB9066
PO Number:

Sold to:
LINWOOD MOTORS (60260)
3345 PARK AVE
PADUCAH, KY 420014039

Ship to:
LINWOOD MOTORS (60260)
3345 PARK AVE
PADUCAH, KY 420014039

Vehicle: 2019 1500 SSV CREW CAB 4X4 (DS6T98)

	Sales Code	Description	MSRP(USD)
Model:	DS6T98	1500 SSV CREW CAB 4X4	40,675
Package:	27D	Customer Preferred Package 27D	0
	EZH	5.7L V8 HEMI MDS VVT Engine	0
	DFD	8-Spd Auto 8HP70 Trans (Buy)	0
Paint/Seat/Trim:	PR4	Flame Red Clear Coat	0
	APA	Monotone Paint	0
	*D7	Cloth Front Bench / Vinyl Rear Seat	45
	-X8	Black/Diesel Gray	0
Options:	NAS	50 State Emissions	0
	XHC	Trailer Brake Control	295
	XM9	Delete Spray in Bedliner	-200
	3AH	Price Protection - Code H	0
	4FM	Fleet Option Editor	0
	4ES	Delivery Allowance Credit	0
	2SQ	FCA Fleet Powertrain Care	0
	YGE	5 Additional Gallons of Gas	0
	4FT		0
	5N6	Easy Order	0
	4FT	Fleet Sales Order	0
	4EA	Sold Vehicle	0
Non Equipment:	4KA	Special Bid Handling	0
	4FA	Special Bid-Ineligible For Incentive	0
	4DH	Prepaid Holdback	0
	MAF	Fleet Purchase Incentive	0
Bid Number:	TB9066	Government Incentives	0
Destination Fees:			1,695

Total Price: 42,510

Order Type: Fleet
Scheduling Priority: 1-Sold Order
Salesperson:
Customer Name:
Customer Address:

PSP Month/Week:
Build Priority:

01

Running Surplus 340
42,510

Instructions:

Note: This is not an invoice. The prices and equipment shown on this priced order confirmation are tentative and subject to correction without prior notice. No claims against the content listed or prices quoted will be accepted. Refer to the vehicle inventory content and pricing. Orders are accepted only when the vehicle is shipped by the factory.

Emergency Equipment Specialists Inc.

5831 Harris Road
Paducah, KY 42001

Name / Address
Linwood Motors 3345 Park Ave Paducah, Ky. 42001

Description	Qty
Paducah Fire Department	
Leer Model DCC23" Bed Topper as specified	1
500 Series LED Red	6
100 Watt Siren Speaker	1
Siren Speaker Bracket	1
700 Series LED	2
12" Red LED by Inch	2
Headlight and Tail Light Flasher	1
Center Mount Equipment Console and Armrest w/ cupholder	1
295SLSA6 Siren/Light Controller	1
Inner Edge Windshield Light	1
Automatic timer / Equipment Shut Off	1
Fuse Panel	1
Auto Reset Breaker	1
Misc. supplies for job	1
Installation 20 Hrs.	20
All Freight	1

Tc

Customer Signature



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/28/2019

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

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

PRODUCER
YouZoom Insurance Services, Inc
6900 College Blvd
Ste 1000
Overland Park KS 66211

CONTACT
NAME:
PHONE:
(A/C, No, Ext): 888-240-8803 FAX (A/C, No): 877-835-1833
E-MAIL:
ADDRESS: AMServiceCenter@arrowheadgrp.com

INSURED
LIM 000 Chrysler Dodge Hyundai LLC
1345 Park Ave.
Paducah, KY 42001

LIMVCHR-01

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A	Harco National Insurance Company	26433
INSURER B		
INSURER C		
INSURER D		
INSURER E		
INSURER F		

COVERAGES

CERTIFICATE NUMBER: 2042205046

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
☒	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GULF AGGREGATE LIMIT APPLIES PER: POLICY ☐ PRO. ☐ JECT ☐ LOC OTHER:			CPP0007370-01	7/1/2019	7/1/2020	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$
☒	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ AUTOS ONLY ☐ SCHEDULED AUTOS NOT-OWNED AUTOS ONLY			CPP0007370-01	7/1/2019	7/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
☒	☒ UMBRELLA LIAB ☐ EXCESS LIAB ☐ RETENTION \$ 0 ☒ OCCUR ☐ CLAIMS-MADE			BU0007370-01	7/1/2019	7/1/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 15,000,000
☒	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/EMER/EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Garage Dealer Liability Garagekeepers			CPP0007370-01	7/1/2019	7/1/2020	PER STATUTE E1 EACH ACCIDENT \$ E1 DISEASE - EA EMPLOYEE \$ E1 DISEASE - POLICY LIMIT \$ Each Accident * Limit 1,000,000 see desc of ops

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Garage Liability coverage is provided on an "Any Auto" basis.
Aggregate of \$5,000,000 applies to the Garage Liability.

Covered Locations and Garage Keepers Limits at each Policy Location:
1345 Park Ave Paducah, KY / Limit \$300,000
1307 State Rt 45 Mayfield, KY / Limit \$300,000
1604 East 5th Street Metropolis, IL / Limit \$300,000

CERTIFICATE HOLDER

CANCELLATION

PREPARED FOR INSURED

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

AUTHORIZED REPRESENTATIVE

YouZoom Insurance Services, Inc

Agenda Action Form

Paducah City Commission

Meeting Date: January 14, 2020

Short Title: Paducah Parks and Recreation Master Plan Change Order #1 (\$5,000) - **M THOMPSON**

Category: Ordinance

Staff Work By: Mark Thompson

Presentation By: Mark Thompson

Background Information: In the FY2019 budget \$102,500 was approved to complete the Parks and Recreation Master Plan. Bacon, Farmer & Workman of Paducah along with their partners Brandstetter/Carroll of Lexington and PFGW of Paducah were hired to provide the Master Plan. The plan included a statistically valid survey of City of Paducah residents. However, once the planning work began it was determined that the best course of action to get a true view of the City and County needs was to include non-City McCracken County residents in the statistically valid survey process. The cost of this additional work was \$5000. This change order will increase the total Master Plan budget to \$107,500.

Does this Agenda Action Item align with a Strategic Plan Action Step? Yes

If yes, please list the Action Step Item Codes(s): R-1, R-3, R-10, R-11

Funds Available: Health Park Account Name:

PA0113 000-22000-22010 Account Number:

Staff Recommendation: Approval of Change Order #1.

Attachments:

1. Ordinance
2. Master Plan Update - Professional Services - Change Order #1 12102019

ORDINANCE 2020-____ - _____

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE
CHANGE ORDER NO. 1 WITH BACON, FARMER AND WORKMAN ENGINEERING
& TESTING, INC., IN THE AMOUNT OF \$5,000 FOR THE PADUCAH PARKS &
RECREATION MASTER PLAN

WHEREAS, the City approved Municipal Order No. 2162 to enter into a
contract with Bacon, Farmer and Workman Engineering & Testing, Inc. (BFW) in the
amount of \$102,500 for the development of a Parks and Recreation Master Plan; and

WHEREAS, Change Order No. 1 is now needed in the amount of \$5,000 for
the addition of McCracken County residents in the statistically valid survey.

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

SECTION 1. The Mayor is hereby authorized to execute Change Order No. 1,
in an amount of \$5,000 with Bacon, Farmer and Workman Engineering & Testing, Inc. for
work related to the addition of McCracken County residents in the statistically valid survey
for a new total contract amount of \$107,500.

SECTION 2. This expenditure shall be charged to the Health Park Account
No. PA0113 000-22000-22010.

SECTION 3. This ordinance shall be read on two separate days and will
become effective upon summary publication pursuant to KRS Chapter 424.

Brandi Harless, Mayor

ATTEST:

Lindsay Parish, City Clerk

Introduced by the Board of Commissioners, December 17, 2019

Adopted by the Board of Commissioners, _____

Recorded by Lindsay Parish, City Clerk, _____

Published by The Paducah Sun, _____

\\ord\parks\chgor1 Parks Master Plan BFW Bacon Farmer Workman



BACON | FARMER | WORKMAN

ENGINEERING & TESTING, INC.

December 10, 2019

Mark Thompson, Director
Paducah Parks & Recreation Department
P.O. Box 7265, 1400 H.C. Mathis Drive
Paducah, KY 42002-7265

Re: Parks Master Plan Update Contract Change Order #1

Mr. Thompson:

Please accept this letter as a request for Change Order to our professional services contract for the 2019 Parks Master Plan Update. The request for Change Order is made for the additional work involved with the addition of the county residents to the surveys of the project.

If accepted, the Change Order #1 add of \$5000 to our current contract amount, taking it from the original \$102,500.00 to a current contract amount of \$107,500.00.

Please contact me if you have any questions or comment.

Regards,

BFW Engineering & Testing, Inc.
Kenneth D. McDaniel, PE, Project Managers

500 South 17th Street
P.O. Box 120
Paducah, KY 42002-0120
phone: (270) 443-1995
fax: (270) 443-1904

1215 Diuguid Drive
Murray, KY 42071
phone: (270) 753-7307
fax: (270) 759-4950

966 Double Bridge Road
Lewisburg, TN 37091
phone: (931) 359-4882

907 Arrow Road, Ste. 2
Champaign, IL 61821
Phone: (217) 530-4283

403 North Court Street
Marion, IL 62959
phone: (618) 993-6700
phone: (618) 997-9190
fax: (618) 993-6717

Agenda Action Form

Paducah City Commission

Meeting Date: January 14, 2020

Short Title: Repeal and Replace Chapter 22 - Cable Communications - **P SPENCER**

Category: Ordinance

Staff Work By: Pam Spencer, James Arndt

Presentation By: Pam Spencer

Background Information:

This ordinance is to repeal and replace Chapter 22 of the Paducah Code of Ordinances regarding Cable Communications. Chapter 22 governs the operations of the City's current cable operator, Comcast, as well as any other cable providers which may seek to provide cable service within the City. As part of the non-exclusive Franchise negotiations with Comcast, the City and Comcast have been working to update and modernize Chapter 22. The Franchise agreement, which references Chapter 22 in several sections, will be brought before the Board early next year.

Chapter 22 addresses general operating requirements for cable systems including a procedure to obtain a cable franchise, consumer protection, customer service standards, technical standards, and extension of cable service to new developments.

Furthermore, Chapter 22 addresses operating requirements for cable operators including the provision of insurance and indemnification to the City, procedures for enforcement of the Ordinance and any cable franchise agreement granted by the City as well as procedures to be undertaken to consider a transfer of ownership of the cable operator and franchise renewal.

Does this Agenda Action Item align with a Strategic Plan Action Step? No

If yes, please list the Action Step Item Codes(s):

Funds Available: Account Name:
Account Number:

Staff Recommendation:

Attachments:

1. Ordinance
2. Chapter 22 - Cable Communications - Paducah(5850532.1)
3. Amended Ordinance Summary - Paducah(5873819.1)

ORDINANCE NO. 2020-____ - _____

AN ORDINANCE REPEALING CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH, KENTUCKY WHICH GOVERNS CABLE COMMUNICATIONS AND REPLACING IT IN ITS ENTIRETY

WHEREAS, this Ordinance will repeal and supersede Chapter 22 of the *Code of Ordinances of the City of Paducah, Kentucky*, which governs Cable Communications; and

WHEREAS, this Ordinance will replace this chapter with a new Chapter 22, which will read as described below;

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PADUCAH AS FOLLOWS:

SECTION 1. Chapter 22 of the Code of Ordinances shall read as follows:

ARTICLE I. IN GENERAL

Title of Chapter.

This Chapter shall be known as “Chapter 22 Cable Communications of the City’s Code of Ordinances.”

Definitions.

For the purpose of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number, and words in the plural number include the singular number. The word “shall” is always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory. Words not defined shall be given their common and ordinary meaning.

Access Channel. A Public, Educational or Governmental Access Channel which is carried on a Cable System, but which is not part of any institutional network.

Affiliate shall mean any Person controlling, controlled by or under common control of a Franchisee.

Annual Gross Revenues or *Gross Revenues* means any and all revenue derived by the Franchisee from the operation of the Cable System in the Franchise Area to provide Cable Service. Cable Service revenue shall include, but is not limited to, revenues from Basic Cable Service, premium, pay-per-view, pay television, Franchise Fees, late fees, guides, home shopping revenue, Installation and reconnection fees, upgrade and downgrade fees, advertising revenue (excluding advertising sales commissions paid to unaffiliated third parties), and

converter rental fees. Gross Revenue shall not include refundable deposits, actual bad debt write-offs, investment income nor any taxes, fees or assessments of general applicability imposed or assessed by any governmental authority (a Franchise Fee is not such a tax, fee or assessment). The City acknowledges and agrees that Franchisee will maintain its books and records in accordance with GAAP.

Applicable Law means any and all local law, state or federal law, statute, charter, ordinance, regulation, code, franchise, permit, judgment or decree in accordance with state and federal law.

Authority. The City of Paducah Board of Commissioners.

Basic Cable Service. Any Service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the Franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7).

Board. The Board of Commissioners for the City of Paducah, Kentucky.

Cable Operator. Any Person or group of Persons, including a Franchisee, who:

provides Cable Service over a Cable System and directly or through one (1) or more affiliates owns a significant interest in such Cable System; or

otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

Cable Service or Service. (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) other programming service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service. Cable Service as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(6) and § 522(14).

Cable System or System. A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:

a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

a facility that serves Subscribers without using any Street or Public Way;

a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

an open video system that complies with 47 U.S.C. § 573; or

any facilities of any electric utility used solely for operating its electric utility systems.

Cable Television Channel or Channel. A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television Channel (as “television Channel” is defined by FCC regulation).

City. The City of Paducah, Kentucky, and all the territory within its presently existing or future territorial corporate limits. Where appropriate, the term “City” shall refer to it as a corporate entity and also include its officers, employees and duly authorized representatives.

City Manager. The designated or acting City Manager of the City of Paducah, Kentucky.

Commonwealth. The Commonwealth of Kentucky.

Converter. Any electric or other device separate and apart from the Subscriber’s receiver that is capable of converting or changing signals to a frequency not intended to be susceptible to interference within the television or video receiver of a Subscriber, and by an appropriate Channel or other type of selector may also permit a Subscriber to view or otherwise use signals delivered at designated dial locations, or such other reception and use allocations as may be applicable and required for the practical use of the signal.

Drop. The cable that connects the ground block on the Subscriber’s residence or institution to the nearest feeder cable of the System.

FCC or Federal Communications Commission. The federal administrative agency, or lawful successor, authorized to oversee cable television regulation on a national level.

Franchisee. All Persons, natural or corporate, or any other entity having any rights, powers, privileges, duties, liabilities or obligations under this Chapter and the Franchise Agreement, and also all Persons having or claiming any power or interest in or to the System, whether by reason of the Franchise itself or any subcontract, transfer assignment, mortgage, pledge, hypothecation, security agreement, management agreement or operating agreement, or otherwise arising or created.

Franchise or Franchise Agreement. That separate agreement by which a Franchise is granted to the Franchisee as required by this Chapter. Franchise as defined herein shall not be inconsistent with 47 U.S.C. § 522(9).

Franchise Area or Service Area. The entire geographic area within the City as it is now constituted or may in the future be constituted.

Franchise Fee. Any tax, fee, or assessment of any kind imposed by the City or other governmental entity on Franchisee or Subscriber, or both, solely because of their status as such. It does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and Cable Operators or their services but not

including a tax, fee, or assessment which is unduly discriminatory against Cable Operators or cable Subscribers); capital costs which are required by the Franchise to be incurred by Franchisee for Public, Educational, or Governmental Access Facilities; requirements or charges incidental to the awarding or enforcing of the Franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or any fee imposed under Title 17 of the United States Code.

Normal Business Hours. The term “Normal Business Hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “Normal Business Hours” must include some evening hours, at least one (1) night per week and/or weekend hours.

Normal Operating Conditions. Those Service conditions which are within the control of Franchisee. Those conditions which are not within the control of Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

Ordinance or Chapter. Chapter 22 Cable Communications of the City’s Code of Ordinances.

Pay Television. The delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or other programming services.

Person. Any individual, corporation, business trust, estate trust, partnership, association of two (2) or more Persons having a joint common interest, governmental agency or other legal entity, including the City.

PEG. Public, Educational or Governmental.

Public Way. All public Streets and utility easements, as those terms are defined in the City Code, now or hereafter owned by the City, but only to the extent of the City’s right, title, interest or authority to grant a license or franchise to occupy and use such Streets and easements for telecommunications facilities or Cable System.

Service Day. Any day or other twenty-four (24) hour period, other than a Sunday or a City-recognized holiday, in which employees of the Franchisee regularly respond to service requests and calls.

Service Interruption. The loss of picture or sound on one (1) or more Channels.

Standard Installation. Any residential or commercial installation which can be completed using a Drop of one hundred fifty (150) feet or less.

Street. The surface of and the space above and below any public Street, road, highway, freeway, lane, path, Public Way or place, sidewalk, alley, boulevard, parkway, drive, or other easement now or hereafter held by the City, and includes other easements or rights-of-way as may be now or hereafter held by the City for the purposes of installing poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other devices or property as may be necessary for the construction, operation, and maintenance of a wire telecommunications system or Cable System.

Subscriber. A Person lawfully receiving Service delivered over a Cable System by either a Cable Operator or Franchisee.

Utility easement. Any easement owned by the City and acquired, established, dedicated or devoted for public utility purposes not inconsistent with telecommunications facilities or Cable System.

U.S.C. United States Code.

Video Programming. Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

Franchisee May be Required to Pay Associated Costs.

In addition to any other rights the City may have under this Chapter, the City specifically reserves the right to charge the Franchisee for any and all costs incidental to the awarding or enforcing of the Franchise as provided for in a Franchise Agreement in accordance with Applicable Law. Under no circumstances shall the costs exceed two thousand five hundred dollars (\$2,500).

Fair Employment and Contracting.

Equal opportunity in employment shall be afforded by each cable entity to all qualified Persons, and no Person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age or sex.

A Franchisee shall exercise its reasonable best effort to use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, to supply referrals whenever jobs are available in its operation and to encourage minority and female entrepreneurs to conduct business with all parts of its operation.

In addition to the provisions noted above, a Franchisee shall comply with all Commonwealth laws, FCC regulations, and 47 U.S.C. § 554 as they relate to equal employment and contracting opportunity within the cable industry.

Construction of Chapter.

This Chapter shall be construed in light of Applicable Laws and regulations governing cable practices in general and cable consumer practices in particular in accordance with Applicable Law.

Wherever possible, this Chapter shall be construed with as much flexibility as possible so that the City might be able to accomplish its goals of protecting the health, safety, and welfare of the citizenry.

Compliance with Federal, State and Local Laws.

If any federal or state law or regulation shall require or permit City or Franchisee to perform any service or act or shall prohibit City or Franchisee from performing any service or act which may be in conflict with the terms of this Ordinance, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Franchisee and City shall conform to state and federal laws and regulations and rules regarding cable communications as they become effective.

Effect on New and Existing Franchisees.

For Persons awarded a cable Franchise after the effective date, this Chapter shall have full effect and be enforceable in its entirety and for a Franchise existing on the date that this Chapter becomes effective, this Chapter shall have no effect during its present Franchise term.

Notwithstanding the above provisions, a Franchisee may file a written petition, at any time, seeking relief from one (1) or more provisions of this Chapter. The relief requested may specifically include the delay in implementation (as to the petitioning Franchisee only) of one (1) or more provisions of this Chapter.

In order to receive relief from one (1) or more provisions of this Chapter, a Franchisee must satisfactorily demonstrate to the City that one (1) of the following facts exist:

The provision and/or requirement is expressly prohibited by Applicable Law; or

The provision materially affects and is in conflict with an expressed right that is specifically noted in an existing Franchise Agreement; or

That the imposition of such provisions and/or requirements is commercially impracticable or will create such an undue economic hardship on the Franchisee so as to imperil or eliminate the economic benefits of providing Cable Service to a majority of current Subscribers; or

That the Franchisee has its own construction, maintenance, operation, customer service or equal employment opportunity (EEO) policy, practice or standard which is deemed comparable to or exceeding any provision and/or requirement from which the Franchisee seeks relief.

The City shall have the responsibility of determining whether a Franchisee's construction, maintenance, operation, customer service or EEO policy, practice or standard is comparable to or exceeds a similar provision in this Chapter.

In accordance with this Chapter, the City may charge the petitioning Franchisee with the incidental costs of processing an initial Franchise consistent with 47 U.S.C. § 542(2)(D).

Delegation of Power.

Unless prohibited by the Commonwealth, the City and/or Board of Commissioners may delegate its powers and authorities (except its ultimate franchising authority) with respect to cable to the Authority, or a duly authorized representative of the City, including the Mayor and City Manager, provided, however, the City and/or Board of Commissioners shall not delegate its powers and authority with respect to matters concerning, Franchise renewal, non-compliance or revocation of the Franchise unless otherwise agreed to by City and Franchisee.

City Ownership of Cable System.

In the event the City directly or indirectly through any legal means constructs, acquires, purchases, leases or otherwise owns or controls a Cable System, it shall, with the exception of those requirements pertaining to application for and obtaining a Franchise, be considered a Franchisee for purposes of this Chapter and shall be bound by and comply with all the requirements of this Chapter as if it were a Franchisee.

Secs. 22-10--22-30. Reserved.

ARTICLE II. FRANCHISE PROVISIONS

Sec. 22-31. Franchise Required.

Necessity of Franchise. Except as provided in subsections (b) and (c) of this section, to the maximum extent permitted under applicable law, no Person shall provide Cable Services nor operate or maintain a Cable System without having first obtained a Franchise, and then entering into a Franchise Agreement with the City.

Exception for City-owned or City-controlled Cable System. Under judicial interpretations of the Kentucky Commonwealth Constitution, a municipality may own and operate a Cable System. Consequently, should the City, directly or indirectly, through any legal means available to the City, decide to purchase, acquire, construct, lease, control or otherwise own a Cable System within the territorial limits of the City, then the City shall comply with all Applicable Laws in order to construct, operate and maintain a Cable System within the territorial limits of the City.

Contravention of Franchise; costs of litigation. The cost of any litigation incurred by the City to enforce this Chapter or the Franchise granted pursuant hereto, or any Franchise Agreement, or in relation thereto, or in relation to the cancellation or termination of a Franchise, shall be reimbursed to the City by the affected Franchisee if the City prevails in the litigation. In the event the Franchisee prevails, the cost of litigation incurred by the Franchisee shall be reimbursed to the Franchisee by the City. Such costs shall include, but not be limited to, filing fees, costs of depositions, discovery, and expert witnesses, all other expenses of suit, and a reasonable attorney's fee.

Term; Termination and Cancellation.

Maximum term. No Franchise granted hereunder, or any renewal thereof, shall be for a term of more than fifteen (15) years.

Term six years or less. If an initial Franchise or renewal Franchise is for a period of six (6) years or less, then the Franchise Agreement shall explain the reasons for granting the shorter Franchise term.

Reasons for term six years or less. The reasons for a shorter Franchise term may include, but are not limited to, the following:

Multiple or repeated documented material violations of the prior Franchise Agreement.

Multiple or repeated documented material violations of this Chapter.

Documented reckless disregard for the safety and welfare of the citizens of the City.

Failure to furnish any required annual reports.

Failure to comply with a specific, previously agreed upon construction schedule.

Failure to timely pay in their entirety any Franchise Fees or taxes or other charges due to the City.

Termination and cancellation of Franchise. In addition to all other rights and powers of the City by virtue of the Franchise or this Chapter, the City may, subject to and in accordance with appropriate terms of this Chapter and a Franchise Agreement, federal, and state law, terminate and cancel the Franchise and all rights and privileges of the Franchisee thereunder in the event that the Franchisee either:

Substantially violates any material provisions of the Franchise or this Chapter, or any legal rule, order or determination of the Board of Commissioners made pursuant thereto, where such violation shall remain uncured for a period of thirty (30) days subsequent to receipt by Franchisee of written notice of said violation, except where such violation is due to excusable neglect or outside the control of the Franchisee;

Intentionally evades any of the provisions of this Chapter or the Franchise Agreement or practices any intentional fraud or deceit upon the City; or

Becomes insolvent, files bankruptcy or abandons the Franchise or, subject to Section 22-72, fails to pay any applicable Franchise Fee when due.

Such determination and cancellation shall be made by ordinance of the Board of Commissioners duly adopted after twenty (20) days' notice to the Franchisee and shall in no way affect any of the City's rights under the Franchise or any provisions of law; provided, however, that, before the Franchise may be terminated and canceled under this section, the Franchisee shall be provided with an opportunity to be heard at a public hearing before the Board of Commissioners, upon thirty (30) days' prior written notice to the Franchisee of the time and place of the public hearing; provided further that the notice shall affirmatively and with specificity cite the reasons alleged to constitute a cause for

revocation; and, provided further, that notice of the public hearing shall be published in a local newspaper of general circulation at least five (5) days before the hearing.

Performance evaluation provisions.

The City and Franchisee may hold scheduled performance evaluation sessions concerning the provision of Cable Services on the Cable System within thirty (30) days prior to the fifth (5th) and tenth (10th) anniversary dates of granting a Franchise or renewal of a Franchise. Franchisee shall fully cooperate with the City and shall provide, without cost and in a timely manner, such information and documents related to the operation of the Cable System as the City may reasonably request to perform the evaluation. All performance evaluation sessions shall be open to the public and will be announced by the City in a newspaper of general circulation at least five (5) days before each session.

Special performance evaluation sessions may be held at any time during the term of the Franchise; provided that both the City and the Franchisee shall mutually agree on the time, the place and the topics to be negotiated.

Selection of New Franchisee.

Request for proposal. In selecting a new Franchisee (not applicable to a proposed transferee) pursuant to this Chapter, the City shall prepare a request for proposal to seek bids for a Cable System to be established under a Franchise by the City. This request for proposal shall contain, among other things, detailed information and instructions relating to the preparation and filing of proposals; technical standards regarding the installation, operation and maintenance of a Cable System; financial ability and stability to construct, operate, and maintain a Cable System; history of legal compliance with other types of Franchise Agreements and commitment to comply with the legal requirements of the City; and the criteria to be used in evaluation of applicant proposals.

Criteria for selection of Franchisee. Applicants for a new Franchise shall be evaluated according to the following criteria:

Nonprofit ownership. A preference shall be given to applicants for a Franchise representing nonprofit organizations.

Service priorities. A preference shall be given to System capability in terms of no costs telecasting production facilities and Service available to municipal and educational institutions and community groups and individuals. Preference shall be given to System provisions for two-way nonvoice communications. Preference shall be given to the maximum total Channels provided by the System.

Installation plan. A preference may be given to an installation plan that would provide flexibility needed to adjust to new developments, maintenance practices, and services that would be available to the Subscriber and the community immediately and in the future.

Financial soundness and capability. The evidence of financial ability required in the applicant's proposal shall be such as to assure ability to complete the entire System within a minimum of two (2) years from the date the Franchisee receives an FCC certificate of compliance and to operate a fiscally sound System throughout the term of the Franchise.

Demonstrated experience in operating a Cable System under City Franchise. Preference shall be given upon satisfactory evidence of the applicant's experience in operating a Cable System under a City Franchise, where such evidence would show or tend to show or confirm the ability of the applicant to furnish sufficient and dependable Service to the potential public and users.

Educational program. A preference shall be given to a System which presents a program whereby the City's public schools may benefit, utilize and develop education programs for students and Subscribers.

Award of New Franchise; Hearing; Publication of Ordinances. The Board of Commissioners may award a new Franchise to an applicant only after a public hearing on the application and proposal, notice of which hearing shall be published in a local newspaper of general circulation at least twenty (20) days before the date of the hearing. Any Franchise that is granted shall be authorized by an ordinance of the Board of Commissioners, which ordinance shall be thereafter published in the manner prescribed by law in a local newspaper of general circulation.

Renewal of Franchise.

Any renewal of a Franchise shall be governed by and comply with the provisions of 47 U.S.C. § 546 of the Cable Act, as amended.

Franchise Conditions.

All Franchises granted pursuant to this Chapter shall be subject to, and shall expressly indicate that they are subject to, the following provisions:

Any Franchise granted hereunder shall be subject to the right of the City, by appropriate action of its Board of Commissioners, to revoke the Franchise, after notice and opportunity to cure for cause shown pursuant to the provisions of this Chapter or the applicable law of the Commonwealth of Kentucky or the United States of America.

Any Franchise granted hereunder shall be subject to all generally applicable provisions of City ordinances and any amendments thereto.

Any Franchise granted hereunder shall be subject to the right of the City:

To repeal the same for failure to comply with the provisions of this Chapter, or any other local, state or federal laws, or Federal Communication Commission rules or regulations.

To require proper and adequate extensions of the plant and service and maintenance thereof at the highest practicable standard of efficiency as provided for in a Franchise Agreement.

To establish reasonable standards of service and quality of products, and to prevent unjust discrimination in service or rates.

To require continuous and uninterrupted Service to the public in accordance with the terms of the Franchise throughout the entire period thereof.

To control and regulate the use of its Street, alleys, bridges and public places and the space above and beneath them. The Franchisee may be required by the City to permit joint use of its property and appurtenances located in the Streets, alleys, and public places of the City by the City insofar as such joint use may be reasonably practicable and upon payment of reasonable rent therefore; provided that, in the absence of agreement, upon application by any Franchisee, or the City, the dispute may be submitted and resolved as provided in Section 22-44(b).

Through its appropriately designated representatives, to inspect all construction work performed subject to the provisions of the Franchise and this Chapter, and make such other inspections as it shall find necessary to ensure compliance with the terms of the Franchise, this Chapter and other pertinent provisions of law.

At the expiration of the term for which the Franchise is granted, or upon the termination and cancellation as provided herein, to require the Franchisee to remove, within eighteen (18) months, at its own expense, the Cable System from the Public Ways within the City in accordance with Applicable Law.

To require a Franchisee to pay the cost of newspaper publication of a summary of this Chapter and any amendments thereto in accordance with generally applicable codes.

Franchise Agreement.

Every Franchisee shall enter into a Franchise Agreement with the City which details the rights, duties, responsibilities and liabilities of both parties, and which contains an acceptance on the part of the applicant or Franchisee to the terms of this Chapter and the Franchise Agreement. Moreover, a new Franchisee may not lay any cable until the Franchise Agreement is executed by both the new Franchisee and the City.

In addition to those matters required elsewhere in this Chapter to be included in the Franchise Agreement, it must contain the following express representations of the Franchisee that:

It accepts and agrees to all the provisions of this Chapter as to construction, technical standards, operation, and maintenance and rate structures, if permitted by law,

which the City may include in the Franchise Agreement. In the case of a Franchise renewal, the Franchise Agreement may include exceptions to this Chapter.

It has examined all the provisions of this Chapter.

It recognizes the right of the City to make reasonable amendments to this Chapter, consistent with the City's police powers, during the term of the Franchise upon thirty (30) days' written notice to the Franchisee.

It recognizes and agrees that it may be considered as a Franchisee for the purposes of this Chapter.

It expressly recognizes and agrees that it has considered all the provisions of this Chapter in regard to resolution of disputes, and agrees to be bound by same throughout the term of the Franchise.

No Franchise shall be exclusive and no Franchisee shall, through the grant of a Franchise, either written or verbal, be given an unfair competitive advantage over other franchised Cable Operators (including the City, to the extent required by Applicable Law) providing Cable Service in the City.

Every Franchise Agreement shall specifically set forth the specific standards which the Franchisee must maintain in respect to signal quality requirements and technical standards of construction, operation, and maintenance of the System.

The Franchise Agreement shall contain such further conditions or provisions as may be included in the request for proposal and/or negotiated between the City and the Franchisee. In the case of a conflict between any terms or provisions of the Franchise Agreement and this Chapter, the words of the Franchise shall be deemed to control.

Any application filed for an initial Franchise shall become a part of the Franchise Agreement and any representations, promises, commitments or volunteered parameters and/or standards shall become binding upon the Franchisee and its heirs and assigns.

Operational Standards.

State of the art; maintaining system to level of current technology. If a Franchise authorizes, the City may require a Franchisee, during the term of its Franchise, to construct, maintain and operate a Cable System that is at a level that reflects the current technology utilized within the industry.

Construction standards and technical requirements.

Methods of construction, installation, maintenance and repair of any Cable System shall comply with the National Electrical Safety Code.

It shall be the duty of a Franchisee to undertake a preventative maintenance of the Cable System in order to ensure that there is no material degradation of the Cable System

that would affect the citizens' health, safety or welfare, or negatively affect the quality of the Cable Services being provided.

All wires, conduits, cable, and other property and facilities of a Franchisee shall be so located, constructed, installed and maintained so as to not endanger or unnecessarily interfere with usual and customary use, traffic, and travel upon the Streets, rights-of-way, Easements, and Public Ways of the community.

In the event a Franchisee's System creates a hazardous or unsafe condition, or an unreasonable interference with public property, then, at its own expense, the Franchisee shall, with a reasonable time, voluntarily, or upon the written request of the City, correct or remove that part of the System that creates the hazardous condition from the subject property.

A Franchisee shall not place equipment where it will interfere with the rights of private property owners or with gas, electric or telephone fixtures, or with water hydrants or mains, or with wastewater lift stations, or any other service or facility in the Public Ways that benefits the City's or its residents' health, safety or welfare.

Subject to reasonable prior written notice, it shall be the responsibility of a Franchisee (acting alone or in conjunction with another Person) to locate and mark or otherwise visibly indicate and alert others to the location of underground cable (or its equivalent) and other utility lines before employees, agents or independent contractors of a Franchisee install cable in a marked-off area.

A Franchisee shall, on the request of any Person holding a building moving permit, temporarily remove, raise or lower the cable to allow the moving of the building. The expense of temporary removal shall be borne by the Person requesting it, and the Franchisee may require advance payment. The Franchisee shall be given not less than ten (10) days' advance written notice in order to facilitate the temporary cable changes.

A Franchisee, at either its own expense, or that of a private contractor, shall protect the Streets, rights-of-way and Easements, and support or temporarily disconnect, remove or relocate in the same Street or other Public Way any property of the Franchisee when necessitated by reason of: traffic conditions; public safety; a Street closing; Street construction or resurfacing; change or establishment of Street grade; installation of sewers, drains, water pipes, storm sewers, storm drains, lift stations, force mains, power or traffic signal lines; or any improvement, construction or repair related to the City's or its residents' health, safety, or welfare. If the City requests the relocation, removal or reinstallation of Franchisee's property in any of the Public Ways in the Franchise Area for the sole purpose of installing or providing Cable Services in competition with Franchisee, the cost of such relocation, removal or reinstallation shall not be borne by Franchisee but by the City.

Prior to a Franchisee's commencing to attach wire, cable (coaxial, fiber or its functional equivalent) or other fixtures and appurtenances to poles or towers located

within the City, it shall execute license agreements for pole attachments with the appropriate utility.

The Franchisee shall not discriminate nor permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Service Area. It shall be the right of all Persons to continuously receive all available Service provided on the Cable System so long as such Person's financial or other obligations to the Franchisee are satisfied. Moreover, the City states that density, proximity and geography, and not economic status, should be the primary factors used to determine whether a Franchisee should provide Service to one (1) or more Persons within a part of a Franchisee's Franchise Area.

A Franchisee shall create, maintain and provide to the City upon written request, on an annual basis, Cable System route maps. Complete and accurate System maps, which shall include, but not be limited to, detail of trunks, distribution lines, and nodes shall be available at Franchisee's office for the City's review.

A Franchisee shall construct, operate, maintain, repair, remove, replace or restore the Cable System in strict compliance with all current generally applicable codes adopted by the City. The codes referred to specifically include, but are not limited to, construction, fire and safety codes.

A Franchisee shall obtain, at its expense, all permits and licenses (including pole attachment agreements) required by law, rule, regulation or local law, and maintain the same in full force and effect for as long as required. Franchisee shall at all times comply with the City Code, as may be amended from time to time.

Number of Channels.

The precise Channel capacity that a Franchisee must maintain during the term of the Franchise shall be detailed in the Franchise Agreement.

Use of Channels.

The City recognizes that pursuant to 47 U.S.C. § 531, the City has certain authority with respect to certain aspects for Public, Educational or Governmental Access Channel use.

To the extent permitted by law, and in order to fulfill the City's desired goal of achieving a PEG Access Channel policy that will facilitate the long-range needs of the City, the Board of Commissioners adopts the following:

At the time of an initial application or proposal, and unless otherwise provided in a Franchise Agreement or subsequent renewal Franchise Agreement, a Franchisee shall pledge to include the following:

A Franchisee shall provide, one (1) educational Access Channel that is available for providing non-commercial, educational programming.

A Franchisee shall provide, one (1) public Access Channel that is available for providing non-commercial public access, senior citizen, and library programming.

A Franchisee shall provide, one (1) governmental Access Channel that is available for providing noncommercial governmental programming.

If at any time eighty percent (80%) of the total time allocated for a required PEG Access Channel is consistently used eight (8) hours per day, five (5) days a week for a period of three (3) consecutive months with non-character generated, non-repetitive programming, then, upon one hundred twenty (120) days written request, the Franchisee shall provide one (1) additional PEG Access Channel.

All programming transmitted over PEG Access Channels shall be non-commercial in nature. Program material to be distributed on PEG Access Channels shall contain no advertising or commercial content for which consideration is received by City. Franchisee and City agree that City or the producer or distributor of such programming may include acknowledgments for Persons which sponsor or underwrite access programming in a manner substantially similar to the sponsorship information provided on the Public Broadcasting System (PBS).

Unless otherwise provided in a Franchise, a Franchisee shall provide:

Both mobile, portable and stationary equipment to be used for Access Channel programming, together with the aid of technical and production assistance provided by the Franchisee;

Equipment that can store programs for delayed cablecasting; and

Technical production assistance required for PEG access use that may extend to, but not exceed, fifty (50) actual production man-hours per year.

Unless otherwise specified in a Franchise, the City shall develop a plan for handling requests for use of PEG Access Channels, facilities or programming. Such a plan shall be nondiscriminatory in nature and should encourage joint or cooperative efforts on the part of potential users. However, the City recognizes that, while citizens enjoy considerable first amendment freedoms, these freedoms, nonetheless, must be weighed against the legitimate health, safety and welfare interests of all citizens in the Service Area. Consequently, when a request for access time is made by a culturally unpopular, politically controversial, or racially/ethnically/religiously intolerant organization, the City may require safeguards which minimize or lessen the possibility and probability that such espoused viewpoints will damage the community fabric. The City may declare the speech is culturally obscene in that it was or would be so morally devoid or culturally offensive that it either dramatically reduced the overall value of other services provided on the Cable System or posed a discernible risk of disrupting the spiritual, political or racial fabric of the community. However, the safeguards imposed may only be as much as is necessary to accomplish the City's objectives. The safeguards include restricting such programming to non-prime-time hours (before 7:00 p.m. and after midnight) and allowing the audio, but not video, of such programming to be provided over the PEG Access

Channel. For purposes of this Chapter, a culturally unpopular, politically controversial, or racially/ethnically/religiously intolerant organization is one whose viewpoints or displays have no redeeming social, historical or artistic value, and undermine the community fabric.

Public Service Installations.

Each Franchise granted by the City shall specify the Franchisee's commitment to public service installations and complimentary services.

Right of City to Purchase System.

Purchase upon expiration of term. Subject to Section 626 of the CCPA (47 U.S.C. § 546), other applicable law, and with the consent of Franchisee, upon expiration of the term of the Franchise, the City, at its selection, and upon payment to the Franchisee of a price equal to the fair market value of the System as a going concern and on the same terms and conditions as offered by other parties, including physical assets and intangibles, including good will, in accordance with the accepted and usual industry practices (except the valuation of the Franchise privilege itself), shall be given the opportunity to purchase the System.

Purchase upon default. Upon lawful termination of the Franchise rights as provided for by this section or by law occasioned by the substantial breach of provisions of the Franchise Agreement or this Chapter and with the consent of Franchisee, the City, at its selection and upon payment to the Franchisee of a price equal to the fair market value of the System as a going concern, including physical assets and intangibles, including good will, in accordance with accepted and usual industry practices (except that the valuation shall not include any valuation of the Franchise privilege itself), shall be given the opportunity to purchase the System. In the case of the City's purchase of the System and the circumstances, the Franchise shall transfer to the City possession and title to all facilities and property, real and personal, of the Cable System business, free from any and all liens and encumbrances. This provision, however, may be waived by the City at its option, in whole or in part.

Transactions Affecting Ownership or Control of Franchise Facilities.

In accordance with Applicable Law, to protect the interest of the City under any Franchise granted pursuant to this Chapter, the Franchisee shall not transfer, transfer control, or otherwise assign the Cable System or Franchise to a third party without adherence to the provisions of subsections (1) and (2) below:

Without the express approval of the Board of Commissioners, which shall not be unreasonably withheld; and

Without a written assent filed with the Board of Commissioners binding upon the Person in whom any right, power, privilege, duty, title, interest, claim or demand in or to the Franchise or the System is created or vested, to the effect that such right, power, privilege, duty, title, interest, claim or demand is and shall be held and exercised subject to all the terms and provisions of the Franchise, including this Chapter. The Board of Commissioners may require such written assent to be contained in any instrument or document creating or vesting such right, power, privilege, duty, title, interest, claim or

demand. Provided, however, that this subsection (a)(2) shall not apply to the disposition of worn-out or obsolete facilities or personal property in the normal course of carrying out the Cable System business.

Prior approval of the Board of Commissioners shall be required for any sale, transfer, exchange or assignment of stock in Franchisee, or Franchisee's parent corporation or any other entity having a controlling interest in Franchisee, so as to create a new controlling interest therein, shall be subject to the requirements of this Section 22-42. The term "controlling interest" as used herein is an acquisition of 51% or greater ownership interest in the Franchisee, but includes actual working control in whatever manner exercised.

No Franchise may be transferred unless such transfer is approved by the Board of Commissioners, by ordinance, after public hearing, such approval not to be unreasonably withheld. No such approval shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Franchisee in a Franchise or the Cable System in order to secure indebtedness, or (ii) an internal transfer to an entity directly or indirectly owned or controlled by the parent corporation of Franchisee. The City shall process all requests in accordance with applicable FCC regulations and other Applicable Laws.

By its acceptance of a Franchise, the Franchisee specifically concedes and agrees that any acquisitions or transfers set forth in subsections (b) and (c) above, without prior approval of the Board as may be required, shall constitute a violation of the Franchise and this Chapter by the Franchisee.

Receivership; Foreclosure.

Any Franchise shall, at the option of the Board of Commissioners, cease and terminate one hundred twenty (120) days after the appointment of a receiver or receivers or trustee or trustees to take over and conduct the business of the Franchisee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trustee shall have been vacated prior to the expiration of the one hundred twenty (120) days or unless:

The receivers or trustees shall have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Chapter and the Franchise, and the receivers or trustees within the one hundred twenty (120) days shall have remedied all defaults, if any, under the Franchise; and

The receivers or trustees shall, within the one hundred twenty (120) days, execute an agreement duly approved by the court having jurisdiction in the premises whereby the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of a Franchise.

In the case of a foreclosure or other judicial sale of the plant, property, and equipment of the Franchise, or any part thereof, including or excluding the Franchise, the Board of Commissioners or its designee may serve written notice of termination upon the Franchisee and the successful bidder at such sale, in which event the Franchise and all rights and privileges of Franchisee hereunder shall cease and terminate thirty (30) days after service of such notice, unless:

The Board of Commissioners shall have approved the transfer of the Franchise as and in the manner in this Chapter provided; and

Unless the successful bidder shall have covenanted and agreed with the City to assume and be bound by all the terms and conditions of the Franchise.

City's Right of Intervention; Resolution of Disputes.

City's right of intervention. The Franchisee shall not oppose intervention by the City, at the City's expense, in any suit or proceeding to which the Franchisee is a party.

Resolution of disputes.

Intent. It is the intent of the City to provide for the orderly resolution of any controversy or dispute between the Franchisee and the City arising out of the enforcement or interpretation of any provision of this Chapter, the Franchise Agreement, or any rule, regulation or procedure relating to cable communication matters. Unless otherwise provided for in a Franchise Agreement, negotiation between the parties and fact finding shall be the means of resolving the great majority of such controversies or disputes. Neither fact finding nor mediation, however, shall be the first resort of the parties, but shall be undertaken only after a reasonable time has been taken to reach agreement by negotiation between the parties.

Fact finding. Any material controversy or dispute, upon the election of both the City and the Franchisee, may be submitted to an expert individual acceptable to both parties for an investigation of the facts and a report thereof. Such fact finding shall be for the purpose of developing better information for the use of both parties and shall not be binding on either party. All reasonable fees and other expenses resulting from such fact finding shall be equally borne by both the City and the Franchisee.

Mediation. Any material controversy or dispute, upon the election of either the City or the Franchisee, may be submitted to an expert individual acceptable to both the Franchisee and the City for the purpose of facilitating discussion and receiving new perspectives on the issues and new proposals for compromise. Such mediation shall not be binding on either party. All reasonable fees or expenses resulting from such mediation shall be equally borne by both the City and the Franchisee.

Fees and expenses. The reasonable fees of single experts as provided for above shall be jointly borne by the Franchisee and the City. In no event shall the City be obligated for more than one-half of the expenses.

Submission of Reports and Data.

Filings and communications with regulatory agencies. At any time the FCC or another federal or state agency requires or requests the submission of reports, data or other information by a Franchisee, then such Franchisee shall, upon reasonable written request, submit those reports, data or other information to the City. However, unless specifically authorized by state or federal statute, a Franchisee shall not be required to submit state or federal tax returns.

Reports. City shall have access to, and the right to inspect, during normal business hours, books and records of Franchisee related to the operation of the Cable System, necessary to ensure compliance with the terms of this Ordinance and a Franchise held by a Franchisee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Franchisee may request, in writing within ten (10) business days, that City inspect them at Franchisee's local area office. If any books or records of Franchisee are not kept in a local office or if unavailable electronically, Franchisee will provide or otherwise make such documents available for inspection and review at the local office within ten (10) business days.

Upon request, Franchisee shall provide City with a sample Cable Services bill, on a monthly basis. Cable Services bills associated with complimentary services accounts may satisfy this requirement.

Franchisee shall at all times maintain and allow City, with reasonable notice (minimum two (2) working days and maximum five (5) working days), access and the right to review a full and complete set of digital plans, records and maps compatible with ESRI Shape Files showing the approximate location of all Cable System equipment installed or in use in the City, exclusive of electronics, Subscriber drops and equipment provided in Subscribers' homes. These maps shall be maintained in the format described herein and provided to the City upon request as set forth above, but not more frequently than twice annually, for the City's use only.

The ability for City to obtain records and information from Franchisee is critical to the administration of this Ordinance and the Franchise. Therefore, Franchisee's failure to comply with the requirements of this Section may result in enforcement by City as permitted herein and under Applicable Laws.

Insurance; Bonds; Indemnification.

Liability and indemnification of City. The Franchisee shall indemnify and hold harmless the City at all times during the term of the Franchise and specifically agree that it will pay all damages and penalties which the City may be legally required to pay as a result of the Franchisee's actions or omissions as it relates to the construction, operation and maintenance of the Cable System. Such damages and penalty shall include, but not be limited to, damages arising out of copyright infringements, and other damages arising out of the installation, operation or maintenance of the Cable System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by the Franchise. In the case suit shall be filed against the City, either independently or jointly with the Franchisee, to recover for any claim or damages, the Franchisee, upon written notice to it by the City, shall defend the City

against the action and, in the event of a final judgment being obtained against the City, either independently or jointly with the Franchisee, solely by reason of the acts of the Franchisee, the Franchisee will pay the judgment and all costs and hold the City harmless therefrom. This provision is intended to address lawsuits brought by third parties related to the actions of the Franchisee and the City and not lawsuits independently brought by the City against Franchisee or independently brought by the Franchisee against the City.

Performance bond. Upon the effective date of the Franchise Agreement requiring System construction, the Franchisee 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 the initial sum of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00). Upon completion of any System construction/upgrade the bond shall be reduced to Twenty-five Thousand and No/100 Dollars (\$25,000.00). The bond shall be conditioned that the Franchisee shall well and truly observe, fulfill and perform each and every term and condition of this Chapter 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 Franchisee to well and truly observe and perform any provisions of this Chapter or the Franchise Agreement. The aforesaid bond shall be maintained by the Franchisee throughout the term of the Franchise and written evidence of the payment of the required payments shall be filed and maintained both with the office of the City Manager and the Authority.

Insurance.

The Franchisee shall be required to maintain insurance in such forms and in such companies as shall be approved by the City, such approval not to be unreasonably withheld, to protect the City and the Franchisee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any aspect of the system. The amount of such insurance shall not be less than the following:

General liability insurance:

Bodily injury per Person: \$3,000,000.00.

Bodily injury per occurrence: \$5,000,000.00.

Property damage per occurrence: \$1,000,000.00.

Property damage aggregate: \$1,000,000.00.

Automobile insurance:

Bodily injury per Person: \$1,000,000.00.

Bodily injury per occurrence: \$3,000,000.00.

Property damage per occurrence: \$1,000,000.00.

Workmen's compensation insurance shall also be provided as required by the laws of the Commonwealth of Kentucky. All said insurance shall name the City as an additional insured and shall provide a ten (10) day notice to the City Clerk in the event of material alteration or cancellation of any coverage afforded in the policies prior to the date the material alteration or cancellation shall become effective. Copies of all policies required hereunder shall be furnished to and filed with the City Clerk and the Authority prior to the commencement of operations or the expiration of prior policies, as the case may be.

Nonwaiver. Neither the provisions of this section nor any bonds accepted by the City pursuant hereto, nor any damage recovered by the City hereunder, shall be construed to excuse unfaithful performance by the Franchisee or limit the liability of the Franchisee under this Chapter or the Franchise for damages either to the full amount of the bond or otherwise.

Secs. 22-47--22-70. Reserved.

ARTICLE III. RATES AND CHARGES

Sec. 22-71. Rates, Charges and Refunds.

Rates subject to local regulation. City may regulate rates for the provision of Cable Service, equipment, or any other communications service provided over the System in accordance with applicable federal law, in particular 47 C.F.R. Part 76 subpart N. In the event the City chooses to regulate rates it shall, in accordance with 47 C.F.R. § 76.910, obtain certification from the FCC, if applicable. The City shall follow all applicable FCC rate regulations and shall ensure that appropriate personnel are in place to administer such regulations. City reserves the right to regulate rates for any future Services to the extent permitted by Applicable Law.

Rate changes; discrimination. In accordance with applicable law:

Access to Cable Service shall not be denied to any group of potential residential Subscribers because of the income of the residents of the local area in which such group resides. However, nothing herein shall prohibit a Franchisee from denying Service based on location of a residence if that residence is outside either the defined Service Area or line extension criteria specified in a Franchise.

Equal opportunity in employment shall be afforded by a Franchisee to all qualified Persons and no Person shall be discriminated against in employment by a Franchisee because of race, color, religion, national origin, age or sex.

A Franchisee shall not, as to rates and charges or use of a Franchisee's facilities or equipment, allow or grant any undue preference or advantage on the basis of race, color, religion, national origin, age, sex or location of residence. Nothing herein shall prohibit a Franchisee from offering a promotional or incentive discount rate or charge or from offering customized bulk billing arrangements.

Franchise Fees.

The Franchisee shall pay to the City a Franchise Fee equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Franchisee shall not be compelled to pay any higher percentage of Franchise Fee than any other video service provider providing Service in the Franchise Area. The payment of Franchise Fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. Each Franchise Fee payment shall be accompanied by a report prepared by a representative of the Franchisee showing the basis for computation of the Franchise Fees paid during that period.

Upon reasonable notice, the City shall have the right during Normal Business Hours to inspect the Franchisee's records relevant to the payment of Franchise Fees and the right to audit and to re-compute any amounts determined to be payable under a Franchise Agreement, this Ordinance and Applicable Laws. The audit period may not extend back beyond the maximum time period permitted under the applicable state statute of limitation for contracts (KRS 413.120) under the laws of the State of Kentucky. If, as a result of such audit, the City determines that the Franchisee has underpaid its fees to the City six percent (6%) or more, then: 1) the undisputed amount will be due to the City within thirty (30) days following written notice to Franchisee by the City, which notice shall include a copy of the audit report; and 2) in addition to making full payment of the relevant obligation, the Franchisee shall reimburse the City for all of the reasonable costs associated with the audit or review, including costs for attorneys, accountants and other consultants. Any additional undisputed amount due to the City as a result of an audit shall be paid within thirty (30) days following written notice to Franchisee by the City.

Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Notwithstanding the forgoing, the City reserves its right to challenge Franchisee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

Nothing in this Ordinance shall in any way be construed to prohibit the City from collecting any fees, taxes or assessments as may be permitted by Applicable Laws, including Kentucky Revised Statutes and City hereby reserves any and all rights in accordance with Applicable Laws.

Secs. 22-73--22-90. Reserved.

ARTICLE IV. CUSTOMER PROTECTION AND SERVICE STANDARDS

Sec. 22-91. Notice of Rights and Responsibilities.

General policy.

The City recognizes that it is critical that a customer fully understands and realizes the rights and responsibilities of both the customer and Franchisee with respect to the provisions, maintenance and repair of Cable Service.

Further, the City believes that, if sufficient information is provided to a customer on certain customer service practices, such as rates, billing periods, and number and types of service provided, then that customer will have the information necessary to make an informed decision on what, if any, Cable Services to subscribe to and receive.

In order to provide customers with the variety of information needed to make an informed decision, and to ensure that customers are notified of their and the Franchisee's rights and responsibilities with respect to the Cable System, a Franchisee must provide a customer with a written notice of a customer's and Franchisee's rights and responsibilities with respect to the provision of Cable Service.

Notifications to Subscribers. Franchisee shall provide printed or electronically available information on each of the following areas at the time of installation of Cable Service, at least annually to all Subscribers, and at any time upon request:

Products and Services offered;

Prices and options for programming Services and conditions of subscription to programming and other Services;

Installation and Service maintenance policies;

Instructions on how to use the Cable Service;

Channel positions of the programming carried on the System; and

Billing and complaint procedures, including the address and telephone number of the City.

Subscribers will be notified of any changes in rates, programming services or Channel positions as soon as possible in writing or electronically. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the changes are within the control of the Franchisee. In addition, the Franchisee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by this Section 22-91. Franchisee shall not be required to provide prior notice of any rate changes as a result of a regulatory fee, Franchise Fee, or other fees, tax, assessment or charge of any kind imposed by any federal agency, state or City on the transaction between the operator and the Subscriber. New Channels and services may be offered with less than the required notice so long as there is no additional charge or the Channel or service is sold on a subscription basis.

All programming decisions remain the discretion of Franchisee in accordance with the Franchise, provided that Franchisee notifies City and Subscribers in writing thirty (30) days prior to any Channel deletions or realignments directed to each Subscriber individually by any reasonable means available to and at the discretion of the Franchisee consistent with applicable law, and further subject to Franchisee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.

Customer Service Office and Telephones.

Unless otherwise provided for in a Franchise Agreement, Franchisee shall maintain a convenient local customer service and bill payment location in the City for receiving Subscriber payments, handling billing questions, equipment replacement and customer service information. The Franchisee shall comply with the standards and requirements for customer service set forth below and shall comply with all applicable regulations relating to customer service obligations, including any amendments to 47 C.F.R. § 76.309 during the term of the Franchise, that impose higher or additional customer service standards on a Cable Operator.

Cable System office hours and telephone availability:

Franchisee will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.

Trained Franchisee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.

After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Franchisee representative on the next business day.

Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.

Franchisee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.

Customer service center and bill payment locations will be open at least during Normal Business Hours.

Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:

Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred fifty (150) feet from the existing distribution cable.

Excluding conditions beyond the control of Franchisee, Franchisee will begin working on "Service Interruptions" promptly and in no event later than twenty-four (24)

hours after the interruption becomes known. Franchisee must begin actions to correct other Service problems the next business day after notification of the Service problem. Franchisee shall resolve all Service Interruptions within forty-eight (48) hours under Normal Operating Conditions.

The “appointment window” alternatives for Standard Installations, Service calls, and other installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (Franchisee may schedule Service calls and other installation activities outside of Normal Business Hours for the express convenience of the customer.)

Franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

If Franchisee’s representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted prior to the time of the scheduled appointment. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

Under Normal Operating Conditions, if Franchisee cannot perform installations within the times specified in applicable customer standards, the Subscriber shall, upon request, receive a credit equal to the charge for a Standard Installation. For any installation that is not a free installation or a Standard Installation, Franchisee shall provide the Subscriber with a written estimate of all charges within seven (7) days of a request by the Subscriber. Failure to comply will subject Franchisee to appropriate enforcement actions. This section does not apply to the introduction of new products and services when Franchisee is utilizing a phased introduction.

Special Requirements for the Disabled.

In addition to any other requirements mandated by this Chapter, or by federal or Commonwealth law, a Franchisee shall comply with the following special service requirements for blind, hearing-impaired or wheelchair customers:

Provide wheelchair accessibility to a Franchisee’s customer service office.

For any customer declared legally blind by the Commonwealth, a Franchisee must provide at a non-discriminatory cost, if requested by the customer, large-type, braille, voice-synthesized or functionally equivalent notices, bills and other pertinent information.

Provide, upon request, either: 1) assistance with identifying a consumer electronics source; or 2) at a reasonable, non-discriminatory cost, a device sufficient to enable closed-captioning services for a hearing-impaired Subscriber.

Provide, at a nondiscriminatory cost, a remote-control device and/or Converter for wheelchair Subscribers or Subscribers with a permanent medical or physical ambulatory impairment.

Where applicable, provide modified or special instructions for use of equipment by Subscribers who have physical impairments.

Reserved.

Restoration of Subscribers' Property.

At any time a Franchisee disturbs the yard, residence, or other real or personal property of a Subscriber, the Franchisee shall ensure that the Subscriber's yard, residence, or other real or personal property is returned, replaced and/or restored to a condition that is comparable to its condition immediately before the disturbance to the extent such corrective action cannot be accomplished. The Franchisee shall reimburse a Subscriber, or private property owner, for any damage caused by the Franchisee, subcontractor or independent contractor in connection with the disturbance of a Subscriber's or private property owner's property if Franchisee fails to perform the restoration work required herein.

The types of acts specifically included in this section are the following:

Removal of a Subscriber's sod, lawn, plants, shrubbery, flowers, trees, driveway or fence to install a trench or repair, replace, remove or locate cable or other equipment of the Franchisee.

Installation or removal of a cable or other equipment of the operator within a Subscriber's residence, or around a Subscriber's swimming pool or tennis court, or which requires drilling, excavating, plastering or the like on the part of the Franchisee.

Temporarily relocating or moving a piece of personal property of a Subscriber (such as a motor vehicle, fence, garden hose or the like) in order to perform some sort of construction or maintenance on the Cable System.

Permanently removing a Franchisee's cable or equipment due to either the revocation, termination or nonrenewal of a Franchise or the abandonment, withdrawal or cessation of Cable Service to any portion of the City.

The requirements for the Franchisee extend to any contractor that the Franchisee might employ to perform the tasks outlined.

In light of the foregoing, a Franchisee has the authority to trim trees of a private property owner (including a Subscriber) only to the extent necessary to prevent the branches of the tree from coming in contact with the Franchisee's wires and cables.

Emergency Alert and Availability of Parts and Personnel.

Emergency alert; standby power.

At all times a Franchisee shall provide and maintain an Emergency Alert System (EAS) consistent with Applicable Law and regulations including 47 CFR, Part 11, and any Kentucky Emergency Management requirements. The City may identify authorized

emergency officials for activating the EAS consistent with Kentucky Emergency Statewide Plan ("EAS Plan"). The City may also develop a local plan containing methods of EAS message distribution, subject to Applicable Law and the EAS Plan.

In addition to any other requirements listed in this Chapter, a Franchisee shall cooperate with the City on the use and operation of the emergency alert override system.

As one method of providing continuity of services in the event of a natural, manmade or disaster emergency, a Franchisee shall, unless exempted by the City, maintain equipment capable of providing automatic standby power for a minimum of two (2) hours, strategically placed in locations along the Cable System trunkline in order to minimize the number of Subscribers affected by interruption of Service.

Availability of parts and personnel.

Except in times of natural, manmade or disaster emergency, a Franchisee shall make a reasonable effort at all times to keep and maintain a sufficient and adequate inventory of maintenance and repair parts and equipment for the Cable System, so that the Franchisee can respond to, and correct, all Subscriber interruptions within the specified time periods.

Except in times of natural, manmade, or disaster emergency or strike (whose duration has been more than seventy-two (72) hours), a Franchisee shall make a reasonable effort to have sufficient maintenance and repair personnel so that the Franchisee can respond to, and correct, all Subscriber Service Interruptions within the specified time periods.

Billing Practices; Billing Credit; Disconnection for Nonpayment of Charges.

Billing practices.

Bills must be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

In case of a billing dispute, the Franchisee must respond to a written complaint from a Subscriber within thirty (30) days.

At all times Franchisee's billing practices shall comply with 47 C.F.R § 76.1619.

Billing credit. A Franchisee shall provide a Subscriber, upon request, with credit for a Service outage exceeding twenty-four (24) hours and for substandard signal, picture or sound quality exceeding twenty-four (24) hours.

Disconnection for nonpayment. A Subscriber shall not be considered disconnect for non-payment until at least thirty (30) days after the posting of the bill to the Subscriber and payment has not been received by the Franchisee.

Voluntary Disconnection.

At any time, a Subscriber may request that a particular service tier, service cluster, Pay Television, premium Channel, informational service or the entire Cable Service be discontinued.

From the date that such a Subscriber makes such a request, the Franchisee shall have up to five (5) business days to disconnect the service tier, service cluster, Pay Television, premium Channel, informational service or entire Cable Service. In the event that a Franchisee does not disconnect Service within five (5) business days, a Subscriber's obligation to pay for such Service shall cease.

Notwithstanding the above provisions, and in order to reduce Subscriber abuse of this voluntary disconnection policy, a Subscriber shall be charged a minimum of one (1) month's full rate for any one (1) service (basic, premium, informational, cluster or tier) which is disconnected at least three (3) times in a span of one hundred eighty (180) days.

Unless damage has occurred or Franchisee's equipment has not been returned, no excessive, unreasonable or punitive fee may be passed on to a Subscriber for the actual disconnection of a Channel or Service if the disconnection involves a single residence with fewer than five (5) outlets.

Any refund due a Subscriber after disconnection (both for nonpayment and voluntary) shall be made within sixty (60) days after such disconnection.

Protection of Subscriber Privacy.

Written permission from the Subscriber shall not be required for the conducting of system wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth above.

The Franchisee shall, at all times, comply with all applicable federal and state privacy law including Section 631 of the Cable Act and any regulations adopted pursuant thereto. The City shall have the right to enforce Franchisee's compliance with said privacy law to the maximum extent permitted under applicable laws.

Substandard Picture Quality.

The City recognizes that a cable Subscriber is a consumer. As such, there is no more important factor for the cable Subscriber in terms of enjoying the provision of video or other programming services offered by a Franchisee than the provision of good and acceptable picture and sound quality.

The City declares as one of its primary objectives to preserve, protect, and promote that all cable Subscribers within the City receive good and acceptable picture and sound quality.

At a minimum, the Franchisee must meet all FCC standards that relate to the reception of broadcast signals. Moreover, the Franchisee must provide sound and picture quality that does

not suffer from constant and/or recurring degradation or requires frequent (more than ten (10) times in one (1) year) adjusting or servicing by a Franchisee customer service technician or a Franchisee field service technician.

To prevent possible abuse, a Subscriber shall pay for all administrative and Franchisee costs associated with examining substandard picture and sound quality if it is administratively determined that the Subscriber's claim is unwarranted and without foundation.

The City reserves the right to develop and adopt comprehensive regulations on the technical aspects of signal quality should the FCC permit such.

Use and Return of Equipment; Security Deposits.

If needed for proper operation or requested by a customer, a Franchisee shall provide to a customer printed or electronic instructions on the proper use of the rented, loaned, leased or purchased equipment. A Franchisee may comply with this section (except in the case of sight- or hearing-impaired customers) by delivering the manufacturer's instructions to a customer.

A Franchisee is not required to seek a security deposit from a customer for the use or rental of a Franchisee's equipment.

When a security deposit is required from a customer by a Franchisee, the customer shall first receive a written statement from the Franchisee acknowledging that the equipment is in working order.

Continuity of Service.

The City declares that, as part of its right to establish cable customer service guidelines, it has the duty to ensure continuity of Cable Service for all Subscribers. In that light, the City also determines that it may take appropriate measures in order to ensure that no portion of the City is threatened or faced with a disruption, interruption or discontinuance of Cable Service due to the actions of any Franchisee.

In addition to the above principles and ideals, the City also expresses that its policy covers the following:

Providing for continuity of Cable Service in the event of acquisition by the City;

Providing for continuity of Cable Service in the event of a proposed abandonment, withdrawal or cessation of Cable Service by a Franchisee;

Providing for continuity of Cable Service in the event of the lawful revocation, termination or nonrenewal of a cable Franchisee;

Providing for continuity of Cable Service in the event of a transaction that affects the ownership of control of the Cable Operator or Franchisee;

Providing for continuity of Cable Service in the event of an expiration of a Franchise; and

Preventing disruption of Cable Service which would provide a hardship on those Subscribers who rely on Cable Service as their primary or secondary source for information.

Whenever any situation occurs (including those mentioned above) which threatens the City and Subscribers with loss or interruption in the continuity of Cable Service, then the City may direct the Franchisee and/or Cable Operator to do everything in its power to ensure that all Subscribers receive continuous, uninterrupted Cable Service.

During any interim period, the City shall work with the Franchisee in order to secure a new Cable System owner or rectify the problem, so that threat of loss of continuity is removed at the earliest possible time.

During any interim period in which the Franchisee continues to provide Cable Service to Subscribers, the Franchisee is entitled to all revenues collected, except for any sums owed (including Franchise Fees, Alternative User Charges and taxes) to the City or other Persons in accordance with Applicable Law.

Resolution of Complaints.

A Franchisee is required to develop a comprehensive complaint/inquiry resolution policy that is consistent with the policies outlined in these customer service practices.

A Franchisee's resolution policy shall be reduced to writing and such policy shall be available upon request to any Subscriber.

Date of Compliance.

Unless relief is granted by the City, or unless otherwise provided for in a Franchise Agreement, the Franchisee operating under a renewed Franchise shall have either one (1) year from the date that this Chapter becomes effective or nine (9) months from the date that a Franchise Agreement (initial or renewal) becomes effective.

All new Franchisees shall be required to comply from the date of execution of the Franchise Agreement.

Secs. 22-105--22-130. Reserved.

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

Sec. 22-131. Compliance Required.

The Franchisee shall not be relieved of its obligation to comply promptly with any of the provisions of the Franchise by any failure of the City to enforce prompt compliance.

SECTION 2. SEVERABILITY. That if any section, paragraph or provision of this Ordinance shall be found to be inoperative, ineffective or invalid for any cause, the deficiency or invalidity of such section, paragraph or provision shall not effect any other section, paragraph or provision hereof, it being the purpose and intent of this Ordinance to make each and every section, paragraph, and provision, hereof separable from all other sections, paragraphs and provisions.

SECTION 3. 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 4. EFFECTIVE DATE. This Ordinance shall be read on two separate days and become effective upon summary publication pursuant to KRS 424.

SECTION 5. REPEAL OF ORDINANCES. Upon the publication and on the effective date of this ordinance, the following Chapter of the Code of Ordinances of the City of Paducah, Kentucky shall be repealed in its entirety and superseded with this Ordinance: Chapter 22.

Brandi Harless, Mayor

ATTEST:

Lindsay Parish, City Clerk

Introduced by the Board of Commissioners, December 17, 2019

Adopted by the Board of Commissioners, _____

Recorded by City Clerk, _____

Published by *The Paducah Sun*, _____

\ord\ 22 - Cable Communications Repeal & Replace 2019

CHAPTER 22 CABLE COMMUNICATIONS

CITY OF PADUCAH, KENTUCKY

December 6, 2019

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ARTICLE I. IN GENERAL

Sec. 22-1. Title of Chapter.

This Chapter shall be known as “Chapter 22 Cable Communications of the City’s Code of Ordinances.”

Sec. 22-2. Definitions.

For the purpose of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number, and words in the plural number include the singular number. The word “shall” is always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory. Words not defined shall be given their common and ordinary meaning.

(a) *Access Channel.* A Public, Educational or Governmental Access Channel which is carried on a Cable System, but which is not part of any institutional network.

(b) *Affiliate* shall mean any Person controlling, controlled by or under common control of a Franchisee.

(c) *Annual Gross Revenues* or *Gross Revenues* means any and all revenue derived by the Franchisee from the operation of the Cable System in the Franchise Area to provide Cable Service. Cable Service revenue shall include, but is not limited to, revenues from Basic Cable Service, premium, pay-per-view, pay television, Franchise Fees, late fees, guides, home shopping revenue, Installation and reconnection fees, upgrade and downgrade fees, advertising revenue (excluding advertising sales commissions paid to unaffiliated third parties), and converter rental fees. Gross Revenue shall not include refundable deposits, actual bad debt write-offs, investment income nor any taxes, fees or assessments of general applicability imposed or assessed by any governmental authority (a Franchise Fee is not such a tax, fee or assessment). The City acknowledges and agrees that Franchisee will maintain its books and records in accordance with GAAP.

(d) *Applicable Law* means any and all local law, state or federal law, statute, charter, ordinance, regulation, code, franchise, permit, judgment or decree in accordance with state and federal law.

(e) *Authority.* The City of Paducah Board of Commissioners.

(f) *Basic Cable Service.* Any Service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the Franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7).

(g) *Board.* The Board of Commissioners for the City of Paducah, Kentucky.

(h) *Cable Operator.* Any Person or group of Persons, including a Franchisee, who:

(1) provides Cable Service over a Cable System and directly or through one (1) or more affiliates owns a significant interest in such Cable System; or

(2) otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

(i) *Cable Service or Service.* (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) other programming service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service. Cable Service as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(6) and § 522(14).

(j) *Cable System or System.* A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:

(1) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

(2) a facility that serves Subscribers without using any Street or Public Way;

(3) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) an open video system that complies with 47 U.S.C. § 573; or

(5) any facilities of any electric utility used solely for operating its electric utility systems.

(k) *Cable Television Channel or Channel.* A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television Channel (as “television Channel” is defined by FCC regulation).

(l) *City.* The City of Paducah, Kentucky, and all the territory within its presently existing or future territorial corporate limits. Where appropriate, the term “City” shall refer to it as a corporate entity and also include its officers, employees and duly authorized representatives.

(m) *City Manager.* The designated or acting City Manager of the City of Paducah, Kentucky.

(n) *Commonwealth.* The Commonwealth of Kentucky.

(o) *Converter.* Any electric or other device separate and apart from the Subscriber’s receiver that is capable of converting or changing signals to a frequency not intended to be

susceptible to interference within the television or video receiver of a Subscriber, and by an appropriate Channel or other type of selector may also permit a Subscriber to view or otherwise use signals delivered at designated dial locations, or such other reception and use allocations as may be applicable and required for the practical use of the signal.

(p) *Drop.* The cable that connects the ground block on the Subscriber's residence or institution to the nearest feeder cable of the System.

(q) *FCC or Federal Communications Commission.* The federal administrative agency, or lawful successor, authorized to oversee cable television regulation on a national level.

(r) *Franchisee.* All Persons, natural or corporate, or any other entity having any rights, powers, privileges, duties, liabilities or obligations under this Chapter and the Franchise Agreement, and also all Persons having or claiming any power or interest in or to the System, whether by reason of the Franchise itself or any subcontract, transfer assignment, mortgage, pledge, hypothecation, security agreement, management agreement or operating agreement, or otherwise arising or created.

(s) *Franchise or Franchise Agreement.* That separate agreement by which a Franchise is granted to the Franchisee as required by this Chapter. Franchise as defined herein shall not be inconsistent with 47 U.S.C. § 522(9).

(t) *Franchise Area or Service Area.* The entire geographic area within the City as it is now constituted or may in the future be constituted.

(u) *Franchise Fee.* Any tax, fee, or assessment of any kind imposed by the City or other governmental entity on Franchisee or Subscriber, or both, solely because of their status as such. It does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and Cable Operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against Cable Operators or cable Subscribers); capital costs which are required by the Franchise to be incurred by Franchisee for Public, Educational, or Governmental Access Facilities; requirements or charges incidental to the awarding or enforcing of the Franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or any fee imposed under Title 17 of the United States Code.

(v) *Normal Business Hours.* The term "Normal Business Hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours, at least one (1) night per week and/or weekend hours.

(w) *Normal Operating Conditions.* Those Service conditions which are within the control of Franchisee. Those conditions which are not within the control of Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

(x) *Ordinance or Chapter.* Chapter 22 Cable Communications of the City's Code of Ordinances.

(y) *Pay Television.* The delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or other programming services.

(z) *Person.* Any individual, corporation, business trust, estate trust, partnership, association of two (2) or more Persons having a joint common interest, governmental agency or other legal entity, including the City.

(aa) *PEG.* Public, Educational or Governmental.

(bb) *Public Way.* All public Streets and utility easements, as those terms are defined in the City Code, now or hereafter owned by the City, but only to the extent of the City's right, title, interest or authority to grant a license or franchise to occupy and use such Streets and easements for telecommunications facilities or Cable System.

(cc) *Service Day.* Any day or other twenty-four (24) hour period, other than a Sunday or a City-recognized holiday, in which employees of the Franchisee regularly respond to service requests and calls.

(dd) *Service Interruption.* The loss of picture or sound on one (1) or more Channels.

(ee) *Standard Installation.* Any residential or commercial installation which can be completed using a Drop of one hundred fifty (150) feet or less.

(ff) *Street.* The surface of and the space above and below any public Street, road, highway, freeway, lane, path, Public Way or place, sidewalk, alley, boulevard, parkway, drive, or other easement now or hereafter held by the City, and includes other easements or rights-of-way as may be now or hereafter held by the City for the purposes of installing poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other devices or property as may be necessary for the construction, operation, and maintenance of a wire telecommunications system or Cable System.

(gg) *Subscriber.* A Person lawfully receiving Service delivered over a Cable System by either a Cable Operator or Franchisee.

(hh) *Utility easement.* Any easement owned by the City and acquired, established, dedicated or devoted for public utility purposes not inconsistent with telecommunications facilities or Cable System.

(ii) *U.S.C.* United States Code.

(jj) *Video Programming.* Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

Sec. 22-3. Franchisee May be Required to Pay Associated Costs.

In addition to any other rights the City may have under this Chapter, the City specifically reserves the right to charge the Franchisee for any and all costs incidental to the awarding or enforcing of the Franchise as provided for in a Franchise Agreement in accordance with Applicable Law. Under no circumstances shall the costs exceed two thousand five hundred dollars (\$2,500).

Sec. 22-4. Fair Employment and Contracting.

(a) Equal opportunity in employment shall be afforded by each cable entity to all qualified Persons, and no Person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age or sex.

(b) A Franchisee shall exercise its reasonable best effort to use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, to supply referrals whenever jobs are available in its operation and to encourage minority and female entrepreneurs to conduct business with all parts of its operation.

(c) In addition to the provisions noted above, a Franchisee shall comply with all Commonwealth laws, FCC regulations, and 47 U.S.C. § 554 as they relate to equal employment and contracting opportunity within the cable industry.

Sec. 22-5. Construction of Chapter.

(a) This Chapter shall be construed in light of Applicable Laws and regulations governing cable practices in general and cable consumer practices in particular in accordance with Applicable Law.

(b) Wherever possible, this Chapter shall be construed with as much flexibility as possible so that the City might be able to accomplish its goals of protecting the health, safety, and welfare of the citizenry.

Sec. 22-6. Compliance with Federal, State and Local Laws.

If any federal or state law or regulation shall require or permit City or Franchisee to perform any service or act or shall prohibit City or Franchisee from performing any service or act which may be in conflict with the terms of this Ordinance, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Franchisee and City shall conform to state and federal laws and regulations and rules regarding cable communications as they become effective.

Sec. 22-7. Effect on New and Existing Franchisees.

(a) For Persons awarded a cable Franchise after the effective date, this Chapter shall have full effect and be enforceable in its entirety and for a Franchise existing on the date that this Chapter becomes effective, this Chapter shall have no effect during its present Franchise term.

(b) Notwithstanding the above provisions, a Franchisee may file a written petition, at any time, seeking relief from one (1) or more provisions of this Chapter. The relief requested may specifically include the delay in implementation (as to the petitioning Franchisee only) of one (1) or more provisions of this Chapter.

(c) In order to receive relief from one (1) or more provisions of this Chapter, a Franchisee must satisfactorily demonstrate to the City that one (1) of the following facts exist:

(1) The provision and/or requirement is expressly prohibited by Applicable Law; or

(2) The provision materially affects and is in conflict with an expressed right that is specifically noted in an existing Franchise Agreement; or

(3) That the imposition of such provisions and/or requirements is commercially impracticable or will create such an undue economic hardship on the Franchisee so as to imperil or eliminate the economic benefits of providing Cable Service to a majority of current Subscribers; or

(4) That the Franchisee has its own construction, maintenance, operation, customer service or equal employment opportunity (EEO) policy, practice or standard which is deemed comparable to or exceeding any provision and/or requirement from which the Franchisee seeks relief.

(d) The City shall have the responsibility of determining whether a Franchisee's construction, maintenance, operation, customer service or EEO policy, practice or standard is comparable to or exceeds a similar provision in this Chapter.

(e) In accordance with this Chapter, the City may charge the petitioning Franchisee with the incidental costs of processing an initial Franchise consistent with 47 U.S.C. § 542(2)(D).

Sec. 22-8. Delegation of Power.

Unless prohibited by the Commonwealth, the City and/or Board of Commissioners may delegate its powers and authorities (except its ultimate franchising authority) with respect to cable to the Authority, or a duly authorized representative of the City, including the Mayor and City Manager, provided, however, the City and/or Board of Commissioners shall not delegate its powers and authority with respect to matters concerning, Franchise renewal, non-compliance or revocation of the Franchise unless otherwise agreed to by City and Franchisee.

Sec. 22-9. City Ownership of Cable System.

In the event the City directly or indirectly through any legal means constructs, acquires, purchases, leases or otherwise owns or controls a Cable System, it shall, with the exception of those requirements pertaining to application for and obtaining a Franchise, be considered a Franchisee for purposes of this Chapter and shall be bound by and comply with all the requirements of this Chapter as if it were a Franchisee.

Sec. 22-10. Secs. 22-10--22-30. Reserved.

ARTICLE II. FRANCHISE PROVISIONS

Sec. 22-31. Franchise Required.

(a) *Necessity of Franchise.* Except as provided in subsections (b) and (c) of this section, to the maximum extent permitted under applicable law, no Person shall provide Cable Services nor operate or maintain a Cable System without having first obtained a Franchise, and then entering into a Franchise Agreement with the City.

(b) *Exception for City-owned or City-controlled Cable System.* Under judicial interpretations of the Kentucky Commonwealth Constitution, a municipality may own and operate a Cable System. Consequently, should the City, directly or indirectly, through any legal means available to the City, decide to purchase, acquire, construct, lease, control or otherwise own a Cable System within the territorial limits of the City, then the City shall comply with all Applicable Laws in order to construct, operate and maintain a Cable System within the territorial limits of the City.

(c) *Contravention of Franchise; costs of litigation.* The cost of any litigation incurred by the City to enforce this Chapter or the Franchise granted pursuant hereto, or any Franchise Agreement, or in relation thereto, or in relation to the cancellation or termination of a Franchise, shall be reimbursed to the City by the affected Franchisee if the City prevails in the litigation. In the event the Franchisee prevails, the cost of litigation incurred by the Franchisee shall be reimbursed to the Franchisee by the City. Such costs shall include, but not be limited to, filing fees, costs of depositions, discovery, and expert witnesses, all other expenses of suit, and a reasonable attorney's fee.

Sec. 22-32. Term; Termination and Cancellation.

(a) *Maximum term.* No Franchise granted hereunder, or any renewal thereof, shall be for a term of more than fifteen (15) years.

(b) *Term six years or less.* If an initial Franchise or renewal Franchise is for a period of six (6) years or less, then the Franchise Agreement shall explain the reasons for granting the shorter Franchise term.

(c) *Reasons for term six years or less.* The reasons for a shorter Franchise term may include, but are not limited to, the following:

- (1) Multiple or repeated documented material violations of the prior Franchise Agreement.
- (2) Multiple or repeated documented material violations of this Chapter.
- (3) Documented reckless disregard for the safety and welfare of the citizens of the City.
- (4) Failure to furnish any required annual reports.

(5) Failure to comply with a specific, previously agreed upon construction schedule.

(6) Failure to timely pay in their entirety any Franchise Fees or taxes or other charges due to the City.

(d) *Termination and cancellation of Franchise.* In addition to all other rights and powers of the City by virtue of the Franchise or this Chapter, the City may, subject to and in accordance with appropriate terms of this Chapter and a Franchise Agreement, federal, and state law, terminate and cancel the Franchise and all rights and privileges of the Franchisee thereunder in the event that the Franchisee either:

(1) Substantially violates any material provisions of the Franchise or this Chapter, or any legal rule, order or determination of the Board of Commissioners made pursuant thereto, where such violation shall remain uncured for a period of thirty (30) days subsequent to receipt by Franchisee of written notice of said violation, except where such violation is due to excusable neglect or outside the control of the Franchisee;

(2) Intentionally evades any of the provisions of this Chapter or the Franchise Agreement or practices any intentional fraud or deceit upon the City; or

(3) Becomes insolvent, files bankruptcy or abandons the Franchise or, subject to Section 22-72, fails to pay any applicable Franchise Fee when due.

Such determination and cancellation shall be made by ordinance of the Board of Commissioners duly adopted after twenty (20) days' notice to the Franchisee and shall in no way affect any of the City's rights under the Franchise or any provisions of law; provided, however, that, before the Franchise may be terminated and canceled under this section, the Franchisee shall be provided with an opportunity to be heard at a public hearing before the Board of Commissioners, upon thirty (30) days' prior written notice to the Franchisee of the time and place of the public hearing; provided further that the notice shall affirmatively and with specificity cite the reasons alleged to constitute a cause for revocation; and, provided further, that notice of the public hearing shall be published in a local newspaper of general circulation at least five (5) days before the hearing.

(e) *Performance evaluation provisions.*

(1) The City and Franchisee may hold scheduled performance evaluation sessions concerning the provision of Cable Services on the Cable System within thirty (30) days prior to the fifth (5th) and tenth (10th) anniversary dates of granting a Franchise or renewal of a Franchise. Franchisee shall fully cooperate with the City and shall provide, without cost and in a timely manner, such information and documents related to the operation of the Cable System as the City may reasonably request to perform the evaluation. All performance evaluation sessions shall be open to the public and will be announced by the City in a newspaper of general circulation at least five (5) days before each session.

(2) Special performance evaluation sessions may be held at any time during the term of the Franchise; provided that both the City and the Franchisee shall mutually agree on the time, the place and the topics to be negotiated.

Sec. 22-33. Selection of New Franchisee.

(a) *Request for proposal.* In selecting a new Franchisee (not applicable to a proposed transferee) pursuant to this Chapter, the City shall prepare a request for proposal to seek bids for a Cable System to be established under a Franchise by the City. This request for proposal shall contain, among other things, detailed information and instructions relating to the preparation and filing of proposals; technical standards regarding the installation, operation and maintenance of a Cable System; financial ability and stability to construct, operate, and maintain a Cable System; history of legal compliance with other types of Franchise Agreements and commitment to comply with the legal requirements of the City; and the criteria to be used in evaluation of applicant proposals.

(b) *Criteria for selection of Franchisee.* Applicants for a new Franchise shall be evaluated according to the following criteria:

(1) *Nonprofit ownership.* A preference shall be given to applicants for a Franchise representing nonprofit organizations.

(2) *Service priorities.* A preference shall be given to System capability in terms of no costs telecasting production facilities and Service available to municipal and educational institutions and community groups and individuals. Preference shall be given to System provisions for two-way nonvoice communications. Preference shall be given to the maximum total Channels provided by the System.

(3) *Installation plan.* A preference may be given to an installation plan that would provide flexibility needed to adjust to new developments, maintenance practices, and services that would be available to the Subscriber and the community immediately and in the future.

(4) *Financial soundness and capability.* The evidence of financial ability required in the applicant's proposal shall be such as to assure ability to complete the entire System within a minimum of two (2) years from the date the Franchisee receives an FCC certificate of compliance and to operate a fiscally sound System throughout the term of the Franchise.

(5) *Demonstrated experience in operating a Cable System under City Franchise.* Preference shall be given upon satisfactory evidence of the applicant's experience in operating a Cable System under a City Franchise, where such evidence would show or tend to show or confirm the ability of the applicant to furnish sufficient and dependable Service to the potential public and users.

(6) *Educational program.* A preference shall be given to a System which presents a program whereby the City's public schools may benefit, utilize and develop education programs for students and Subscribers.

(7) *Award of New Franchise; Hearing; Publication of Ordinances.* The Board of Commissioners may award a new Franchise to an applicant only after a public hearing on the application and proposal, notice of which hearing shall be published in a local newspaper of general circulation at least twenty (20) days before the date of the hearing. Any Franchise that is granted shall be authorized by an ordinance of the Board of Commissioners, which ordinance shall be thereafter published in the manner prescribed by law in a local newspaper of general circulation.

Sec. 22-34. Renewal of Franchise.

Any renewal of a Franchise shall be governed by and comply with the provisions of 47 U.S.C. § 546 of the Cable Act, as amended.

Sec. 22-35. Franchise Conditions.

(a) All Franchises granted pursuant to this Chapter shall be subject to, and shall expressly indicate that they are subject to, the following provisions:

(1) Any Franchise granted hereunder shall be subject to the right of the City, by appropriate action of its Board of Commissioners, to revoke the Franchise, after notice and opportunity to cure for cause shown pursuant to the provisions of this Chapter or the applicable law of the Commonwealth of Kentucky or the United States of America.

(2) Any Franchise granted hereunder shall be subject to all generally applicable provisions of City ordinances and any amendments thereto.

(3) Any Franchise granted hereunder shall be subject to the right of the City:

a. To repeal the same for failure to comply with the provisions of this Chapter, or any other local, state or federal laws, or Federal Communication Commission rules or regulations.

b. To require proper and adequate extensions of the plant and service and maintenance thereof at the highest practicable standard of efficiency as provided for in a Franchise Agreement.

c. To establish reasonable standards of service and quality of products, and to prevent unjust discrimination in service or rates.

d. To require continuous and uninterrupted Service to the public in accordance with the terms of the Franchise throughout the entire period thereof.

e. To control and regulate the use of its Street, alleys, bridges and public places and the space above and beneath them. The Franchisee may be required by the City to permit joint use of its property and appurtenances located in the Streets, alleys, and public places of the City by the City insofar as such joint use may be reasonably practicable and upon payment of reasonable rent therefore; provided that, in the absence of agreement, upon application by any Franchisee,

or the City, the dispute may be submitted and resolved as provided in Section 22-44(b).

f. Through its appropriately designated representatives, to inspect all construction work performed subject to the provisions of the Franchise and this Chapter, and make such other inspections as it shall find necessary to ensure compliance with the terms of the Franchise, this Chapter and other pertinent provisions of law.

g. At the expiration of the term for which the Franchise is granted, or upon the termination and cancellation as provided herein, to require the Franchisee to remove, within eighteen (18) months, at its own expense, the Cable System from the Public Ways within the City in accordance with Applicable Law.

h. To require a Franchisee to pay the cost of newspaper publication of a summary of this Chapter and any amendments thereto in accordance with generally applicable codes.

Sec. 22-36. Franchise Agreement.

(a) Every Franchisee shall enter into a Franchise Agreement with the City which details the rights, duties, responsibilities and liabilities of both parties, and which contains an acceptance on the part of the applicant or Franchisee to the terms of this Chapter and the Franchise Agreement. Moreover, a new Franchisee may not lay any cable until the Franchise Agreement is executed by both the new Franchisee and the City.

(b) In addition to those matters required elsewhere in this Chapter to be included in the Franchise Agreement, it must contain the following express representations of the Franchisee that:

(1) It accepts and agrees to all the provisions of this Chapter as to construction, technical standards, operation, and maintenance and rate structures, if permitted by law, which the City may include in the Franchise Agreement. In the case of a Franchise renewal, the Franchise Agreement may include exceptions to this Chapter.

(2) It has examined all the provisions of this Chapter.

(3) It recognizes the right of the City to make reasonable amendments to this Chapter, consistent with the City's police powers, during the term of the Franchise upon thirty (30) days' written notice to the Franchisee.

(4) It recognizes and agrees that it may be considered as a Franchisee for the purposes of this Chapter.

(5) It expressly recognizes and agrees that it has considered all the provisions of this Chapter in regard to resolution of disputes, and agrees to be bound by same throughout the term of the Franchise.

(c) No Franchise shall be exclusive and no Franchisee shall, through the grant of a Franchise, either written or verbal, be given an unfair competitive advantage over other franchised Cable Operators (including the City, to the extent required by Applicable Law) providing Cable Service in the City.

(d) Every Franchise Agreement shall specifically set forth the specific standards which the Franchisee must maintain in respect to signal quality requirements and technical standards of construction, operation, and maintenance of the System.

(e) The Franchise Agreement shall contain such further conditions or provisions as may be included in the request for proposal and/or negotiated between the City and the Franchisee. In the case of a conflict between any terms or provisions of the Franchise Agreement and this Chapter, the words of the Franchise shall be deemed to control.

(f) Any application filed for an initial Franchise shall become a part of the Franchise Agreement and any representations, promises, commitments or volunteered parameters and/or standards shall become binding upon the Franchisee and its heirs and assigns.

Sec. 22-37. Operational Standards.

(a) *State of the art; maintaining system to level of current technology.* If a Franchise authorizes, the City may require a Franchisee, during the term of its Franchise, to construct, maintain and operate a Cable System that is at a level that reflects the current technology utilized within the industry.

(b) *Construction standards and technical requirements.*

(1) Methods of construction, installation, maintenance and repair of any Cable System shall comply with the National Electrical Safety Code.

(2) It shall be the duty of a Franchisee to undertake a preventative maintenance of the Cable System in order to ensure that there is no material degradation of the Cable System that would affect the citizens' health, safety or welfare, or negatively affect the quality of the Cable Services being provided.

(3) All wires, conduits, cable, and other property and facilities of a Franchisee shall be so located, constructed, installed and maintained so as to not endanger or unnecessarily interfere with usual and customary use, traffic, and travel upon the Streets, rights-of-way, Easements, and Public Ways of the community.

(4) In the event a Franchisee's System creates a hazardous or unsafe condition, or an unreasonable interference with public property, then, at its own expense, the Franchisee shall, with a reasonable time, voluntarily, or upon the written request of the City, correct or remove that part of the System that creates the hazardous condition from the subject property.

(5) A Franchisee shall not place equipment where it will interfere with the rights of private property owners or with gas, electric or telephone fixtures, or with water

hydrants or mains, or with wastewater lift stations, or any other service or facility in the Public Ways that benefits the City's or its residents' health, safety or welfare.

(6) Subject to reasonable prior written notice, it shall be the responsibility of a Franchisee (acting alone or in conjunction with another Person) to locate and mark or otherwise visibly indicate and alert others to the location of underground cable (or its equivalent) and other utility lines before employees, agents or independent contractors of a Franchisee install cable in a marked-off area.

(7) A Franchisee shall, on the request of any Person holding a building moving permit, temporarily remove, raise or lower the cable to allow the moving of the building. The expense of temporary removal shall be borne by the Person requesting it, and the Franchisee may require advance payment. The Franchisee shall be given not less than ten (10) days' advance written notice in order to facilitate the temporary cable changes.

(8) A Franchisee, at either its own expense, or that of a private contractor, shall protect the Streets, rights-of-way and Easements, and support or temporarily disconnect, remove or relocate in the same Street or other Public Way any property of the Franchisee when necessitated by reason of: traffic conditions; public safety; a Street closing; Street construction or resurfacing; change or establishment of Street grade; installation of sewers, drains, water pipes, storm sewers, storm drains, lift stations, force mains, power or traffic signal lines; or any improvement, construction or repair related to the City's or its residents' health, safety, or welfare. If the City requests the relocation, removal or reinstallation of Franchisee's property in any of the Public Ways in the Franchise Area for the sole purpose of installing or providing Cable Services in competition with Franchisee, the cost of such relocation, removal or reinstallation shall not be borne by Franchisee but by the City.

(9) Prior to a Franchisee's commencing to attach wire, cable (coaxial, fiber or its functional equivalent) or other fixtures and appurtenances to poles or towers located within the City, it shall execute license agreements for pole attachments with the appropriate utility.

(10) The Franchisee shall not discriminate nor permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Service Area. It shall be the right of all Persons to continuously receive all available Service provided on the Cable System so long as such Person's financial or other obligations to the Franchisee are satisfied. Moreover, the City states that density, proximity and geography, and not economic status, should be the primary factors used to determine whether a Franchisee should provide Service to one (1) or more Persons within a part of a Franchisee's Franchise Area.

(11) A Franchisee shall create, maintain and provide to the City upon written request, on an annual basis, Cable System route maps. Complete and accurate System maps, which shall include, but not be limited to, detail of trunks, distribution lines, and nodes shall be available at Franchisee's office for the City's review.

(12) A Franchisee shall construct, operate, maintain, repair, remove, replace or restore the Cable System in strict compliance with all current generally applicable codes adopted by the City. The codes referred to specifically include, but are not limited to, construction, fire and safety codes.

(13) A Franchisee shall obtain, at its expense, all permits and licenses (including pole attachment agreements) required by law, rule, regulation or local law, and maintain the same in full force and effect for as long as required. Franchisee shall at all times comply with the City Code, as may be amended from time to time.

Sec. 22-38. Number of Channels.

The precise Channel capacity that a Franchisee must maintain during the term of the Franchise shall be detailed in the Franchise Agreement.

Sec. 22-39. Use of Channels.

(a) The City recognizes that pursuant to 47 U.S.C. § 531, the City has certain authority with respect to certain aspects for Public, Educational or Governmental Access Channel use.

(b) To the extent permitted by law, and in order to fulfill the City's desired goal of achieving a PEG Access Channel policy that will facilitate the long-range needs of the City, the Board of Commissioners adopts the following:

(1) At the time of an initial application or proposal, and unless otherwise provided in a Franchise Agreement or subsequent renewal Franchise Agreement, a Franchisee shall pledge to include the following:

a. A Franchisee shall provide, one (1) educational Access Channel that is available for providing non-commercial, educational programming.

b. A Franchisee shall provide, one (1) public Access Channel that is available for providing non-commercial public access, senior citizen, and library programming.

c. A Franchisee shall provide, one (1) governmental Access Channel that is available for providing noncommercial governmental programming.

(2) If at any time eighty percent (80%) of the total time allocated for a required PEG Access Channel is consistently used eight (8) hours per day, five (5) days a week for a period of three (3) consecutive months with non-character generated, non-repetitive programming, then, upon one hundred twenty (120) days written request, the Franchisee shall provide one (1) additional PEG Access Channel.

(3) All programming transmitted over PEG Access Channels shall be non-commercial in nature. Program material to be distributed on PEG Access Channels shall contain no advertising or commercial content for which consideration is received by City.

Franchisee and City agree that City or the producer or distributor of such programming may include acknowledgments for Persons which sponsor or underwrite access programming in a manner substantially similar to the sponsorship information provided on the Public Broadcasting System (PBS).

(c) Unless otherwise provided in a Franchise, a Franchisee shall provide:

(1) Both mobile, portable and stationary equipment to be used for Access Channel programming, together with the aid of technical and production assistance provided by the Franchisee;

(2) Equipment that can store programs for delayed cablecasting; and

(3) Technical production assistance required for PEG access use that may extend to, but not exceed, fifty (50) actual production man-hours per year.

(d) Unless otherwise specified in a Franchise, the City shall develop a plan for handling requests for use of PEG Access Channels, facilities or programming. Such a plan shall be nondiscriminatory in nature and should encourage joint or cooperative efforts on the part of potential users. However, the City recognizes that, while citizens enjoy considerable first amendment freedoms, these freedoms, nonetheless, must be weighed against the legitimate health, safety and welfare interests of all citizens in the Service Area. Consequently, when a request for access time is made by a culturally unpopular, politically controversial, or racially/ethnically/religiously intolerant organization, the City may require safeguards which minimize or lessen the possibility and probability that such espoused viewpoints will damage the community fabric. The City may declare the speech is culturally obscene in that it was or would be so morally devoid or culturally offensive that it either dramatically reduced the overall value of other services provided on the Cable System or posed a discernible risk of disrupting the spiritual, political or racial fabric of the community. However, the safeguards imposed may only be as much as is necessary to accomplish the City's objectives. The safeguards include restricting such programming to non-prime-time hours (before 7:00 p.m. and after midnight) and allowing the audio, but not video, of such programming to be provided over the PEG Access Channel. For purposes of this Chapter, a culturally unpopular, politically controversial, or racially/ethnically/religiously intolerant organization is one whose viewpoints or displays have no redeeming social, historical or artistic value, and undermine the community fabric.

Sec. 22-40. Public Service Installations.

Each Franchise granted by the City shall specify the Franchisee's commitment to public service installations and complimentary services.

Sec. 22-41. Right of City to Purchase System.

(a) *Purchase upon expiration of term.* Subject to Section 626 of the CCPA (47 U.S.C. § 546), other applicable law, and with the consent of Franchisee, upon expiration of the term of the Franchise, the City, at its selection, and upon payment to the Franchisee of a price equal to the fair market value of the System as a going concern and on the same terms and conditions as offered by other parties, including physical assets and intangibles, including good

will, in accordance with the accepted and usual industry practices (except the valuation of the Franchise privilege itself), shall be given the opportunity to purchase the System.

(b) *Purchase upon default.* Upon lawful termination of the Franchise rights as provided for by this section or by law occasioned by the substantial breach of provisions of the Franchise Agreement or this Chapter and with the consent of Franchisee, the City, at its selection and upon payment to the Franchisee of a price equal to the fair market value of the System as a going concern, including physical assets and intangibles, including good will, in accordance with accepted and usual industry practices (except that the valuation shall not include any valuation of the Franchise privilege itself), shall be given the opportunity to purchase the System. In the case of the City's purchase of the System and the circumstances, the Franchise shall transfer to the City possession and title to all facilities and property, real and personal, of the Cable System business, free from any and all liens and encumbrances. This provision, however, may be waived by the City at its option, in whole or in part.

Sec. 22-42. Transactions Affecting Ownership or Control of Franchise Facilities.

(a) In accordance with Applicable Law, to protect the interest of the City under any Franchise granted pursuant to this Chapter, the Franchisee shall not transfer, transfer control, or otherwise assign the Cable System or Franchise to a third party without adherence to the provisions of subsections (1) and (2) below:

(1) Without the express approval of the Board of Commissioners, which shall not be unreasonably withheld; and

(2) Without a written assent filed with the Board of Commissioners binding upon the Person in whom any right, power, privilege, duty, title, interest, claim or demand in or to the Franchise or the System is created or vested, to the effect that such right, power, privilege, duty, title, interest, claim or demand is and shall be held and exercised subject to all the terms and provisions of the Franchise, including this Chapter. The Board of Commissioners may require such written assent to be contained in any instrument or document creating or vesting such right, power, privilege, duty, title, interest, claim or demand. Provided, however, that this subsection (a)(2) shall not apply to the disposition of worn-out or obsolete facilities or personal property in the normal course of carrying out the Cable System business.

(b) Prior approval of the Board of Commissioners shall be required for any sale, transfer, exchange or assignment of stock in Franchisee, or Franchisee's parent corporation or any other entity having a controlling interest in Franchisee, so as to create a new controlling interest therein, shall be subject to the requirements of this Section 22-42. The term "controlling interest" as used herein is an acquisition of 51% or greater ownership interest in the Franchisee, but includes actual working control in whatever manner exercised.

(c) No Franchise may be transferred unless such transfer is approved by the Board of Commissioners, by ordinance, after public hearing, such approval not to be unreasonably withheld. No such approval shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Franchisee in a Franchise or

the Cable System in order to secure indebtedness, or (ii) an internal transfer to an entity directly or indirectly owned or controlled by the parent corporation of Franchisee. The City shall process all requests in accordance with applicable FCC regulations and other Applicable Laws.

(d) By its acceptance of a Franchise, the Franchisee specifically concedes and agrees that any acquisitions or transfers set forth in subsections (b) and (c) above, without prior approval of the Board as may be required, shall constitute a violation of the Franchise and this Chapter by the Franchisee.

Sec. 22-43. Receivership; Foreclosure.

(a) Any Franchise shall, at the option of the Board of Commissioners, cease and terminate one hundred twenty (120) days after the appointment of a receiver or receivers or trustee or trustees to take over and conduct the business of the Franchisee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trustee shall have been vacated prior to the expiration of the one hundred twenty (120) days or unless:

(1) The receivers or trustees shall have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Chapter and the Franchise, and the receivers or trustees within the one hundred twenty (120) days shall have remedied all defaults, if any, under the Franchise; and

(2) The receivers or trustees shall, within the one hundred twenty (120) days, execute an agreement duly approved by the court having jurisdiction in the premises whereby the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of a Franchise.

(b) In the case of a foreclosure or other judicial sale of the plant, property, and equipment of the Franchise, or any part thereof, including or excluding the Franchise, the Board of Commissioners or its designee may serve written notice of termination upon the Franchisee and the successful bidder at such sale, in which event the Franchise and all rights and privileges of Franchisee hereunder shall cease and terminate thirty (30) days after service of such notice, unless:

(1) The Board of Commissioners shall have approved the transfer of the Franchise as and in the manner in this Chapter provided; and

(2) Unless the successful bidder shall have covenanted and agreed with the City to assume and be bound by all the terms and conditions of the Franchise.

Sec. 22-44. City's Right of Intervention; Resolution of Disputes.

(a) *City's right of intervention.* The Franchisee shall not oppose intervention by the City, at the City's expense, in any suit or proceeding to which the Franchisee is a party.

(b) *Resolution of disputes.*

(1) *Intent.* It is the intent of the City to provide for the orderly resolution of any controversy or dispute between the Franchisee and the City arising out of the enforcement or interpretation of any provision of this Chapter, the Franchise Agreement, or any rule, regulation or procedure relating to cable communication matters. Unless otherwise provided for in a Franchise Agreement, negotiation between the parties and fact finding shall be the means of resolving the great majority of such controversies or disputes. Neither fact finding nor mediation, however, shall be the first resort of the parties, but shall be undertaken only after a reasonable time has been taken to reach agreement by negotiation between the parties.

(2) *Fact finding.* Any material controversy or dispute, upon the election of both the City and the Franchisee, may be submitted to an expert individual acceptable to both parties for an investigation of the facts and a report thereof. Such fact finding shall be for the purpose of developing better information for the use of both parties and shall not be binding on either party. All reasonable fees and other expenses resulting from such fact finding shall be equally borne by both the City and the Franchisee.

(3) *Mediation.* Any material controversy or dispute, upon the election of either the City or the Franchisee, may be submitted to an expert individual acceptable to both the Franchisee and the City for the purpose of facilitating discussion and receiving new perspectives on the issues and new proposals for compromise. Such mediation shall not be binding on either party. All reasonable fees or expenses resulting from such mediation shall be equally borne by both the City and the Franchisee.

(4) *Fees and expenses.* The reasonable fees of single experts as provided for above shall be jointly borne by the Franchisee and the City. In no event shall the City be obligated for more than one-half of the expenses.

Sec. 22-45. Submission of Reports and Data.

(a) *Filings and communications with regulatory agencies.* At any time the FCC or another federal or state agency requires or requests the submission of reports, data or other information by a Franchisee, then such Franchisee shall, upon reasonable written request, submit those reports, data or other information to the City. However, unless specifically authorized by state or federal statute, a Franchisee shall not be required to submit state or federal tax returns.

(b) *Reports.* City shall have access to, and the right to inspect, during normal business hours, books and records of Franchisee related to the operation of the Cable System, necessary to ensure compliance with the terms of this Ordinance and a Franchise held by a Franchisee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Franchisee may request, in writing within ten (10) business days, that City inspect them at Franchisee's local area office. If any books or records of Franchisee are not kept in a local office or if unavailable electronically, Franchisee will provide or otherwise make such documents available for inspection and review at the local office within ten (10) business days.

(1) Upon request, Franchisee shall provide City with a sample Cable Services bill, on a monthly basis. Cable Services bills associated with complimentary services accounts may satisfy this requirement.

(2) Franchisee shall at all times maintain and allow City, with reasonable notice (minimum two (2) working days and maximum five (5) working days), access and the right to review a full and complete set of digital plans, records and maps compatible with ESRI Shape Files showing the approximate location of all Cable System equipment installed or in use in the City, exclusive of electronics, Subscriber drops and equipment provided in Subscribers' homes. These maps shall be maintained in the format described herein and provided to the City upon request as set forth above, but not more frequently than twice annually, for the City's use only.

(3) The ability for City to obtain records and information from Franchisee is critical to the administration of this Ordinance and the Franchise. Therefore, Franchisee's failure to comply with the requirements of this Section may result in enforcement by City as permitted herein and under Applicable Laws.

Sec. 22-46. Insurance; Bonds; Indemnification.

(a) *Liability and indemnification of City.* The Franchisee shall indemnify and hold harmless the City at all times during the term of the Franchise and specifically agree that it will pay all damages and penalties which the City may be legally required to pay as a result of the Franchisee's actions or omissions as it relates to the construction, operation and maintenance of the Cable System. Such damages and penalty shall include, but not be limited to, damages arising out of copyright infringements, and other damages arising out of the installation, operation or maintenance of the Cable System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by the Franchise. In the case suit shall be filed against the City, either independently or jointly with the Franchisee, to recover for any claim or damages, the Franchisee, upon written notice to it by the City, shall defend the City against the action and, in the event of a final judgment being obtained against the City, either independently or jointly with the Franchisee, solely by reason of the acts of the Franchisee, the Franchisee will pay the judgment and all costs and hold the City harmless therefrom. This provision is intended to address lawsuits brought by third parties related to the actions of the Franchisee and the City and not lawsuits independently brought by the City against Franchisee or independently brought by the Franchisee against the City.

(b) *Performance bond.* Upon the effective date of the Franchise Agreement requiring System construction, the Franchisee 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 the initial sum of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00). Upon completion of any System construction/upgrade the bond shall be reduced to Twenty-five Thousand and No/100 Dollars (\$25,000.00). The bond shall be conditioned that the Franchisee shall well and truly observe, fulfill and perform each and every term and condition of this Chapter 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 Franchisee to well and truly observe and perform any

provisions of this Chapter or the Franchise Agreement. The aforesaid bond shall be maintained by the Franchisee throughout the term of the Franchise and written evidence of the payment of the required payments shall be filed and maintained both with the office of the City Manager and the Authority.

(c) *Insurance.*

(1) The Franchisee shall be required to maintain insurance in such forms and in such companies as shall be approved by the City, such approval not to be unreasonably withheld, to protect the City and the Franchisee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any aspect of the system. The amount of such insurance shall not be less than the following:

a. General liability insurance:

1. Bodily injury per Person: \$3,000,000.00.
2. Bodily injury per occurrence: \$5,000,000.00.
3. Property damage per occurrence: \$1,000,000.00.
4. Property damage aggregate: \$1,000,000.00.

b. Automobile insurance:

1. Bodily injury per Person: \$1,000,000.00.
2. Bodily injury per occurrence: \$3,000,000.00.
3. Property damage per occurrence: \$1,000,000.00.

(2) Workmen's compensation insurance shall also be provided as required by the laws of the Commonwealth of Kentucky. All said insurance shall name the City as an additional insured and shall provide a ten (10) day notice to the City Clerk in the event of material alteration or cancellation of any coverage afforded in the policies prior to the date the material alteration or cancellation shall become effective. Copies of all policies required hereunder shall be furnished to and filed with the City Clerk and the Authority prior to the commencement of operations or the expiration of prior policies, as the case may be.

(d) *Nonwaiver.* Neither the provisions of this section nor any bonds accepted by the City pursuant hereto, nor any damage recovered by the City hereunder, shall be construed to excuse unfaithful performance by the Franchisee or limit the liability of the Franchisee under this Chapter or the Franchise for damages either to the full amount of the bond or otherwise.

Sec. 22-47. Secs. 22-47--22-70. Reserved.

ARTICLE III. RATES AND CHARGES

Sec. 22-71. Rates, Charges and Refunds.

(a) *Rates subject to local regulation.* City may regulate rates for the provision of Cable Service, equipment, or any other communications service provided over the System in accordance with applicable federal law, in particular 47 C.F.R. Part 76 subpart N. In the event the City chooses to regulate rates it shall, in accordance with 47 C.F.R. § 76.910, obtain certification from the FCC, if applicable. The City shall follow all applicable FCC rate regulations and shall ensure that appropriate personnel are in place to administer such regulations. City reserves the right to regulate rates for any future Services to the extent permitted by Applicable Law.

(b) *Rate changes; discrimination.* In accordance with applicable law:

(1) Access to Cable Service shall not be denied to any group of potential residential Subscribers because of the income of the residents of the local area in which such group resides. However, nothing herein shall prohibit a Franchisee from denying Service based on location of a residence if that residence is outside either the defined Service Area or line extension criteria specified in a Franchise.

(2) Equal opportunity in employment shall be afforded by a Franchisee to all qualified Persons and no Person shall be discriminated against in employment by a Franchisee because of race, color, religion, national origin, age or sex.

(3) A Franchisee shall not, as to rates and charges or use of a Franchisee's facilities or equipment, allow or grant any undue preference or advantage on the basis of race, color, religion, national origin, age, sex or location of residence. Nothing herein shall prohibit a Franchisee from offering a promotional or incentive discount rate or charge or from offering customized bulk billing arrangements.

Sec. 22-72. Franchise Fees.

(a) The Franchisee shall pay to the City a Franchise Fee equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Franchisee shall not be compelled to pay any higher percentage of Franchise Fee than any other video service provider providing Service in the Franchise Area. The payment of Franchise Fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. Each Franchise Fee payment shall be accompanied by a report prepared by a representative of the Franchisee showing the basis for computation of the Franchise Fees paid during that period.

(b) Upon reasonable notice, the City shall have the right during Normal Business Hours to inspect the Franchisee's records relevant to the payment of Franchise Fees and the right to audit and to re-compute any amounts determined to be payable under a Franchise Agreement, this Ordinance and Applicable Laws. The audit period may not extend back beyond the maximum time period permitted under the applicable state statute of limitation for contracts (KRS 413.120) under the laws of the State of Kentucky. If, as a result of such audit, the City

determines that the Franchisee has underpaid its fees to the City six percent (6%) or more, then: 1) the undisputed amount will be due to the City within thirty (30) days following written notice to Franchisee by the City, which notice shall include a copy of the audit report; and 2) in addition to making full payment of the relevant obligation, the Franchisee shall reimburse the City for all of the reasonable costs associated with the audit or review, including costs for attorneys, accountants and other consultants. Any additional undisputed amount due to the City as a result of an audit shall be paid within thirty (30) days following written notice to Franchisee by the City.

(c) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles (“GAAP”) as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Notwithstanding the forgoing, the City reserves its right to challenge Franchisee’s calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

(d) Nothing in this Ordinance shall in any way be construed to prohibit the City from collecting any fees, taxes or assessments as may be permitted by Applicable Laws, including Kentucky Revised Statutes and City hereby reserves any and all rights in accordance with Applicable Laws.

Sec. 22-73. Secs. 22-73--22-90. Reserved.

ARTICLE IV. CUSTOMER PROTECTION AND SERVICE STANDARDS

Sec. 22-91. Notice of Rights and Responsibilities.

(a) *General policy.*

(1) The City recognizes that it is critical that a customer fully understands and realizes the rights and responsibilities of both the customer and Franchisee with respect to the provisions, maintenance and repair of Cable Service.

(2) Further, the City believes that, if sufficient information is provided to a customer on certain customer service practices, such as rates, billing periods, and number and types of service provided, then that customer will have the information necessary to make an informed decision on what, if any, Cable Services to subscribe to and receive.

(3) In order to provide customers with the variety of information needed to make an informed decision, and to ensure that customers are notified of their and the Franchisee’s rights and responsibilities with respect to the Cable System, a Franchisee must provide a customer with a written notice of a customer’s and Franchisee’s rights and responsibilities with respect to the provision of Cable Service.

(b) *Notifications to Subscribers.* Franchisee shall provide printed or electronically available information on each of the following areas at the time of installation of Cable Service, at least annually to all Subscribers, and at any time upon request:

- (1) Products and Services offered;
- (2) Prices and options for programming Services and conditions of subscription to programming and other Services;
- (3) Installation and Service maintenance policies;
- (4) Instructions on how to use the Cable Service;
- (5) Channel positions of the programming carried on the System; and
- (6) Billing and complaint procedures, including the address and telephone number of the City.

(c) Subscribers will be notified of any changes in rates, programming services or Channel positions as soon as possible in writing or electronically. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the changes are within the control of the Franchisee. In addition, the Franchisee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by this Section 22-91. Franchisee shall not be required to provide prior notice of any rate changes as a result of a regulatory fee, Franchise Fee, or other fees, tax, assessment or charge of any kind imposed by any federal agency, state or City on the transaction between the operator and the Subscriber. New Channels and services may be offered with less than the required notice so long as there is no additional charge or the Channel or service is sold on a subscription basis.

(d) All programming decisions remain the discretion of Franchisee in accordance with the Franchise, provided that Franchisee notifies City and Subscribers in writing thirty (30) days prior to any Channel deletions or realignments directed to each Subscriber individually by any reasonable means available to and at the discretion of the Franchisee consistent with applicable law, and further subject to Franchisee's signal carriage obligations hereunder and pursuant to 47 U.S.C. § 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.

Sec. 22-92. Customer Service Office and Telephones.

(a) Unless otherwise provided for in a Franchise Agreement, Franchisee shall maintain a convenient local customer service and bill payment location in the City for receiving Subscriber payments, handling billing questions, equipment replacement and customer service information. The Franchisee shall comply with the standards and requirements for customer service set forth below and shall comply with all applicable regulations relating to customer service obligations, including any amendments to 47 C.F.R. § 76.309 during the term of the Franchise, that impose higher or additional customer service standards on a Cable Operator.

(b) Cable System office hours and telephone availability:

(1) Franchisee will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.

a. Trained Franchisee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.

b. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Franchisee representative on the next business day.

(2) Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.

(3) Franchisee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(4) Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.

(5) Customer service center and bill payment locations will be open at least during Normal Business Hours.

(c) Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:

(1) Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred fifty (150) feet from the existing distribution cable.

(2) Excluding conditions beyond the control of Franchisee, Franchisee will begin working on "Service Interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Franchisee must begin actions to correct other Service problems the next business day after notification of the Service problem. Franchisee shall resolve all Service Interruptions within forty-eight (48) hours under Normal Operating Conditions.

(3) The "appointment window" alternatives for Standard Installations, Service calls, and other installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (Franchisee may schedule Service calls and other installation activities outside of Normal Business Hours for the express convenience of the customer.)

(4) Franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(5) If Franchisee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted prior to the time of the scheduled appointment. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(6) Under Normal Operating Conditions, if Franchisee cannot perform installations within the times specified in applicable customer standards, the Subscriber shall, upon request, receive a credit equal to the charge for a Standard Installation. For any installation that is not a free installation or a Standard Installation, Franchisee shall provide the Subscriber with a written estimate of all charges within seven (7) days of a request by the Subscriber. Failure to comply will subject Franchisee to appropriate enforcement actions. This section does not apply to the introduction of new products and services when Franchisee is utilizing a phased introduction.

Sec. 22-93. Special Requirements for the Disabled.

(a) In addition to any other requirements mandated by this Chapter, or by federal or Commonwealth law, a Franchisee shall comply with the following special service requirements for blind, hearing-impaired or wheelchair customers:

(1) Provide wheelchair accessibility to a Franchisee's customer service office.

(2) For any customer declared legally blind by the Commonwealth, a Franchisee must provide at a non-discriminatory cost, if requested by the customer, large-type, braille, voice-synthesized or functionally equivalent notices, bills and other pertinent information.

(3) Provide, upon request, either: 1) assistance with identifying a consumer electronics source; or 2) at a reasonable, non-discriminatory cost, a device sufficient to enable closed-captioning services for a hearing-impaired Subscriber.

(4) Provide, at a nondiscriminatory cost, a remote-control device and/or Converter for wheelchair Subscribers or Subscribers with a permanent medical or physical ambulatory impairment.

(5) Where applicable, provide modified or special instructions for use of equipment by Subscribers who have physical impairments.

Sec. 22-94. Reserved.

Sec. 22-95. Restoration of Subscribers' Property.

(a) At any time a Franchisee disturbs the yard, residence, or other real or personal property of a Subscriber, the Franchisee shall ensure that the Subscriber's yard, residence, or other real or personal property is returned, replaced and/or restored to a condition that is

comparable to its condition immediately before the disturbance to the extent such corrective action cannot be accomplished. The Franchisee shall reimburse a Subscriber, or private property owner, for any damage caused by the Franchisee, subcontractor or independent contractor in connection with the disturbance of a Subscriber's or private property owner's property if Franchisee fails to perform the restoration work required herein.

(b) The types of acts specifically included in this section are the following:

(1) Removal of a Subscriber's sod, lawn, plants, shrubbery, flowers, trees, driveway or fence to install a trench or repair, replace, remove or locate cable or other equipment of the Franchisee.

(2) Installation or removal of a cable or other equipment of the operator within a Subscriber's residence, or around a Subscriber's swimming pool or tennis court, or which requires drilling, excavating, plastering or the like on the part of the Franchisee.

(3) Temporarily relocating or moving a piece of personal property of a Subscriber (such as a motor vehicle, fence, garden hose or the like) in order to perform some sort of construction or maintenance on the Cable System.

(4) Permanently removing a Franchisee's cable or equipment due to either the revocation, termination or nonrenewal of a Franchise or the abandonment, withdrawal or cessation of Cable Service to any portion of the City.

(c) The requirements for the Franchisee extend to any contractor that the Franchisee might employ to perform the tasks outlined.

(d) In light of the foregoing, a Franchisee has the authority to trim trees of a private property owner (including a Subscriber) only to the extent necessary to prevent the branches of the tree from coming in contact with the Franchisee's wires and cables.

Sec. 22-96. Emergency Alert and Availability of Parts and Personnel.

(a) *Emergency alert; standby power.*

(1) At all times a Franchisee shall provide and maintain an Emergency Alert System (EAS) consistent with Applicable Law and regulations including 47 CFR, Part 11, and any Kentucky Emergency Management requirements. The City may identify authorized emergency officials for activating the EAS consistent with Kentucky Emergency Statewide Plan ("EAS Plan"). The City may also develop a local plan containing methods of EAS message distribution, subject to Applicable Law and the EAS Plan.

(2) In addition to any other requirements listed in this Chapter, a Franchisee shall cooperate with the City on the use and operation of the emergency alert override system.

(3) As one method of providing continuity of services in the event of a natural, manmade or disaster emergency, a Franchisee shall, unless exempted by the City, maintain equipment capable of providing automatic standby power for a minimum of two (2) hours, strategically placed in locations along the Cable System trunkline in order to minimize the number of Subscribers affected by interruption of Service.

(b) *Availability of parts and personnel.*

(1) Except in times of natural, manmade or disaster emergency, a Franchisee shall make a reasonable effort at all times to keep and maintain a sufficient and adequate inventory of maintenance and repair parts and equipment for the Cable System, so that the Franchisee can respond to, and correct, all Subscriber interruptions within the specified time periods.

(2) Except in times of natural, manmade, or disaster emergency or strike (whose duration has been more than seventy-two (72) hours), a Franchisee shall make a reasonable effort to have sufficient maintenance and repair personnel so that the Franchisee can respond to, and correct, all Subscriber Service Interruptions within the specified time periods.

Sec. 22-97. Billing Practices; Billing Credit; Disconnection for Nonpayment of Charges.

(a) *Billing practices.*

(1) Bills must be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(2) In case of a billing dispute, the Franchisee must respond to a written complaint from a Subscriber within thirty (30) days.

(3) At all times Franchisee's billing practices shall comply with 47 C.F.R § 76.1619.

(b) *Billing credit.* A Franchisee shall provide a Subscriber, upon request, with credit for a Service outage exceeding twenty-four (24) hours and for substandard signal, picture or sound quality exceeding twenty-four (24) hours.

(c) *Disconnection for nonpayment.* A Subscriber shall not be considered disconnect for non-payment until at least thirty (30) days after the posting of the bill to the Subscriber and payment has not been received by the Franchisee.

Sec. 22-98. Voluntary Disconnection.

(a) At any time, a Subscriber may request that a particular service tier, service cluster, Pay Television, premium Channel, informational service or the entire Cable Service be discontinued.

(b) From the date that such a Subscriber makes such a request, the Franchisee shall have up to five (5) business days to disconnect the service tier, service cluster, Pay Television, premium Channel, informational service or entire Cable Service. In the event that a Franchisee does not disconnect Service within five (5) business days, a Subscriber's obligation to pay for such Service shall cease.

(c) Notwithstanding the above provisions, and in order to reduce Subscriber abuse of this voluntary disconnection policy, a Subscriber shall be charged a minimum of one (1) month's full rate for any one (1) service (basic, premium, informational, cluster or tier) which is disconnected at least three (3) times in a span of one hundred eighty (180) days.

(d) Unless damage has occurred or Franchisee's equipment has not been returned, no excessive, unreasonable or punitive fee may be passed on to a Subscriber for the actual disconnection of a Channel or Service if the disconnection involves a single residence with fewer than five (5) outlets.

(e) Any refund due a Subscriber after disconnection (both for nonpayment and voluntary) shall be made within sixty (60) days after such disconnection.

Sec. 22-99. Protection of Subscriber Privacy.

(a) Written permission from the Subscriber shall not be required for the conducting of system wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth above.

(b) The Franchisee shall, at all times, comply with all applicable federal and state privacy law including Section 631 of the Cable Act and any regulations adopted pursuant thereto. The City shall have the right to enforce Franchisee's compliance with said privacy law to the maximum extent permitted under applicable laws.

Sec. 22-100. Substandard Picture Quality.

(a) The City recognizes that a cable Subscriber is a consumer. As such, there is no more important factor for the cable Subscriber in terms of enjoying the provision of video or other programming services offered by a Franchisee than the provision of good and acceptable picture and sound quality.

(b) The City declares as one of its primary objectives to preserve, protect, and promote that all cable Subscribers within the City receive good and acceptable picture and sound quality.

(c) At a minimum, the Franchisee must meet all FCC standards that relate to the reception of broadcast signals. Moreover, the Franchisee must provide sound and picture quality that does not suffer from constant and/or recurring degradation or requires frequent (more than ten (10) times in one (1) year) adjusting or servicing by a Franchisee customer service technician or a Franchisee field service technician.

(d) To prevent possible abuse, a Subscriber shall pay for all administrative and Franchisee costs associated with examining substandard picture and sound quality if it is administratively determined that the Subscriber's claim is unwarranted and without foundation.

(e) The City reserves the right to develop and adopt comprehensive regulations on the technical aspects of signal quality should the FCC permit such.

Sec. 22-101. Use and Return of Equipment; Security Deposits.

(a) If needed for proper operation or requested by a customer, a Franchisee shall provide to a customer printed or electronic instructions on the proper use of the rented, loaned, leased or purchased equipment. A Franchisee may comply with this section (except in the case of sight- or hearing-impaired customers) by delivering the manufacturer's instructions to a customer.

(b) A Franchisee is not required to seek a security deposit from a customer for the use or rental of a Franchisee's equipment.

(c) When a security deposit is required from a customer by a Franchisee, the customer shall first receive a written statement from the Franchisee acknowledging that the equipment is in working order.

Sec. 22-102. Continuity of Service.

(a) The City declares that, as part of its right to establish cable customer service guidelines, it has the duty to ensure continuity of Cable Service for all Subscribers. In that light, the City also determines that it may take appropriate measures in order to ensure that no portion of the City is threatened or faced with a disruption, interruption or discontinuance of Cable Service due to the actions of any Franchisee.

(b) In addition to the above principles and ideals, the City also expresses that its policy covers the following:

(1) Providing for continuity of Cable Service in the event of acquisition by the City;

(2) Providing for continuity of Cable Service in the event of a proposed abandonment, withdrawal or cessation of Cable Service by a Franchisee;

(3) Providing for continuity of Cable Service in the event of the lawful revocation, termination or nonrenewal of a cable Franchisee;

(4) Providing for continuity of Cable Service in the event of a transaction that affects the ownership of control of the Cable Operator or Franchisee;

(5) Providing for continuity of Cable Service in the event of an expiration of a Franchise; and

(6) Preventing disruption of Cable Service which would provide a hardship on those Subscribers who rely on Cable Service as their primary or secondary source for information.

(c) Whenever any situation occurs (including those mentioned above) which threatens the City and Subscribers with loss or interruption in the continuity of Cable Service, then the City may direct the Franchisee and/or Cable Operator to do everything in its power to ensure that all Subscribers receive continuous, uninterrupted Cable Service.

(d) During any interim period, the City shall work with the Franchisee in order to secure a new Cable System owner or rectify the problem, so that threat of loss of continuity is removed at the earliest possible time.

(e) During any interim period in which the Franchisee continues to provide Cable Service to Subscribers, the Franchisee is entitled to all revenues collected, except for any sums owed (including Franchise Fees, Alternative User Charges and taxes) to the City or other Persons in accordance with Applicable Law.

Sec. 22-103. Resolution of Complaints.

(a) A Franchisee is required to develop a comprehensive complaint/inquiry resolution policy that is consistent with the policies outlined in these customer service practices.

(b) A Franchisee's resolution policy shall be reduced to writing and such policy shall be available upon request to any Subscriber.

Sec. 22-104. Date of Compliance.

(a) Unless relief is granted by the City, or unless otherwise provided for in a Franchise Agreement, the Franchisee operating under a renewed Franchise shall have either one (1) year from the date that this Chapter becomes effective or nine (9) months from the date that a Franchise Agreement (initial or renewal) becomes effective.

(b) All new Franchisees shall be required to comply from the date of execution of the Franchise Agreement.

Sec. 22-105. Secs. 22-105--22-130. Reserved.

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

Sec. 22-131. Compliance Required.

The Franchisee shall not be relieved of its obligation to comply promptly with any of the provisions of the Franchise by any failure of the City to enforce prompt compliance.

SUMMARY OF AMENDED CHAPTER 22 - CABLE COMMUNICATIONS

City of Paducah, Kentucky

Section	Description
"Applicable Law" definition	Applicable Law is new defined term and includes any and all local law, state or federal law, statute, charter, ordinance, regulation, code, franchise, permit, judgment or decree in accordance with state and federal law. Edits throughout Chapter 22 have been revised to reflect the "applicable law" definition.
"Gross Revenues" definition	A stronger, more detailed "gross revenues" definition has been included to ensure maximum franchise fee payments to the City regarding cable service.
Complimentary Services	The language in this section has been revised and requires each franchise granted by the City to specify complimentary services. This change was necessitated by recent action of the Federal Communications Commission.
Reports	The report section has been revised to allow: 1) the City to review a franchisee's books and records necessary to insure compliance with the terms of a franchise agreement; 2) the City the right to request and review maps; and 3) enforcement by the City if a franchisee does not comply with this section.
Franchise Fees	Revisions were made to the franchise fee section to reflect a 5% franchise fee paid to the City quarterly, 45 days after the close of each calendar quarter. Revisions were also made to reflect the City's right to inspect the franchisee's records and to audit any amounts due under the franchise, the ordinance and applicable law as well as language regarding resolution of any disputes regarding audit results.
Emergency Alert	The emergency alert section has been revised to comply with changes in technology and

	applicable law, including federal regulations and any Kentucky Emergency Management requirements.
Paducah Cable Communications Authority	This section has been deleted in its entirety as this entity no longer meets.

Agenda Action Form

Paducah City Commission

Meeting Date: January 14, 2020

Short Title: City of Paducah Special Event Cost Recovery Program - **M THOMPSON**

Category: Municipal Order

Staff Work By: Mark Thompson

Presentation By: Mark Thompson

Background Information:

Over the years the City of Paducah has encouraged and supported all special events, runs, parades, street closures, and other events that fall under the General Assemblies and Parade permit process in the Code of Ordinances (Section 98 Article VI & VII). As budgets grow tighter, material and staffing resources are at very tight margins. Beginning in the summer of 2018, City staff took on the challenge to find solutions, forming subcommittees working as a part of the extended budget process. The goal of these subcommittees: 1) Find opportunities for cost savings; 2) Better utilize resources in providing the best services within our budget; 3) Create a sustainable framework for supporting community events in the future. With this in mind the Cost Recovery Program developed.

Does this Agenda Action Item align with a Strategic Plan Action Step? No

If yes, please list the Action Step Item Codes(s):

Funds Available: General Fund Account Name:

Revenue Reimbursement Account Number:

Staff Recommendation: Approval

Attachments:

1. Ordinance
2. Cost recovery recc final 12102019

ORDINANCE NO. 2020-_____

AN ORDINANCE AMENDING CHAPTER 98, ARTICLES VI AND VII OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH

WHEREAS, the City of Paducah has historically supported special events, general assemblies and parades in the form of free and/or reduced cost for materials and services;

WHEREAS, in an effort to address rising costs in relation to those services, the City finds it necessary to charge a permit fee for parades and general assemblies as a means to recover staffing costs in relation to the application process;

WHEREAS, in an effort to encourage use of local businesses, recover costs in relation to services and materials provided by the City, and reduce duplication of services that can be provided by local businesses and/or duplication of materials that can be purchased from local businesses, the City finds it necessary to charge a fee for services and materials at 125% of the average of local business pricing for same;

WHEREAS, in an effort to recover costs related to those materials and services which are not offered by local businesses, the City finds it necessary to charge for services performed and materials provided at a set percentage of the total cost to the City for said services and materials;

WHEREAS, it is necessary to amend Chapter 98 of the Paducah Code of Ordinances to reflect these changes.

BE IT ORDAINED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the City of Paducah, Kentucky, hereby amends Chapter 98, Article VI of the Paducah Code of Ordinances as follows:

Sec. 98-141. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

City Manager means the City Manager or his/her designee.

Parade means any march or procession in ordered and close file wherein a collective body of persons are proceeding on foot or by conveyance of any form whatsoever in or upon and along any street, thoroughfare, or sidewalk in the City.

[...]

Sec. 98-152. – Application.

- (a) A person seeking issuance of a parade permit shall file an application with the City Manager on forms provided by the City Manager, along with a permit fee of \$100 to recover the City's staffing costs associated with the application process. An application for a parade permit shall be filed with the City Manager not less

than fourteen (14) days before the date on which it is proposed to conduct the parade.

[...]

SECTION 2. A New Division and Section. A new division and section shall be created in Chapter 98, Article VI, of the Paducah Code of Ordinances as follows:

DIVISION 3. – COSTS RECOVERED.

Sec. 98-161. – Cost of Services and Materials.

- (a) **Services and Materials Available from Businesses.** Parade permittees are required to obtain all setup, operation, and breakdown materials and services from private businesses unless the parade permittee submits written statement(s) from all available local business(es) located in the City of Paducah which provide the applicable materials and services stating that the local business(es) cannot meet the demand. If sufficient documentation is provided, the City may offer to provide materials at its disposal and services offered by the City in the normal course of business, both at a rate of 125% of the average local business pricing.
- (b) **Services and Materials Not Available from Businesses.** In the event that no business in the City of Paducah offers services and/or materials required for all setup, operation, and breakdown of the event, the City may provide materials at its disposal, as well as services offered by the City in the normal course of business, at a rate of 15% of cost to the City for said services and materials.
- (c) **Exceptions.** The following services and/or materials shall be provided at a set fee:
 - a. Police off duty overtime security detail;
 - b. City single-source services such as trash pickup and restroom units;
 - c. Utility fees; and
 - d. Facility rentals.

SECTION 3. A New Division and Section. A new division and section shall be created in Chapter 98, Article VI, of the Paducah Code of Ordinances as follows:

DIVISION 4. – INAPPLICABILITY.

Sec. 98-162. – Inapplicability to City-Sponsored and Co-Sponsored Events.

Nothing contained in this Article shall be construed to be applicable to City-sponsored and/or City co-sponsored events.

SECTION 4. That the City of Paducah, Kentucky, hereby amends Chapter 98, Article VII of the Paducah Code of Ordinances as follows:

Sec. 98-181. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City Manager means the City Manager or his/her designee.

General assembly means any meeting, demonstration, picket line, rally, or gathering of more than twenty-five (25) persons for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic or occupies any public area in the place open to the general public to the hindrance of others. The term “general assembly” shall include, but not be limited to, festivals, organized celebrations, and other events.

Sec. 98-182. – Applicability.

This article shall not apply to:

- (1) City-sponsored or Co-sponsored events; Private or personal events such as family reunions and church activities and other gatherings not typically open to the public which occur in public parks; and
- (2) Events and activities conducted at Paducah’s Civic Center or Convention Center gatherings at reserved buildings and shelters located on City-owned public parks.

[...]

Sec. 98-186. – Application for permit.

A person seeking a general assembly permit shall file an application with the City Manager, along with a permit fee of \$100 to recover the City’s staffing costs associated with the application process, at least thirty (30) days prior to the date of such an event. The application for the general assembly permit shall set forth the following information:

- (1) The name, address and telephone number of the person seeking permission to conduct a general assembly.
- (2) If the general assembly is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the organization's authorized representatives and responsible heads of such organizations.
- (3) The name, address and telephone number of the person who will be the event coordinator who will be responsible for its management.
- (4) The date when the general assembly is to take place.
- (5) The area where the general assembly is to take place.
- (6) The hours when the general assembly will start and terminate.
- (7) Whether the applicant or sponsoring organization of the proposed general assembly proposes to select and authorize participants as provided in division 3 of this article.
- (8) Such other information as may be required by the City Manager.

[...]

DIVISION 4. – COSTS RECOVERED.

Sec. 98-199. – Cost of Services and Materials.

- (a) **Services and Materials Available from Businesses.** General assembly permittees are required to obtain all setup, operation, and breakdown materials and services from private businesses unless the general assembly permittee submits written statement(s) from all available local business(es) located in the City of Paducah which provide the applicable materials and services stating that the local business(es) cannot meet the demand. If sufficient documentation is provided, the City may offer to provide materials at its disposal and services offered by the City in the normal course of business, both at a rate of 125% of the average local business pricing.
- (b) **Services and Materials Not Available from Local Businesses.** In the event that no business located in the City of Paducah offers services and/or materials required for all setup, operation, and breakdown of the event, the City may provide materials at its disposal as well as services offered by the City in the normal course of business, at a rate of 15% of cost to the City for said services and materials.
- (c) **Exceptions.** The following services and/or materials shall be provided at a set fee:
 - a. Police off duty overtime security detail;
 - b. City single-source services such as trash pickup and restroom units;
 - c. Utility fees; and
 - d. Facility rentals.

SECTION 5. A New Division and Section. A new division and section shall be created in Chapter 98, Article VII, of the Paducah Code of Ordinances as follows:

DIVISION 5. – PENALTY.

Sec. 98-200. – Violation; misdemeanor.

Whoever violates any provisions of this Article ~~section 98-185~~ shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$500.00, or imprisonment of not more than thirty (30) days, or both, for each offense.

SECTION 6. This Ordinance shall be read on two separate days and become effective upon summary publication pursuant to KRS Chapter 424.

Brandi Harless, Mayor

ATTEST:

City Clerk

Introduced by the Board of Commissioners, _____, 2020

Adopted by the Board of Commissioners, _____, 2020

Recorded by the City Clerk, _____, 2020

Published by *The Paducah Sun*, _____, 2020

Ord\98-Article VI & VII Parades & General Assemblies

Ordinance created by S. Blankenship – KKHB

236273

[Type here]

Over the years the City of Paducah has encouraged and supported all special events, runs, parades, street closures, and other events that fall under the General Assemblies and Parade permit process in the Code of Ordinances (Section 98 Article VI & VII). As budgets grow tighter, material and staffing resources are at very tight margins. Beginning in the summer of 2018, City staff took on the challenge to find solutions, forming subcommittees working as a part of the extended budget process. The goal of these subcommittees: 1) Find opportunities for cost savings; 2) Better utilize resources in providing the best services within our budget; 3) Create a sustainable framework for supporting community events in the future.

The first two goals were considered and accepted in the City of Paducah FY2020 budget with several strategies implemented in each department. This current recommendation addresses the third target: creation of a sustainable framework for supporting future community events.

1. Create a \$100 fee for the General Assemblies permit process for the special event. This action was approved in the City of Paducah FY2020 budget.
2. Reduce the duplication of services provided by both the City and local businesses. If services are provided by a local business, City staff are instructed not to provide materials and services unless it is proven that local businesses cannot meet the demand. City services and material will be charged at 125% of business pricing.
3. Create a cost recovery program for City Services and materials.
 - a. A graduated system of cost recovery will be implemented for services and materials throughout the set-up, operation, and breakdown of an event:
 - i. Beginning January 2020 - 15% of City resources utilized;
 - ii. Beginning January 2021 – 20% of City resources utilized;
 - iii. Beginning January 2022 – 25% of City resources utilized.
 - b. Exceptions to be charged at a set fee:
 - i. Police off duty overtime security;
 - ii. City single source services such as trash pick-up and restroom units;
 - iii. Utility fees;
 - iv. Facility rentals.
 - c. Other exceptions:
 - i. City sponsored or co-sponsored events;
 1. July 4th Celebration
 2. Christmas Parade
 3. Veterans Day sponsored activities
 4. Parks and Recreation Department programming
 5. Main Street programming
 6. Lowertown Arts and Music Festival
 - ii. Other events as authorized by the City Manager.

[Type here]

Agenda Action Form

Paducah City Commission

Meeting Date: January 14, 2020

Short Title: Closure of a Portion of Colonial Court Between 100, 104, 106 & 107 Colonial Court - **R MURPHY**

Category: Ordinance

Staff Work By: Rick Murphy, Josh Sommer, Melanie Townsend

Presentation By: Rick Murphy

Background Information:

The following property owner has submitted an executed application requesting that a portion of Colonial Court between 100, 104, 106 & 107 Colonial Court be closed:

Colgan Properties, LLC

On December 16, 2019, the Planning Commission held a Public Hearing and made a positive recommendation to the City Commission for this closure. All of the utility companies have agreed to this closure with a 20 foot wide public utility easement as shown on the plat be required.

Does this Agenda Action Item align with a Strategic Plan Action Step? No

If yes, please list the Action Step Item Codes(s):

Funds Available: Account Name:
Account Number:

Staff Recommendation:

To adopt an ordinance authorizing the closing of a portion of Colonial Court between 100, 104, 106 & 107 Colonial Court and authorizing the Mayor to execute the closure plat and all necessary documents to complete the transfer of property to the adjacent property owner.

Attachments:

1. Ordinance
2. Colonial Court ROW closure_Application signed
3. Colonial Court ROW Closure_PC Resolution
4. Colonial Court ROW closure_Plat

ORDINANCE NO. 2020-_____-_____

AN ORDINANCE PROVIDING FOR THE CLOSING OF A PORTION OF
COLONIAL COURT BETWEEN 100, 104, 106 & 107 COLONIAL COURT AND
AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATING TO SAME
BE IT ORDAINED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the City of Paducah does hereby authorize the closing of a
portion of Colonial Court between 100, 104, 106 & 107 Colonial Court as follows:

LEGAL DESCRIPTION

Lying at the end of Colonial Court per Final Subdivision Plat of Colgan Properties, LLC recorded in Plat Section "M", page 1302 and being part of the Colgan Properties, LLC property recorded in Deed Book 1365, page 339 and Deed Book 1094, Page 74, McCracken County Court Clerk's office, McCracken County, Kentucky and more particularly bounded and described as follows to wit:

Beginning at an existing 6" diameter concrete monument with cap 3732 in the Northerly right-of-way line of Colonial Court as dedicated per Final Subdivision Plat recorded in Plat Section "M", page 1302, said point having Kentucky State Plane South Zone-1602, Nad 83 coordinates of Northing: 1916321.87 and Easting: 789532.82 and being 216.60 feet as measured Eastwardly along said Northerly right-of-way line from its intersection with the Southeasterly right-of-way line of Pecan Drive; THENCE FROM SAID POINT OF BEGINNING along and with the existing right-of-way line of Colonial Court for the following 8 calls: Northeastwardly with a curve to the left having a radius of 125.00 feet (a chord being N 33°21'36" E 41.81 feet) a distance of 42.01 feet to an existing 6" diameter concrete monument with cap no. 3732 at the end of said curve; N 23°43'57" E and passing an existing ½" rebar with cap no. 3732 at 6.84 feet at the Southwesterly corner of Lot 5 per Plat Section "M", page 1302 for a total distance of 56.77 feet to an existing 6" diameter concrete monument at the beginning of a curve to the left having a radius of 30.00 feet; Northwardly with said curve to the left (a chord being N 0°26'56" E 23.72 feet) a distance of 24.38 feet to an existing 6" diameter concrete monument with cap 3732 at the end of said curve and beginning of a curve to the right having a radius of 50.00 feet; Northeastwardly with said curve to the right (a chord being N 32°56'56" E 82.69 feet) a distance of 97.36 feet to an existing ½" rebar with cap no. 3732 at a lot corner between Lots 5 and 6 per aforesaid Final Subdivision Plat recorded in Plat Section "M", page 1302; Southeastwardly and continuing with said curve to the right having a radius of 50.00 feet (a chord being S 66°16'03" E 42.26 feet) a distance of 43.63 feet to an existing ½" rebar with cap no. 3732 at a corner between Lots 6 and 3 per said Plat Section "M", page 1302; Southwestwardly and continuing with said curve to the right having a radius

of 50 feet (a chord being S 14°30'59" W 82.69 feet) a distance of 97.36 feet to an existing 6" diameter concrete monument with cap no. 3732 at the end of said curve and beginning of a curve to the left having a radius of 30.00 feet; Southwestwardly with said curve to the left (a chord being S 47°00'59" W 23.72 feet) a distance of 24.38 feet to an existing 6" diameter concrete monument with cap no. 3732 at the end of said curve; and S 23°43'57" W 19.39 feet to a 6" diameter concrete monument set in the new right-of-way line of Colonial Court to be created; thence Westwardly with said New right-of-way line of Colonial Drive to be created for the following 2 calls: Westwardly with a curve to the left having a radius of 50 feet (a chord being S 74°46'40" W 50.85 feet to a 6" diameter concrete monument with cap no. 3732 set at the end of said curve; and S 44°14'44" W 49.79 feet to the Point of Beginning and containing 10,294.47 square feet or 0.236 Acres as shown on "Right-of-way Closure Plat for Colgan Properties LLC" prepared by Siteworx Survey and Design LLC.

SECTION 2. In support of its decision to close the aforesaid public way, the Board of Commissioners hereby makes the following findings of fact:

a. Colgan Properties, LLC, owns the properties abutting the public way which the Board of Commissioners has authorized to be closed as is evidenced by the application for street and/or alley closing which is attached hereto and made part hereof (Exhibit A).

b. On the 16th day of December, 2019, the Paducah Planning Commission of the City of Paducah adopted a resolution recommending to the Mayor and Board of Commissioners of the City of Paducah closure of the aforesaid public way.

c. Written notice of the proposed closing was given to all property owners in or abutting the public way or the portion thereof being closed as is evidenced by the application for street and/or alley closing which is attached hereto and made a part hereof (Exhibit A).

d. All property owners in or abutting the public way or the portion thereof being closed have given their written notarized consent to the closing as is evidenced by the application for street and/or alley closing which is attached hereto and made a part hereof (Exhibit A).

SECTION 3. All requirements of KRS 82.405(1) and (2) having been met, the Board of Commissioners of the City of Paducah hereby concludes that the aforesaid public way, as described above, should be closed in accordance with the provisions of KRS 82.405.

SECTION 4. The Mayor is hereby authorized, empowered, and directed to execute a quitclaim deed from the City of Paducah to each of the property owners in or abutting the public way to be closed with each to acquire title to that portion of the public way contiguous to the property now owned by said property owners up to center line of the said public way. Provided, however, that the City shall reserve such easements upon the above described real property as it deems necessary.

Said deed shall provide the reservation by the City of Paducah any easements affecting the herein described real property as described in Section 1 above.

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

Brandi Harless, Mayor

ATTEST:

Lindsay Parish, City Clerk

Introduced by the Board of Commissioners, January 14, 2020

Adopted by the Board of Commissioners, _____

Recorded by Lindsay Parish, City Clerk, _____

Published by The Paducah Sun, _____

ord\eng\st close\Colonial Court 100, 104, 106, 107

CERTIFICATION

I, Lindsay Parish, hereby certify that I am the duly qualified and acting Clerk of the City of Paducah, Kentucky, and that the foregoing is a full, true and correct copy of Ordinance No. _____ adopted by the Board of Commissioners of the City of Paducah at a meeting held on _____.

City Clerk

Exhibit A

City of Paducah, Kentucky
Public Right-of-Way Closure Application



CITY OF PADUCAH, KENTUCKY
PUBLIC RIGHT-OF-WAY CLOSURE APPLICATION

RECEIVED

DEC 14 2019

ENGINEERING
DEPARTMENT

RECEIVED

DEC 05 2019

Planning Department
VAC 2019-238

Date: November 22, 2019

Application is hereby made to the Mayor and Board of Commissioners for the closing of:

Public Right-of-Way: Portion of Colonial Court in Paducah, KY

Included herewith is a filing fee of Five Hundred Dollars (\$500) together with twenty (20) copies of a Plat showing the Public Right-of-Way to be closed. This Application indicating consent of the Public Right-of-Way closure, has been signed and notarized by all real property owners whose land adjoins the portion of Public Right-of-Way proposed to be closed. If the application is not signed by all adjoining real property owners, the "Public Right-of-Way Closure Guarantee" must be attached.

Respectfully submitted by all adjoining property owners:


Signature of Property Owner
Colgan Properties, LLC
Property Owner's Name Printed
230 Troon Road, Paducah, KY 42001
Address

STATE OF KENTUCKY)
COUNTY OF McCRACKEN)

The foregoing instrument was sworn to and acknowledged
before me this 22 day of NOVEMBER, 2019,
by JOHN A. COLGAN

My Commission expires 11/21/2023

Notary Public, State at Large ID 634265

SEAL

Signature of Property Owner

Property Owner's Name Printed

Address

STATE OF KENTUCKY)
COUNTY OF McCRACKEN)

The foregoing instrument was sworn to and acknowledged
before me this _____ day of _____, 20____,
by _____

My Commission expires _____

Notary Public, State at Large

SEAL



RECEIVED

DEC 19 2019

ENGINEERING
DEPARTMENT

RECEIVED

DEC 05 2019

Planning Department
VAC 2019-238CITY OF PADUCAH, KENTUCKY
PUBLIC RIGHT-OF-WAY CLOSURE APPLICATIONDate: November 22, 2019

Application is hereby made to the Mayor and Board of Commissioners for the closing of:

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Respectfully submitted by all adjoining property owners:


Signature of Property Owner

Colgan Properties, LLC

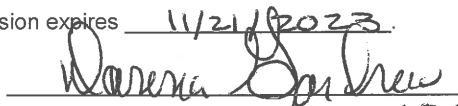
Property Owner's Name Printed

230 Troon Road, Paducah, KY 42001

Address

STATE OF KENTUCKY)
COUNTY OF McCracken)

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before me this 22 day of NOVEMBER, 2019,
by JOHN A. COLGAN

My Commission expires 11/21/2023
Notary Public, State at Large

ID 634265

SEAL

Signature of Property Owner_____
Property Owner's Name Printed_____
AddressSTATE OF KENTUCKY)
COUNTY OF McCracken)

The foregoing instrument was sworn to and acknowledged
before me this _____ day of _____, 20____,
by _____

My Commission expires _____

Notary Public, State at Large

SEAL

A RESOLUTION CONSTITUTING THE FINAL REPORT OF THE PADUCAH PLANNING COMMISSION ON THE PROPOSED CLOSING OF A PORTION OF COLONIAL COURT BETWEEN 100, 104, 106 & 107 COLONIAL COURT.

WHEREAS, a public hearing was previously held on August 20, 2018 by the Paducah Planning Commission after advertisement pursuant to law, and

WHEREAS, this Commission has duly considered said proposal and has heard and considered the objections and suggestions of all interested parties who appeared at said hearing, and

WHEREAS, the Petitioner wishes to shorten the same Right-of-Way, which does not affect any new lots or property, and

WHEREAS, this Commission adopted a proposal to close a portion of Colonial Court between 100, 104, 106 & 107 Colonial Court at the regularly scheduled meeting on December 16, 2019.

NOW THEREFORE, BE IT RESOLVED BY THE PADUCAH PLANNING COMMISSION:

SECTION 1. That this Commission recommend to the Mayor and Board of Commissioners of the City of Paducah to close a portion of Colonial Court between 100, 104, 106 & 107 Colonial Court as follows:

LEGAL DESCRIPTION

Lying at the end of Colonial Court per Final Subdivision Plat of Colgan Properties, LLC recorded in Plat Section "M", page 1302 and being part of the Colgan Properties, LLC property recorded in Deed Book 1365, page 339 and Deed Book 1094, Page 74, McCracken County Court Clerk's office, McCracken County, Kentucky and more particularly bounded and described as follows to wit:

Beginning at an existing 6" diameter concrete monument with cap 3732 in the Northerly right-of-way line of Colonial Court as dedicated per Final Subdivision Plat recorded in Plat Section "M", page 1302, said point having Kentucky State Plane South Zone-1602, Nad 83 coordinates of Northing: 1916321.87 and Easting: 789532.82 and being 216.60 feet as measured Eastwardly along said Northerly right-of-way line from its intersection with the Southeasterly right-of-way line of Pecan Drive; THENCE FROM SAID POINT OF BEGINNING along and with the existing right-of-way line of Colonial Court for the following 8 calls: Northeastwardly with a curve to the left having a radius of 125.00 feet (a chord being N 33°21'36" E 41.81 feet) a distance of 42.01 feet to an existing 6" diameter concrete monument with cap no. 3732 at the end of said curve; N 23°43'57" E and passing an existing ½" rebar with cap no. 3732 at 6.84 feet at the Southwesterly corner of Lot 5 per Plat Section "M", page 1302 for a total distance of 56.77 feet to an existing 6" diameter concrete monument at the beginning of a curve to the left having a radius of 30.00 feet; Northwardly with said curve to the left (a chord being N 0°26'56" E 23.72 feet) a distance of 24.38 feet to an existing 6" diameter concrete monument with cap 3732 at the end of said curve and beginning of a curve to the right having a radius of 50.00 feet; Northeastwardly with said curve to the right (a chord being N 32°56'56" E 82.69 feet) a distance of 97.36 feet to an existing ½" rebar with cap no. 3732 at a lot corner between Lots 5 and 6 per aforesaid Final Subdivision Plat recorded in Plat Section "M", page 1302; Southeastwardly and continuing with said curve to the right having a radius of 50.00 feet (a chord being S 66°16'03" E 42.26 feet) a distance of 43.63 feet to an existing ½" rebar with cap no. 3732 at a corner between Lots 6 and 3 per said Plat Section "M", page 1302; Southwestwardly and continuing with said curve to the right having a radius of 50 feet (a chord being S 14°30'59" W 82.69 feet) a distance of 97.36 feet to an existing 6" diameter concrete monument with cap no. 3732 at the end of said curve and beginning of a curve to the left having a radius of 30.00 feet; Southwestwardly with said curve to the left (a chord being S 47°00'59" W 23.72 feet) a distance of 24.38 feet to an existing 6" diameter concrete monument with cap no. 3732 at the end of said curve; and S 23°43'57" W 19.39 feet to a 6" diameter concrete monument set in the new right-of-way line of Colonial Court to be created; thence Westwardly with said New right-of-way line of Colonial Drive to be created for the following 2 calls: Westwardly with a curve to the left having a radius of 50 feet (a chord being S 74°46'40" W 50.85 feet to a 6" diameter concrete monument with cap no. 3732 set at the end of said curve; and S 44°14'44" W 49.79 feet to the Point of Beginning and containing 10,294.47 square feet or 0.236 Acres as shown on "Right-of-way Closure Plat for Colgan Properties LLC" prepared by Siteworx Survey and Design LLC.

SECTION 2. That this Resolution shall be treated as, and is, the final report of the Paducah Planning Commission respecting the matters appearing herein.

SECTION 3. That if any section, paragraph or provision of this Resolution shall be found to be inoperative, ineffective or invalid for any cause, the deficiency or invalidity of such section, paragraph or provision shall not affect any other section, paragraph or provision hereof, it being the purpose and intent of this Resolution to make each and every section, paragraph and provision hereof separable from all other sections, paragraphs and provisions.

SECTION 4. Any agreements between the parties that are affected by the closure of this Right-of-Way shall be forwarded to the City Commission with this Resolution.


Cathy Crecelius, Chairwoman

Adopted by the Paducah Planning Commission on December 16, 2019

SURVEYOR'S CERTIFICATE

TO: COLGAN PROPERTIES, LLC
230 TROON ROAD
PADUCAH, KY 42001

THIS PLAT REPRESENTS A SURVEY MADE UNDER MY SUPERVISION IN ACCORDANCE WITH ACCEPTABLE PROFESSIONAL STANDARDS BY THE METHOD OF RANDOM TRAVERSE WITH SIDESHOTS HAVING AN UNADJUSTED CLOSURE RATIO OF 1:58,325 BEFORE ADJUSTMENT OF ADJUSTED ANGULAR AND LINEAR DIMENSIONS HEREON INDICATED, FOR AN URBAN SURVEY AS DEFINED BY THE MINIMUM STANDARDS OF PRACTICE FOR LAND SURVEYING IN KENTUCKY, THE INFORMATION SHOWN BY THIS PLAT BEING TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATE OF SURVEY COMPLETION _____

DATE OF SIGNATURE _____

KENTUCKY PROFESSIONAL LAND SURVEYOR #3732

CERTIFICATE OF RECORDING
STATE OF KENTUCKY, COUNTY OF McCRACKEN

I HEREBY CERTIFY THAT THIS PLAT WAS THIS DAY LOGGED IN MY OFFICE FOR RECORD AND THAT I HAVE RECORDED SAME WITH THIS AND THE FOREGOING CERTIFICATES IN MY OFFICE, GIVEN UNDER MY SEAL THIS _____ DAY OF _____, PAGE _____

McCRACKEN COUNTY COURT CLERK _____ DEPUTY COURT CLERK _____

ADJACENT
PROPERTY OWNERS

1. COLGAN PROPERTIES, LLC
230 TROON ROAD
PADUCAH, KY 42001
DEED BOOK 1365, PAGE 339

UTILITY COMPANY CONSENT

THIS IS TO CERTIFY THAT THE UNDERSIGNED HEREBY ACKNOWLEDGES THE PORTION OF PUBLIC RIGHT-OF-WAY PROPOSED TO BE CLOSED, AS SHOWN AND DESCRIBED HEREON, AND FREELY GIVES THEIR CONSENT TO CLOSE THE PUBLIC RIGHT-OF-WAY AS SHOWN AND DESCRIBED HEREON.

PADUCAH POWER SYSTEM _____

PADUCAH - McCRACKEN CO. JOINT SEWER AGENCY _____

PADUCAH WATER _____

AT&T _____

AT&MS ENERGY _____

COMCAST CABLE _____

CITY OF PADUCAH ENGINEERING
PUBLIC WORKS - STORM _____

PROPERTY LINE CURVE DATA				
SEGMENT #	RADIUS	ARC LENGTH	CHORD	BEARING
1	25.00'	41.91'	37.17'	N.25°36'23"W
2	125.00'	180.29'	165.07'	N.65°03'09"E
3	125.00'	47.50'	47.22'	N.34°34'49"E
4	30.00'	24.38'	23.72'	N.00°26'56"E
5	50.00'	97.36'	82.69'	N.32°56'56"E
6	50.00'	43.63'	42.26'	N.66°16'03"W
7	50.00'	97.36'	82.69'	N.14°30'59"E
8	30.00'	24.38'	23.72'	N.47°00'59"E
9	175.00'	31.64'	31.60'	N.28°54'45"E
10	175.00'	124.77'	122.14'	N.54°31'02"E
11	175.00'	96.00'	94.80'	S.89°20'35"E
12	25.00'	41.91'	37.17'	N.56°21'04"E
13	500.00'	210.10'	208.56'	N.01°42'27"W
14	500.00'	105.46'	105.26'	N.16°22'22"E
15	500.00'	142.14'	141.67'	N.30°33'33"E
16	500.00'	48.17'	48.15'	N.41°27'39"E
17	53.50'	82.16'	74.32'	N.15°24'16"W

A	125.00'	47.50'	47.22'	N.34°34'49"E
B	50.00'	53.35'	50.85'	S.74°46'41"W

ROAD CENTERLINE CURVE DATA				
SEGMENT #	RADIUS	ARC LENGTH	CHORD	BEARING
17	150.00'	216.35'	198.08'	S.65°03'09"W

ADJACENT PROPERTY OWNER'S CERTIFICATION

WE, THE UNDERSIGNED OWNERS AND REPRESENTATIVES, DO HEREBY CERTIFY THAT WE ARE THE REAL PROPERTY OWNERS SHOWN AND DESCRIBED HEREON AND FREELY GIVE OUR CONSENT TO CLOSE THE PUBLIC WAY AS SHOWN AND DESCRIBED HEREON.

COLGAN PROPERTIES, LLC
230 TROON ROAD
PADUCAH, KY 42001
OWNER

SIGNATURE _____

PRINT NAME _____

TITLE _____

DATE _____

MAYOR'S CERTIFICATE OF CITY APPROVAL

IN ACCORDANCE WITH KENTUCKY REVISED STATUTES CHAPTER 82 AND BY

ORDINANCE # _____

I HEREBY CERTIFY THAT THE PUBLIC WAY AS SHOWN HEREON HAS BEEN OFFICIALLY CLOSED.

MAYOR, CITY OF PADUCAH, KENTUCKY _____

DATE _____

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

I, _____, A NOTARY PUBLIC IN AND FOR THE STATE AND COUNTY AFORESAID, DO HEREBY CERTIFY THAT THIS PLAT OF SURVEY WAS THIS DAY PRESENTED TO ME BY _____, KNOWN TO ME, TOGETHER WITH THE CERTIFICATE OF OWNERSHIP AND DEDICATION SHOWN HEREON, WHICH WAS, EXECUTED IN MY PRESENCE AND ACKNOWLEDGE TO BE THEIR FREE ACT AND DEED.

WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, 20____.

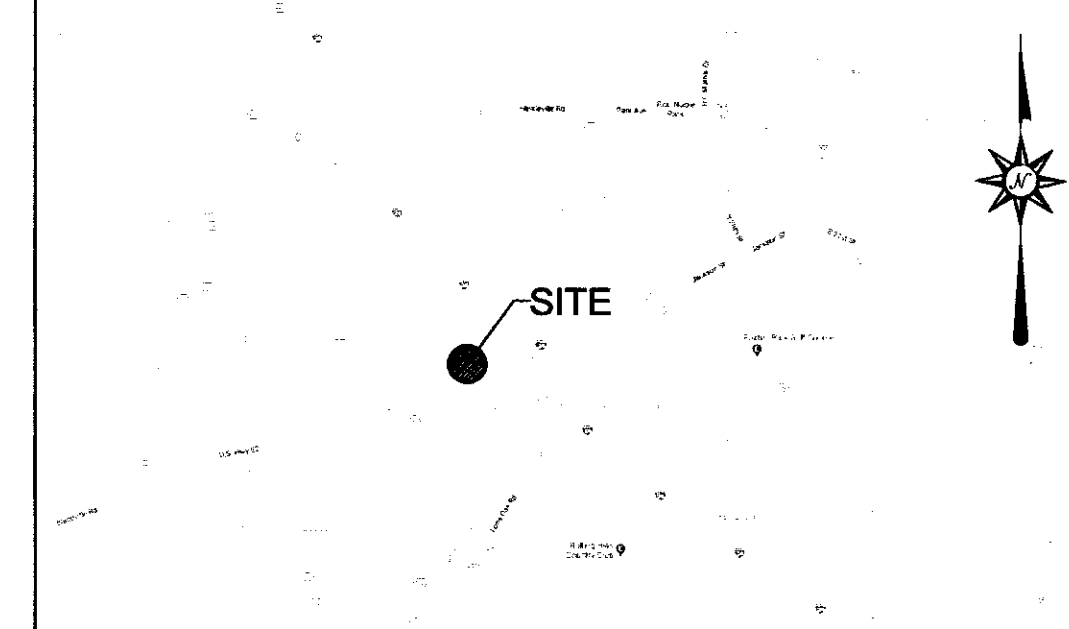
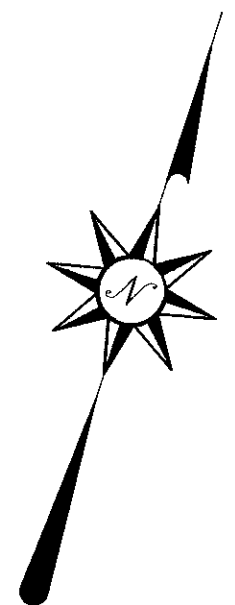
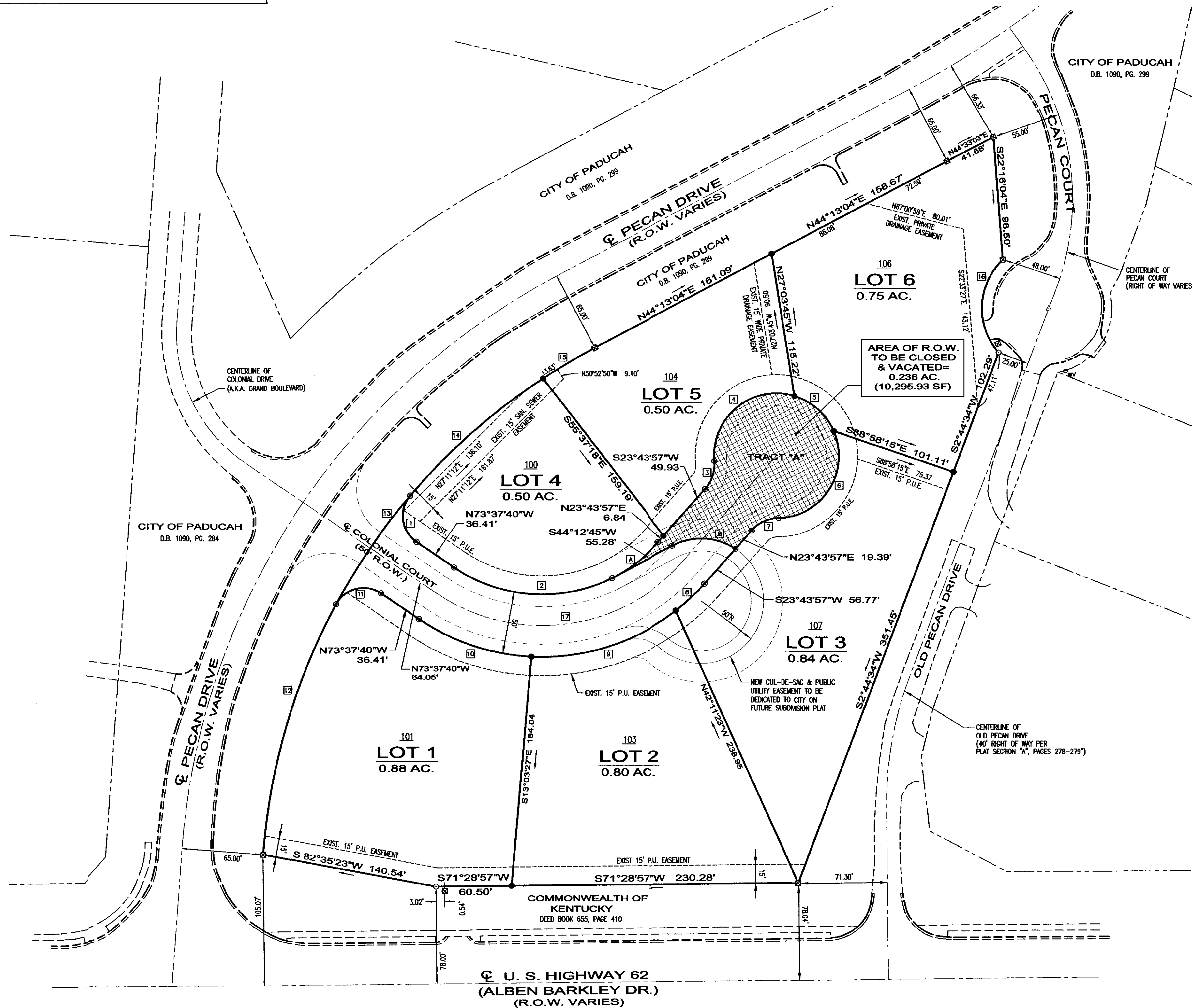
NOTARY PUBLIC SIGNATURE: _____

MY COMMISSION EXPIRES ON THE _____ DAY OF _____, 20____.

PLANNING AND ZONING
CERTIFICATE OF APPROVAL

UNDER AUTHORITY PROVIDED BY CHAPTER 100 OF THE KENTUCKY REVISED STATUTES AND ORDINANCE ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PADUCAH, KY, THIS PLAT HAS BEEN GIVEN APPROVAL AND ACCEPTED BY THE PADUCAH PLANNING AND ZONING COMMISSION AT A MEETING HELD _____

CHAIRMAN _____

VICINITY MAP
NOT TO SCALE

LEGEND:

- 1/2" x 30" LONG IRON PIN & CAP #3732 (TO BE SET)
- ⊙ 6" x 24" LONG CONC. MONUMENT W/CAP #3732 (TO BE SET)
- EXIST. IRON PIN & CAP #2900 (UNLESS NOTED OTHERWISE)
- ⊠ EXIST. 6" x 6" CONC. MONUMENT
- PROPERTY LINE
- - - EASEMENT LINE
- ROAD CENTERLINE
- P.U.E. PUBLIC UTILITY EASEMENT
- 100 LOT ADDRESS

GENERAL SITE NOTES:

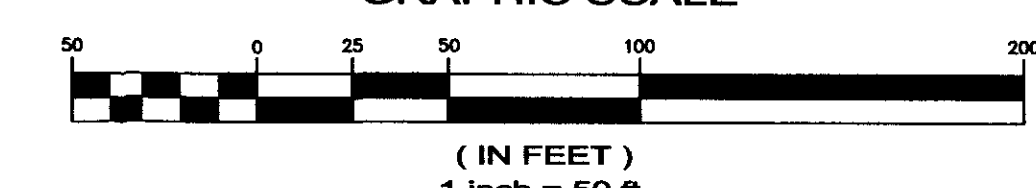
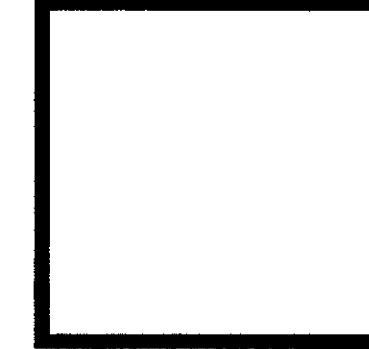
- CLIENT & PROPERTY OWNER: COLGAN PROPERTIES, LLC
230 TROON ROAD
PADUCAH, KENTUCKY 42001
- DEED REFERENCE: DEED BOOK 1365, PAGE 339 DEED BOOK 1094, PAGE 74
PLAT SECTION M, PAGE 61 PLAT SECTION A, PAGE 278-279
- THE SUBJECT PROPERTY SHOWN HEREON IS LOCATED IN FLOOD ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON FLOOD INSURANCE RATE MAP FOR McCRACKEN COUNTY, COMMUNITY PANEL NUMBER 2114500141F, DATED NOVEMBER 2, 2011.
- RIGHT-OF-WAY AREA: 0.5873 ACRES (25,584 SQ. FT.)
TOTAL PROPERTY AREA: 4.8475 ACRES (211,155 SQ. FT.)
- THIS PROPERTY IS ZONED R-4, (HIGH DENSITY RESIDENTIAL ZONE), AND IS SUBJECT TO ALL REGULATIONS SET FORTH FOR THIS ZONE BY THE CITY OF PADUCAH ZONING ORDINANCE, SEC. 126-105.
- MINIMUM YARD REQUIREMENTS:
(FOR PROFESSIONAL OFFICE BUILDINGS)
FRONT: NONE (OR AS SHOWN)
SIDE: NONE (OR AS SHOWN)
REAR: NONE (OR AS SHOWN)
- MINIMUM LOT AREA: 5,000 SQ. FT.
- MINIMUM LOT WIDTH: 50 FEET
- MAXIMUM BUILDING HEIGHT: NONE
- SOURCE OF BEARINGS:
ALL BEARINGS SHOWN ARE CORRELATED WITH THE KENTUCKY SOUTH 1602, NAD 83 STATE PLANE COORDINATE SYSTEM.
- WARRANT REQUESTS:
1. REDUCE CENTERLINE RADIUS REQUIREMENT OF 200 FEET TO 150 FEET.
- BUILDING ORIENTATION AND ACCESS:
BUILDING AND DRIVEWAY ACCESS IS OFF COLONIAL COURT EXCLUSIVELY, WITH THE EXCEPTION OF LOTS 3 & 6. LOT 3 CAN ALSO HAVE ACCESS FROM OLD PECAN DRIVE, AND LOT 6 CAN ALSO HAVE ACCESS FROM PECAN COURT. A FINISHED FACADE IS REQUIRED ON THE BACKSIDE OF EACH BUILDING ALONG ANY PUBLIC RIGHT-OF-WAY. THE EXISTING ENTRANCE ON U. S. HIGHWAY 62 SHALL NOT BE UTILIZED BY ANY LOT. ALL MECHANICAL EQUIPMENT SHALL BE SCREENED.
- STORMWATER MANAGEMENT FACILITY NOTE:
THE REGIONALLY DESIGNED STORMWATER MANAGEMENT FACILITY LIMITS NEW IMPERVIOUS SURFACE AREAS TO 80% PER LOT AT THE TIME OF THEIR DEVELOPMENT.
- SANITARY SEWER & PUBLIC WATER NOTE:
THE SUBJECT PROPERTY IS SERVED BY PADUCAH WATER FOR ITS PUBLIC WATER SYSTEM AND THE JOINT SEWER AGENCY (JSA) FOR ITS PUBLIC SANITARY SEWER SYSTEM.

INTENT:

THE INTENT OF THIS PLAT IS TO CLOSE THE PUBLIC RIGHT-OF-WAY OF COLONIAL COURT, AND TO CREATE INDIVIDUAL TRACT "A" FOR REVERSION TO ADJACENT PROPERTY OWNER, ALL AS SHOWN HEREON.

TITLE OPINION:

THIS PLAT HAS BEEN PRODUCED WITHOUT THE BENEFIT OF A TITLE OPINION. A DILIGENT EFFORT WAS MADE AT THE TIME OF THIS SURVEY TO OBTAIN AND SHOW RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS PERTAINING TO THIS PROPERTY, HOWEVER, THIS PLAT IS SUBJECT TO THE FINDINGS THAT WOULD BE REVEALED IN AN ACCURATE TITLE OPINION.

GRAPHIC SCALE
(IN FEET)
1 inch = 50 ft.

site
SURVEY & DESIGN, LLC
www.sitedesign.com

124 South 31st Street
Paducah, KY 42001
Ph: (270) 443-8491

RIGHT-OF-WAY CLOSURE PLAT
COLGAN PROPERTIES, LLC
U. S. HIGHWAY 62 & PECAN DRIVE
PADUCAH, McCRACKEN CO., KY

PROJECT NO.: 18057
DATE: DECEMBER 6, 2019
DRAWN BY: JLG
REV. DESCRIPTION

REV. DESCRIPTION

REV. DESCRIPTION

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Agenda Action Form

Paducah City Commission

Meeting Date: January 14, 2020

Short Title: Execute an Agreement with Plante Moran not to Exceed \$90,000 for Technical Assistance with Energov Codes & Permitting Software Implementation - **M SMOLEN**

Category: Ordinance

Staff Work By: Michelle Smolen

Presentation By: Michelle Smolen, Stephen Chino

Background Information: The City recently executed an agreement with Tyler Technologies to implement the Energov codes and permitting software. Staff is requesting technical assistance from Plante Moran for up to 60 hours of project planning, 30 hours/month of support during the project and 40 hours of post-live evaluation/support. Plante Moran has dedicated teams that specialize in the Energov product. This is a one-time cost that will assist the City with efficiently delivering an effective codes and permitting software solution. The technical services Plante Moran are providing is similar to the assistance Federal Engineering provided with the CAD 911 implementation. Half of the cost will be absorbed into the ERP project budget for the remainder of FY19. The remaining costs will be allocated in the FY20 budget.

Does this Agenda Action Item align with a Strategic Plan Action Step? Yes

If yes, please list the Action Step Item Codes(s): O-2:Create and sustain a customer centric culture aligned with our organizational values

Funds Available: ERP Software Project
Account Name:
EQ0022 **Account Number:**

Staff Recommendation: Execute an Agreement with Plante Moran not to Exceed \$90,000 for Technical Assistance with Energov Codes & Permitting Software Implementation.

Attachments:

1. Ordinance
2. Plante Moran - EnerGov Project Management Services 01 08 2020
3. CM non-competitive procurement memo

ORDINANCE NO. 2020-____ - _____

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE
AN AGREEMENT WITH PLANTE MORAN NOT TO EXCEED
\$90,000 FOR TECHNICAL ASSISTANCE WITH ENERGOV
CODES & PERMITTING SOFTWARE IMPLEMENTATION

WHEREAS, staff is requesting technical assistance from Plante Moran for up to 60 hours of project planning, 30 hours/month of support during the project and 40 hours of post-live evaluation/support for the EnerGov product; and

WHEREAS, this is a one-time cost that will assist the City with efficiently delivering an effective codes and permitting software solution; and

WHEREAS, Plante Moran has submitted a proposal to provide project management services for the implementation of the City of Paducah’s EnerGov permitting, inspection, and licensing system; and

WHEREAS, a written determination has been made by the City Manager that this constitutes a professional services purchase and will be a noncompetitive negotiation purchase, pursuant to KRS 45A.380(3).

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

SECTION 1. The City Commission does hereby accept the terms contained in the proposal to provide project management services for the implementation of the City of Paducah’s EnerGov permitting, inspection, and licensing system, and approve the execution of an agreement in an amount not to exceed \$90,000.

SECTION 2. The City Commission does hereby authorize and instruct the Mayor to execute the Professional Services Agreement – Consulting Services Addendum to Plante & Moran, PLLC Engagement Agreement on behalf of the City.

SECTION 3. This expenditure shall be charged to the ERP Software Project No. EQ0022.

SECTION 4. This ordinance shall be read on two separate days and will become effective upon summary publication pursuant to KRS Chapter 424.

Brandi Harless, Mayor

ATTEST:

Lindsay Parish, City Clerk

Introduced by the Board of Commissioners, January 14, 2020

Adopted by the Board of Commissioners, _____

Recorded by Lindsay Parish, City Clerk, _____

Published by The Paducah Sun, _____

\\ord\contract-Plante Moran 2020

Make the mark.

City of Paducah, KY | January 8, 2020

Project Management Services for Tyler EnerGov®
Implementation Support



plante moran | Audit. Tax. Consulting.
Wealth Management.

January 8, 2020

Mrs. Michelle Smolen, Assistant City Manager
300 South 5th Street
P.O. Box 2267
Paducah, KY 42002-2267

RE: EnerGov Project Management Services

Plante Moran, PLLC (Plante Moran) is pleased to offer this proposal to provide project management services for the implementation of the City of Paducah's EnerGov permitting, inspection, and licensing system. We appreciate the City's commitment to providing exceptional customer service by investing in a modern land management solution to improve customer service, streamline the permitting processes, and promote greater development review staff coordination.

Plante Moran's staff offer experience working in public service combined with technical knowledge to promote the City's readiness and deployment of its replacement land management system. Our project team brings practice knowledge through firsthand experience as public sector practitioners and working with local governments. We are pleased to feature recent experiences working with communities to evaluate and implement EnerGov including Peoria IL, Wauwautosa WI, Pinellas Park FL, North Miami Beach FL and West Palm Beach FL.

As project management advisors, a successful implementation of EnerGov will reinforce the City's focus on evaluating business practices to provide quality, value, and transparency to the public. We are committed to sustaining and elevating the City's brand as a destination for economic development.

We are pleased to offer these key differentiators:

- **Industry Commitment.** With 65 years of service in the public sector, Plante Moran is committed to serving governmental organizations through the active involvement of more than 200 professional staff serving more than 1,200 public sector clients.
- **Community Development Process Evaluation:** We have significant experience in conducting process analysis, redesign and technology needs assessments within a practice dedicated to advancing local government initiatives.
- **Dynamic Community References:** We are pleased to share that we have been involved with important projects at leading communities experiencing rapid growth with a focus on process evaluation specific to community development operations and we will bring our insights to bear with your team. These include Sunnyvale, CA, Des Moines, IA, Collier County, FL, City of Bend, OR, and West Palm Beach, FL.
- **Contributions to Public Sector Associations:** Our project professionals who are members of national and local organizations dedicated to improving the operations of local government including ICC, GFOA, PTI, ICMA, and GMIS. We apply our exposure to best practices to benefit the City.

- **Credentialed and Proven Team:** Our proposed project professionals received training in a number of disciplines that will add value to the City, including Lean Six Sigma, Project Management Professional, and Prosci® Change Management. Additionally, our proposed staff have first-hand experience leveraging enterprise Geographic Information Systems (GIS) for spatial analysis.
- **Experienced, Unbiased, Independent Advisors:** We bring a solution agnostic approach with complete independence from all software vendors with the benefit of research within the Community Development software vendor marketplace. And we have relevant insights to bring to bear to the City, having worked with multiple clients implementing offerings by Accela (Automation), Tyler (EnerGov), Harris (CityView), CSDC (Amanda), Infor (CDR), Cityworks (PLL), and others.
- **Unparalleled Government Experience:** Our proposed project team has experience working within a municipal government as practitioners in areas within the scope of this project. This includes working as community planners, planning commissioners, city council, and zoning code enforcement. We are intimately familiar with all of the development review functions that will be evaluated and will bring this expertise to the City.

Our proposed team blends the technology and municipal operations knowledge with seasoned, management consultants to work on this important initiative. We believe that this range of qualifications will offer significant value to the City to promote the successful deployment of EnerGov. If you have any questions concerning this proposal, please contact me at 248-223-3447 or Scott.Eiler@plantemoran.com

Very truly yours,

PLANTE & MORAN, PLLC

A handwritten signature in blue ink that reads "E. Scott Eiler".

Scott Eiler, Partner

Experience

Public Service Delivery Technology & Operations Consulting

Plante Moran's Public Service Delivery Practice enable communities to assess, optimize, and elevate their constituent facing, service delivery systems and processes including: service request/work order, enterprise asset management, community development planning, construction inspection, licensing, public safety, and code enforcement processes. We appreciate the challenges and responsibilities our clients face within dynamic communities to provide responsive, accurate, and complete information to investors, businesses, and citizens.

Our practice staff have experience serving on planning commissions, working with communities as planning/zoning consultants, working as GIS professionals integrating analyses/data, and working with Land Management Systems (LMS), Enterprise Asset Management, Utility Billing Systems, Enterprise Resource Planning Systems, and many integrated software solutions. Our approach to the advancing processes and systems enables our clients to elevate their levels of service, achieve internal efficiencies, and harness the full potential of modern technology solutions.

Relevant Client Experiences

Plante Moran offers a summary of a summary of engagements performed for our clients over the past three years including Land Development Services (including construction permitting, inspections, zoning, code enforcement, CDBG housing programs, plan review, appeals). The projects involve business process assessments and/or technology related selections where processes are reviewed in conjunction with the development of functional and technical requirements for replacement permitting, inspection, and licensing systems.

Client Name	Project Title	Project Date
Collier County, FL	Mapping & Documentation of Core Business Processes – Growth Management Department: Development Services Division	April 2018 – Jan 2019
City of West Palm Beach, FL	Development Services Assessment and Implementation Strategy	Sept. 2017 – Present
City of Bend, OR	Community Development Business Process Review Services	April 2016 – Present
City of Georgetown, TX	Land Management System Selection (Component of ERP Scope)	Nov 2016 – Present
City of Des Moines, IA	Permitting, Inspection and Licensing System Needs Assessment / Selection	Sept 2016 – May 2018
Village of Wellington, FL	Permitting, Inspection, and Licensing System Implementation	Sept 2016 – May 2019
City of Fernandina Beach, FL	Permitting, Inspection, and Licensing System Implementation	July 2016 – Jan 2019

Client Name	Project Title	Project Date
City of Norman, OK	Land Management System Selection (Component of ERP System Scope)	May 2016 – June 2017
City of St. Charles, IL	Community Development Needs Assessment and Requirements Development	Feb 2016 – Aug 2016
City of Hollywood, FL	Land Management System – Assessment and Selection (Component of ERP Scope)	May 2015 – May 2016
City of Coral Springs, FL	Land Management System – Options Analysis (Component of ERP Scope)	May 2015 – Aug 2015
County of Livingston, MI	Permitting System Evaluation and Selection	Feb 2015 – Apr 2016
City of Appleton, WI	Land Management System Selection (Component of ERP System Scope)	Feb 2015 – May 2016
City of Winter Park, FL	Land Management System Selection (Component of ERP System Scope)	Feb 2015 – July 2016
City of Roswell, GA	Post ERP Implementation Review (Including Land Management Systems)	Oct 2014 – Aug 2016
City of Paducah, KY	Land Management System Selection (Component of ERP System Scope)	Sep 2014 – June 2016
Village of Park Forest, IL	Land Management System Assessment (Component of ERP System Scope)	June 2014 – June 2015
City of Bend, OR	Land Management System Selection and Implementation Management Assistance (Component of ERP Scope)	Aug 2013 – Present
City of Pinellas Park, FL	Land Management System Selection and Implementation Management Assistance (Component of ERP Scope)	May 2013 – June 2019
Village of Woodridge, IL	Land Management System Selection (Component of ERP System Scope)	May 2013 – Jan 2015
City of Pueblo, CO	ERP Due Diligence and Implementation Management Assistance	Mar 2013 – June 2018
Village of Northbrook, IL	Land Management System Selection (Component of ERP System Scope)	Mar 2013 – Jan 2015
City of Columbia, MO	Land Management System Selection and Implementation (Component of ERP System Scope)	May 2012 – Aug 2016
City of North Miami Beach, FL	Land Management Needs Assessment, System Selection, Contract Negotiations and Implementation Support	Apr 2011 – Nov 2019

References

City of West Palm Beach, FL

401 Clematis Street
West Palm Beach, FL 33401
Population: 110,000

Mr. Rick Green
Development Services Director
561-822-1455
rgreene@wpb.org

Development Services Assessment and Implementation Strategy

The City competitively selected Plante Moran to conduct an independent evaluation and documentation of all Development Services business processes to ensure that the City is following best practices and effective organizational management. This included conducting business process mapping and findings from onsite interviews, background research, and process discovery sessions with over 120 staff in twelve (12) different departmental service areas comprised of department heads, subject matter experts, end users, and executive project committee members.

Subsequent to the process mapping work, we then assisted the City in the procurement of a new Community Development Solution. Activities included RFP development, proposal analysis, vendor due diligence and negotiation of a contract with the selected vendor, EnerGov. We are now in the early stages of providing Implementation Management Assistance to the City associated with the deployment of the EnerGov solution.

Project Timeline: September 2017 – Present

Collier County, FL

Mr. Lazaro Pomier, Sr. Operations
Analyst
Growth Management
Department, Development
Services Team
2800 N. Horseshoe Drive
Naples, FL 34104
239-252-8214

Lazaro.Pomier@colliercountyfl.gov
v

Mapping and Documentation of Core Business Processes

In response to increasing population growth and services demand following the impact of Hurricane Irma, the County selected Plante Moran through a competitive RFP process to document its current and future state business processes within the County's Development Services Team. The project involved customer service, planning, building, code enforcement, and operations administration areas. Services included training on Lean Six Sigma principles contributing to an Agency-wide, performance management framework including process mapping, the development of performance metrics and continuous improvement strategies, specifically the proposal of change management framework for identifying, evaluating and implementing process. It also included a position turnover analysis involving 350 employees assessing the impacts at the process level involving over 800 activities performed to administer enforcement and compliance in accordance with County, State, and Federal land development laws.

Project Timeline: Apr 2018 – January 2019

City of Bend, OR

Ms. Denise Wallace
IT Business Analyst
710 NW Wall Street
Bend, OR 97701
dwallace@bendoregon.gov
541.388.5583
www.bendoregon.gov

Community Development (Land Management) System Vendor Selection and Implementation Management Assistance

Plante Moran conducted a comprehensive Enterprise Resource Planning (ERP) needs assessment and selection project for the City to replace legacy applications within multiple lines of business, including core financials, procurement, budgeting, HR, land management, inspections, permitting. This project included conducting interviews with process owners and end-users, development of an RFP, proposal analysis, and due diligence assistance. It also included an integrated information process assessment (IIPA) to inform the selection and implementation of LMS and ERP systems. The City also engaged Plante Moran to conduct a business process review of the Fire Department's timekeeping functions, and provide recommendations to streamline the workflow and implement best practices and appropriate control points to better ensure accuracy and accountability.

Project Assessment and Selection Timeline: August 2013 – December 2016

Project Implementation Support: September 2017 – March 2018

City of North Miami Beach, FL

Mr. Gil Sosa
Senior IT Manager
Information Technologies
Division
17011 NE 19th Avenue, Suite 304
North Miami Beach, FL 33162
305.948.2975 ext. 2824
Gil.Sosa@citynmb.com

ERP Needs Assessment, System Selection and Implementation Management Assistance

Conducted a comprehensive Enterprise Resource Planning (ERP) needs assessment and selection project for the City to replace legacy applications within multiple lines of business within the City. The project included conducting of interviews with process owners and process end-users, development of a Needs Assessment report identifying process improvement opportunities, development of an ERP RFP, proposal analysis, due diligence assistance and contract negotiations and statement of work development with the selected ERP vendor, Munis and EnerGov.

Project Timeline: April 2011 – Current

Town of Jupiter, FL

Mr. Andrew Burgess
Director of Information
Systems
210 Military Trail
Jupiter, FL 33458
561.741.2385
drewb@jupiter.fl.us

EnerGov Post-Implementation Remediation Assistance

Assisted the Town in analyzing the Town's current situation with the EnerGov LMS implementation, created an action plan with recommendations on how to successfully implement the EnerGov solution to utilize the system as it was designed and assisted the Town in establishing processes that are more efficient. As a result of the action plan, we conducted follow-up reviews with the Town and vendor related to execution of the plan.

Project Timeline: May 2016 – Sept 2017

Proposed Staffing

Team Member	Project Role	Relevant Expertise
Scott Eiler Partner	Engagement Director Scott will have overall responsibility for ensuring that all Plante Moran services are completed within schedule and budget. Provides project quality control over Plante Moran deliverables and services.	30 years' experience assisting clients with technology related needs and twenty-two years specifically devoted to serving public sector clients. He has extensive experience providing technology services for including technology planning, system selection, technology assessments, IT organizational evaluations, and quality assurance and implementation management.
Christopher Blough, PMP Manager	Project Manager Responsible for the day-to-day performance of the team, and strategic direction of deliverables. Assure that all tasks are completed on schedule, within budget and meet appropriate quality standards.	19 years' experience in land management, permitting, licensing, and asset management processes and integrations involving enterprise technologies with Geographic Information Systems (GIS). He is a credentialed project management professional (PMP) and has applied background in Lean Six Sigma, community planning, and zoning enforcement.
Alex Jones Senior Consultant	Permitting, Licensing, and Land Management Consultant Implementation Management Advisor Will lead requirement gathering sessions for all modules and recommend updates to EnerGov workflow He will also facilitate meetings (onsite & remote) with the City and Tyler to document minutes, action items and ensure objectives are being met. Finally, he will provide project management services by tracking issues, communicating risks and mitigation strategies, and managing testing and post upgrade activities.	Five years' technology consulting experience specializing in process optimization, system selection and implementation management for Permitting & Land management systems. Facilitates process optimization activities resulting in requirements definition. Alex also provides implementation advisory services including data cleansing strategies, test script development, and end-user acceptance testing. Currently supporting the implementation of the new permitting and land management systems for North Miami Beach, FL (Tyler EnerGov). City of Bend, OR (Harris CityView), and the City of Peoria, IL, (Tyler EnerGov)

Detailed Staff Resumes



Scott Eiler, PMP

Project Director: EnerGov Implementation Advisory Services

Summary of Experience

Scott has over thirty years' experience assisting clients with various technology related needs and twenty five years specifically devoted to serving governmental clients at the local, County and State level. He has extensive experience in providing numerous technology services for governmental clients including technology planning, technology assessments, software selections and implementation management assistance. He is also a champion within the firm on the development and education of staff on project management theory, tools and techniques.

Education

Master of Business Administration
University of Michigan

Bachelor of Science in General
Engineering
University of Illinois

Professional Training & Affiliations

Government Finance Officers
Association (GFOA)

Florida Government Finance Officers
Association (FGFOA)

Project Management Institute (PMI)

Project Management Professional
(PMP) since 2003

ITIL V3 Foundation Certified

Prosci Change Management Certified

Project Roles

Scott will serve as the Engagement Director on the project ensuring the overall quality and completeness of activities to be performed and deliverables to be provided on the project.

Selected Key Clients

Broward County, FL

Collier County, FL

Dane County, WI

Miami-Dade County, FL

DuPage County, IL

Gwinnett County, GA

Hancock County, OH

Horry County, SC

Johnson County, KS

Kent County, MI

Lake County, IL

Oakland County, MI

St. Louis County, MO

Waukesha County, WI

Solid Waste Authority of Palm Beach
County (SWA), FL

City of Cleveland, OH

City of Battle Creek, MI

City of Hollywood, FL

Village of Wellington, FL

City of West Palm Beach, FL

City of Dublin, OH

City of Kalamazoo, MI

City of Ft. Lauderdale, FL

City of Carrollton, TX

City of Hallandale Beach, FL

City of Mesa, AZ

City of North Miami Beach, FL

City of Ann Arbor, MI

City of Miramar, FL

City of Columbia, MO

Town of Jupiter, FL

City of Midland, MI

City of Owensboro, KY

City of Chandler, AZ

City of Winter Park, FL

City of Pueblo, CO

City of Pinellas Park, FL

Central Ohio Transit Authority, OH

Emerald Coast Utilities Authority
(ECUA), FL



Christopher Blough, MPA, PMP

Project Manager: EnerGov Implementation Advisory Services

Summary of Experience

Chris leads Plante Moran's Public Services Practice with 19 years of technology applications management specializing in county, municipal, and special purpose government operations. As credentialed project manager and an ITIL certified applications manager, he leads enterprise service delivery projects involving ERP systems for regulatory compliance (licensing, permitting, land management), core financials, human resources, purchasing, inventory management, capital budgeting, geographic information systems (GIS), and enterprise asset and work management (EAM/CMMS). Manages project teams to assess business opportunities, compare solution options, evaluate and select solutions, negotiate contracts, and deliver implementation advisory services to ensure realization of expected outcomes.

Credentialed IT Project Manager: By working in 35+ local government organizations in his career, Chris offers proven methods and firsthand experience enabling public sector professionals to increase the business value derived from enterprise systems and applications. He leads project teams to assess business opportunities, prepare options analyses, evaluate and select solutions, negotiate technology contracts, and provide third-party implementation advisory services.

Public Sector IT Leadership: As a former public servant working in county and municipal government technology leadership roles, he recognizes opportunities for collaboration and joint investment in technology initiatives applying return-on-investment strategies. His clients recognize his ability to lead multi-disciplinary teams to build compelling business cases linked to outcomes to establish ownership and accountability.

LEAN Six Sigma (LSS) Process Optimization: Chris integrates LSS practices with clients to optimize business processes by increasing customer value recognition throughout the IT service delivery lifecycle for both internal and external stakeholders. He equips clients to qualify and prioritize IT projects and services using data-driven and analytics insights.

IT Program Governance and Project Governance: Chris coaches and trains clients to prepare IT governance strategies to deliver short and long-term organizational commitments to ensure people, process, and technology sustain their expected value.

Recent and Relevant Project Experiences

City of West Palm Beach, FL, Permitting System Replacement (In Progress): Lead consultant for one of Florida's fastest growing communities facing an 11% annual increase in permitting activity and a \$2 billion backlog in proposed and scheduled projects in 2017. The project involved discovery and process definition for 12 departments and 30 business units involving over 120 staff. It also examined ways to streamline business tax receipts processes to ensure the fair and equitable collection of \$3.6 million in annual revenues. The project scope involved process diagramming for 27 major processes involving 750 activities. Through this process discovery, the City is using 80 use cases specific to core business requirements to software demos representing the needs of Planning, Building

Education

Master of Public Administration,
Eastern Michigan University

Bachelor of Science in Geography/
Earth Science,
Central Michigan University

Selected Publications

The GIS Guide for Elected Officials,
City of Novi, MI – Moving Novi's
Online Mapping Services to the
Cloud, Esri Press, 2014

Professional Training & Affiliations

Project Management Professional
(PMP), Project Management Institute
(Certificate #1373368)

Lean Six Sigma Green Belt, Purdue
University

IT Service Management, ITIL v3
Foundation, APM Group Ltd. (2012)

Institute of Asset Management
Certificate #1029965

Building Officials Association of
Florida

Project Management Institute, Great
Lakes Chapter

Esri International User Conference
2006, 08, 10, 12*, 15, 19 (*Special
Achievement in GIS Award on behalf
of Novi, Michigan)

Society for Maintenance and
Reliability Professionals

Selected Clients

City of Des Moines IA: Project Manager, CD System Assessment and Selection

City of Hollywood, FL: Lead Consultant, CD Permitting Business Needs Evaluation

City of St. Charles, IL: Project Manager, CD Needs Assessment and Requirements Definition

City of Sunnyvale CA: Project Manager, CD System Assessment and Selection

City of West Palm Beach, FL: Project Manager, CD Assessment, Business Process Evaluation, Selection, and Implementation Management

County of Collier FL: Project Manager, Business Process Mapping and Documentation

Safety Code, Engineering, Utilities, Fire, Police, Public Works, Parks and Recreation, and Property Code Enforcement.

County of Collier, FL, Mapping and Documentation of Core Business Processes: Project manager for a continuous improvement initiative launched in response to significant population growth and services demand following Hurricane Irma addressing customer service, planning, building, code enforcement, and operations administration areas of the County's Growth Management Department, Development Services Agency. The project involved the documentation of current-state and future-state business processes spanning all functions of the land development and code enforcement lifecycle. Services included training on LEAN and Six Sigma principles contributing to an Agency-wide, performance management framework including the creation of performance metrics and continuous improvement strategies. It also included a position turnover analysis involving 350 employees assessing the impacts at the process level involving over 800 activities performed to administer enforcement and compliance in accordance with County, State, and Federal land development laws. Strategies to promote the introduction and adoption of performance measures were featured along with stakeholder change management techniques to promote adoption of the processes identified.

Des Moines, IA, Assessment & Business Systems Replacement (Completed May 2018): Project Manager overseeing the business needs to replace the City's 20-year old Accela Tidemark information system serving 12 departments and 30 business units. Des Moines' 7% is annual permitting activity growth coupled with being the nucleus of the fastest growing metro region in the Midwest in terms of population, GDP, and jobs in 2016. Over 70 Community Development staff engaged in the project were using 49 different business systems to serve the public. The project resulted in significant process streamlining with 28 systems identified for replacement. The City's GIS integration was supported to provide a single point of entry for addresses within GIS which would automatically validate all addresses used in the replacement permitting solution.

City of St. Charles, IL, Enterprise Application Assessment Project (Completed August 2016) | EAM/CD Assessment and Requirements Definition Project (Completed July 2017)

Project manager and lead consultant for an enterprise applications assessment (EAA) of the City's enterprise applications and related systems involving the City's financial, human resources, utility billing, asset management, and permitting/inspection activities. The assessment included a current system total cost of ownership analysis, identification of alternatives for replacing systems, and the development of a financial analysis to produce a return on investment (ROI) calculation for three approaches to update the City's existing applications environment. A second, separate project included an assessment and business requirements development for Community Development (permitting, licensing, and inspection) and Enterprise Asset Management (work order management) to strategically optimize and align the City's technology, practices, and resources.



Alex Jones

Lead Consultant: EnerGov Implementation Management Services

Summary of Experience

Alex has 4 years of technology consulting experience. Prior to working for Plante Moran, Alex worked as a data conversion consultant servicing private sector clients in the manufacturing industry to be engaged before, during, and post go live to ensure data integrity as they converted data from their enterprise legacy systems to desired target ERP system(s). His experience involved client interviews to develop specs and requirements, process mapping, data cleansing, developing test scripts, overseeing end user acceptance testing, and post go live support.

With Plante Moran, Alex has serviced a variety of municipal clients with process discovery and current state assessment, RFP development, solution evaluation and selection, and post implementation assessments with a primary focus on Land Management, ERP and Document Management Solutions. During these engagements, he plays a fundamental part in engaging with the client to understand current business needs, identifying process inefficiencies and functional gaps, collaborating with the client to develop comprehensive functional system requirements to be summarized in a request for proposal (RFP) document.

Education

Bachelor of Science in Applied
Engineering Sciences
Supply Chain Management
Specialization
Michigan State University

Selected Key Clients

- Borough of State College, PA
- City of Bend, OR
- City of Des Moines, IA
- City of Peoria, IL
- City of Sunnyvale, CA
- City of West Palm Beach, FL
- Collier County, FL

Recent and Relevant Project Experiences

City of North Miami Beach, FL – EnerGov Implementation (In Progress)

The City of North Miami Beach is in the process of implementing EnerGov 2019 after the first attempt was put on hold in 2016. Alex serves as the primary third party consultant to ensure a successful implementation and desired functionality from the City is being met. Responsibilities include:

- Requirements gathering from all departments
- Facilitating weekly status meetings to ensure City & vendor are owning project activities
- Identifying functional gaps during configuration and testing and organizing meetings with EnerGov consultants & City end-users to confirm understanding of proposed functionality
- Develop testing resources including a testing plan, EnerGov testing log to efficiently manage testing process and escalate issues to EnerGov consultants
- Review budget reports, invoices and budgeted vs. actual hours to ensure proposed services are being delivered

City of Bend, OR – LEAP IIPA Process Mapping (Spring 2018)

In support of the Leading Effective Applications and Processes (LEAP), Alex was one of 2 project consultants servicing the City in their Integrated Inspections and Permitting Applications (IIPA) Business Process mapping initiative. Alex was primarily responsible for following Project Activities and tasks:

- Developing and maintaining project administration tools, including project charter, project plan, interview schedule and interview questionnaires
- Facilitating process discovery discussions, mapping out end-to-end fundamental business processes and identifying process inefficiencies

- Facilitating process validation sessions, working with the City to finalize current state process maps and confirm recognized process inefficiencies
- Engineering future state “To-Be” process maps based on the City’s current inefficiencies, desired functionality, and best practice considerations
- Develop and present best practice presentation summarizing similar municipalities utilizing best practice techniques and tools and how they can be applied to the City in a future environment

Borough of State College, PA ERP Assessment

Tyler Munis was selected and implemented by the Borough in 2014. 4 years later, the Borough found themselves with outstanding modules to be implemented, only a few members of the original project team, minimal documentation and no support from their Tyler account rep. Alex was part of a 2 person team to provide consulting services to assess their current state and provide a recommendation to utilize Tyler instead of procuring a new ERP. Key activities involved in this engagement were:

- Review contract to identify modules being paid for but not yet implemented or utilized by the Borough
- Facilitated onsite discussions to assess current state processes, process inefficiencies, desired training, outstanding help desk tickets, and desired functionality

Develop report summarizing current state environment, a recommendation to utilize their current ERP, with a plan including specific milestones and activities to achieve our recommendation.

Scope of Services

Plante Moran's project management advisory services can be scaled and refined to support the City's needs. We begin by reviewing the contract documents including the master licensing and services agreement and the investment summary to understand the scope objectives set forth. It is assumed the City will assume responsibility for all final decisions and will be supported by Plante Moran's project management team.

Implementation Management Roles

There are a variety of roles that we can fulfill on the City's EnerGov implementation that is dependent on the following variables:

- Scope of solution and services selected by City
- Availability of City staff and vendor staff
- Expiration date of current maintenance contracts
- City's desired implementation approach (i.e., phased versus "big bang")
- Complexity of implementation (e.g., high number of interfaces, extensive data conversion, etc.)
- Availability of budgeted funds to allocate necessary resources for each project phase
- Complexity of the implementation plans including budget, timing and dependencies for City
- Strength of the communications to review progress and discuss project issues
- Ability to enforce project management and control procedures

Each of these options and the estimated time commitment is provided below and can be scaled based on the City's needs.

Role	Role Description	Time Commitment
Pre-Implementation Assistance Roles		
Pre-Implementation and Initial Project Planning Assistance	Provide pre-implementation planning assistance and assistance prior to and during the early stages of system implementation to ensure that project management processes, procedures, tools and templates are implemented and will be used effectively.	60 - 80 hrs
On-Going Implementation Assistance Roles		
Overall Project Manager	Act as the client project manager during the implementation.	.40 - .60 FTE
Co-Project Manager	Together with the City's Project Manager, track and confirm that action items and homework are completed on time. Approve all invoices while tracking and reporting the monthly project budget. Ensure that the project adheres to the timeline and avoid scope creep. Provide contract compliance support.	8-12 hours / week

Based on our discussions with the City we are proposing the following responsibilities for each of the three major project management phases of the project to provide the most value to the City.

Pre-Implementation and Initial Project Planning Phase Activities

At the initiation of the project, activities will be performed to ensure a solid foundation for moving forward has been established. Specifically, the types of project initiation and phase transition activities to be performed are listed below.

- Assist in the development of an EnerGov Statement of Work (SOW) that defines the parameters around the EnerGov phase of the City's Tyler implementation.
- Review and analyze the implementation plan submitted by Tyler's EnerGov project team and present recommendations to the EnerGov project manager as to acceptability, timeline, staffing impact, budgetary and other considerations.
- Review and assess associated subsidiary plans (e.g. resource, communication, risk, data conversion, interface, etc.).
- Assist in the development of a project charter defining stakeholder roles and responsibilities, project scope, identify risks, and communications plan.
- Prepare stakeholder engagement strategy and communications plan.
- Assist in the development and deployment of project templates and tools.
- Establish collaboration centers to effectively track and store project documents and artifacts.

Activities	Deliverables	
3.1 Project initiation and implementation planning support services	• Project organizational chart • Roles and responsibilities matrix • Project charter • Scope statement • Stakeholder impact matrix • Implementation lessons learned • Client success characteristics • Project issues, risks, and decisions tracking log • Stakeholder communications plan	• Project management plan • Review of vendor WBS • Project schedule mgt plan • Project timeline • Project deliverables tracking • Stakeholder roles and responsibilities matrix • Budget monitoring tool • Project change control procedures

On-Going Implementation Assistance Activities

At this stage, the EnerGov project migrates to an execution and controlling focus where the majority of activities and time will be spent managing the implementation of the new land management solution. Plante Moran would anticipate the following activities being performed by the City during the implementation phase of the project. Plante Moran would coordinate and provide advice regarding these typical implementation activities in conjunction with the EnerGov Project Manager. Our involvement would be to assist and coach the City's Project Manager during this phase of the project and be on-site for times when the EnerGov resources are on-site.

Activities	Deliverables	
Project execution and control support services execution and control support services	• Defined hardware, applications, and database configuration environment reviews • Project status reports • Updates to communications, schedule, risks, decision logs/plans • Training curriculum reviews	• Application and service tracking • Client deployment process • Meeting minutes • Updates to process diagram and procedure updates • EnerGov invoice reviews • Data conversion maps and analytics strategies and go-live checklist

Project Closing and Post Implementation Support

After the EnerGov go-live, the project will transition to a project closing and transition to support task in which much of the time will be spent on resolving go-live issues and transitioning from an implementation to an on-going operational state of the system. The transition from the implementation phase to an operational state the system should be considered a process and not an event. The following activities are essential to complete the transition to system operational go-live.

- Provide assistance in tracking and resolving post go-live issues.
- Summarizing the accomplishments of the project, including lessons learned.
- Transferring documentation and knowledge.
- Identifying post-implementation team activities and develop a post-implementation plan.

The table below outlines project closing and post-implementation support phase activities. The primary support role represents the party(s) accountable for performing the activity and delivering the expected results. The advisory support role represents the party(s) advising the designated, primary support party.

Activities	Deliverables	
Project closing and post implementation support	• Post-implementation plan • Transition plan • Post-implementation process and system audit	• Ongoing system support procedures • Go-live cutover checklist • Documentation of lessons learned and strategies for future knowledge transfer

Project Fees and Timing

Based on our discussions with the City, we are estimating our activities for each of the above project management phases and hours estimates to support the City in each of these phases to be as follows. These services are provided at a blended billing rate of \$225/hr that is inclusive of all travel and incidental expenses.

Phase	Duration	Hours	Fees
Pre-Implementation and Initial Project Planning	Jan – Feb 2020	60 hrs	\$13,500
On-Going Implementation Assistance	Mar – Dec 2020	30 hrs/mo = 300 hrs	\$67,500
Project Closing and Post-Implementation Support	Jan – Feb 2021	40 hrs	\$ 9,000
Totals:		400 hrs	\$90,000

Based on the above hours and blending billing rate, we are projecting a total non-to-exceed fee of \$90,000. At the start of the project we will prepare an hours tracking spreadsheet that will project our hours over the life of the project. On a monthly basis we will report out our actual hours incurred for the previous month and on a cumulative basis so as to provide visibility to the City as to how our hours are being consumed. We will bill the City monthly based on the hours incurred in the previous month. We will not exceed the above hours unless mutually agreed to and approved in advance by the City through a formal change order.

Professional Services Agreement – Consulting Services Addendum to Plante & Moran, PLLC Engagement Agreement

This Professional Services Agreement is part of the engagement agreement for our consulting services dated January 8, 2020 between Plante & Moran, PLLC (referred to herein as “PM”) and City of Paducah, KY (referred to herein as “CITY”).

- 1. Management Responsibilities** – The consulting services PM will provide are inherently advisory in nature. PM has no responsibility for any management decisions or management functions in connection with its engagement to provide these services. Further, CITY acknowledges that CITY is responsible for all such management decisions and management functions; for evaluating the adequacy and results of the services PM will provide and accepting responsibility for the results of those services; and for establishing and maintaining internal controls, including monitoring ongoing activities, in connection with PM’s engagement. CITY has designated Michelle Smolen, Assistant City Manager, to oversee the services PM will provide.

CITY represents and warrants that any and all information that it transmits to Plante Moran will be done so in full compliance with all applicable federal, state, and foreign privacy and data protection laws, as well as all other applicable regulations and directives, as may be amended from time to time (collectively, “Data Privacy Laws”). CITY shall not disclose personal data of data subjects who are entitled to certain rights and protections afforded by applicable federal, state, and foreign privacy and data protection laws (“Personal Data”) to PM without prior notification to PM. CITY shall make reasonable efforts to limit the disclosure of Personal Data to PM to the minimum necessary to accomplish the intended purpose of the disclosure to PM.

Prior to commencement of the services, PM agrees that it shall apply for a business license as required by the City of Paducah and shall maintain such license for the term of this agreement and any extension thereof.

- 2. Nature of Services** – PM’s project activities will be based on information and records provided to PM by CITY. PM will rely on such underlying information and records and the project activities will not include audit or verification of the information and records provided to PM in connection with the project activities.

The project activities PM will perform will not constitute an examination or audit of any CITY financial statements or any other items, including CITY’s internal controls. Additionally, this engagement will not include preparation or review of any tax returns or consulting regarding tax matters. If CITY requires financial statements or other financial information for third-party use, or if CITY requires tax preparation or consulting services, a separate engagement letter will be required. Accordingly, CITY agrees not to associate or make reference to PM in connection with any financial statements or other financial information of CITY. In addition, PM’s engagement is not designed and cannot be relied upon to disclose errors, fraud, or illegal acts that may exist. However, PM will inform you of any such matters that come to PM’s attention.

3. **Vendor Selection** – Unless expressly agreed to in writing by Plante Moran, Plante Moran does not conduct independent due diligence activities regarding potential vendors that may respond or have responded to CITY’s request for proposals. Plante Moran’s role relative to due diligence activities is limited to assisting CITY develop and/or follow a process by which CITY participates in due diligence activities that are designed to evaluate vendors and solutions against CITY’s decision criteria. Plante Moran’s assistance in this regard is designed to help the CITY execute a selection methodology that is consistently and fairly applied to all vendors involved in the bid process. It is CITY’s responsibility to assess, evaluate, and weigh the results of the due diligence activities CITY conducts, and CITY is ultimately responsible for making and accepting responsibility for the decision it makes relative to vendor and solution selection.
4. **Project Deliverables** – At the conclusion of PM’s project activities and periodically as PM progress, PM will review the results of its work with CITY and provide CITY with any observations related to PM’s services that PM believes warrant CITY’s attention. PM also will provide CITY with copies of analyses or other materials that PM may develop in the course of this engagement upon CITY’s request. PM will not issue a written report as a result of this engagement and CITY agrees that the nature and extent of the work product that PM will provide, as outlined in this agreement, are sufficient for CITY’s purposes.
5. **Interactive Analyses and Visualizations** – In instances where PM expressly agrees in the accompanying agreement to provide interactive analyses or visualization tools (collectively, “Electronic Documents”) to CITY, such Electronic Documents will be provided in a format determined to be acceptable to PM. CITY acknowledges and agrees that CITY’s ability to access such Electronic Documents may require software programs that PM does not develop, license, or support, and CITY shall be solely responsible for the costs to obtain, use, or support any such required software. PM makes no representation or warranty with respect to such software or the continuing functionality of such software relative to the Electronic Documents and disclaims any and all express or implied warranties if any, associated with such software, its merchantability, and/or its fitness for any particular use by CITY.

If and to the extent provided by PM, Electronic Documents are provided solely for the purpose of supporting the project deliverables and are to be used only as expressly described in and authorized by the project deliverables. PM disclaims any responsibility for any use of the Electronic Documents that is not expressly provided for in and authorized by the project deliverables. Further, CITY acknowledges that CITY is solely responsible for evaluating the adequacy and accuracy of any results generated through the use of Electronic Documents. PM will have no responsibility to support or update the Electric Documents for any events or circumstances that occur or become known subsequent to the date of their corresponding project deliverables.

CITY acknowledges that PM may utilize proprietary works of authorship that have not been created specifically for CITY and were conceived, created, or developed prior to, or independent of, this engagement including, without limitation, computer programs, methodologies, algorithms, models, templates, software configurations, flowcharts, architecture designs, tools, specifications, drawings, sketches, models, samples, records, and documentation (collectively, “PM Intellectual Property”). CITY agrees and acknowledges that PM Intellectual Property is and shall remain solely and exclusively the property of PM.

Upon payment for the engaged services, to the extent that PM incorporates PM Intellectual Property into the Electronic Documents (which PM shall do only as expressly provided for in the accompanying

agreement), PM grants to CITY a limited royalty-free, nonexclusive, right and license to use such incorporated PM Intellectual Property for internal purposes only and in the original format. CITY agrees not to copy, publish, modify, disclose, distribute, decompile, reverse engineer, or create derivative works based on PM Intellectual Property. Notwithstanding the foregoing, in no event will PM be precluded from developing for itself or for others, works of authorship which are similar to those included in the project deliverables.

If and to the extent PM shares information obtained from third-party data sources with CITY, CITY agrees not to (i) disclose or redistribute any such third-party data to third parties without the express written consent of PM; or (ii) attempt to extract, manipulate, or copy any embedded or aggregated third-party data from the Electronic Documents for any purpose.

- 6. Confidentiality, Ownership, and Retention of Workpapers** – During the course of this engagement, PM and PM staff may have access to proprietary information of CITY, including, but not limited to, information regarding general ledger balances, financial transactions, trade secrets, business methods, plans, or projects. PM acknowledges that such information, regardless of its form, is confidential and proprietary to CITY. PM will comply with all applicable ethical standards, laws, and regulations as to the retention, protection, use, and distribution of such confidential client information. Except to the extent set forth herein, PM will not disclose such information to any third party without the prior written consent of CITY.

In the interest of facilitating PM's services to CITY, PM may communicate or exchange data by internet, email, facsimile transmission or other electronic methods. While PM will use its best efforts to keep such communications and transmissions secure in accordance with PM's obligations under applicable laws and professional standards, CITY recognizes and accepts that PM has no control over the unauthorized interception of these communications or transmissions once they have been sent, and consents to PM's use of these electronic devices during this engagement.

Professional standards require that PM create and retain certain workpapers for engagements of this nature. All workpapers created in the course of this engagement are and shall remain the property of PM. PM will maintain the confidentiality of all such workpapers as long as they remain in PM's possession.

Both CITY and PM acknowledge, however, that PM may be required to make its workpapers available to regulatory authorities or by court order or subpoena in a legal, administrative, arbitration, or similar proceeding in which PM is not a party. Disclosure of confidential information in accordance with requirements of regulatory authorities or pursuant to court order or subpoena shall not constitute a breach of the provisions of this agreement. In the event that a request for any confidential information or workpapers covered by this agreement is made by regulatory authorities or pursuant to a court order or subpoena, PM agrees to inform CITY in a timely manner of such request and to cooperate with CITY should CITY attempt, at CITY's cost, to limit such access. This provision will survive the termination of this agreement. PM's efforts in complying with such requests will be deemed billable to CITY as a separate engagement. PM shall be entitled to compensation for its time and reasonable reimbursement of its expenses (including legal fees) in complying with the request.

PM reserves the right to destroy, and it is understood that PM will destroy, workpapers created in the course of this engagement in accordance with PM's record retention and destruction policies, which are

designed to meet all relevant regulatory requirements for retention of workpapers. PM has no obligation to maintain workpapers other than for its own purposes or to meet those regulatory requirements.

Upon CITY's written request, PM may, at its sole discretion, allow others to view any workpapers remaining in its possession if there is a specific business purpose for such a review. PM will evaluate each written request independently. CITY acknowledges and agrees that PM will have no obligation to provide such access or to provide copies of PM's workpapers, without regard to whether access had been granted with respect to any prior requests.

- 7. Consent to Disclosures to Service Providers** – In some circumstances, PM may use third-party service providers to assist PM with its services, including affiliates of PM within or outside the United States. In those circumstances, PM will be solely responsible for the provision of any services by any such third-party service providers and for the protection of any information provided to such third-party service providers. PM will require any such third-party service provider to: (i) maintain the confidentiality of any information furnished; and (ii) not use any information for any purpose unrelated to assisting with PM's services for CITY. In order to enable these third-party service providers to assist PM in this capacity, CITY, by its duly authorized signature on the accompanying engagement letter, consents to PM's disclosure of all or any portion of CITY's information, including tax return information, to such third-party service providers, including affiliates of PM outside of the United States, if and to the extent such information is relevant to the services such third-party service providers may provide and agrees that PM's disclosure of such information for such purposes shall not constitute a breach of the provisions of this agreement. CITY's consent shall be continuing until the services provided for this engagement agreement are completed.
- 8. Third-Party Data** – PM may reference third-party data sources in performing the services described in the agreement. Third-party data may include publicly available data, commercially available data licensed to PM, or information obtained from other sources. PM will use its judgment, discretion, best efforts, and good faith in evaluating the use of third-party data sources, but does not warrant or guarantee the accuracy, completeness, or timeliness of any data obtained from third-party data sources and disclaims any liability arising out of or relating to the use of data from third-party data sources. CITY acknowledges that any commercially available third-party data sources referenced by PM are licensed to PM and PM's ability to share information obtained from commercially available third-party data sources is often restricted by the terms of use granted to PM by the licensor and, unless expressly set forth in the accompanying agreement, PM makes no representation or warranty that CITY will have access to data obtained from third-party data sources. If and to the extent PM shares information obtained from third-party data sources with CITY, CITY agrees not to disclose or redistribute any such third-party data to third parties without the express written consent of PM. This agreement does not convey to CITY a sublicense to any third-party data source unless expressly agreed to in writing and signed by a duly authorized representative of PM. However, nothing herein shall prevent CITY from directly contracting with or obtaining a license from any third-party data source if CITY determines, in its sole discretion, that any such direct contract or license to be in its best interest.

- 9. Fee Quotes** – In any circumstance where PM has provided estimated fees, fixed fees or not-to-exceed fees (“Fee Quotes”), these Fee Quotes are based on CITY personnel providing PM staff the assistance necessary to satisfy CITY responsibilities under the scope of services. This assistance includes availability and cooperation of those CITY personnel relevant to PM’s project activities and providing needed information to PM in a timely and orderly manner. In the event that undisclosed or unforeseeable facts regarding these matters causes the actual work required for this engagement to vary from PM’s Fee Quotes, those Fee Quotes will be adjusted for the additional time PM incurs as a result.

In any circumstance where PM’s work is rescheduled at the City’s request or requirement, PM offers no guarantee, express or implied, that PM will be able to meet any previously established deadline related to the completion of PM’s work. Because rescheduling its work imposes additional costs on PM, in any circumstance where PM has provided Fee Quotes, those Fee Quotes may be adjusted for additional time PM incurs as a result of rescheduling its work at the request or requirement of the City. The City shall not be responsible for any additional costs incurred due to rescheduling of the work at the request or requirement of PM.

PM will advise CITY in the event these circumstances occur; however, it is acknowledged that the exact impact on the Fee Quote may not be determinable until the conclusion of the engagement. Such fee adjustments will be determined in accordance with the Fee Adjustments provision of this agreement.

- 10. Payment Terms** – PM’s invoices for professional services are due upon receipt unless otherwise specified in the agreement. In the event any of PM’s invoices are not paid in accordance with the terms of this agreement, PM may elect, at PM’s sole discretion, to suspend work until PM receives payment in full for all amounts due or terminate this engagement. In the event that work is suspended, for nonpayment or other reasons, and subsequently resumed, PM offers no guarantee, express or implied, that PM will be able to meet any previously established deadlines related to the completion of PM’s consulting work. CITY agrees that in the event that work is suspended, for non-payment or other reasons, PM shall not be liable for any damages that occur as a result of PM ceasing to render services.
- 11. Fee Adjustments** – Any fee adjustments for reasons described in this agreement will be determined based on the actual time expended by PM staff at \$225/hr, and included as an adjustment to PM’s invoices related to this engagement. CITY acknowledges and agrees that payment for all such fee adjustments will be made in accordance with the payment terms provided in this agreement.
- 12. Force Majeure** – Neither party shall be deemed to be in breach of this engagement agreement as a result of any delays or non-performance directly or indirectly resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, acts of God, war or other violence, or epidemic (each individually a “Force Majeure Event”). A Force Majeure Event shall not excuse any payment obligation relating to fees or costs incurred prior to any such Force Majeure Event.

13. Exclusion of Certain Damages – Except to the extent finally determined to have resulted from PM’s gross negligence or willful misconduct, the liability of PM and any of PM’s officers, directors, partners, members, managers, employees, affiliated, parent or subsidiary entities, and approved allied third-party service providers (collectively, “PM Persons”) for any and all claims, losses, costs, and damages of any nature whatsoever is limited so that the total aggregate liability of the PM and/or the PM Persons with respect to and arising out of the services provided hereunder shall not exceed the total fees paid to PM for the services provided in connection with this engagement agreement. It is agreed that these limitations on PM’s and the PM Persons’ maximum liability are reasonable in view of, among other things, the nature, scope, and limitations of the services PM is to provide, and the fees PM is to receive under this engagement. In no event shall the PM or the PM Persons be liable, whether a claim be in tort, contract, or otherwise, for any consequential, indirect, lost profit, punitive, exemplary, or other special damages. The exclusion of certain damages as set forth in this Section apply to any and all liabilities or causes of action against PM and/or the PM Persons, however alleged or arising, unless and to the extent otherwise prohibited by law. This provision shall survive the termination of this engagement.

In the event this engagement agreement expressly identified multiple phases of services, the total aggregate liability of PM shall be limited to no more than the total amount of fees received by PM for the particular phase of services alleged to have given rise to any such liability.

14. Defense, Indemnification, and Hold Harmless – As a condition of PM’s willingness to perform the services provided for in the agreement, CITY agrees to defend, indemnify, and hold PM and the PM Persons harmless against any claims by third parties for losses, claims, damages, or liabilities, to which PM or the PM Persons may become subject in connection with or related to the services performed in the engagement, unless a court having jurisdiction shall have determined in a final judgment that such loss, claim, damage, or liability resulted primarily from the willful misconduct or gross negligence of PM, or one of the PM Persons. This defense, indemnity, and hold harmless obligation includes the obligation to reimburse PM and/or the PM Persons for any legal or other expenses incurred by PM or the PM Persons, as incurred, in connection with investigating or defending any such losses, claims, damages, or liabilities.

15. Receipt of Legal Process – In the event PM is required to respond to a subpoena, court order, or other legal process (in a matter involving CITY but not PM) for the production of documents and/or testimony relative to information PM obtained and/or prepared during the course of this engagement, CITY agrees to compensate PM for the affected PM staff’s time at such staff’s current hourly rates, and to reimburse PM for all of PM’s out-of-pocket costs incurred associated with PM’s response unless otherwise reimbursed by a third party.

16. Termination of Engagement – This agreement may be terminated by either party upon written notice. Upon notification of termination, PM’s services will cease and PM’s engagement will be deemed to have been completed. CITY will be obligated to compensate PM for all time expended and to reimburse PM for related costs PM incurs through the date of termination of this engagement.

17. Time Limits – Except for actions to enforce payment of PM’s invoices and without limiting any claims for indemnification hereunder, any claim or cause of action arising under or otherwise relating to this engagement must be filed within two years from the completion of the engagement without regard to any statutory provision to the contrary.

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- 18. Entire Agreement** – This engagement agreement is contractual in nature and includes all of the relevant terms that will govern the engagement for which it has been prepared. The terms of this letter supersede any prior oral or written representations or commitments by or between the parties regarding the subject matter hereof. Any material changes or additions to the terms set forth in this letter will only become effective if evidenced by a written amendment to this agreement, signed by all of the parties.
- 19. Severability** – If any provision of this engagement agreement (in whole or part) is held to be invalid or otherwise unenforceable, the other provisions shall remain in full force and effect.
- 20. Conflicts of Interest** – PM’s engagement acceptance procedures include a check as to whether any conflicts of interest exist that would prevent PM’s acceptance of this engagement. No such conflicts have been identified. CITY understands and acknowledges that PM may be engaged to provide professional services, now or in the future, unrelated to this engagement to parties whose interests may not be consistent with interests of CITY.
- 21. Agreement Not to Influence** – CITY and PM each agree that each respective organization and its employees will not endeavor to influence the other’s employees to seek any employment or other contractual arrangement with it, during this engagement or for a period of one year after termination of the engagement. CITY agrees that PM employees are not “contract for hire.” PM may release CITY from these restrictions if CITY agrees to reimburse PM for its recruiting, training, and administrative investment in the applicable employee. In such event, the reimbursement amount shall be equal to two hundred hours of billings at \$225/hr hourly rate] for the PM employee.
- 22. Signatures** – Any electronic signature transmitted through DocuSign or manual signature on the agreement transmitted by facsimile or by electronic mail in portable document format may be considered an original signature.
- 23. Governing Law** – This agreement shall be governed by and construed in accordance with the laws of the State of Kentucky, and jurisdiction over any action to enforce this agreement, or any dispute arising from or relating to this agreement shall reside exclusively within the State of Kentucky.

End of Professional Services Agreement – Consulting Services

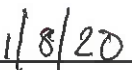
Agreed and Accepted

We accept this proposal and the accompanying Professional Services Agreement, which sets forth the entire agreement between the City of Paducah, KY and Plante & Moran, PLLC with respect to the services specified in the "Scope of Services" section of this proposal. This agreement may be amended by written agreement between Plante & Moran, PLLC and the City of Paducah, KY.

Plante & Moran, PLLC



Mr. E. Scott Eller, Partner



Date

City of Paducah, KY

Mayor Brandi Harless

Date

We look forward to working with you.
Please contact us with any questions.



Scott Eiler

Engagement Partner

Scott.Eiler@plantemoran.com

Direct: 248.223.3447

27400 Northwestern Highway

P.O. Box 307

Southfield, MI 48037-0307



Christopher Blough

Project Manager

Christopher.Blough@plantemoran.com

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Southfield, MI 48037-0307

98%
OF CLIENTS
SAY THEY
WOULD
RECOMMEND
PLANTE MORAN



11th largest CPA and consulting firm in the United States.



CITY OF PADUCAH
CITY MANAGER'S OFFICE
CITY HALL, 300 SOUTH 5TH STREET
PADUCAH, KY 42001 • (270) 444-8503

MEMORANDUM

TO: Board of Commissioners

FROM: James Arndt, City Manager
Michelle Smolen, Assistant City Manager

DATE: January 8, 2020

RE: Plante Moran Non-Competitive Determination

The City of Paducah is proposing to enter into a professional services contract with Plante Moran for technical assistance with the implementation of the Energov Codes and Permitting software. The contract is structured to not exceed \$90,000. This contract is for professional services and will be a noncompetitive negotiation purchase pursuant to KRS 45A.380(3).

Agenda Action Form

Paducah City Commission

Meeting Date: January 14, 2020

Short Title: Amend Code of Ordinances Section 70-52 to Add One Additional Member to the Brooks Stadium Commission - **J ARNDT**

Category: Ordinance

Staff Work By: James Arndt, Lindsay Parish, Claudia Meeks
Presentation By: James Arndt

Background Information: The City of Paducah established the Brooks Stadium Commission to promote the full use of the Brooks Stadium facilities and adjacent properties as it deems in the best interest of the public. The Brooks Stadium Commission has made recommendation to the Board of Commissioners of the City of Paducah to increase by one the number of members appointed to the Brooks Stadium Commission.

In order to add an additional member to the Brooks Stadium Commission, it is necessary to amend Section 70-52 of the Code of Ordinances. This action will increase the total number of Brooks Stadium Commission members to ten (10). This action also removes the voting rights of the Brooks Stadium Commission President except to cast the deciding vote in the case of a tie.

Does this Agenda Action Item align with a Strategic Plan Action Step? No

If yes, please list the Action Step Item Codes(s):

Funds Available: Account Name:
Account Number:

Staff Recommendation: To approve an ordinance amending Section 70-52 of the Paducah Code of Ordinances to increase the number of members of the Brooks Stadium Commission from nine (9) to ten (10) and to remove the voting rights of the President of the Commission except to cast the deciding vote in the case of a tie.

Attachments:

1. Ordinance

ORDINANCE NO. 2020-____ - _____

**AN ORDINANCE AMENDING CHAPTER 70, ARTICLE III
“BROOKS STADIUM COMMISSION” OF THE CODE OF ORDINANCES OF
THE CITY OF PADUCAH, KENTUCKY**

WHEREAS, the City of Paducah established the Brooks Stadium Commission to promote the full use of the Brooks Stadium facilities and adjacent properties as it deems in the best interest of the public; and

WHEREAS, the Brooks Stadium Commission has made recommendation to the Board of Commissioners of the City of Paducah to increase by one the number of members appointed to the Brooks Stadium Commission; and

WHEREAS, the City Commission now wishes to act upon the recommendation of the Brooks Stadium Commission.

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

SECTION 1. That the City of Paducah, Kentucky, hereby amends Chapter 70 of the Paducah Code of Ordinances by amending the following section:

Sec. 70-52. - Composition; appointment of members.

The Brooks Stadium Commission shall consist of [~~nine (9)~~] ten (10) members who shall be appointed by the Mayor with the approval of a majority of the members of the Board of Commissioners. One (1) of the [~~nine (9)~~] ten (10) members shall be appointed from the Board of Commissioners of the City. In addition, the Director of [~~Parks Services~~] the Parks and Recreation Department shall serve as an ex officio member of the board, but shall not have any voting rights. The President of the Brooks Stadium Commission may participate in Commission proceedings, but shall not have a vote, except that the President may cast the deciding vote in case of a tie.

SECTION 2. The provisions of this ordinance are severable. If any provision, section, paragraph, sentence or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of this ordinance, it being

the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof separately and independent of each other.

SECTION 3. This Ordinance shall be read on two separate days and become effective upon summary publication pursuant to KRS Chapter 424.

Brandi Harless, Mayor

ATTEST:

Lindsay Parish, City Clerk

Introduced by the Board of Commissioners, January 14, 2020

Adopted by the Board of Commissioners, _____

Recorded by Lindsay Parish, City Clerk, _____

Published by The Paducah Sun, _____

\ord\70-52 Brooks Stadium Commission