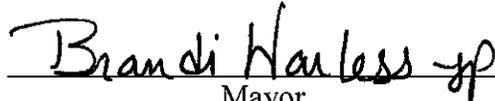


NOTICE OF CALLED MEETING  
FOR THE  
BOARD OF COMMISSIONERS  
OF THE CITY OF PADUCAH, KENTUCKY

TO: Commission/Media/Public

There will be a Called Meeting of the Board of Commissioners on Monday, December 17, 2018, at 5:30 p.m. in the Commission Chambers, City Hall, 300 South 5<sup>th</sup> Street, Paducah, Kentucky. The agenda for the called meeting is attached.

  
\_\_\_\_\_  
Mayor

CERTIFICATE OF SERVICE

Executed by electronic mail of a copy to Commission/Media/ at \_\_\_\_\_ .M.  
on December 13, 2018.

  
\_\_\_\_\_  
City Clerk



**CALLED CITY COMMISSION MEETING  
AGENDA FOR DECEMBER 17, 2018  
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**

**PRESENTATION** Presentation of Plaques of Appreciation to Commissioner Sarah Stewart Holland and Commissioner Allan Rhodes

*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.*

	<b>I.</b>	<b><u>CONSENT AGENDA</u></b>
		A. Approve Minutes for December 11, 2018
		B. Receive & File Documents
		C. Personnel Actions
		D. Hazard Mitigation Plan Update - <b>S KYLE</b>
		E. FY2018 Fire Prevention and Safety Grant Application - <b>S KYLE</b>
		F. Adoption of City of Paducah Mission Statement and Organizational Values - <b>J ARNDT</b>
		G. Approve Employment Agreement for Paducah Police Chief - <b>J ARNDT</b>
		H. Approve Professional Services Agreement with Gardner Engineering & Construction for Kresge Building Demolition Bid Package located at 318 Broadway - <b>G CHERRY</b>
		I. Approve Payment for Concord Fire District - <b>J PERKINS</b>
	<b>II.</b>	<b><u>COMMENTS</u></b>
		A. Comments from the City Manager

		B. Comments from the Board of Commissioners
		C. Comments from the Audience
	<b>III.</b>	<b><u>EXECUTIVE SESSION</u></b>

December 11, 2018

At a Regular Meeting of the Board of Commissioners, held on Tuesday, December 11, 2018, 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, Rhodes, Wilson and Mayor Harless (5). Commissioner Holland arrived at 5:53 p.m. (1).

**INVOCATION**

Commissioner Wilson gave the invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Harless led the pledge.

**PRESENTATION(S)**

**2018 Christmas Parade Awards**

Molly Tomasallo Johnson presented the 2018 Christmas Parade Awards. The winners are as follows:

**Themed Float Division:**

- 1st Place – Paducah McCracken Composite Mt Bike team
- 2nd Place – James Sanders Nursery
- 3rd Place – Girl Scout McCracken Co. Service Unit
- 4th Place – Dippin’ Dots
- 5th Place –BFW/Marcum Engineering

**Religious Float Division:**

- 1st Place – Highland Cumberland Pres. Church
- 2nd Place – West KY Christian Alliance
- 3rd Place – Grace Point Church

**Non-Float Division:**

- 1st Place – MelRhea Balloons
- 2nd Place – Goodwin farms
- 3rd Place –Blackburn Farms

**School Float Division:**

- 1st Place – Paducah Middle School

**Drill Team Division:**

- 1st Place – Tornado Cheer Squad
- 2nd Place – Paducah Quick Step Cloggers
- 3rd Place – Silver Lining HomeSchool

**Band Division:**

- 1st Place – Paducah Tilghman HS Band of Blue
- 2nd Place – McCracken County HS Band

**CONSENT AGENDA**

Mayor Harless asked if the Board wanted any items on the Consent Agenda removed. No one asked for any items to be removed. The Mayor asked the City Clerk to read the items on the Consent Agenda.

I(A)	Minutes for the November 27, 2018, City Commission Meeting
I(B)	Receive & File Documents

December 11, 2018

I(C)	Reappointment of Beverly McKinley and Vic Patel, jointly with the McCracken County Judge Executive, to the Paducah-McCracken County Convention & Visitors Bureau for terms that shall expire December 31, 2021. Reappointment of Jay Page to the Paducah-McCracken County Convention & Visitors Bureau for a term that shall expire December 31, 2021.
I(D)	Reappointment of Richard Abraham to the Brooks Stadium Commission for a term that shall expire December 31, 2020.
I(E)	Personnel Actions
I(F)	A MUNICIPAL ORDER AUTHORIZING THE SECOND RENEWAL OF THE 2016-2017 FUEL SUPPLY AGREEMENT WITH JSC TERMINAL, LLC AS AMENDED FOR THE 2019 CALENDAR YEAR, AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SAME (M.O. # 2189; BK 10)
I(G)	A MUNICIPAL ORDER AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH THOMAS P. MILLER & ASSOCIATES, LLC, IN AN AMOUNT OF \$50,000 FOR DEVELOPMENT OF THE PADUCAH OPPORTUNITY ZONES MARKETING STRATEGY, AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SAME (M.O. # 2190; BK 10)

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

Adopted on call of the roll, yeas, Commissioners Abraham, Rhodes, Wilson and Mayor Harless (4).

### **ORDINANCE(S) – ADOPTION**

#### **REPEAL PADUCAH CODE OF ORDINANCES SECTION 66-93**

Commissioner Wilson offered motion, seconded by Commissioner Rhodes, that the Board of Commissioners adopt an Ordinance entitled, “AN ORDINANCE REPEALING CHAPTER 66, SECTION 66-93, OFFENSIVE, PROFANE OR INDECENT LANGUAGE, OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH, KENTUCKY.” This ordinance is summarized as follows: The City of Paducah hereby repeals in its entirety Section 66-93 of the Paducah Code of Ordinances entitled Offensive, Profane or Indecent Language.

Adopted on call of the roll, yeas, Commissioners Abraham, Rhodes, Wilson and Mayor Harless (4). (ORD # 2018-12-8558; BK 35)

### **COMMENTS**

#### **CITY MANAGER COMMENTS**

The City Manager updated the Commission on the intersection of 28<sup>th</sup> & Broadway. The City Manager and Engineering Public Works Director have been talking with the District Engineer to see what changes if any need to be made at that intersection.

The City Manager will be in budget meetings this week with Department heads to discuss their recommendations to reduce budgets. Budget committees are finishing up and will have recommendations to the City Manager by the end of the year.

December 11, 2018

The City Employee Christmas Lunch is scheduled for Friday, December 14<sup>th</sup> starting at 11:00 a.m.

**BOARD OF COMMISSIONERS COMMENTS**

Commissioner Wilson is concerned about the intersection at 28<sup>th</sup> and Broadway being too narrow when turning right. The public is welcome to reach out to the City Manager's office to voice concerns about the intersection, which will be used in conversations with the District Engineer.

**EXECUTIVE SESSION**

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

- Issues which might lead to the appointment, dismissal, or disciplining of an employee, as permitted by KRS 61.810(1)(f)

Adopted on call of the roll, yeas, Commissioners Abraham, Rhodes, Wilson and Mayor Harless (4).

Commissioner Holland arrived at 5:53 p.m. and went directly into Executive Session.

**RECONVENE IN OPEN SESSION**

Mayor Harless offered motion, seconded by Commissioner Wilson, that the Board of Commissioners reconvene in open session.

Adopted on call of the roll, yeas, Commissioners Abraham, Holland, Rhodes, Wilson and Mayor Harless (5).

**ADJOURN**

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

Meeting ended at approximately 8:14 p.m.

ADOPTED: December 17, 2018

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Brandi Harless, Mayor

ATTEST:

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Lindsay Parish, City Clerk

December 17, 2018

Minute File:

Certificate of Liability Insurance – Matthew DeWayne Rudesill  
Oath of Office – Commissioner Richard Abraham

Deed File:

Commissioner's Deed – Abbey Properties 318-324-326 Broadway

Contract File

2018 ADF Statement of Assurances – purchase of office equipment MO # 2186

Financials File

Paducah Water Works

**CITY OF PADUCAH  
PERSONNEL ACTIONS  
December 17, 2018**

**NEW HIRE - FULL-TIME (F/T)**

**POLICE OPERATIONS**

	<b><u>POSITION</u></b>	<b><u>RATE</u></b>	<b><u>NCS/CS</u></b>	<b><u>FLSA</u></b>	<b><u>EFFECTIVE DATE</u></b>
Barrow, Logan C.	Police Officer Recruit	\$21.36/Hr.	NCS	Non-Ex	January 10, 2019
Loreado Jr., Pedro	Police Officer Recruit	\$21.36/Hr.	NCS	Non-Ex	January 10, 2019
Teague, Jeremy A.	Police Officer Recruit	\$21.36/Hr.	NCS	Non-Ex	January 10, 2019

**PAYROLL ADJUSTMENTS/TRANSFERS/PROMOTIONS/TEMPORARY ASSIGNMENTS**

	<b><u>PREVIOUS POSITION AND BASE RATE OF PAY</u></b>	<b><u>CURRENT POSITION AND BASE RATE OF PAY</u></b>	<b><u>NCS/CS</u></b>	<b><u>FLSA</u></b>	<b><u>EFFECTIVE DATE</u></b>
<b><u>FIRE - SUPPRESSION</u></b>					
Potter II, John G.	Fire Captain \$18.29/Hr.	Acting Assistant Fire Chief #3 \$18.34/Hr.	NCS	Non-Ex	November 22, 2018
Fuchs, Jennifer J.	Acting Fire Captain \$18.20/Hr.	Fire Lieutenant \$17.06/Hr.	NCS	Non-Ex	November 24, 2018
Hendley, Preston R.	Fire Lieutenant \$17.18/Hr.	Acting Fire Captain \$18.29/Hr.	NCS	Non-Ex	November 24, 2018
Hall, Rodney D.	Firefighter/Relief Driver \$15.37/Hr.	Firefighter \$14.68/Hr.	NCS	Non-Ex	December 10, 2018
Murphy, William C.	Firefighter/Relief Driver \$15.37/Hr.	Firefighter \$14.68/Hr.	NCS	Non-Ex	December 10, 2018
Crowe, Anthony L.	Fire Captain \$18.48/Hr.	Acting Assistant Fire Chief #1 \$19.08/Hr.	NCS	Non-Ex	July 30, 2018
Crowe, Anthony L.	Acting Assistant Fire Chief #1 \$19.08/Hr.	Fire Captain \$18.48/Hr.	NCS	Non-Ex	September 25, 2018
Hansen, Kurt B.	Firefighter \$14.43/Hr.	Firefighter/Relief Driver \$15.06/Hr.	NCS	Non-Ex	August 1, 2017
Garrett, Brandy L.	Firefighter \$14.48/Hr.	Firefighter/Relief Driver \$15.12/Hr.	NCS	Non-Ex	December 14, 2018
Smith, Joseph E.	Firefighter \$14.48/Hr.	Firefighter/Relief Driver \$15.12/Hr.	NCS	Non-Ex	December 14, 2018
Tinsley, Matthew H.	Deputy Fire Chief \$36.19/Hr.	Deputy Fire Chief \$38.00/Hr.	NCS	Exempt	December 6, 2018

**EPW**

Collins, Deborah S.	Admin. Assistant III \$15.56/Hr.	Admin. Assistant III \$16.65/Hr.	NCS	Non-Ex	December 20, 2018
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**GENERAL - GOVERNMENT**

Smolen, Michelle L.	Assistant City Manager \$39.42/Hr.	Assistant City Manager \$41.39/Hr.	NCS	Exempt	December 20, 2018
Parish, Lindsay R.	City Clerk \$27.40/Hr.	City Clerk \$28.77/Hr.	NCS	Exempt	December 20, 2018

**POLICE OPERATIONS**

Laird, Brian G.	Police Assistant Chief \$39.01/Hr.	Police Chief \$43.27/Hr.	NCS	Exempt	January 1, 2019
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**TERMINATIONS - FULL-TIME (F/T)**

**POLICE OPERATIONS**

Drew, Kelly E.	Police Officer	Resignation			January 2, 2019
Conn, Ryan W.	Police Sergeants	Resignation			December 26, 2018

# Agenda Action Form

## Paducah City Commission

Meeting Date: December 17, 2018

Short Title: Hazard Mitigation Plan Update - S KYLE

Category: Municipal Order

Staff Work By: Steve Kyle, Eric Hickman

Presentation By: Steve Kyle

**Background Information:** The City of Paducah is a part of the Jackson Purchase Natural Hazard Mitigation Plan. This plan addresses the many different types of natural hazards that our community experiences such as severe thunderstorms (lightning, hail, wind, or tornadoes), flooding, and earthquakes. This plan recommends hazard mitigation actions that will protect the people and property affected by the natural hazards that we face in our community. As a part of that plan, it has to be reviewed, periodic updates are made, and it must be adopted upon completion of those updates. The adoption of the plan is necessary for the City to maintain eligibility for the FEMA Hazard Mitigation and Pre Disaster grant programs. The McCracken Annex can be found at the following link: [http://www.purchaseadd.org/files/PDF/Hazard\\_Mitigation/JPR\\_HMP\\_2018\\_Update\\_final\\_FEMA\\_McCracken.pdf](http://www.purchaseadd.org/files/PDF/Hazard_Mitigation/JPR_HMP_2018_Update_final_FEMA_McCracken.pdf)

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

If yes, please list the Action Step Item Codes(s): I - 2 Develop and implement a self sustaining storm water management and infrastructure operation

I - 8 Promote, educate, and encourage alternative storm water maintenance measures

Funds Available: Account Name:

Account Number:

Staff Recommendation: Adopt the Jackson Purchase Region Natural Hazard Mitigation Plan

Attachments:

1. Municipal Order

MUNICIPAL ORDER NO. \_\_\_\_\_

A MUNICIPAL ORDER ADOPTING THE JACKSON PURCHASE REGIONAL MULTI-JURISDICTIONAL NATURAL HAZARD MITIGATION PLAN 2018 UPDATE FOR THE CITY OF PADUCAH, KENTUCKY

**WHEREAS**, the City of Paducah has experienced damage from severe thunderstorms (lightning, hail, wind, or tornadoes) and flooding on many occasions in the past century, resulting in property loss, loss of life, economic hardships, and threats to public health and safety and the potential for similar loss from an earthquake; and

**WHEREAS**, the Jackson Purchase Natural Regional Multi-Jurisdictional Natural Hazard Mitigation Plan (the Plan) has been updated and revised after more than one year of research and work by the staff of the Purchase Area Development District, the members of the Jackson Purchase Region Natural Hazard Mitigation Committee, and the representatives of the community; and

**WHEREAS**, the Plan recommends hazard mitigation actions that will protect the people and property affected by the natural hazards that face the Purchase Area Development District; and

**WHEREAS**, public meetings were held as required by law.

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

Section 1. That the City of Paducah hereby adopts the Jackson Purchase Regional Natural Hazard Mitigation Plan 2018 Update as the official plan of the City of Paducah along with the Purchase counties and the jurisdictions of Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall, and McCracken.

Section 2. The respective city officials identified in the strategy of the Plan are hereby directed to implement the recommended actions assigned to them. These officials will report yearly on their activities, accomplishments, and progress to the Jackson Purchase Regional Natural Hazard Mitigation Committee.

Section 3. The Jackson Purchase Regional Natural Hazard Mitigation Committee will provide annual progress reports on the status of implementation of the Plan to the mayor and the city commissioners of Paducah. This report shall be submitted to the City of Paducah in November of each year.

Section 4. This Municipal Order shall be effective from and after the date of its adoption.

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Mayor

ATTEST:

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Lindsay Parish, City Clerk

Adopted by the Board of Commissioners December 17, 2018

Recorded by Lindsay Parish, December 17, 2018

\mo\plan hazard mitigation 2018

# **Agenda Action Form**

## **Paducah City Commission**

Meeting Date: December 17, 2018

Short Title: FY2018 Fire Prevention and Safety Grant Application - **S KYLE**

Category: Municipal Order

Staff Work By: Greg Cherry, April Tinsman, Melanie Townsend  
Presentation By: Steve Kyle

### Background Information:

The Department of Homeland Security, Federal Emergency Management Agency (FEMA) offers the Fire Prevention and Safety Grant (FP&S) allowing departments to reach a higher level of safety in relation to fire and fire-related hazards in order to mitigate incidences.

The Paducah Fire Department proposes to submit a grant application to the Department of Homeland Security, Federal Emergency Management Agency (FEMA) for the FY2018 Fire Prevention and Safety Program.

The total project cost is estimated to be \$67,035.00. The Paducah Fire Department will use the funding, if awarded, to purchase a Faro® Focus Laser Scanner, a QRAE 3 multi-gas monitor for the arson investigation program, and 300 combination smoke and carbon dioxide detectors and the cost of the personnel time to install monitors and educate the household on fire safety.. This program requires a five percent (5%) cash match in the amount of \$3,351.74 that will be provided through the Fire department's annual department budget.

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

If yes, please list the Action Step Item Codes(s): P-10: Develop and implement a fire community risk reduction program.

Funds Available: Account Name:  
Account Number:

Staff Recommendation: Authorize the mayor to execute all grant application documents and authorize the planning department to submit the grant application via the FEMA grant portal.

### Attachments:

1. Municipal Order

MUNICIPAL ORDER NO. \_\_\_\_\_

A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A GRANT APPLICATION AND ALL DOCUMENTS NECESSARY THROUGH THE DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY, FOR A FIRE PREVENTION AND SAFETY MATCHING GRANT IN AN AMOUNT OF \$63,683.25 FOR THE PADUCAH FIRE DEPARTMENT

BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the Mayor is hereby authorized to execute a grant application and all documents necessary through the Department of Homeland Security, Federal Emergency Management Agency, for a Fire Prevention and Safety matching grant for the Fire Department in the amount of \$63,683.25 for a laser scanner, multi-gas monitor, smoke detectors, as well as the cost of personnel time to install monitors and educate the household on fire safety. A 5% local cash match in the amount of \$3,351.75 will be provided through the Fire Department's budget.

SECTION 2. That the Planning Department is hereby authorized to submit the grant application authorized in section 1 above to the Department of Homeland Security, Federal Emergency Management Agency through the FEMA Grant Portal.

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

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Brandi Harless, Mayor

ATTEST:

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Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, December 17, 2018  
Recorded by Lindsay Parish, City Clerk, December 17, 2018  
\\mo\grants\app fire prevention and safety FEMA 12-2018

# Agenda Action Form

## Paducah City Commission

Meeting Date: December 17, 2018

Short Title: Adoption of City of Paducah Mission Statement and Organizational Values - **J ARNDT**

Category: Municipal Order

Staff Work By: James Arndt, Michelle Smolen, Pam Spencer

Presentation By: James Arndt

### Background Information:

At the May 8, 2018, meeting of the Paducah Board of Commissioners, the Board approved the Vision Statement for the City of Paducah and directed the City Manager and staff to update the City of Paducah Mission Statement and Organizational Values. The City Manager, Assistant City Manager, and Public Information Officer drafted the Mission Statement and Values, presented them to the Leadership Team for input, discussed the drafts with various members of the community, and presented them to the Middle Management Team as a focus group for feedback. The City Manager is working on a rollout of the information to the organization with employee meetings scheduled for January 28, 2019.

Using the feedback, the recommended Mission Statement and Organizational Values are as follows:

Mission Statement: To be the best city in the world.

Organizational Values:

- Solution-driven: We believe in proactively working together to discover innovative solutions that meet our current and future needs.
- Customer Experience: We believe in providing excellent service delivery for both our internal and external customers through a welcoming and respectful environment.
- Every Person Matters: We believe that every member of Team Paducah is critically important as we strive to accomplish our mission, and every person that chooses to live, work, and play in our City matters.
- Action-oriented: We believe Paducah leads through responsiveness, positive forward momentum, and a thirst to always improve.
- Fiscal Responsibility: We believe in the prudent stewardship of public funds.
- Personal Accountability: We believe in holding each other accountable to insure our core values are intentionally fulfilled as we strive to carry out our mission.

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

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

The Mission Statement and Organizational Values align with the Strategic Plan document as a whole.

Funds Available: Account Name:

Account Number:

### Staff Recommendation:

Adopt the City of Paducah Mission Statement and Organizational Values

### Attachments:

1. Municipal Order

**MUNICIPAL ORDER NO. \_\_\_\_\_**

**AN MUNICIPAL ORDER ADOPTING THE MISSION  
STATEMENT AND ORGANIZATIONAL VALUES FOR  
THE CITY OF PADUCAH, KENTUCKY**

**WHEREAS**, the Board of Commissioners of the City of Paducah adopted Municipal Order No. 2098, on May 8, 2018, directing the City Manager and staff to develop a Mission Statement and Organizational Values for the City of Paducah as part of the City's Strategic Plan; and

**WHEREAS**, the City Manager, Assistant City Manager and Public Information Officer have developed the Mission Statement and Organizational Values for approval by the City Commission; and

**WHEREAS**, the City Commission now desires to adopt the Mission Statement and Organizational Values for the City of Paducah to inform and guide future city activities.

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

SECTION 1. That the Mission Statement of the City of Paducah is as follows:

To be the best city in the world.

SECTION 2. That the Organizational Values of the City of Paducah are as follows:

- **Solution-driven:** We believe in proactively working together to discover innovative solutions that meet our current and future needs.
- **Customer Experience:** We believe in providing excellent service delivery for both our internal and external customers through a welcoming and respectful environment.
- **Every Person Matters:** We believe that every member of Team Paducah is critically important as we strive to accomplish our mission, and every person that chooses to live, work, and play in our City matters.
- **Action-oriented:** We believe Paducah leads through responsiveness, positive forward momentum, and a thirst to always improve.
- **Fiscal Responsibility:** We believe in the prudent stewardship of public funds.
- **Personal Accountability:** We believe in holding each other accountable to insure our core values are intentionally fulfilled as we strive to carry out our mission.

SECTION 3. This Municipal Order shall become effective on the date of its adoption and shall remain in effect until amended or repealed by action of the Board of Commissioners of the City of Paducah, Kentucky.

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Brandi Harless, Mayor

ATTEST:

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Lindsay Parish, City Clerk

Adopted by the Board of Commissioners December 17, 2018  
Recorded by Lindsay Parish, City Clerk, December 17, 2018  
\\mo\Strategic Plan – Adopt Mission & Organizational Values

# **Agenda Action Form**

## **Paducah City Commission**

Meeting Date: December 17, 2018

Short Title: Approve Employment Agreement for Paducah Police Chief - **J ARNDT**

Category: Municipal Order

Staff Work By: Martin Russell, James Arndt, Michelle Smolen

Presentation By: James Arndt

**Background Information:** Brian Laird will be appointed Chief of Police beginning January 1, 2019, after a thorough process. Consistent with past practices for this position, Chief Laird is offered an Employment Agreement which specifies major terms and conditions for his employment in the capacity of Chief of Police. The term of his employment is indefinite.

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 Mayor and City Manager to sign and execute the employment agreement for Police Chief.

**Attachments:**

1. Municipal Order
2. Police Chief - Employment Agreement Laird final

MUNICIPAL ORDER NO. \_\_\_\_\_

A MUNICIPAL ORDER APPROVING AN EMPLOYMENT AGREEMENT  
BETWEEN THE CITY OF PADUCAH AND BRIAN LAIRD FOR EMPLOYMENT AS  
PADUCAH POLICE CHIEF, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. Authorization. The Board of Commissioners of the City of Paducah hereby approves and the Mayor of the City of Paducah, Kentucky, is hereby authorized to execute an Employment Agreement with Brian Laird to be employed in the position of Paducah Police Chief.

SECTION 2. Effective Date. This Order shall be in full force and effect on and after the date as approved by the Board of Commissioners of the City of Paducah, Kentucky.

\_\_\_\_\_  
Brandi Harless, Mayor

ATTEST:

\_\_\_\_\_  
Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, December 17, 2018  
Recorded by Lindsay Parish, City Clerk, December 17, 2018  
\\mo\agree-employment – Brian Laird Police Chief

# **Agenda Action Form Paducah City Commission**

Meeting Date: December 17, 2018

**Short Title:** Approve Professional Services Agreement with Gardner Engineering & Construction for Kresge Building Demolition Bid Package located at 318 Broadway - **G CHERRY**

**Category:** Municipal Order

Staff Work By: Greg Cherry

Presentation By: Greg Cherry

**Background Information:** To authorize Gardner Engineering & Construction PLLC to provide professional services in the amount of \$32,000.00 to study the existing building and to develop the necessary demolition scope of work for the requirements of this project.

**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: Kresge Building Demolition

Account Number: MR0073

**Staff Recommendation:** To authorize professional services contract with Gardner Engineering & Construction PLLC.

**Attachments:**

1. Municipal Order
2. Agreement with Gardner Engineering & Consulting PLLC

MUNICIPAL ORDER NO. \_\_\_\_\_

A MUNICIPAL ORDER AUTHORIZING AN AGREEMENT WITH GARDNER ENGINEERING & CONSTRUCTION, PLLC, IN AN AMOUNT OF \$32,000 FOR PROFESSIONAL ENGINEERING SERVICES RELATED TO THE DEMOLITION BID PACKAGE FOR THE KRESGE BUILDING LOCATED AT 318 BROADWAY, AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATED TO SAME

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

SECTION 1. The City hereby approves a Professional Services Agreement (“Agreement”) between the City and Gardner Engineering & Construction, PLLC, (“Vendor”) for services related to the demolition bid package for the Kresge Building, in substantially the form attached hereto as Exhibit A and made part hereof. It is further determined that it is necessary and desirable and in the best interest of the City to enter into this Agreement for the purposes therein specified.

SECTION 2. The Mayor is hereby authorized to execute the Agreement, authorized in section 1 above.

SECTION 3. This expenditure will be charged to the Kresge Building Demolition Project No. MR0073.

SECTION 4. This Order shall be in full force and effect on and after the date as approved by the Board of Commissioners of the City of Paducah, Kentucky.

\_\_\_\_\_  
Brandi Harless, Mayor

ATTEST:

\_\_\_\_\_  
Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, December 17, 2018  
Recorded by Lindsay Parish, City Clerk, December 17, 2018  
\\mo\agree-Gardner Engineering – Kresge Demo Bid Package

## EXHIBIT A

### SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of \_\_\_\_\_, 2018 ("Effective Date") between The City of Paducah, KY ("Owner") and Gardner Engineering & Consulting PLLC ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows: **Kresge Building Demolition Bid Package** located at **318 Broadway, Paducah, KY ("Project")**.

Engineer's services under this Agreement are generally identified as follows ("Services"):

1. **Provide the necessary professional engineering expertise and personnel to study the existing conditions of the Kresge Building and develop the necessary Demolition Scope of Work requirements for the Project.**
2. **Produce engineer certified Demolition Bid package for Owner's use in soliciting bids from qualified contractors. Bid package documents to include, as necessary, technical specifications, construction drawings, details and special requirements to accurately describe the Project scope and work items.**
3. **Provide opinion of probable cost for the Project, based on current industry data.**
4. **Attend public meetings, pre-bid meetings and the bid opening, as the Owner's representative.**
5. **Provide responses to bidder questions.**
6. **Assist the Owner with evaluation of contractor's bids and contractor's qualifications.**
7. **Construction Administration Services are excluded from this Agreement, but can be provided as Additional Services, upon written request by the Owner. Such additional services are to be performed on an hourly-fee basis.**

---

Owner and Engineer further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Engineer shall provide or furnish the Services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above ("Additional Services").
- B. Engineer shall complete its Services within sixty (60) calendar days from the Effective Date.
- C. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's Services is impaired, or Engineer's Services are delayed or suspended, then the time for completion of Engineer's Services shall be adjusted accordingly.

2.01 *Payment Procedures*

- A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for Services, Additional Services, and expenses within 30 days

after receipt of Engineer's invoice, then (1) the amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and (2) in addition Engineer may, after giving seven days written notice to Owner, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

- B. *Payment:* As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

#### 2.02 *Basis of Payment—Hourly Rates Plus Reimbursable Expenses*

- A. Owner shall pay Engineer for Services as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class, plus reimbursement of expenses incurred in connection with providing the Services and Engineer's consultants' charges, if any.
2. Engineer's Standard Hourly Rates are attached as Appendix 1.
3. The total compensation for Services and reimbursable expenses is estimated to be no more than Thirty-two Thousand Dollars (\$32,000.00).

2.03 *Additional Services:* For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged in providing the Additional Services by each class of Engineer's employees, times standard hourly rates for each applicable billing class; plus reimbursement of expenses incurred in connection with providing the Additional Services and Engineer's consultants' charges, if any. Engineer's standard hourly rates are attached as Appendix 1.

#### 3.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:

1. For cause,
  - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
  - b. By Engineer:
    - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

- 2) upon seven days written notice if the Engineer's Services are delayed for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.I.
- c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.
- d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.

- B. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services, and Engineer's consultants' charges, if any.

#### 4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

#### 5.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any

services performed or furnished by Engineer. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

- B. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- C. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.
- D. Engineer's opinions (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- E. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- F. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:
  - 1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
  - 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;
  - 3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and

4. such limited license to Owner shall not create any rights in third parties.
- G. Owner and Engineer may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- H. To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project.
- I. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.
- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.
- K. This Agreement is to be governed by the law of the state in which the Project is located.
1. The parties consent and agree that the McCracken Circuit Court shall be the exclusive, proper and convenient venue for any legal proceedings relating to this Agreement, and waive any defenses, whether asserted by motion or pleadings, that McCracken County, Kentucky, is an improper or inconvenient venue or that personal jurisdiction is lacking.
- L. Engineer's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.
- M. Insurance Requirements:
1. Engineer shall carry the following insurance with the limits of liability set forth below at all times while performing under this agreement:
- a. Commercial General Liability: \$1,000,000 each occurrence / \$2,000,000 aggregate.
- b. Automobile Liability: \$1,000,000 combined single limit.
- c. Workers Compensation: \$1,000,000 statutory limit.

d. Professional Liability: \$1,000,000.

2. The Owner shall be named an additional insured on the Commercial General Liability policy.
3. Certificates of insurance and all applicable endorsements, as evidence of the insurance required by this Agreement, shall be furnished by Engineer to Owner before any work hereunder is commenced by Engineer, and before any payments are made by Owner to Engineer. The certificates of insurance shall provide that there will be no cancellation or reduction in coverage without thirty (30) days prior written notice to Owner.
4. Failure of the Owner to enforce in a timely manner any of the provisions herein shall not act as a waiver to enforcement of these provisions at a later date in the performance of this Agreement.
5. Failure of Engineer to obtain and maintain, in full force and effect, insurance meeting the requirements set forth herein shall be a material breach of this Agreement.

#### 6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

#### 7.01 *Definitions*

- A. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- B. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

#### 8.01 *Attachments: Appendix 1, Engineer's Standard Hourly Rates*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: City of Paducah  
By: \_\_\_\_\_

Engineer: Gardner Engineering & Consulting PLLC  
By: \_\_\_\_\_

Print name: \_\_\_\_\_

Print name: Kelly B. Gardner, PE

Title: \_\_\_\_\_

Title: Principal Engineer

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

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

Engineer License or Firm's Certificate No. (if required):  
22832

State of: Kentucky

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

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

1030 Burlew Blvd, Bldg. B, Suite 2  
\_\_\_\_\_  
Owensboro, KY 42303

This is **Appendix 1, Engineer's Standard Hourly Rates**, referred to in and part of the Short Form of Agreement between Owner and Engineer for Professional Services dated \_\_\_\_\_, 2018.

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**Engineer's Standard Hourly Rates**

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A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Appendix 1 and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Paragraphs 2.01, 2.02, and 2.03, and are subject to annual review and adjustment.

B. *Schedule of Hourly Rates:*

<b>Billing Class</b>	<b>Rate</b>
Principal Engineer	\$ 185/hour
Project Engineer	\$ 120/hour
Project Manager	\$ 90/hour
Graduate Engineer	\$ 75/hour
Sr. Cad Tech	\$ 75/hour
Field Tech	\$ 60/hour
Clerical	\$ 40/hour
Legal PE Expert Witness	\$ 300/hour

**SHORT FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of \_\_\_\_\_, 2018 ("Effective Date") between The City of Paducah, KY ("Owner") and Gardner Engineering & Consulting PLLC ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows: **Kresge Building Demolition Bid Package** located at **318 Broadway, Paducah, KY ("Project")**.

Engineer's services under this Agreement are generally identified as follows ("Services"):

1. **Provide the necessary professional engineering expertise and personnel to study the existing conditions of the Kresge Building and develop the necessary Demolition Scope of Work requirements for the Project.**
2. **Produce engineer certified Demolition Bid package for Owner's use in soliciting bids from qualified contractors. Bid package documents to include, as necessary, technical specifications, construction drawings, details and special requirements to accurately describe the Project scope and work items.**
3. **Provide opinion of probable cost for the Project, based on current industry data.**
4. **Attend public meetings, pre-bid meetings and the bid opening, as the Owner's representative.**
5. **Provide responses to bidder questions.**
6. **Assist the Owner with evaluation of contractor's bids and contractor's qualifications.**
7. **Construction Administration Services are excluded from this Agreement, but can be provided as Additional Services, upon written request by the Owner. Such additional services are to be performed on an hourly-fee basis.**

---

Owner and Engineer further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Engineer shall provide or furnish the Services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above ("Additional Services").
- B. Engineer shall complete its Services within sixty (60) calendar days from the Effective Date.
- C. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's Services is impaired, or Engineer's Services are delayed or suspended, then the time for completion of Engineer's Services shall be adjusted accordingly.

2.01 *Payment Procedures*

- A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for Services, Additional Services, and expenses within 30 days

after receipt of Engineer's invoice, then (1) the amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and (2) in addition Engineer may, after giving seven days written notice to Owner, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

- B. *Payment:* As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

## 2.02 *Basis of Payment—Hourly Rates Plus Reimbursable Expenses*

- A. Owner shall pay Engineer for Services as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class, plus reimbursement of expenses incurred in connection with providing the Services and Engineer's consultants' charges, if any.
2. Engineer's Standard Hourly Rates are attached as Appendix 1.
3. The total compensation for Services and reimbursable expenses is estimated to be no more than Thirty-two Thousand Dollars (\$32,000.00).

2.03 *Additional Services:* For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged in providing the Additional Services by each class of Engineer's employees, times standard hourly rates for each applicable billing class; plus reimbursement of expenses incurred in connection with providing the Additional Services and Engineer's consultants' charges, if any. Engineer's standard hourly rates are attached as Appendix 1.

## 3.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:

1. For cause,
  - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
  - b. By Engineer:
    - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

- 2) upon seven days written notice if the Engineer's Services are delayed for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.I.
  - c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.
  - d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.

- B. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services, and Engineer's consultants' charges, if any.

#### 4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

#### 5.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any

services performed or furnished by Engineer. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

- B. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- C. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.
- D. Engineer's opinions (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- E. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- F. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:
  - 1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
  - 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;
  - 3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and

4. such limited license to Owner shall not create any rights in third parties.
- G. Owner and Engineer may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- H. To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project.
- I. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.
- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.
- K. This Agreement is to be governed by the law of the state in which the Project is located.
1. The parties consent and agree that the McCracken Circuit Court shall be the exclusive, proper and convenient venue for any legal proceedings relating to this Agreement, and waive any defenses, whether asserted by motion or pleadings, that McCracken County, Kentucky, is an improper or inconvenient venue or that personal jurisdiction is lacking.
- L. Engineer's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.
- M. Insurance Requirements:
1. Engineer shall carry the following insurance with the limits of liability set forth below at all times while performing under this agreement:
- a. Commercial General Liability: \$1,000,000 each occurrence / \$2,000,000 aggregate.
- b. Automobile Liability: \$1,000,000 combined single limit.
- c. Workers Compensation: \$1,000,000 statutory limit.

d. Professional Liability: \$1,000,000.

2. The Owner shall be named an additional insured on the Commercial General Liability policy.
3. Certificates of insurance and all applicable endorsements, as evidence of the insurance required by this Agreement, shall be furnished by Engineer to Owner before any work hereunder is commenced by Engineer, and before any payments are made by Owner to Engineer. The certificates of insurance shall provide that there will be no cancellation or reduction in coverage without thirty (30) days prior written notice to Owner.
4. Failure of the Owner to enforce in a timely manner any of the provisions herein shall not act as a waiver to enforcement of these provisions at a later date in the performance of this Agreement.
5. Failure of Engineer to obtain and maintain, in full force and effect, insurance meeting the requirements set forth herein shall be a material breach of this Agreement.

#### 6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

#### 7.01 *Definitions*

- A. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- B. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

#### 8.01 *Attachments: Appendix 1, Engineer's Standard Hourly Rates*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: City of Paducah  
By: \_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Engineer: Gardner Engineering & Consulting PLLC  
By: \_\_\_\_\_

Print name: Kelly B. Gardner, PE

Title: Principal Engineer

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

Engineer License or Firm's Certificate No. (if required):  
22832  
State of: Kentucky

Address for Owner's receipt of notices:  
\_\_\_\_\_  
\_\_\_\_\_

Address for Engineer's receipt of notices:  
1030 Burlew Blvd, Bldg. B, Suite 2  
Owensboro, KY 42303

This is **Appendix 1, Engineer's Standard Hourly Rates**, referred to in and part of the Short Form of Agreement between Owner and Engineer for Professional Services dated \_\_\_\_\_, 2018.

**Engineer's Standard Hourly Rates**

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A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Appendix 1 and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Paragraphs 2.01, 2.02, and 2.03, and are subject to annual review and adjustment.

B. *Schedule of Hourly Rates:*

<b>Billing Class</b>	<b>Rate</b>
Principal Engineer	\$ 185/hour
Project Engineer	\$ 120/hour
Project Manager	\$ 90/hour
Graduate Engineer	\$ 75/hour
Sr. Cad Tech	\$ 75/hour
Field Tech	\$ 60/hour
Clerical	\$ 40/hour
Legal PE Expert Witness	\$ 300/hour

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Appendix 1, Standard Hourly Rates Schedule.

EICDC® E-520, Short Form of Agreement Between Owner and Engineer for Professional Services.  
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# **Agenda Action Form**

## **Paducah City Commission**

Meeting Date: December 17, 2018

Short Title: Approve Payment for Concord Fire District - **J PERKINS**

Category: Municipal Order

Staff Work By: josh sommer, jonathan perkins

Presentation By: Jonathan Perkins

**Background Information:** KY law requires the City of Paducah to pay a prorated share of the Concord Fire District's outstanding debt at the time of annexation as per KRS 75.020. In order to be in full compliance with the KRS the City of Paducah will be required to pay the Concord FD \$28,943.94.

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: Property/Plant Repair (funds moved from Administrative Contingency)

Account Number: 10000106533050

**Staff Recommendation:** To approve payment to Concord Fire District as required by KRS 75.020

**Attachments:**

1. Municipal Order
2. Concord FD annex debt pmt

MUNICIPAL ORDER NO. \_\_\_\_\_

A MUNICIPAL ORDER AUTHORIZING THE FINANCE DIRECTOR TO MAKE PAYMENT TO CONCORD FIRE DISTRICT IN AN AMOUNT OF \$28,943.94 FOR THE PROPORTIONATE SHARE OF INDEBTEDNESS AS REQUIRED BY LAW FOR THE ANNEXATION OF TERRITORY WITHIN THE CONCORD FIRE DISTRICT

WHEREAS, the City of Paducah, by Ordinance Number 2018-10-8553, adopted on October 23, 2018, authorized the final annexation of certain property lying adjacent to the corporate limits of the City of Paducah and containing approximately 69.83 acres of property located between Harris Road and Highway 998 (Olivet Church Road); and

WHEREAS, Kentucky Revised Statute (KRS) 75.020, mandates that cities which annex property that resides within a fire protection district, pay a proportionate share of the indebtedness incurred while such territory was part of said district; and

WHEREAS, the proportionate share of indebtedness for the Concord Fire District territory that was annexed on October 23, 2018, has been calculated to be \$28,943.94.

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

SECTION 1. That the City of Paducah hereby authorizes and directs the Finance Director to pay Concord Fire District an amount of \$28,943.94 for the proportionate share of indebtedness for the annexation of property.

SECTION 2. This expenditure shall be charged to the Property/Plant Repair Account No. 10000106533050.

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, December 17, 2018  
Recorded by Lindsay Parish, City Clerk, December 17, 2018  
\\mo\Concord Fire District Annexation payment

LAW OFFICES OF  
**MAURICE A. BYRNE, JR**

ATTORNEY AT LAW

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1009 SOUTH FOURTH STREET, SUITE 250  
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Since 1974  
Kentucky and Indiana

Direct Line: 502-583-8376  
Cell: 502-291-5066  
Fax: #502-584-1826

November 3, 2018

The Honorable Joshua P. Sommer, AICP  
Planner I  
City of Paducah  
300 South 5th Street  
Paducah, KY 42003

RECEIVED  
NOV 06 2018

Re: Concord Fire District and City of Paducah, Kentucky.

Dear Paducah City Planner Sommer:

**YOUR QUESTION: OCTOBER 25, 2018 3:13 PM:** My name is Josh Sommer and I am a Planner with the City of Paducah. I have been working with Chief McGowan with the Concord Fire District so we can pay the correct amount to him for the City's annexation of 69.3 acres. We had some questions we were hoping you could help with. I asked Chief McGowan about the total indebtedness of the Concord Fire District. He indicated that the budget was part of the indebtedness, but was not sure what he could send me showing the total indebtedness. Can you please provide documentation of this? We are asking to be on the safe side, for audits and records.

**KENTUCKY LAW REQUIRES CITY TO PAY FULL SHARE OF INDEBTEDNESS:** KRS 75.020 is clear and definite in its mandate to the City of Paducah that for any "property in any territory stricken off from a fire protection district (Concord Fire Department) . . . by . . . annexation by a city (Paducah) of this Commonwealth shall not be relieved of liability of such **taxes** as may be necessary to pay its proportionate share of the **indebtedness** incurred while such territory was a part of that district.

**FULL PAYMENT OF ALL INDEBTEDNESS PRIOR TO SEPARATION:** KRS 75.022(3)(a) prohibits "a city to assume the provision of fire service to annexed . . . that is being served by a fire district, the city shall pay the fire district for the **proportionate share of the fire district's indebtedness** that was incurred while the annexed . . . was included within the fire district.

**TOTAL VALUE OF PROPERTY CITY TAKES FROM FIRE DISTRICT:** KRS 75.022(3)(b) requires that the quotient be "calculated based upon the ratio of the total value of taxable real property included within the annexed . . . territory (\$10,387,777.00 annexed by Paducah) to the total value of all taxable real property located within the entire fire district Concord: \$483,464,756.00) as it existed prior to the annexation or incorporation by the city.

**PADUCAH TAKES 2.2% OF DISTRICT'S TAXPAYERS PROPERTY & INCOME:** KRS 75.022(3)(b) requires that the "resulting quotient (0.022) shall be multiplied by the fire district's total indebtedness to determine the amount of liability that the city is responsible for paying to the fire district;" which as of September 11, 2018, was substantiated and calculated as One Million Three Hundred Fifteen Thousand Six Hundred Thirty-Three & 33/100 Dollars (\$1,315,633.33) as Concord Fire District's total indebtedness which results in a legal obligation of Twenty-Eight Thousand Nine Hundred Forty-Three & 94/100 Dollars as the amount of liability that the City of Paducah is responsible for paying to the Concord Fire District.

**INDEBTEDNESS OR LEGAL OBLIGATION:** An amount of money, services, obligations, or other duties and responsibilities owed by contract, agreement, or legal obligation. *U. S. v. Colt, 1 Pet. C C. 145, Fed. Cas. No. 14.S39. Indebtedness does not only include "money debts," but obligations arising under by contract, statute, or other legal obligations to perform a service. Gray v. Bennett, 3 Mete. (Mass.) 522, 520. Indebtedness or Legal Obligation can be defined as what is owed or obligated to be performed for another or other individuals, like fire service, based upon agreement, contract, or statutory mandate. Kimpton v. Bronson, 45 Barb. (N. Y.) 618. Indebtedness or Legal Obligations can be used to denote an aggregate of separate obligations and is much broader "financial" and embraces rights of action belonging to those being served, like citizens of a KRS 75 Fire Protection District which have numerous statutory options to enforce the fire protection and Fire Prevention obligations of KRS 75. Indebtedness and Obligation can be synonymous in representing the legal obligations. Allen v. Dickson, Minor (Ala.) 120. Indebtedness or Obligation in regard to an action to recover an indebtedness can readily be reduced to a certainty. 3 Bl. Comm. 154; 3 Steph. Comm. 461; 1 Tidd. Pr. 3. In the case of annexation, the Kentucky General Assembly specifically stated the formula required to be used by an annexing municipality, like the City of Paducah.*

**CONCORD LEGALLY OBLIGATED FOR TWELVE MONTHS INDEBTEDNESS:** KRS 65A.080 legally mandates and obligates the KRS 75 Concord Fire Protection District, under threat and obligation of individual personal liability of its Trustees and Officers, and subject to the recovery remedies for every taxpayer with the Fire District, to adopt an Annual Budget by July 1 of each year to cover all obligations of the Fire Department for the twelve (12) months of the following calendar year (January to December) , and publish it, to obligate itself to provide finances, support, equipment, and facilities to provide fire protection and rescue services to each citizen and business fo the Fire District. The mandatory budget includes strict regulations in KRS 65A.020, specifying the duties of department for local government relating to forms, reporting, and online access; information to be submitted by special purpose governmental entities; failure to submit information; administrative regulations; registry; registration fee; annual report.

**2017-2018 DEBT OBLIGATES DISTRICT TO PERFORM 2019-2020 SERVICES:** The Concord Fire Protection District adopted a KRS 65A.020 required Budget by July 1, 2018, to perform its Legal Obligations for Fire Service for 2019-2020 Fiscal Year. The 2018-2019 Budget filed with the Department for Local Government on July 3, 2018, obligates it to perform fire services to all citizens of the district based upon a requirements of \$465,850.00, including 0.22% from the citizens and property proposed to be annexed by the City of Paducah. That is all detailed in the budget. If Paducah does not pay its financial debt obligations, the other taxpayers will be double taxes because they will have to pay what is required by those annexed by Paducah. Those citizens who have received fully fire protection services from Concord Fire Department would not pay their portion for fire services received. KRS 75.020 and KRS 75.022 changed that unfairness to provide for an accurate calculation and payment of that indebtedness and legal obligations.

**PAYMENT REQUIRED BEFORE ANNEXATION:** KRS 75.022(3)(c) states that the City of Paducah shall pay the entire amount of the proportionate share of the indebtedness, being Twenty-Eight Thousand Nine Hundred Forty-Three & 94/100 (\$28,943.94), to the Concord Fire District prior to assuming fire service in the annexed territory. When the City of Paducah pays the entire amount the annexed territory shall be stricken from the boundaries of the Concord Fire District, and the Fire District shall no longer be authorized to collect any taxes from property owners within the stricken territory.

Please let me know if you have any questions.

Sincerely,

MAURICE A. BYRNE, JR.

RECEIVED  
NOV 06 2018  
FINANCE DEPT