



**CITY COMMISSION MEETING  
 AGENDA FOR MAY 28, 2019  
 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**

**PROCLAMATION** Gun Violence Awareness - Christa Dubrock

**PRESENTATION** Legislative Update - Senator Danny Carroll & State Representative Randy Bridges

**PRESENTATION** VFW Family Freedom Festival - Cindy Toon

*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 May 14 & 15, 2019
		B. Receive & File Documents
		C. Personnel Actions
		D. Joint Appointment of Glenn Denton to the Paducah-McCracken County Convention and Visitors Bureau
		E. Approve Short Form Agreement with HDR Engineering, Inc. for the FY2019 BUILD grant application preparation and Phase 1 environmental site assessment in the amount of \$65,200 - <b>T TRACY</b>
		F. Authorize KOHS 2019 Grant Application in the amount of \$97,000 for an airport terminal security camera and access control system for Barkley Regional Airport - <b>M TOWNSEND</b>
		G. KOHS 2019 Grant Application in the amount of \$350,000 for an EOD Robot for Paducah Police Department's FBI Certified Bomb Squad - <b>B LAIRD</b>
		H. 800 MHz Radio Systems - Monthly User Fee, Effective July 1, 2020 - <b>J PERKINS</b>

		I. Upgrade of City of Paducah Microsoft Exchange Server and Microsoft Office in an amount of \$87,938.92 - <b>S CHINO</b>
	<b>II.</b>	<b><u>RESOLUTION(S)</u></b>
		A. Resolution endorsing the Civic Beautification Board fundraising efforts for the restoration of the fountain feature in City Hall - <b>T TRACY</b>
	<b>III.</b>	<b><u>ORDINANCE(S) - ADOPTION</u></b>
		A. Amend Human Relations Ordinance - <b>B HARLESS</b>
		B. Amend Human Relations Ordinance - <b>R ABRAHAM</b>
	<b>IV.</b>	<b><u>ORDINANCE(S) - INTRODUCTION</u></b>
		A. Approve a budget amendment in the amount of \$80,000 for the Bob Leeper Bridge Project - <b>J PERKINS</b>
	<b>V.</b>	<b><u>DISCUSSION</u></b>
		A. A New Day Initiative - <b>L PARISH</b>
		B. Permitting Solutions - <b>L PARISH</b>
	<b>VI.</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>VII.</b>	<b><u>EXECUTIVE SESSION</u></b>

May 14, 2019

At a Regular Meeting of the Board of Commissioners, held on Tuesday, May 14, 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 Assistant City Clerk, the following answered to their names: Commissioners Abraham, McElroy, Watkins, Wilson and Mayor Harless (5).

**INVOCATION**

Commissioner McElroy gave the invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Harless led the pledge.

**ADDITIONS/DELETIONS**

City Manager Arndt requested that two Ordinance introductions be added to the agenda – both pertaining to the Amendment of Chapter 58, “Human Relations” of the Code of Ordinances of the City of Paducah, Kentucky.

**GRADUATION**

**2019 Citizen’s Academy**

The members of the 2019 Citizens Academy were introduced to the Commission and received Certificates for their participation in this year’s class.

**PROCLAMATION**

**Neurofibromatosis Awareness Day**

Mayor Harless presented a proclamation for Neurofibromatosis Awareness Day to Chris, Brittani, Brielle, Cheyanna and Cayden George.

**PRESENTATIONS**

**Introduction of Police Officers & 911 Communicator**

Police Chief Brian Laird introduced Police Officers Matthew J. York and Carlos W. Kerley, Jr., and 911 Communicator Rebecca McCall Buckingham

**Top Chef Experience**

Sara Bradley shared her experience as a contestant on the show Top Chef with the Commission.

**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 for separate consideration. Mayor Harless asked the Assistant City Clerk to read the items on the Consent Agenda.

I(A)	Minutes for the April 23, 2019 City Commission Meeting
I(B)	Receive & File Documents <i>Minute File:</i> <ol style="list-style-type: none"><li>1. Right of Way Bond – QC Communications, Inc.</li><li>2. Certificate of Liability Insurance – QC Communications, Inc.</li><li>3. Certificate of Liability Insurance – NEA Plumbing, LLC</li><li>4. Right-of-Way Bond – Tri-State Fire Protection, Inc.</li></ol> <i>Contract File:</i> <ol style="list-style-type: none"><li>1. Contract For Services between City of Paducah and Yeiser Art Center – 2019 Lowertown Art &amp; Music Festival (City Manager signed)</li></ol>

May 14, 2019

	<ol style="list-style-type: none"> <li>2. Vendor Obligation Statement – Kentucky Local Records Program – Data Records Management System and Paducah Police Department – MO #2201</li> <li>3. Administrative Plan for 2019 Housing Choice Voucher Program (Section 8) – MO #2228</li> <li>4. Certifications of Compliance with PHA Plans and Related Regulations – HUD MO #2228</li> <li>5. Contract For Services between City of Paducah and Paducah-McCracken County Convention &amp; Visitors Bureau - 2019 Spring Quilt Show MO #2229</li> <li>6. Preliminary Development Agreement between Weyland Ventures and City of Paducah – MO #2230</li> <li>7. Change Order #2 – Flood Pump Station #2 Rehabilitation – MO #2231</li> <li>8. Residential Infill Development Agreement – Greenway Village Subdivision Phase 2- ORD 2019-4-8572</li> <li>9. Residential Infill Development Agreement – Ridgewood Villas Condominiums Phase 1 – ORD 2019-4-8573</li> <li>10. Residential Infill Development Agreement – Ridgewood Villas Condominiums Phase II – ORD 2019-4-8573</li> </ol> <p><u>Financials File:</u></p> <ol style="list-style-type: none"> <li>1. Financials for Paducah Water Works – Periods ended March 31, 2019</li> </ol>
I(C)	Reappointment of Durwin Ursery to the Paducah Area Transit System Board. This term shall expire June 30, 2022.
I(D)	Reappointment of Carol Young to the Nuisance Code Enforcement Board. This term shall expire February 26, 2022.
I(E)	Appoint Kristin Williams to the Paducah-McCracken County Convention and Visitors Bureau to fill the unexpired term of Jay Page, who has resigned. This term shall expire December 31, 2021.
I(F)	Personnel Actions
I(G)	A MUNICIPAL ORDER AUTHORIZING THE PLANNING DEPARTMENT TO APPLY FOR AN ONLINE GRANT THROUGH THE FIREHOUSE SUBS PUBLIC SAFETY FOUNDATION GRANT PORTAL TO REQUEST BETWEEN \$10,340 FOR THE FIRE DEPARTMENT TO PURCHASE PUBLIC EDUCATION AND ENGAGEMENT SUPPLIES <b>(MO #2232 BK 11)</b>
I(H)	A MUNICIPAL ORDER AUTHORIZING THE CITY OF PADUCAH PLANNING DEPARTMENT TO APPLY FOR A 2019 U.S. BULLETPROOF VEST PARTNERSHIP GRANT IN AN AMOUNT OF \$6,752 THROUGH THE U.S. DEPARTMENT OF JUSTICE FOR USE BY THE POLICE DEPARTMENT <b>(MO #2233 BK 11)</b>
I(I)	A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A GRANT APPLICATION AND ALL DOCUMENTS NECESSARY THROUGH THE U. S. DEPARTMENT OF HOMELAND SECURITY FOR A 2019 PORT SECURITY GRANT IN THE AMOUNT OF \$50,250 FOR THE PADUCAH POLICE

May 14, 2019

	DEPARTMENT FOR THE PURCHASE OF A COMMERCIAL DRONE WITH RELATED SOFTWARE, EQUIPMENT AND TRAINING AND AUTHORIZING THE PLANNING DEPARTMENT TO SUBMIT SAID GRANT THROUGH THE ONLINE WEB PORTAL <b>(MO #2234 BK 11)</b>
I(J)	A MUNICIPAL ORDER APPROVING AN APPLICATION AND ALL DOCUMENTS NECESSARY FOR THE CITY OF PADUCAH PLANNING DEPARTMENT IN PARTNERSHIP WITH THE PADUCAH ART HOUSE ALLIANCE (PAHA) TO APPLY FOR A LINDA AND JERRY BRUCKHEIMER PRESERVATION FUND FOR KENTUCKY GRANT IN AN AMOUNT OF \$10,000, FOR THE COLUMBIA THEATER ROOF RESTORATION <b>(MO #2235 BK 11)</b>
I(K)	A MUNICIPAL ORDER RATIFYING THE MAYOR'S EXECUTION OF A TENNESSEE RIVERLINE PARTNERSHIP AGREEMENT WITH THE MCCRACKEN COUNTY FISCAL COURT AND THE TENNESSEE RIVERLINE IN ORDER TO FULFILL THE TASKS ASSOCIATED WITH THE PILOT COMMUNITY PROGRAM <b>(MO #2236 BK 11)</b>

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

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

### **MUNICIPAL ORDER(S)**

#### **TRANSFER OF FUNDS FROM COMMISSION RESERVE FUND TO THE KRESGE DEMOLITION PROJECT IN THE AMOUNT OF \$150,000**

Commissioner Wilson offered motion, seconded by Commissioner Watkins, that the Board of Commissioners adopt a Municipal Order entitled, "A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO TRANSFER FUNDS FROM THE COMMISSION RESERVE FUND TO THE KRESGE DEMOLITION PROJECT ACCOUNT IN AN AMOUNT OF \$150,000 FOR EMERGENCY DEMOLITION OF THE KRESGE BUILDING."

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson, Mayor Harless (5).  
**(MO #2237 BK 11)**

#### **MONETARY CONTRIBUTION FOR ECONOMIC DEVELOPMENT TO SPROCKET, INC., IN THE AMOUNT OF \$150,000**

Commissioner Watkins offered motion, seconded by Commissioner Wilson, that the Board of Commissioners adopt a Municipal Order entitled, "A MUNICIPAL ORDER AUTHORIZING THE CITY MANAGER TO MAKE A MONETARY CONTRIBUTION FOR ECONOMIC DEVELOPMENT TO SPROCKET, INC, IN THE AMOUNT OF \$150,000, TO BE USED AS LOCAL MATCHING FUNDS FOR THE KENTUCKY CABINET FOR ECONOMIC DEVELOPMENT'S INNOVATION OFFICE REGIONAL INNOVATION FOR STARTUPS AND ENTREPRENEURS (RISE) PROGRAM."

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson, Mayor Harless (5).  
**(MO #2238 BK 11)**

May 14, 2019

**ORDINANCE(S) – INTRODUCTION**

**AMEND CHAPTER 58 TO REFERENCE KENTUCKY RELIGIOUS FREEDOM RESTORATION ACT**

Mayor Harless offered motion, seconded by Commissioner McElroy that the Board of Commissioners introduce an Ordinance entitled, “AN ORDINANCE AMENDING CHAPTER 58 “HUMAN RELATIONS”, OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH, KENTUCKY,” This ordinance is summarized as follows: This ordinance amends the Human Relations Chapter of the Paducah Code of Ordinances to include the following as Section 58-133: “It is the intent of the City Commission that all sections of this Ordinance shall be interpreted in a manner consistent with KRS 446.350, which provides as follows: ‘Government shall not substantially burden a person’s freedom of religion. The right to act in a manner motivated by a sincerely held religious belief may not be substantially burdened unless the government proves by clear and convincing evidence that it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest. A “burden” shall include indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities’.”

**AMEND CHAPTER 58 TO REFERENCE KENTUCKY RELIGIOUS FREEDOM RESTORATION ACT**

Commissioner Abraham offered motion, seconded by Commissioner McElroy that the Board of Commissioners introduce an Ordinance entitled, “AN ORDINANCE AMENDING CHAPTER 58 “HUMAN RELATIONS”, OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH, KENTUCKY,” This ordinance is summarized as follows: This ordinance amends the Human Relations Chapter of the Paducah Code of Ordinances to include the following as Section 58-133: “A private business owner shall not be forced to violate his or her sincerely held religious beliefs.”

**ORDINANCE(S) – ADOPTION**

**AMENDMENT NO. 1 TO THE ENGAGEMENT AGREEMENT WITH MOSS & BARNETT**

Commissioner McElroy offered motion, seconded by Commissioner Abraham, that the Board of Commissioners adopt an Ordinance entitled, “AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 1 TO THE ENGAGEMENT AGREEMENT WITH MOSS & BARNETT FOR PROFESSIONAL LEGAL REPRESENTATION IN THE CABLE COMMUNICATIONS FRANCHISE RENEWAL PROCESS AND TO HANDLE OTHER CABLE COMMUNICATIONS ISSUES WITH AN HOURLY RATE OF \$510 PER HOUR FOR THE SENIOR SHAREHOLDER AND \$195 PER HOUR FOR THE PARALEGAL.” This Ordinance is summarized as follows: The City of Paducah approves Amendment No.1 to the Engagement Agreement with Moss & Barnett for legal representation related to the Cable Communications Franchise renewal and authorizes the Mayor to execute all documents related to same. This amendment updates the hourly rates for Moss & Barnett’s Senior Shareholder to \$510 per hour and Paralegal to \$195 per hour, removes the not-to-exceed amount, and updates the primary contact person for this project to be the Public Information Officer.

Adopted on call of the roll, yeas, Abraham, McElroy, Watkins, Wilson, Mayor Harless (5).  
**(ORD #2019-8-8574; BK 35)**

May 14, 2019

## **DISCUSSIONS**

1. Lee Emmons, Anton Reece, L. V. McGenty and Lisa Stephenson gave an update on the WKCTC Community Scholarship Program. Dylan Howard, a WKCTC graduate who has transferred to Murray State University shared his experience.
2. Glen Anderson gave an update on GPEDC

## **COMMENTS**

### **CITY MANAGER COMMENTS**

- Budget Workshop tomorrow, May 15, 2019, beginning at 5:00 p.m.

### **BOARD OF COMMISSIONERS COMMENTS**

Commissioner McElroy recognized that this was Skilled Nursing Home Week

Commissioner Abraham explained his stand on the Confederate Flag issue

Commissioner Wilson

- Reported that she attended an Energy Communities Alliance in Washington D.C.
- She attended the Creative Symposium – it was well organized and well attended. She congratulated Tammara Tracy and her staff on the event.

Mayor Harless commented about the evolution of the Arts portion of the strategic plan being hanging art to inclusion of arts entrepreneurs, businesses and creative industries.

## **PUBLIC COMMENTS**

- Victoria Terra made a comment on the Human Rights language. “There are two motivating forces – fear and love. Always choose love.”
- Randy Beeler made a comment about the Confederate Flag issue. It’s all about respect

## **EXECUTIVE SESSION**

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

- A specific proposal by a business entity where public discussion of the subject matter would jeopardize the location, retention, expansion or upgrading of a business entity, as permitted by KRS 61.810(1)(g).

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

## **RECONVENE**

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

May 14, 2019

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

**ADJOURN**

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

Meeting ended at approximately 8:06 p.m.

ADOPTED: May 28, 2019

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

ATTEST:

\_\_\_\_\_  
Claudia S. Meeks, Assistant City Clerk

May 15, 2019

At a Called Meeting of the Board of Commissioners, held on Wednesday, May 15, 2019, at 5:00 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 Assistant City Clerk, the following answered to their names: Commissioners Abraham, McElroy, Wilson and Mayor Harless (4). Commissioner Watkins was absent.

**INVOCATION**

Commissioner McElroy gave the invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Harless led the pledge.

**BUDGET WORKSHOP**

City Manager James Arndt conducted the Budget Workshop.

**ADJOURN**

Mayor Harless offered motion, seconded by Commissioner McElroy, to adjourn the meeting. All in favor. (4)

Meeting ended at approximately 7:00 p.m.

ADOPTED: May 28, 2019

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

ATTEST:

\_\_\_\_\_  
Claudia S. Meeks, Assistant City Clerk

May 28, 2019

Minute File:

1. Called Meeting Notice – May 15, 2019
2. Certificate of Liability Insurance – Beltline Electric Co., Inc.
3. Certificate of Liability Insurance – Strategic Communications
4. Certificate of Liability Insurance – QC Communications, Inc.
5. Right-of-Way Bond – QC Communications, Inc.

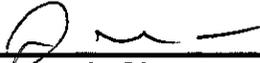
Contract File:

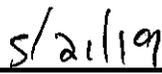
1. Engagement Agreement – Amendment No. 1 between City of Paducah and Moss & Barnett (cable television franchise)
2. Interlocal Agreement with McCracken County for Fire and Rescue Services (MO #2222)

CITY OF PADUCAH  
May 28, 2019

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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  
May 28, 2019**

**NEW HIRES - FULL-TIME (FT)**

**POLICE - OPERATIONS**

<u>POSITION</u>	<u>RATE</u>	<u>NCS/CS</u>	<u>FLSA</u>	<u>EFFECTIVE DATE</u>
Steenbergen, Paul C.	Police Officer Recruit \$23.71/Hr.	NCS	Non-Ex	June 20, 2019
Wentworth, JonMichael T.	Police Officer Recruit \$21.36/Hr.	NCS	Non-Ex	June 20, 2019

**NEW HIRES - PART-TIME (PT)/TEMPORARY/SEASONAL**

**PARKS SERVICES**

<u>POSITION</u>	<u>RATE</u>	<u>NCS/CS</u>	<u>FLSA</u>	<u>EFFECTIVE DATE</u>
Williams, Cymone	Pool Attendant \$7.87/hr.	NCS	Non-Ex	May 20, 2019
Williams, Markqs J	Laboer \$10.00/Hr.	NCS	Non-Ex	May 30, 2019
Smith, Diane M.	Lifeguard \$8.50/Hr.	NCS	Non-Ex	May 27, 2019

**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>
<b><u>EMERGENCY COMMUNICATION SRVCS</u></b>				
Collins, Samantha J. Acting Shift Supervisor \$24.95/Hr.	Telecommunicator \$21.95/Hr.	NCS	Non-Ex	May 2, 2019
<b><u>FINANCE</u></b>				
Cole, Corrie K. Executive Assistant I \$17.12/Hr.	Executive Assistant I \$17.98/Hr.	NCS	Non-Ex	May 30, 2019

**TERMINATIONS - FULL-TIME (FT)**

**EMERGENCY COMMUNICATION SRVCS**

<u>POSITION</u>	<u>REASON</u>	<u>EFFECTIVE DATE</u>
Taylor, Serena 911 Shift Supervisor	Resignation	May 28, 2019

**TERMINATIONS - PART-TIME (PT)/TEMPORARY/SEASONAL**

**EPW - FLOODWALL**

<u>POSITION</u>	<u>REASON</u>	<u>EFFECTIVE DATE</u>
Hayden, Larry D. Temp - Pump Operator	Resignation	May 14, 2019

**PARKS SERVICES**

<u>POSITION</u>	<u>REASON</u>	<u>EFFECTIVE DATE</u>
Curry, Earnest E. Laborer	Failed background check	May 13, 2019

# Agenda Action Form Paducah City Commission

Meeting Date: May 28, 2019

**Short Title:** Approve Short Form Agreement with HDR Engineering, Inc. for the FY2019 BUILD grant application preparation and Phase 1 environmental site assessment in the amount of \$65,200 - **T TRACY**

**Category:** Municipal Order

Staff Work By: Tammara Tracy, Melanie Townsend

Presentation By: Tammara Tracy

**Background Information:** The U.S. Department of Transportation (DOT) offers the Better Utilizing Investments to Leverage Development (BUILD) grant to support surface transportation infrastructure projects. The City of Paducah and the Paducah-McCracken County Riverport Authority submitted applications last year and were unsuccessful. In order to improve the quality of the application submitted, the City and Riverport wish to submit a unified application. The unified application will involve significant complexity and need for specialized application experience.

HDR Engineering, Inc. has experience in successful transportation infrastructure grant applications. Since 2009, HDR has supported more than 60 successful projects for a total of \$1.6B in USDOT grant funding. Last year during the inaugural BUILD grant cycle, HDR supported 8 successful grant applications totaling \$125M. The City and the Riverport have requested that HDR Engineering, Inc. provide grant writing, Benefit Cost Analysis and environmental assessment to improve the quality of the application that the City and Riverport submit.

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

If yes, please list the Action Step Item Codes(s): E-04: Continue developing the riverfront from the Carson Center to the Convention Center

N-01: Design and construct sidewalks, pedestrian walkways/bike paths, and/or bike lanes to connect our neighborhoods

**Funds Available:** Account Name: DT-0044: TIF/Opportunity Zone Project

Account Number:

**Staff Recommendation:** Authorize the Mayor to sign the Short Form Agreement with HDR Engineering, Inc. for the FY2019 BUILD grant application and Phase 1 environmental site assessment in the amount of \$65,200.

**Attachments:**

1. Municipal Order
2. HDR\_short form contract and proposal

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

A MUNICIPAL ORDER AUTHORIZING AND APPROVING A SHORT FORM AGREEMENT BETWEEN THE CITY OF PADUCAH AND HDR ENGINEERING, INC. IN AN AMOUNT OF \$65,200 FOR PROFESSIONAL SERVICES RELATED TO GRANT WRITING, BENEFIT COST ANALYSIS AND ENVIRONMENTAL ASSESSMENT FOR THE FY19 BETTER UTILIZING INVESTMENTS TO LEVERAGE DEVELOPMENT (BUILD) GRANT APPLICATION

WHEREAS, the City of Paducah intends to apply for a FY19 Better Utilizing Investments To Leverage Development (BUILD) Grant Application jointly with the Paducah-McCracken County Riverport Authority; and

WHEREAS, the City of Paducah has sought out professional expertise is required for the specialized application; and

WHEREAS, a written determination has been made by the City Manager that this agreement with HDR Engineering, Inc. is for professional services and will be a noncompetitive negotiation purchase, pursuant to KRS 45A.380(3).

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

SECTION 1. The City hereby authorizes and approves a Short Form Agreement with HDR Engineering, Inc., in an amount of \$65,200, in substantially the same form attached hereto and made part hereof (**Exhibit A**), for professional services related to grant writing, benefit cost analysis and environmental assessment for the FY19 Better Utilizing Investments To Leverage Development (BUILD) Grant Application. Further, the Mayor is authorized to execute the Agreement.

SECTION 2. This expenditure shall be charged to the TIF/Opportunity Zone Project No. DT0044.

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, May 28, 2019

Recorded by Lindsay Parish, City Clerk, May 28, 2019

\MO\agree- HDR BUILD Grant 2019



## Attachment A.

### SHORT FORM AGREEMENT BETWEEN OWNER AND HDR ENGINEERING, INC. FOR PROFESSIONAL SERVICES

**THIS AGREEMENT** is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between **CITY OF PADUCAH, KENTUCKY** ("OWNER"), with offices at 300 South 5<sup>th</sup> Street, Paducah, KY 42003, and **HDR ENGINEERING, INC.**, ("ENGINEER" or "CONSULTANT") for services in connection with the project known as the Riverfront to Riverport 2019 BUILD Grant Application and Phase I Assessment("Project");

**WHEREAS**, OWNER desires to engage ENGINEER to provide professional engineering, consulting and related services ("Services") in connection with the Project.

**WHEREAS**, Engineer desires to render these Services as described in SECTION I, Scope of Services.

**NOW, THEREFORE**, OWNER and ENGINEER in consideration of the mutual covenants contained herein, agree as follows:

#### **SECTION I. SCOPE OF SERVICES**

ENGINEER will provide Services for the Project, which consist of the Scope of Services as outlined on the attached Exhibit A.

#### **SECTION II. TERMS AND CONDITIONS OF ENGINEERING SERVICES**

The HDR Engineering, Inc. Terms and Conditions, which are attached hereto in Exhibit B, are incorporated into this Agreement by this reference as if fully set forth herein.

#### **SECTION III. RESPONSIBILITIES OF OWNER**

The OWNER shall provide the information set forth in paragraph 6 of the attached "HDR Engineering, Inc. Terms and Conditions for Professional Services."

#### **SECTION IV. COMPENSATION**

Compensation for ENGINEER'S services under this Agreement shall be on a lump sum basis. The amount of the lump sum is **Sixty Thousand Dollars (\$60,000)** for the BUILD Grant Application and **Five Thousand Two Hundred Dollars (\$5,200)** for the Phase I Assessment.

#### **SECTION V. PERIOD OF SERVICE**

Upon receipt of written authorization to proceed, ENGINEER shall perform the services within the time period(s) described in Exhibit A.



Unless otherwise stated in this Agreement, the rates of compensation for ENGINEER'S services have been agreed to in anticipation of the orderly and continuous progress of the project through completion. If any specified dates for the completion of ENGINEER'S services are exceeded through no fault of the ENGINEER, the time for performance of those services shall be automatically extended for a period which may be reasonably required for their completion and all rates, measures and amounts of ENGINEER'S compensation shall be equitably adjusted.

**SECTION VI. SPECIAL PROVISIONS**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

"OWNER" – CITY OF PADUCAH

BY:

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NAME: Brandi Harless

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TITLE: Mayor

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ADDRESS: 300 South 5<sup>th</sup> Street – Paducah, KY 42003

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"ENGINEER" - HDR ENGINEERING, INC.

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NAME: Shawn P. Washer, PE

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TITLE: Vice President/Office Principal

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ADDRESS: 4645 Village Square Drive, Suite F  
Paducah, KY 42001

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**EXHIBIT A**

**SCOPE OF SERVICES**

**See Proposal dated May 20, 2019**



May 20, 2019

Ms. Tammara Tracy  
Planning Director  
City of Paducah  
300 South 5<sup>th</sup> Street  
Paducah, KY 42003

**RE: 2019 BUILD Grant Application and Phase I Assessment**

Dear Tammara,

## **2019 BUILD Grant Application**

HDR Engineering, Inc. (HDR) is submitting this proposal to assist the City of Paducah in the development of a Federal BUILD 2019 grant application for improvements for the Riverfront to Riverport project. HDR has found that the following is required for a compliant grant application:

1. A complete description of the project: its goals, its purpose and need, and how it will be implemented.
2. Completed engineering and environmental documentation, or a well-articulated plan to complete them.
3. Clear alignment with most of the grant program's Merit Criteria.
4. A readable, complete narrative application.
5. A benefit-cost analysis and economic-impact analysis demonstrating positive public economic outcomes.
6. Matching state, local, or private cash contributions (not expense-in-kind contributions), that exceed the proposed federal grant contribution, and preferably matches that include private-sector contributions.
7. Expressed, strong, specific, preference for the project, among all the various projects in the state for which applications might be submitted, by one or more Senators or Congressional Representatives, and from the Governor's office.

### **Background**

Recently the USDOT announced the Better Utilizing Investments to Leverage Development (BUILD) discretionary grant program. BUILD replaces a pre-existing grant program known as TIGER and utilizes updated evaluation criteria aligned with national and regional economic goals. These highly competitive grants are designed to close funding gaps for road, rail, transit and port projects that will have a significant local or regional impact. The U.S. DOT has allocated \$900 million for FY2019, with applications due on July 15, 2019, to be submitted through the Grants.gov website. Grant awards under the 2019 BUILD program may not be less than \$5 million and not greater than \$25 million, except for projects located in rural areas, where the minimum award is \$1 million.



While BUILD resembles TIGER, there are some notable differences, including:

- **Explicit preference for rural projects.** U.S. DOT intends to award half of the funds to projects in rural areas, continuing a focus that began in the last round but now is explicitly noted in the FY2019 notice.
- **BUILD Transportation Planning Grants.** Up to \$15 million (of the \$900 million) can be awarded for the planning, preparation or design of eligible projects. Planning grants haven't been awarded since 2014.
- **Federal share no longer a criterion.** U.S. DOT is not allowed to consider the portion of total costs that are covered by Federal funds as a criterion for selection (as per the funding legislation). The Federal share of a project's costs can still be no more than 80 percent of total project costs for a project located in an urban area. The Secretary may increase the Federal share of costs above 80% for a project located in a rural area.
- **New criterion — ability to generate *additional* non-Federal revenue for transportation infrastructure.** U.S. DOT will look at whether applicants are or will "secure and commit new, non-Federal revenue for transportation infrastructure investment;" and those who do will be more competitive. The notice mentions approaches such as asset recycling, tolling, tax-increment financing, or sales- or gas-tax increases as examples.

## Scope of Work

The project anticipated to be described in the grant application includes the Paducah Riverfront Commons and Steamboat Landing/Excursion Pier Project and the Riverport Container Transfer Yard Development Project. The Paducah Commons is a redevelopment of a vacant lot from a former riverfront hotel featuring a new excursion pier, pedestrian pathways and related amenities reconnecting the river with the City and creating multimodal transportation opportunities in rural America. The container transfer yard redevelops a brownfield site into a facility to support the emerging demand for Container On Barge in the four state region.

HDR will provide the City of Paducah with the following tasks for assistance in developing its BUILD Grant Application for the above project.

### Task 1. Project Kick-Off/Strategic Guidance

HDR will provide the City of Paducah with guidance on USDOT's BUILD guidelines and probable application review strategy, application development, schedule, criteria, and overall strategy that will provide the City with a strong BUILD 2019 Grant Application. This task will include conference calls to discuss various alternatives and options for the development of the applications, as well as providing the City with intelligence gathered regarding the BUILD 2019 program. HDR will use the project kick-off call as an opportunity to present our initial methodological approach and detailed work plan. The kick-off call will also be used as an opportunity to obtain any relevant existing documentation related to the project; and to identify "reasonable" alternatives (defined in USDOT guidance as smaller-scale or more focused projects) for consideration.

**Deliverables:** Intelligence gathered as appropriate transmitted to the City via email and telephone calls.

### Task 2. BUILD Grant Application Preparation

HDR will assist the City in the preparation of the BUILD 2019 Grant Application for the project. The project for which a BUILD grant will be sought will consist of design, permitting, and construction of the project. HDR will provide technical writing and review services, and the preparation of select graphics to the City to enable the grant application to achieve an appropriate fit to the BUILD 2019 grant criteria. HDR will also assist in evaluating the selected project and developing content for each of the key program objectives described earlier in this proposal. The City will be responsible for the actual submittal of the grant application on the grants.gov site.



The application narrative will follow USDOT's recommended outline and approach for describing the project, its costs, funding, benefits, and other factors. HDR will design the application narrative to be easily accessible and emphasize the project's strengths with key themes throughout the application narrative. The BUILD grant application narrative will include the following project narrative, generally following the basic outline below, as per the NOFO:

- I. Project Description
- II. Project Location
- III. Grant Funds, Sources and Uses of all Project Funding
- IV. Selection Criteria
- V. Project Readiness
- VI. Benefit Cost Analysis

The City will provide necessary documentation detailing the project scope, budget, schedule, and likely impacts on transportation in the region. HDR will work with City personnel to identify the material risks to the project and the strategies that the City has developed to mitigate those risks.

**Deliverables:** Completed BUILD 2019 Grant Application.

### **Task 3. Benefit-Cost Analysis / Economic Impacts Analysis**

HDR will quantify public benefits expected to be derived from the project that demonstrate adherence with BUILD's criteria as described above. A key challenge of BUILD grant applications will be to provide compelling evidence to USDOT of the merit of the project and its quantitative benefits in comparison to other projects being proposed by other applicants.

Generally, we propose a five step process for the economic analyses that need to be undertaken:

#### **STEP 1: DEFINE BASELINE AND ALTERNATIVE SCENARIOS**

The NOFO requires that project benefits are estimated relative to a no-build scenario that factors in less capital-intensive improvements than the project being considered. Under this step, HDR will work with the City to clarify the baseline condition and the possible alternatives for consideration.

#### **STEP 2: IDENTIFY PUBLIC BENEFIT CATEGORIES**

This step formalizes the public benefit categories to be evaluated. Included in this step is a strategy session by which the various components of the project will be discussed in order to fully define which elements should be included in the project scope in order to maximize probability of a grant award.

#### **STEP 3: DEVELOP AND CODE BENEFIT-COST MODEL LOGIC**

For each of the benefit categories identified in Step 2 above, logic models will be developed that represent the methodology used to monetize each project benefit. The logic model will be populated with the most up-to-date information available. HDR will collect model inputs from a variety of sources including the City, USDOT guidance, and other project documentation (e.g., its Feasibility Study, Environmental Assessment, cost estimates, etc.).

#### **STEP 4: PRODUCE BENEFIT-COST RESULTS, TEST SENSITIVITY OF RESULTS AGAINST KEY VARIABLES**

In this step, key variables will be flagged for testing and the model will be re-run and results generated based on key material events.

#### **STEP 5: ISSUE RESULTS**

In this step, materials for inclusion in the BUILD grant application and in support of the findings described in the economics section of the applications are drafted. Typically, a short document is drafted with key sections for input directly into the application document and a second short appendix is drafted that can be posted



online and referenced in the text of the document. The appendix describes the evaluation approach, describe the data and assumptions used, and present the results and the sensitivity analysis conducted.

## Budget

Based on the tasks described in this proposal, HDR proposes a fee of \$60,000 for this engagement.

## Schedule

HDR will complete the tasks described in this proposal no later than one week prior to the BUILD grant application submission deadline, assuming that the City provides all necessary data, information and documentation to HDR. A proposed breakdown of the activities required to produce the BUILD application and a tentative timeframe for their completion is provided below.

Activity	Timeframe
Notice to Proceed	May 20, 2019
Teleconference meeting	May 20, 2019
The City transmits project data to HDR	May 20, 2019 to June 7, 2019
HDR submits Draft BUILD application narrative to the City for review	June 21, 2019
The City submits comments on Draft BUILD application narrative	June 28, 2019
HDR submits Draft BCA Appendix to the City	July 5, 2019
The City submits comments on BCA Appendix	July 9, 2019
HDR submits Final BUILD application narrative and BCA Appendix to the City	July 12, 2019
The City submits BUILD application to USDOT	No Later than 8:00 p.m. EST July 15, 2019



## Phase I Environmental Site Assessment

### Project Understanding

HDR Engineering Inc. (HDR) is assisting the City of Paducah, Kentucky to complete a Phase I Environmental Site Assessment at the downtown riverfront parcel depicted on the attached map with the red boundary. This project will consist of the development of a Phase I Environmental Site Assessment Report (ESA) for the property currently used as a recreational area, as depicted in the attached map. The Scope of Services (Scope) for this task is as follows:

### Scope of Services

#### Objective

The objective of the Phase I ESA is to identify Recognized Environmental Conditions (RECs) that either currently exist or may have existed on or around the Site as defined under the ASTM Method E1527-13 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process (ASTM Standard).

#### HDR Activities

HDR will utilize a research firm to provide a regulatory database search of the Site and surrounding properties that will include ASTM-prescribed federal, state, tribal, and local databases within the ASTM-prescribed search distances. If determined to be necessary, HDR will complete file reviews for sites listed in the database that, in the view of an HDR environmental professional, may pose an impact to the Site.

HDR will review historical information for the Site, as applicable and available, according to the determination of the HDR environmental professional. Sources of historical information may include aerial-photography, USGS 7.5-minute topographic maps, fire-insurance maps, local street-directories, property tax files, building-department records, recorded land title/deed records, and zoning/land-use records.

HDR will perform a site reconnaissance of the property and surrounding properties, in accordance with the guidance provided in the ASTM standard. The site reconnaissance will be conducted in order to identify potential RECs located on the Site, or on surrounding properties with the potential to impact the Site. The site reconnaissance may also be augmented with a Site Reconnaissance Questionnaire that will document the general site setting and exterior and interior observations (if applicable and available).

HDR will conduct interviews with the property owner and people with knowledge of the property as appropriate. If conditions warrant, interviews with surrounding property owners will be conducted. A narrative will be prepared to document the past use(s) of the property.

Interviews will be conducted, as appropriate, with local government officials who may have specific information on the property, including the local fire department, health department, planning department, and historical society/library, to determine any additional information on the historical land use of the property and surrounding properties.

#### Meetings

A site visit by an HDR professional (meeting the criteria of an



**Task  
Deliverables**

Environmental Professional, as defined in the ASTM standard) will be completed.

Two conference calls will be completed with the client and users of the Phase I Report to review the results of the assessment.

HDR will prepare an electronic draft and final copy of the Phase I Environmental Site Assessment report. The report will include findings, opinions and conclusions. Recommendations for further actions may be included, if the client requests. Recommendations may also be provided under separate cover, since the ASTM standard does not require inclusion of Recommendations in the report.

**Key  
Understandings**

Client to provide a site map or survey of the property and a title abstract report, if available, identifying the parcel(s) that are the subject of this site assessment.

Client to arrange full Site access for HDR and provide contact information for Site owners that may be aware of Site's history.

HDR assumes that file reviews can be completed electronically. If HDR is required to review extensive documents on a site at the appropriate Federal or state agency, additional cost may be incurred.

Client will provide information regarding environmental liens on the property.

No invasive site work, quantitative chemical analysis, asbestos, lead-based paint, components of building materials, radon, wetlands, archaeological or threatened & endangered species reviews are included in the scope of this ESA.

The ASTM Standard currently requires a real-estate assessment to be completed in the event there is a significant devaluation of the subject property due to an environmental condition. HDR's professional services do not include this assessment, and this will be noted as an exception to the ASTM Standard.

This task covers the Phase I ESA only, and does not include any services related to additional investigation of any portion of the Site and/or Phase II ESA services.

The ASTM Standard defines the "Shelf Life" for Phase I Reports as 180 days. If closing has not occurred within 180 days, an update of the Phase I ESA may be required.

Reliance letters may be provided at additional cost.

**Schedule Milestones**

The draft assessment report will be provided for review within thirty (30) days of Notice to Proceed. The final report will be delivered within three (3) days from the receipt of Client comments on the draft report.

**Compensation**

HDR will complete the Services for a lump sum price of \$5,200.



## Confidentiality

HDR staff assigned to this project will maintain confidentiality with the City on this project, including all materials, information, and work products developed.

We very much appreciate this opportunity to assist the City with this critical project. If this proposal meets with your approval, please sign the **SHORT FORM AGREEMENT BETWEEN OWNER AND HDR ENGINEERING, INC. FOR PROFESSIONAL SERVICES** in Attachment A and return the signed agreement. Please call me at 270.538.1502 with any questions or concerns related to this proposal.

Sincerely,

HDR Engineering, Inc.

A handwritten signature in blue ink that reads "Shawn P. Washer".

Shawn P. Washer, PE  
Vice President / Office Principal



## Boundary of Phase I Assessment





## EXHIBIT B

### HDR Engineering, Inc. Terms and Conditions for Professional Services

#### 1. STANDARD OF PERFORMANCE

The standard of care for all professional engineering, consulting and related services performed or furnished by ENGINEER and its employees under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under the same or 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 ENGINEER's services.

#### 2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability Insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. If flying an Unmanned Aerial System (UAS or drone), ENGINEER will procure and maintain aircraft unmanned aerial systems insurance of \$1,000,000 per occurrence. OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for third party personal injury and property damage claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; and/or fines or penalties), loss of profits or revenue arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract.

#### 3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

#### 4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the

project. ENGINEER shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

#### 5. CONTROLLING LAW

This Agreement is to be governed by the law of the state where ENGINEER's services are performed.

#### 6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

OWNER will furnish the services of soils/geotechnical engineers or other consultants that include reports and appropriate professional recommendations when such services are deemed necessary by ENGINEER. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents and services.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

#### 7. SUCCESSORS, ASSIGNS AND BENEFICIARIES

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other. No third party beneficiaries are intended under this Agreement.

#### 8. RE-USE OF DOCUMENTS

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the project. ENGINEER retains ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are intended or represented to be suitable for reuse by OWNER or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER will defend, indemnify and hold harmless ENGINEER from all claims,



damages, losses and expenses, including attorney's fees, arising or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

#### 9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving seven (7) days written notice to the other party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

#### 10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

#### 11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make payments to ENGINEER within thirty (30) days of OWNER's receipt of ENGINEER's invoice.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date OWNER receives ENGINEER's invoice. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

#### 12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment shall be

made, and the Agreement modified accordingly.

#### 13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

#### 14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

#### 15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

#### 16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitutes the entire Agreement between ENGINEER and



OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

**17. ALLOCATION OF RISK**

OWNER AND ENGINEER HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING ENGINEER'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS, SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF ENGINEER (AND ITS RELATED CORPORATIONS, SUBCONSULTANTS AND EMPLOYEES) TO OWNER AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE LESSER OF \$1,000,000 OR ITS FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF ENGINEER'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY.

**18. LITIGATION SUPPORT**

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

**19. NO THIRD PARTY BENEFICIARIES**

No third party beneficiaries are intended under this Agreement. In the event a reliance letter or certification is required under the scope of services, the parties agree to use a form that is mutually acceptable to both parties.

**20. UTILITY LOCATION**

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition, OWNER shall notify ENGINEER of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. ENGINEER shall take reasonable precautions to avoid

damaging underground utilities that are properly marked. The OWNER agrees to waive any claim against ENGINEER and will indemnify and hold ENGINEER harmless from any claim of liability, injury or loss caused by or allegedly caused by ENGINEER's damaging of underground utilities that are not properly marked or are not called to ENGINEER's attention prior to beginning the underground sampling/testing.

**21. UNMANNED AERIAL SYSTEMS**

If operating UAS, ENGINEER will obtain all permits or exemptions required by law to operate any UAS included in the services. ENGINEER's operators have completed the training, certifications and licensure as required by the applicable jurisdiction in which the UAS will be operated. OWNER will obtain any necessary permissions for ENGINEER to operate over private property, and assist, as necessary, with all other necessary permissions for operations.

**22. OPERATIONAL TECHNOLOGY SYSTEMS**

OWNER agrees that the effectiveness of operational technology systems ("OT Systems") and features designed or recommended by ENGINEER are dependent upon OWNER's continued operation and maintenance of the OT Systems in accordance with all standards, best practices, laws, and regulations that govern the operation and maintenance of the OT Systems. OWNER shall be solely responsible for operating and maintaining the OT System in accordance with applicable industry standards (i.e. ISA, NIST, etc.) and best practices, which generally include but are not limited to, cyber security policies and procedures, documentation and training requirements, continuous monitoring of assets for tampering and intrusion, periodic evaluation for asset vulnerabilities, implementation and update of appropriate technical, physical, and operational standards, and offline testing of all software/firmware patches/updates prior to placing updates into production. Additionally, OWNER recognizes and agrees that OT Systems are subject to internal and external breach, compromise, and similar incidents. Security features designed or recommended by ENGINEER are intended to reduce the likelihood that OT Systems will be compromised by such incidents. However, ENGINEER does not guarantee that OWNER's OT Systems are impenetrable and OWNER agrees to waive any claims against ENGINEER resulting from any such incidents that relate to or affect OWNER's OT Systems.

# Agenda Action Form

## Paducah City Commission

Meeting Date: May 28, 2019

Short Title: Authorize KOHS 2019 Grant Application in the amount of \$97,000 for an airport terminal security camera and access control system for Barkley Regional Airport - **M TOWNSEND**

Category: Municipal Order

Staff Work By: Melanie Townsend, Eddie Grant, Ralph Roof

Presentation By: Melanie Townsend

### Background Information:

The Kentucky Office of Homeland Security (KOHS) grant program, funded by the U.S. Department of Homeland Security, can be used by city and county governments, area development districts and public universities to address high-priority preparedness gaps in order to prevent, protect against, mitigate, respond to, and recover from acts of terrorism.

For the 2019 KOHS funding cycle, the Barkley Regional Airport seeks funds for an airport terminal access control system that includes cameras, servers, door access control devices. The estimated cost of the project is \$97,000. There is not a match requirement for this project.

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

If yes, please list the Action Step Item Codes(s): P-06: Increase collaboration of public safety agencies to support economic development.

Funds Available: Account Name:  
Account Number:

Staff Recommendation: Authorize and direct the Mayor to execute all required grant application documents including the Kentucky Procurement Policy.

### Attachments:

1. Municipal Order

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

A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A GRANT APPLICATION THROUGH THE KENTUCKY OFFICE OF HOMELAND SECURITY (KOHS) FOR FUNDS IN THE AMOUNT OF \$97,000, FOR AN AIRPORT TERMINAL ACCESS CONTROL SYSTEM FOR THE BARKLEY REGIONAL AIRPORT, TO EXECUTE THE KENTUCKY PROCUREMENT POLICY AND ALL OTHER DOCUMENTS WHICH ARE DEEMED NECESSARY BY KOHS

WHEREAS, the City of Paducah, Kentucky desires to make an application for United States Department of Homeland Security and/or Commonwealth of Kentucky funds for a project to be administered by Kentucky Office of Homeland Security; and

WHEREAS, it is recognized that an application for and approval of Kentucky Office of Homeland Security funds impose certain obligations and responsibilities upon the city.

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

SECTION 1. The Mayor is hereby authorized to execute and furnish all required grant application documentation including the Kentucky Procurement Policy for a 2019 grant application through the Kentucky Office of Homeland Security in the amount of \$97,000, to be used for the purchase of an airport terminal access control system for the Barkley Regional Airport. No local cash or in-kind match is required.

SECTION 2. This order shall be in full force and effect 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, May 28, 2019

Recorded by Lindsay Parish, City Clerk, May 28, 2019

\mo\grants\app-KOHS Barkley Regional Airport Terminal Access Control System

# Agenda Action Form Paducah City Commission

Meeting Date: May 28, 2019

Short Title: KOHS 2019 Grant Application in the amount of \$350,000 for an EOD Robot for Paducah Police Department's FBI Certified Bomb Squad - **B LAIRD**

Category: Municipal Order

Staff Work By: Joseph Hayes, Melanie Townsend

Presentation By: Brian Laird

Background Information:

The Kentucky Office of Homeland Security (KOHS) grant program, funded by the U.S. Department of Homeland Security, can be used by city and county governments, area development districts and public universities to address high-priority preparedness gaps in order to prevent, protect against, mitigate, respond to , and recover from acts of terrorism. In 2018, the City of Paducah received \$117,582 for the purchase of four (4) bomb suits for the Police Department's FBI Certified Bomb Squad.

For the 2019 KOHS funding cycle, the Paducah Police Department seeks funds for an EOD robot to replace the current outdated robot. The estimated cost of the EOD robot is \$350,000. There is not a match requirement for this project.

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

If yes, please list the Action Step Item Codes(s): P-05: Improve multi-agency critical incident response strategy

Funds Available: Account Name:  
Account Number:

Staff Recommendation: Authorize and direct the Mayor to execute all required grant application documents including the Kentucky Procurement Policy.

Attachments:

1. Municipal Order

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

A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A GRANT APPLICATION THROUGH THE KENTUCKY OFFICE OF HOMELAND SECURITY (KOHS) FOR FUNDS IN THE AMOUNT OF \$350,000, FOR AN EOD ROBOT FOR THE PADUCAH POLICE DEPARTMENT'S FBI CERTIFIED BOMB SQUAD, TO EXECUTE THE KENTUCKY PROCUREMENT POLICY AND ALL OTHER DOCUMENTS WHICH ARE DEEMED NECESSARY BY KOHS

WHEREAS, the City of Paducah, Kentucky desires to make an application for United States Department of Homeland Security and/or Commonwealth of Kentucky funds for a project to be administered by Kentucky Office of Homeland Security; and

WHEREAS, it is recognized that an application for and approval of Kentucky Office of Homeland Security funds impose certain obligations and responsibilities upon the city.

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

SECTION 1. The Mayor is hereby authorized to execute and furnish all required grant application documentation including the Kentucky Procurement Policy for a 2019 grant application through the Kentucky Office of Homeland Security in the amount of \$350,000, to be used for the purchase of an EOD robot for the Paducah Police Department's FBI Certified Bomb Squad. No local cash or in-kind match is required.

SECTION 2. This order shall be in full force and effect 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, May 28, 2019  
Recorded by Lindsay Parish, City Clerk, May 28, 2019  
\mo\grants\app-KOHS Police EOD Robot

# Agenda Action Form

## Paducah City Commission

Meeting Date: May 28, 2019

Short Title: 800 MHz Radio Systems - Monthly User Fee, Effective July 1, 2020 - **J PERKINS**

Category: Municipal Order

Staff Work By: Jonathan Perkins  
Presentation By: Jonathan Perkins

### Background Information:

The City of Paducah invested over \$1.3 million in 1992 to develop (including engineering and design), build and finance the City's 800 MHz Radio System. The System included equipment, tower, engineering and design cost.

The City has maintained and managed the System for the past 27 years, during which time has included upgrading and replacing various capital infrastructure items or components. Beginning in 2007, over \$570,000 was invested to replace the System's controller (ordinance 2007-12-7370) and related equipment (the backbone of the System).

All monthly customer fees collected are placed in the City's special revenue fund called 'Radio Replacement and Depreciation Fund' for the sole purpose of funding future radio system infrastructure and related peripheral devices. Funds accumulating in this fund will be used over the next few years to help pay for future investment needs of the System.

The Finance Director is charged with the task of setting 800 MHz radio system monthly customer user fees as per Ordinance 2000-6-6218, in addition to billing and collecting all customer user charges.

At present, there are approximately 480 units using the City's 800 MHz Radio System.

Planning to replace Radio System peripheral devices must continue to move forward, including more up-to-date radios to tie into a more sophisticated communication system.

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: Radio Replacement and Depreciation Fund

Account Number: Fund 1200

Staff Recommendation: That the monthly customer user fee for City and non-City customers be set a proposed in the following table.

<b>Effective Date</b>	<b>User Unit Rate (Per Month)</b>
07-01-2020	\$19.50
07-01-2021	\$21.00
07-01-2022	\$22.50
07-01-2023	\$24.00
07-01-2024	\$25.50

Attachments:

1. Municipal Order

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

A MUNICIPAL ORDER SETTING THE 800 MHz RADIO SYSTEM CUSTOMER  
USER UNIT RATES FOR CITY AND NON-CITY USERS

WHEREAS, the City of Paducah operates an 800 MHz Radio System which is used by approximately 480 radio units; and

WHEREAS, the City of Paducah desires to set a unit rate to be paid by City and Non-City users of this system which enables future radio system infrastructure and related peripheral devices; and

WHEREAS, the last customer user rate was set by Municipal Order No. 1848 on July 14, 2015.

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

SECTION 1. That Ordinance No. 2000-6-6218, adopted by the City of Paducah on June 27, 2000, authorizes the 800 MHz radio system user unit rate to be set and adjusted by Municipal Order in June of each year, as necessary.

SECTION 2. Based on current and future capital outlays, cost of financing, and other related costs, the 800 MHz radio system monthly customer user rate schedule for all users is shown below. The following rates will become effective as shown in the following table.

<b>Effective Date</b>	<b>User Unit Rate (Per Month)</b>
07-01-2020	\$19.50
07-01-2021	\$21.00
07-01-2022	\$22.50
07-01-2023	\$24.00
07-01-2024	\$25.50

SECTION 3. This Municipal Order will 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, May 28, 2019  
Recorded by Lindsay Parish, City Clerk, May 28, 2019  
mo/800MHzRate 2019

# Agenda Action Form Paducah City Commission

Meeting Date: May 28, 2019

Short Title: Upgrade of City of Paducah Microsoft Exchange Server and Microsoft Office in an amount of \$87,938.92 - **S CHINO**

Category: Municipal Order

Staff Work By: Greg Dowdy

Presentation By: Stephen Chino

## Background Information:

All City of Paducah government agencies use Microsoft Exchange Server 2010 for email services and Microsoft Office 2010 for desktop applications. Microsoft Exchange 2010 along with Microsoft Office 2010 have been declared end of life by Microsoft Corporation in October of 2020. The current versions of the software have been in place for approximately 7 years. The purpose of this municipal order is to secure funding to transition all city agencies, Joint Sewer Agency, and E911 to Microsoft Exchange 2019 and Microsoft Office 2019. The cost of the software is \$87,938.92 to cover all users. The software is sourced and priced under state contract MA7581800000597 and can therefore be sole sourced. The vendor for the software is SHI Inc. the Microsoft Contract solution provider for Kentucky. The project is budgeted under project account EQ0028-000-40000-40010. Completion of installation will be on or before November 1, 2019.

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: I/T Infrastructure Upgrade

Account Number: EQ0028

Staff Recommendation: It is recommended to proceed.

## Attachments:

1. Municipal Order
2. SHI Quote-17050357
3. State Wide Enterprise IT Software Reseller Services Contract (SHI International)

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

A MUNICIPAL ORDER AUTHORIZING THE PURCHASE OF MICROSOFT EXCHANGE 2019 AND MICROSOFT OFFICE 2019 FROM SHI, INC., IN AN AMOUNT OF \$87,938.92 AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATED TO SAME

WHEREAS, this equipment is available under State Contract No. MA758180000597 and competitive bidding is not required.

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

SECTION 1. That the City of Paducah hereby authorizes the Finance Director to make payment to SHI, Inc., for the purchase of Microsoft Exchange 2019 and Microsoft Office 2019, in an amount of \$87,938.92 and authorizes the Mayor to execute all documents related to same. This purchase is made in compliance with the Kentucky State Purchasing Contract.

SECTION 2. This expenditure shall be charged to I/T Infrastructure Upgrade Project Account No. EQ0028.

SECTION 3. 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, May 28, 2019  
Recorded by Lindsay Parish, City Clerk, May 28, 2019  
\\mo\ Microsoft Exchange and Office 2019 – state contract



Pricing Proposal  
 Quotation #: 17050357  
 Created On: 4/26/2019  
 Valid Until: 5/31/2019

**City of Paducah**

**Inside Account Executive**

**Greg Dowdy**

300 South 5th Street  
 Paducah, KY 42003  
 UNITED STATES  
 Phone: (270) 444-8622 ext. 2080  
 Fax:  
 Email: gdowdy@paducahky.gov

**Cody Smith**

290 Davidson Ave.  
 Somerset, NJ 08873  
 Phone: 732-652-3077  
 Fax:  
 Email: Cody\_Smith@SHI.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 Microsoft Exchange Server 2019 Standard - License - 1 server - Select Plus - Win - Single Language Microsoft - Part#: 312-04418 Contract Name: Enterprise IT COTS Software Government Reseller Contract #: MA 758 1800000597	1	\$491.07	\$491.07
2 Microsoft Windows Server 2019 - License - 1 user CAL - Select Plus - Single Language Microsoft - Part#: R18-05796 Contract Name: Enterprise IT COTS Software Government Reseller Contract #: MA 758 1800000597	270	\$26.48	\$7,149.60
3 Microsoft Exchange Server 2019 Standard CAL - License - 1 user CAL - volume - Win - Single Language Microsoft - Part#: 381-04518 Contract Name: Enterprise IT COTS Software Government Reseller Contract #: MA 758 1800000597	260	\$61.78	\$16,062.80
4 Microsoft Office Professional Plus 2019 - License - 1 PC - Select Plus - Win - Single Language Microsoft - Part#: 79P-05746 Contract Name: Enterprise IT COTS Software Government Reseller Contract #: MA 758 1800000597	65	\$352.25	\$22,896.25
5 Microsoft Office Standard 2019 - License - 1 PC - Select Plus - Win - Single Language Microsoft - Part#: 021-10626 Contract Name: Enterprise IT COTS Software Government Reseller Contract #: MA 758 1800000597	160	\$258.37	\$41,339.20
		<b>Total</b>	<b>\$87,938.92</b>

**Additional Comments**

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order.

SHI International Corp. is 100% Minority Owned, Woman Owned Business.  
TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

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*The Products offered under this proposal are resold in accordance with the [SHI Online Customer Resale Terms and Conditions](#), unless a separate resale agreement exists between SHI and the Customer.*

**ATTACHMENT A**

**CONTRACT**

**FOR**

**State-Wide Enterprise IT Commercial Off The Shelf (COTS)  
Software Reseller Services**

**BETWEEN**

**THE COMMONWEALTH OF KENTUCKY**

**The Finance and Administration Cabinet  
On Behalf Of  
Commonwealth Office of Technology (COT)**

**AND**

**SHI International Corp.**

**MA 758 1800000597 for the Executive Branch**

**MA 758 1800000598 for K-12/ Kentucky Department of Education**

**VENDOR CONTACT INFORMATION:**

Tom Wampler  
502-254-9964

Tom\_Wampler@SHI.com

SHI International Corp

290 Davidson Avenue, Somerset, NJ 08873

\*\*\*\*\*

This Master Agreement ("Contract", "Award" or "Agreement") is entered into, by and between the Commonwealth of Kentucky, **Finance and Administration Cabinet, Commonwealth Office of Technology** ("the Commonwealth" or "Customer" or "COT") and **SHI International Corp.** ("Contractor" or "Vendor" or "SHI") as the Prime Vendor.

The Commonwealth and Contractor agree to the following:

**I. Scope of Contract**

The purpose of this Contract is to provide **Commercial Off the Shelf (COTS)** software and related services, including installation, implementation, configuration, training, support and maintenance.

Hardware is NOT PERMITTED under this contract. Vendor-hosted solutions, cloud services (or change from on-premise to cloud or SaaS), cloud offerings such as Software as a Service (SaaS), Platform as a Service (PaaS), and Infrastructure as a Service (IaaS) are NOT PERMITTED under this contract unless approval is granted by the Commonwealth Office of Technology through the appropriate process. Subscription services are NOT PERMITTED under this contract, unless approval is granted by the Commonwealth Office of Technology through the appropriate process. The Commonwealth reserves the right to terminate this Contract in its entirety if the Vendor fails to comply with these terms.

For the purpose of procuring Subscription services the Commonwealth hereby designates Non-Executive Branch State Agencies as the ONLY authorized Participating Entity (ies) under this contract.

		In Scope Offerings		In Scope Offerings that Require COT Approval prior to Executive Branch Agency purchase	Out of Scope Offerings
Licensing Type	COTS	Individual Licensing	Volume Licensing		Custom/ Customized
Licensing Period	Perpetual	Enterprise Licensing		Subscription	None
Delivery	Shrink-Wrap	Download		SaaS, PaaS, IaaS	None
Hosting as part of Delivery & Use	On Premise			Off Premise	Managed Service

**II. Negotiated Items**

1. Pricing – See Section IV
2. Revision to Section 40.6 Contract Usage
3. Section 50.6 (A) 3. Customer Support Services
4. Section 50.6 (A) 5. Warranty Requirements
5. Section 50.6 (A) 7. Problem Resolution
6. Section 50.6 (B) 1. Pricing Quotations
7. Section 50.6 (B) 2. Ordering Procedures and Delivery a., b., and c.
8. Section 50.6 (B) 2. Ordering Procedures and Delivery e.
9. Section 50.6 (B) 3. Product Substitutions and Returns
10. Removal of Section 50.6 D. Asset Management Services Requirements.
11. Automatic renewals shall not be included on any third party agreement.

12. SHI shall conduct quarterly meetings with the Commonwealth to discuss the performance of the Contract. The Commonwealth reserves the right to schedule meetings as needed if necessary.
13. SHI shall assign an Operations Manager to audit quotes on a weekly basis.
14. SHI shall send the Commonwealth Buyer an updated catalog bi-weekly.
15. SHI shall send a daily update to COT for all open requests. Updates shall be sent for the previous day's requests.
16. Removal of Section 30.3
17. Removal of Section 30.4
18. Force Majeure - Neither party shall be liable to the other for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to: (1) acts of God or public enemy, acts of government, riots, terrorism, fires, floods, strikes, lock outs, epidemics, act or failure to act by the other party, or unusually severe weather affecting the Commonwealth, the contractor or its subcontractors, or (2) causes beyond their reasonable control and which are not foreseeable (each a "Force Majeure Event"). In the event of any such Force Majeure Event, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the delay. The party experiencing the delay shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as the event causing the failure or delay has ceased. The contractor shall notify the Commonwealth promptly of any such delay and shall specify the effect on the product as soon as practical.
19. Any third party license related agreements shall be subject to and governed by the laws of the Commonwealth of Kentucky, including but not limited to the Constitution, Statutes, Regulations, and Finance Policies and Procedures. The laws of the Commonwealth of Kentucky shall control and prevail in such agreements notwithstanding any term, condition, or provision in the agreement to the contrary.
20. Section 40.12 – Payment

**Original Language:**

The Commonwealth will make payment within thirty (30) working days of receipt of contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453 and KRS 45.454.

Payments are predicated upon successful completion and acceptance of the described work, services, supplies, or commodities, and delivery of the required documentation. Invoices for payment shall be submitted to the agency contact person or his representative.

**Negotiated Language:**

The Commonwealth will make payment within thirty (30) working days of receipt of contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453 and KRS 45.454.

Payments are predicated upon successful completion and acceptance of the described work, services, supplies, or commodities, and delivery of the required documentation. Invoices for payment shall be submitted to the agency contact person or his representative.

The contractor agrees to establish a payment schedule, upon request, that is in the best interest of the Commonwealth to include monthly, quarterly, annually, etc. The payment schedule shall not be based on a financing or leasing model and shall not include any financing fees. This Contract shall be on the basis of a **firm fixed unit price**.

### III. Terms and Conditions

#### **SECTION 30 – COMMONWEALTH OFFICE OF TECHNOLOGY (COT) REQUIREMENTS**

##### **30.1 Commonwealth Information Technology Policies and Standards**

The vendor and any subcontractors shall be required to adhere to applicable Commonwealth policies and standards related to technology use and security.

##### **30.2 Compliance with Kentucky Information Technology Standards (KITS)**

A. The Kentucky Information Technology Standards (KITS) reflect a set of principles for information, technology, applications, and organization. These standards provide guidelines, policies, directional statements and sets of standards for information technology. It defines, for the Commonwealth, functional and information needs so that technology choices can be made based on business objectives and service delivery. The vendor shall stay knowledgeable and shall abide by these standards for all related work.

<http://technology.ky.gov/Governance/Pages/KITS.aspx>

B. The vendor and any subcontractors shall be required to submit a technology roadmap for any offered solution. Additional roadmaps will be submitted upon request of the Commonwealth. The Roadmap shall include, but is not limited to, planned, scheduled and projected product lifecycle dates and historical release/ patch or maintenance dates for the technology. In addition, any guidance on projected release/revision/patch/maintenance schedules would be preferred.

##### **30.3 Intentionally Left Blank**

##### **30.4 Intentionally Left Blank**

##### **30.5 Privacy, Confidentiality and Ownership of Information**

The Commonwealth is the designated owner of all data and shall approve all access to that data. The vendor shall not have ownership of Commonwealth data at any time. The vendor shall be in compliance with privacy policies established by governmental agencies or by state or federal law. Privacy policy statements may be developed and amended from time to time by the Commonwealth and will be appropriately displayed on the Commonwealth portal (Ky.gov). The vendor should provide sufficient security to protect the Commonwealth and COT data in network transit, storage, and cache. **All data, including backups and archives, must be maintained at all times within the contiguous United States. All sensitive data, as defined in Enterprise Standards, must be encrypted in-transit and at rest.**

##### **30.6 License Agreements**

Software provided by the vendor to the Commonwealth should contain a provision for perpetual licensing with all upgrade options.

**30.7 Software Version Requirements**

All commercially supported and Commonwealth approved software components such as Operating system (OS), Database software, Application software, Web Server software, Middle Tier software, and other ancillary software must be kept current. In the event that a patch interferes with the solution, the vendor must present a plan for compliance to the Commonwealth outlining the constraints and an appropriate plan of action to bring the solution in to compliance to allow this patch to be applied in the shortest timeframe possible, not to exceed three months, unless otherwise negotiated with the Commonwealth.

The vendors shall keep software in compliance with industry standards to support third party dependencies such as Java, Adobe Flash, Internet Explorer, Mozilla Firefox, etc. at currently supported version, release, and patch levels. In the event that a third party dependency interferes with the solution, the vendor must present a plan for compliance to the Commonwealth outlining the constraints and an appropriate plan of action to bring the solution into compliance to allow this third party dependency to be updated in the shortest timeframe possible, not to exceed three months, unless otherwise negotiated with the Commonwealth.

**SECTION 40 – PROCUREMENT REQUIREMENTS**

**40.1 Procurement Requirements**

Procurement requirements are listed under “**Procurement Laws, Preference, Regulations and Policies**” and “**Response to Solicitation**” located on the eProcurement Web page at <http://eprocurement.ky.gov> and <http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx> respectively. The vendor must comply with all applicable statutes, regulations and policies related to this procurement.

**40.2 Contract Components and Order of Precedence**

The Commonwealth's acceptance of the contractor's offer in response to the Solicitation RFP 758 1800000101, indicated by the issuance of a contract award by the Office of Procurement Services, shall create a valid contract between the Parties consisting of the following:

1. Any written Agreement between the Parties;
2. Any Addenda to the Solicitation RFP 758 1800000101;
3. The Solicitation RFP 758 1800000101 and all attachments
4. Procurement Statutes, Regulations and Policies
5. Any Best and Final Offer;
6. Any clarifications concerning the Contractor's proposal in response to the Solicitation RFP 758 1800000101;
7. The Contractor's proposal in response to the Solicitation RFP 758 1800000101.

In the event of any conflict between or among the provisions contained in the contract, the order of precedence shall be as enumerated above.

**40.3 Final Agreement**

This Contract represents the entire agreement between the parties with respect to the subject matter hereof. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this Contract.

**40.4 Contract Provisions**

If any provision of this Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the Commonwealth and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

**40.5 Type of Contract**

This Contract shall be on the basis of a **firm fixed unit price** for the elements listed.

**40.6 Contract Usage**

The contractual agreement with the Vendor will in no way obligate the Commonwealth of Kentucky to purchase any software and related services under this Contract. The Commonwealth agrees, in entering into any contract, to purchase only such services in such quantities as necessary to meet the actual requirements as determined by the Commonwealth.

**40.7 Addition or Deletion of Items or Services**

The Office of Procurement Services reserves the right to add new and similar items, by issuing a contract modification, to this Contract with the consent of the vendor. Until such time as the Vendor receives a modification, the Vendor shall not accept delivery orders from any agency referencing such items or services.

**40.8 Changes and Modifications to the Contract**

Pursuant to KRS 45A.210 (1) and 200 KAR 5:311, no modification or change of any provision in the contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the contractor and the Commonwealth, and incorporated as a written amendment to the contract and processed through the Office of Procurement Services and approved by the Finance and Administration Cabinet prior to the effective date of such modification or change pursuant to KRS 45A.210(1) and 200 KAR 5:311. Memorandum of understanding, written clarification, and/or correspondence shall not be construed as amendments to this Contract.

If the contractor finds at any time that existing conditions made modification of the contract necessary, it shall promptly report such matters to the Commonwealth Buyer for consideration and decision.

**40.9 Changes in Scope**

The Commonwealth may, at any time by written order, make changes within the general scope of the Contract. No changes in scope are to be conducted except at the approval of the Commonwealth.

**40.10 Contract Conformance**

If the Commonwealth Buyer determines that deliverables due under this Contract are not in conformance with the terms and conditions of this Contract and the mutually agreed-upon project plan, the Buyer may request the contractor to deliver assurances in the form of additional contractor resources and to demonstrate that other major schedules will not be affected. The Commonwealth shall determine the quantity and quality of such additional resources and failure to comply may constitute default by the contractor.

**40.11 Assignment**

This Contract shall not be assigned in whole or in part without the prior written consent of the Commonwealth Buyer.

**40.12 Payment**

The Commonwealth will make payment within thirty (30) working days of receipt of contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453 and KRS 45.454.

Payments are predicated upon successful completion and acceptance of the described work, services, supplies, or commodities, and delivery of the required documentation. Invoices for payment shall be submitted to the agency contact person or his representative.

The contractor agrees to establish a payment schedule, upon request, that is in the best interest of the Commonwealth to include monthly, quarterly, annually, etc. The payment schedule shall not be based on a financing or leasing model and shall not include any financing fees. This Contract shall be on the basis of a **firm fixed unit price**.

**40.13 Contractor Cooperation in Related Efforts**

The Commonwealth of Kentucky may undertake or award other contracts for additional or related work, services, supplies, or commodities, and the contractor shall fully cooperate with such other contractors and Commonwealth employees. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees.

**40.14 Contractor Affiliation**

"Affiliate" shall mean a branch, division or subsidiary that is effectively controlled by another party. If any affiliate of the contractor shall take any action that, if done by the contractor, would constitute a breach of this agreement, the same shall be deemed a breach by such party with like legal effect.

**40.15 Commonwealth Property**

The contractor shall be responsible for the proper custody and care of any Commonwealth-owned property furnished for contractor's use in connections with the performance of this contract. The contractor shall reimburse the Commonwealth for its loss or damage, normal wear and tear excepted.

**40.16 Confidentiality of Contract Terms**

The contractor and the Commonwealth agree that all information communicated between them before the effective date of the contract shall be received in strict confidence and shall not be necessarily disclosed by the receiving party, its agents, or employees without prior written consent of the other party. Such material will be kept confidential subject to Commonwealth and Federal public information disclosure laws.

Upon signing of this Contract by all parties, terms of the Contract become available to the public, pursuant to the provisions of the Kentucky Revised Statutes.

The contractor shall have an appropriate agreement with its subcontractors extending these confidentiality requirements to all subcontractors' employees.

**40.17 Confidential Information**

The contractor shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the Commonwealth, its financial affairs, its relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential by the Commonwealth in writing to the contractor. All Federal and State Regulations and Statutes related to confidentiality shall be applicable to the contractor. The contractor shall have an appropriate agreement with its employees, and any subcontractor employees, to that effect, provided however, that the foregoing will not apply to:

- A. Information which the Commonwealth has released in writing from being maintained in confidence;
- B. Information which at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected; or
- C. Information, which, after disclosure, becomes part of the public domain as defined above, through no act of the contractor.

**40.18 Advertising Award**

The contractor shall not refer to the award of contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky without the expressed written consent of the agency technical contact person. (see Section 50.4)

**40.19 Patent or Copyright Infringement**

The contractor shall report to the Commonwealth promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this contract of which the contractor has knowledge.

The Commonwealth agrees to notify the contractor promptly, in writing, of any such claim, suit or proceeding, and at the contractor's expense give the contractor proper and full information needed to settle and/or defend any such claim, suit or proceeding.

If, in the contractor's opinion, the equipment, materials, or information mentioned in the paragraphs above is likely to or does become the subject of a claim or infringement of a United States patent or copyright, then without diminishing the contractor's obligation to satisfy any final award, the contractor may, with the Commonwealth's written consent, substitute other equally suitable equipment, materials, and information, or at the contractor's options and expense, obtain the right for the Commonwealth to continue the use of such equipment, materials, and information.

The Commonwealth agrees that the contractor has the right to defend, or at its option, to settle and the contractor agrees to defend at its own expense, or at its option to settle, any claim, suit or proceeding brought against the Commonwealth on the issue of infringement of any United States patent or copyright or any product, or any part thereof, supplied by the contractor to the Commonwealth under this agreement. The contractor agrees to pay any final judgment entered against the Commonwealth on such issue in any suit or proceeding defended by the contractor.

If principles of governmental or public law are involved, the Commonwealth may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of the contractor without the contractor's written consent. The contractor shall have no liability for any infringement based upon:

- A. the combination of such product or part with any other product or part not furnished to the Commonwealth by the contractor
- B. the modification of such product or part unless such modification was made by the contractor
- C. the use of such product or part in a manner for which it was not designed

**40.20 Permits, Licenses, Taxes and Commonwealth Registration**

The contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all Federal, State, and local governments in which work under this Contract is performed.

The contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this Contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. Additional local registration or license may be required.

The contractor shall pay any sales, use, and personal property taxes arising out of this Contract and the transaction contemplated hereby. Any other taxes levied upon this Contract, the transaction, or the equipment or services delivered pursuant hereto shall be borne by the contractor.

**40.21 EEO Requirements**

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

<http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx>.

**40.22 Provisions for Termination of the Contract**

This Contract shall be subject to the termination provisions set forth in 200 KAR 5:312.

**40.23 Bankruptcy**

In the event the contractor becomes the subject debtor in a case pending under the Federal Bankruptcy Code, the Commonwealth's right to terminate this contract may be subject to the rights of a trustee in bankruptcy to assume or assign this contract. The trustee shall not have the right to assume or assign this contract unless the trustee (a) promptly cures all defaults under this contract; (b) promptly compensates the Commonwealth for the monetary damages incurred as a result of such default, and (c) provides adequate assurance of future performance, as determined by the Commonwealth.

**40.24 Conformance with Commonwealth & Federal Laws/Regulations**

This Contract is subject to the laws of the Commonwealth of Kentucky and where applicable Federal law. Any litigation with respect to this Contract shall be brought in state or federal court in **Franklin County, Kentucky in accordance with KRS 45A.245.**

**40.25 Accessibility**

Vendor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Vendor further warrants that the products or services to be provided under this Contract comply with existing federal standards established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1193, to the extent the vendor's products or services may be covered by that act. Vendor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

**40.26 Access to Records**

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this

Contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the Contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

**40.27 Prohibitions of Certain Conflicts of Interest**

In accordance with KRS 45A.340, the contractor represents and warrants, and the Commonwealth relies upon such representation and warranty, that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services. The contractor further represents and warrants that in the performance of the Contract, no person, including any subcontractor, having any such interest shall be employed.

In accordance with KRS 45A.340 and KRS 11A.040 (4), the contractor agrees that it shall not knowingly allow any official or employee of the Commonwealth who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this Contract to voluntarily acquire any ownership interest, direct or indirect, in the Contract prior to the completion of the Contract.

**40.28 No Contingent Fees**

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this Contract, excepting bona fide employees of the offeror or bona fide established commercial or selling agencies maintained by the offeror for the purpose of securing business. For breach or violation of this provision, the Commonwealth shall have the right to reject the proposal or cancel the Contract without liability.

**40.29 Intentionally Left Blank**

**40.30 Contract Claims**

The Parties acknowledge that KRS 45A.225 to 45A.290 governs contract claims.

**40.31 Limitation of Liability**

The liability of the Commonwealth related to contractual damages is set forth in KRS 45A.245.

**40.32 Discrimination (Effective April 8, 2015)**

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this Contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans

with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.
7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for

noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## SECTION 50 – SCOPE OF WORK

### 50.1 **Agencies to Be Served**

This Contract shall be for use by **All State Agencies**. No shipments shall be made except upon receipt by vendor of an official delivery order from the using agency.

#### **Political Subdivisions**

Under Kentucky Statutes, political subdivisions of this State including cities of all classes, counties, and school districts may participate in All State Agency Master Agreements to the same extent as agencies of the Commonwealth.

### 50.2 **Term of Contract and Renewal Options**

The initial term of this Contract shall be for a period of **two (2) years** from the effective date of the Award of Contract.

This Contract may be renewed at the completion of the initial contract period for **four (4) additional one (1) year** periods upon the mutual agreement of the Parties. Such mutual agreement shall take the form of a contract modification as described in Section 40.8.

At the end of this Contract, the vendor shall provide all agency data in a form that can be converted to any subsequent system of the agency's choice. The vendor shall cooperate to this end with the vendor of the agency's choice, in a timely and efficient manner.

The Commonwealth reserves the right not to exercise any or all renewal options. The Commonwealth reserves the right to extend the Contract for a period less than the length of the above-referenced renewal period if such an extension is determined by the Commonwealth Buyer to be in the best interest of the Commonwealth.

The Commonwealth reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the Contract in an extended period.

### 50.3 **Basis of Price Revisions**

**PRICE ADJUSTMENTS:** Unless otherwise specified, the prices established by this Contract shall remain firm for the contract period subject to the following:

- A. **Price Increases:** A price increase shall not occur during the first twelve (12) months of this Contract. A vendor may request a price increase after twelve (12) months of this Contract, which may be granted or denied by the Commonwealth. Any such price

increase shall be based on industry wide price changes. The contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The Office of Procurement Services may request additional information or justification. If the price increase is denied, the contract holder may withdraw from the Contract without prejudice upon written notice and approval by the Office of Procurement Services. Provided, however, that the vendor must continue service, at the contract prices, until a new contract can be established (usually within sixty (60) days).

- B. Price Decreases: The Contract price shall be reduced to reflect any industry wide price decreases. The contract holder is required to furnish the Office of Procurement Services with notice of any price decreases as soon as such decreases are available.
- C. Extended Contract Periods: If this Contract provides for an optional renewal period, a price adjustment may be granted at the time the contract is renewed, subject to price increase justification as required in Paragraph A "Price Increases" as stated above.

#### 50.4 Notices

All programmatic communications with regard to day-to-day performance under the Contract are to be made to the agency technical contact(s):

**Executive Branch Contact Person**  
**Stephanie R. Williams, MPA, CPPO, CPPB**  
**Contracting Officer**  
**Commonwealth Office of Technology**  
**101 Cold Harbor Drive**  
**Frankfort, KY 40601**  
**(502) 782-0872**  
**[StephanieR.Williams@ky.gov](mailto:StephanieR.Williams@ky.gov)**

**K-12/ Kentucky Department of Education Contact Person**  
**Jessica Burton, CPPB**  
**Kentucky Department of Education**  
**300 Sower Boulevard**  
**Frankfort, KY 40601**  
**(502) 564-2020 ext. 2448**  
**[Jessica.Burton@education.ky.gov](mailto:Jessica.Burton@education.ky.gov)**

All communications of a contractual or legal nature are to be made to the Commonwealth Buyer.

**Commonwealth Buyer**  
**Susan S. Noland**  
**COMMONWEALTH OF KENTUCKY**  
**FINANCE AND ADMINISTRATION CABINET**  
**Office of Procurement Services**  
**New Capitol Annex**

702 CAPITOL AVE RM 096  
FRANKFORT, KY 40601  
(502) 564-5951  
Fax: (502) 564-6013  
Susan.Noland@ky.gov

**50.5 Subcontractors**

The Contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire Contract whether or not subcontractors are used. The Commonwealth shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime Contractor. All references to the contractor shall be construed to encompass both the Contractor and any subcontractors of the Contractor.

**50.6 Scope of Work/Technical Requirements**

**A. General Requirements**

The vendor shall meet all of the following requirements:

**1. Software Titles and Certifications**

**a. Mandatory Account Resellers**

The vendor shall be in full compliance with the following vendor specific certification requirements. At a minimum, the vendor shall be the indicated account reseller type/level and be able to manage volume license agreements for the following Software Publishers:

- IBM Passport Advantage – Authorized IBM-Business Partner
- Microsoft – Licensing Solution Provider (LSP)

**b. Commercial Software Manufacturers**

The vendor shall be able to provide all products from the following Software Publishers:

- Adobe (“Open Options” and CLP)
- SAP (Business Objects & Crystal Decisions)
- Citrix
- CheckPoint
- Ivanti
- Oracle
- Red Hat
- BMC Software (Remedy)
- VMware
- Commvault

**2. Commonwealth Data Turn-Over Requirements**

At the conclusion of this Contract or at the end of any contract period, should the Commonwealth not elect to renew, it shall be necessary for the Vendor to turn-over all Commonwealth data/information regarding software licensing, license compliance and

asset management by purchasing entity and agency to the Commonwealth or to another Vendor designated by the Commonwealth at no cost to the Commonwealth. A data turn-over shall also be necessary in the event that the Vendor was cited for non-performance or for an inflexible pricing structure. Should the Commonwealth determine that a data turn-over is required; the vendor shall work with Commonwealth staff to develop a Data Turn-over Plan that defines the format and structure of the files. Once the plan is completed, the vendor shall have thirty (30) calendar days to aggregate the data and transmit it to the Commonwealth at no cost to the Commonwealth.

**3. Customer Support Services**

The vendor shall provide pre-sale and post-sale for software products at no additional charge to the Commonwealth throughout the Contract life cycle. The vendor shall respond to agencies' requests for support within one (1) business day.

The vendor shall assign an account manager and/or management team to the Commonwealth.

**All requests should be submitted to the Team Alias:**

**TeamKentucky@shi.com**

**(888) 744-4084**

**Copy the Commonwealth's Account Executive, Tom Wampler:**

**Tom\_wampler@shi.com**

**(502) 254-9964**

**Field Sales Escalation Contacts:**

**Brian Gomez**

**Regional Director Central**

**Brian\_Gomez@shi.com**

**(312) 505-2025**

**Denise Verdicchio**

**Sr. Director Public Sector**

**Denise\_verdicchio@shi.com**

**(908) 884-1389**

**Al Fitzgerald**

**Vice President Enterprise Sales**

**Al\_Fitzgerald@shi.com**

**(914) 921-8853**

**Thai Lee**

**Owner/CEO SHI International Corp.**

**Thai\_Lee@shi.com**

(732) 868-8800

**Inside Sales Escalation Contacts**

**Tyshon Crawley**  
**Inside Sales Manager – Central**  
**Tyshon\_Crawley@shi.com**  
**(732) 564-8117**

**Yara Ismail**  
**Director of Enterprise Inside Sales – Public Sector**  
**Yara\_ismail@shi.com**  
**(732) 537-7240**

Pre-sales Support shall include but is not limited to:

- Product Research - Vendor shall research and recommend specialty products
- Product Selection Advice
- Assistance with Evaluation Copies
- Product Specifications, expirations, upgrades and interim releases
- Educational Sessions/Services

Post-Sales Support shall include but is not limited to:

- Delivery Information
- Product Returns
- Invoice/Billing Issues
- Facilitate Resolution of Product Problems
- On-site Manufacturer Representation
- License Tracking
- Maintenance Tracking
- Renewal Reminders
- Reporting

Other Services shall include but are not limited to:

- ELA Software Administration (inventory, agency billing, etc.)
- Batching of individual Delivery Orders to meet manufacturer minimum quantities to achieve best pricing or to reach more advantageous discount levels.
- Manage the placement of Delivery Orders for license renewals to delay the expenditure of funds until as close to the renewal date as is reasonably possible.
- Provide the Commonwealth renewal information to new vendors as appropriate.
- Include maintenance commencement date and termination date on all invoices.

**4. Vendor/Manufacturer Sponsored Education Sessions**

During the entire life of this Contract, the vendor should provide educational sessions at no cost to the Commonwealth. Educational Opportunities may include, but are not limited to, product specific training sponsored by Software Publisher and arranged by the reseller or direct sales contacts with Commonwealth customers.

## **5. Warranty Requirements**

The vendor shall warrant that the products furnished under this Contract do not infringe on any patent, copyright, trade secret or any proprietary right of any third party, and that the vendor agrees to indemnify and hold harmless the Commonwealth in the event of any claim by any third party.

If available by the publisher, SHI shall provide a hardcopy of the software at no charge to the Commonwealth if the download fails and remediation does not work. If a hardcopy of the software is not available by the publisher, SHI shall provide a full refund or credit the Commonwealth's account.

The vendor shall provide a description of each publishers warranty prior to the purchase of a product. Warranty descriptions may be provided by posting on the online portal.

Return authorization and credits shall be provided without penalty for the items contained in this Contract.

## **6. Installation Services**

The vendor should be able to facilitate the Software Publisher or Publisher service partner installation and configuration services and expertise for software solutions procured through this Contract. These services are limited to COTS solutions to ensure proper operation within the Commonwealth's infrastructure and IT environment.

## **7. Problem Resolution**

The vendor shall have a central contact point, available during normal working hours, for the resolution of problems. The contact point shall be someone with the authority to resolve any type of problem.

**Commonwealth's Account Executive, Tom Wampler:**  
**Tom\_wampler@shi.com**  
**(502) 254-9964**

## **B. Ordering and Delivery Requirements**

- The vendor shall provide special reduced pricing for large quantity purchases, upgrades, etc.
- The vendor shall follow the ordering processes for licensing and maintenance required by each publisher/manufacturer.
- The vendor shall have licensing specialists available to the Commonwealth who are knowledgeable in the management and administration of the volume licensing programs and special funding or licensing concessions available for the educational community.
- The vendor shall provide a quarterly administrative fee to the Commonwealth as a part of the vendor's unit price and shall not be charged directly in the form of a separate line item. The administrative fee shall be paid in the form of a check payable of the

Office of Procurement Services for an amount equal to one percent (1%) of the net sales (less any returns, credits, or adjustments) under this contract for this period. Fees shall be paid 45 days after the close of the quarter. Check to be mailed to the Office of Procurement Services, 702 Capitol Avenue, New Capitol Annex, Room 095, Frankfort, KY 40601. The Vendor agrees to provide a quarterly report to the OPS Buyer. The format of the report will be determined between OPS and the Vendor.

## 1. Pricing Quotations

The Commonwealth **shall** receive pricing quotations within two (2) to four (4) hours from the original request. **The requestors shall be notified via email if this response time cannot be met and will be given an ETA.** Quotes shall be honored for sixty (60) calendar days unless there are special circumstances. These special circumstances must be clearly noted as part of any quotation.

**SHI shall provide an update daily to the Commonwealth for any outstanding request for quotation.**

Vendor shall utilize a system of alphanumeric identification of their quotations so that they may be referred to by that I.D. number for purposes of ordering or other means of communication. The Vendor shall list the Contract number for any purchase under a volume license. The Vendor shall include the dates of coverage for any maintenance or term license. The Vendor shall provide the previous year's purchase order/delivery order number on all renewal quotes.

If there is a price decrease between the time of the quote and the time of receipt of the purchase order/delivery order the vendor shall invoice the Commonwealth at the new lower price.

Vendor shall offer a procedure for researching and sourcing products that are not part of their balance of product line. Vendors shall apply the same pricing model as agreed to under the Contract.

## 2. Ordering Procedures and Delivery

- a. The vendor shall abide by the Commonwealth purchasing procedures throughout the life of the contract.
- b. The Vendor shall be capable of accepting orders via telephone, Web, Email and Fax. **SHI shall process all orders within twenty-four (24) hours of receipt. Exceptions may apply when additional information is required.**
- c. **Intentionally Left Blank.**
- d. Educational entities, political sub-divisions and authorized non-profit organizations will be authorized to procure utilizing their own ordering and purchasing procedures.
- e. The Vendor shall be responsible for delivery of the ordered product(s) and all license certificates and proofs of purchase, within ten (10) business days of receipt of a purchase order/delivery order, in its entirety, to the destination specified on the purchase order/delivery order. If the seller cannot fulfill the order within this time in its entirety, the seller must immediately inform the purchasing agency of

this with a revised delivery date. The purchasing agency then has the option of canceling the order or granting the seller a waiver.

Delivery shall be made FOB destination, freight prepaid and allowed for all orders. All orders are to be shipped prepaid at the vendor's expense. An outside carrier shall not invoice shipping charges to the Commonwealth.

**A one percent (1%) penalty will be imposed to SHI if delivery is not met within the required time.**

- **Drop Shipments**

The Commonwealth's purchase order/delivery order number shall be displayed on the packing slip from the shipper.

In the event that a software "key" is sent from a third party software publisher upon renewal of their product, the Vendor shall ensure that the key and all necessary support material is emailed and/or shipped to the appropriate recipient as designated on the Commonwealth's purchase order/delivery order.

### **3. Product Substitutions and Returns**

**If a quoted product becomes unavailable within the sixty (60) calendar day timeframe of a quote, the Inside Account Manager shall reach out to the contact who placed the order and advise on available substitutions. Substitutions shall not be ordered unless agreed upon by the Commonwealth and/or End User.**

Return authorizations and credits shall be provided without a restocking fee or other penalty for all items, unless noted on the original quote provided by the vendor and agreed to by the purchasing agency, for up to forty-five (45) calendar days after receipt of shipment. All return shipping charges shall be the responsibility of the vendor.

Return authorizations and credits shall be provided without penalty for the items purchased throughout the life of the Contract.

**Return Process:**

**In order to request a return, a customer first contacts the Commonwealth's SHI sales team, via email, phone, or through the "Request Return Authorization Number" section on the Commonwealth/SHI.com website. The Inside Account Manager then generates a return authorization (RMA) number and provides a shipping label or account number. The Commonwealth customer writes the RMA number on their return box, ships it to SHI, and SHI will process the return. In some cases, to expedite a return, SHI will arrange to have the return-product picked up directly. A credit will be issued to the Commonwealth upon receipt of the return by SHI. If requesting a replacement order, SHI will work with the Commonwealth to expedite a replacement even before we receive the return. Occasionally, Software Publishers may require a customer to fill out a Letter of Destruction. In these cases, SHI provides the form to the**

**Commonwealth customer, who signs and returns the form. To help simplify and expedite the process, SHI takes care of the rest – processing the Letter of Destruction with the Software Publisher.**

**SHI shall accept the return of any incorrect or damaged product within thirty (30) days, with no restocking fees, regardless of the package being opened.**

#### **4. Invoicing**

Invoicing shall be done on the basis of each order completed. Invoices should clearly indicate, at a minimum, for each Commonwealth customer:

- Commonwealth Master Agreement/Contract number MA 758 1800000597 for the Executive Branch and MA 758 1800000598 for K-12/Kentucky Department of Education
- Delivery Order Number
- Name of the purchasing entity and address
- Contact Name and phone number
- Quantity
- Description, which shall be identical standard Original Manufacturer Product Names and/or Descriptions
- Date of Delivery
- Maintenance
- License Renewal Dates
- Net Price
- The invoice may reflect any additional discount offered by the vendor (i.e., earlier payment, quantity/case lot discount), if applicable.

In order to track purchases and payments more effectively, the vendor shall provide a method to link the Commonwealth's purchasing documentation and the third-party product vendor's documentation. This may be accomplished in several ways:

- Ensure that the delivery order number is published on documentation from the third party software publisher;
- Maintain and post on a web site with a cross-reference matrix of the Commonwealth's purchase order/delivery order, the selected software distributor's delivery order, and the third party product; or

#### **5. Payments**

The vendor shall allow Executive Branch agencies to use the thirty (30) day invoice procedure mentioned in Section 40.12, in addition to the Commonwealth Procurement Card (Procard), as a payment option without charging any fees for the purchase. The Commonwealth Procard is the Commonwealth's VISA credit card program designed to improve efficiency in processing low dollar purchases for both the purchase of goods and services, unless restricted by policy or Merchant Category Code (MCC).

The contractor agrees to establish a payment schedule, upon request, that is in the best interest of the Commonwealth to include monthly, quarterly, annually, etc. The payment schedule shall not be based on a financing or leasing model and shall not include any financing fees. This Contract shall be on the basis of a **firm fixed unit price**.

## 6. Price Notification

During the term of this Contract, any discounts shall not decrease. The vendor shall immediately pass on general manufacturer/publisher price reductions or promotional pricing. The Commonwealth may request verification of the vendor's manufacturer's list price (cost) at any time during life of this Contract.

The Commonwealth may request, and the vendor offer, additional discounts such as: quantity discounts, percent off or cash discounts for early payments, special promotions, sale pricing, educational discounts, etc.

## C. Portal Requirements

1. The vendor shall provide a web site (Commonwealth Software Portal) segmented by purchasing entity (Executive, K-12, etc.) as the primary business transaction channel for Commonwealth customers. At a minimum, the site shall offer secure access to product feature/benefit information, technical product information, current pricing, printable product quoting, product availability, order-tracking and delivery information. Commonwealth customers shall also be able to download a product catalog from the website.
2. The vendor shall coordinate all portal changes (titles, versions, etc.) with the respective contract managers identified for each purchasing entity.
3. Vendor shall provide Administrator level and Read-only access to vendor portal for the Commonwealth. Administrator access shall provide users full account level access and Read-only access should provide users access to a sub-account level or full account level as requested by user.
4. The portal shall have the ability to provide users access to securely retrieve standard reports or ad-hoc queries. Report and query results shall be downloadable in a standard digital format such as Excel, Word, CSV, etc.
5. Vendors shall Maintain Original Equipment/SW Manufacturer (OEM) version de-support dates on Vendor's portal for the Commonwealth in a single page/table as soon as they are announced by an OEM. Upon receipt of notification the Vendors shall provide the Commonwealth Alerts through the online portal or email. Alert data shall be downloadable in a digital format, Excel or CSV, that is requested by the Commonwealth.
6. The vendor shall update the offerings and prices as software manufacturers issue new/updated products. At a minimum, the updates to the vendor portal shall be bi-weekly. However, all new software titles and versions added to the vendor portal for the Executive Branch shall correspond to the software standards outlined in the Kentucky Information Technology Standards described in Section 30.2 and approved by the COT contract management team. The Office of IT Governance, as well as the Asset Management Branch, in COT will serve as the coordinating points for software title additions and version changes for the Executive Branch of government.
7. Contract managers for other government and educational purchasing entities shall be identified during contract negotiations and these managers shall serve as the focal point for portal changes and updates for their respective customer base. Refer to Section 50.4.

8. The vendor shall not resell or list through the portal a purchasing option for support services for any form of application development, integration consulting or open-ended vendor services. **Sale of services shall be strictly limited to packaged vendor service credits and incident resolution (break/fix) offered routinely by the software publishers and authorized by the Commonwealth contract managers.**
9. The Commonwealth software portal, maintained by the vendor, shall also provide a weekly news service that shall profile the various additions and changes to the vendor offerings by software manufacturer. This news service as well as other information maintained on the portal shall be searchable to quickly locate the most recent information regarding a particular manufacturer or software title.

#### **D. Intentionally Left Blank**

#### **E. Vendor Reporting and Trend Analysis**

Throughout the term of this Contract, the Vendor shall provide a monthly Sales Report to COT Contracts team and any other designated contract managers (K-12, Higher Education, etc.) detailing the products delivered against this Contract with associated analysis. The Commonwealth reserves the right to change or modify the elements in these reports, as it deems necessary. The reports shall be provided in electronic format, as requested by the Commonwealth such as the Excel, CSV, etc.

Vendor shall also provide special reports and analysis assistance as requested, such as monthly sales volume (by software publisher) per Cabinet, Agency/Institution, major changes in purchasing trends by customer area, etc.

Reports and analysis of purchasing trends shall be due by the second Friday of each month, for the previous month and the preferred method of accessing these reports is through secure access to reports and ad-hoc query capabilities through the Commonwealth's Software Portal that shall be established and maintained by the vendor. Failure to provide these reports in a timely manner may be considered an event of default of this Contract.

##### **1. Monthly Sales Report**

At a minimum, the Monthly Sales report shall include the following data elements for the executive branch and non-executive branch agencies and a grand total for the month:

- Purchasing Environment (Executive Branch, K-12, etc.)
- Purchasing Entity-Cabinet/Department Name
- Delivery Order Number and Date
- Invoice Date, Invoice #, purchase order/delivery order #, State Activity Code
- Contract Item(s) Sold – Manufacturer, Part #, Product Description, Version
- Dollar Value of each Item(s) Sold
- Total Order Value
- Quantity, Vendor Cost, Commonwealth's Unit Price
- Renewal Periods, as appropriate
- Monthly Total (By Agency), Year-to-Date Total (By Agency)

- Grand Total of All Sales for Year To Date

2. Quarterly Sales Summary Report

At a minimum, the Quarterly Sales reports shall include the following data elements for the executive branch and non-executive branch agencies and a grand total for the quarter and fiscal year to date:

- Purchasing Environment (Executive Branch, K-12, etc.)
- Purchasing Entity-Cabinet/Department Name
- Delivery Order Number and Date
- Invoice Date, Invoice #, purchase order/delivery order #, State Activity Code
- Contract Item(s) Sold – Manufacturer, Part #, Product Description, Version
- Quantity, Vendor Cost, Commonwealth's Unit Price
- Renewal Periods, as appropriate
- Total of All Sales for Quarter (by purchasing entity)
- Grand Total of All Sales for Year To Date

#### IV. Pricing

#### EXECUTIVE BRANCH

<b>Manufacturer</b>	
Microsoft	19.76%
VMware	22.00%
IBM Passport Advantage	15.00%
Oracle	8.30%
Citrix	32.90%
Adobe ("Open Options" and CLP)	12.00%
SAP (Business Objects & Crystal Decisions)	17.00%
AutoDESK	21.60%
Ivanti	17.00%
CheckPoint	37.00%
Corel	17.00%
Solarwinds	17.00%
Dataflux	17.00%
DynamicPDF	17.00%
KnowledgeLake	17.00%
ipswitch	17.00%
Nuance	23.00%
RedHat	26.65%
BMC Software	20.00%
Commvault	27.00%
Techsmith	22.00%
Quest	15.25%

## EDUCATION (K – 12)

<b>Manufacturer</b>	
Microsoft	19.70%
VMware	22.00%
Oracle	28.30%
Citrix	32.90%
AutoDESK	21.60%
Corel	17.00%
Solarwinds	17.75%
Dataflux	14.06%
DynamicPDF	17.00%
KnowledgeLake	17.00%
ipswitch	17.00%
Nuance	23.00%
RedHat	26.65%
Techsmith	22.00%
Quest	15.25%

**V. Approvals**

This Contract is subject to the terms and conditions as stated. By executing this Contract, the parties verify that they are authorized to bind this agreement and that they accept the terms of this agreement.

This Contract may be executed electronically in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Contract.

This Contract is invalid until properly approved and executed by the Finance and Administration Cabinet.

**1st Party: SHI International Corp, as Contracting Agent ("Contractor" or "Vendor" or "SHI")**

<u>Cassie Skelton</u>	<u>Contracts Manager</u>
Printed name	Title
	<u>4/6/18</u>
Signature	Date

**2nd Party: Finance and Administration Cabinet, Commonwealth Office of Technology, ("the Commonwealth" or "Customer" or "COT")**

<u>Jim Barnhart</u>	<u>Deputy CIO</u>
Printed name	Title
	<u>4-9-18</u>
Signature	Date

**Approved by the Finance and Administration Cabinet  
Office of Procurement Services**

<u>Joan Graham</u>	<u>Executive Director</u>
Printed name	Title
	<u>4/9/18</u>
Signature	Date

- Attachments**  
**ATTACHMENT A – This Document**  
**ATTACHMENT B – Omitted Intentionally**  
**ATTACHMENT C – Omitted Intentionally**  
**ATTACHMENT D – Omitted Intentionally**

# Agenda Action Form Paducah City Commission

Meeting Date: May 28, 2019

Short Title: Resolution endorsing the Civic Beautification Board fundraising efforts for the restoration of the fountain feature in City Hall - **T TRACY**

Category: Resolution

Staff Work By: Tammara Tracy

Presentation By: Tammara Tracy

Background Information: The Civic Beautification Board (CBB) requests authorization and support for their efforts to raise funds for the fountain feature inside City Hall. While the CBB recognizes the significant complexity and costs associated with the endeavor, the CBB wishes to restore the centerpiece of City Hall to its original purpose and design as a fountain. This effort would not include water through the sculpture as that was not the original concept and would likely be a hazard.

There is no fiscal match 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: Approval of the Resolution

Attachments:

1. Resolution

## RESOLUTION

### **A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF PADUCAH, KENTUCKY, SUPPORTING THE CIVIC BEAUTIFICATION BOARD'S FUNDRAISING EFFORTS FOR THE RESTORATION OF THE FOUNTAIN FEATURE IN THE PADUCAH CITY HALL**

*Whereas*, the Fountain is the centerpiece of the Atrium of Paducah City Hall and is an integral part of the original design of the building; and

*Whereas*, Paducah City Hall is listed on the National Register of Historic Places and recently underwent a \$4.2 million renovation; and

*Whereas*, the Fountain in the Atrium has been featured on the cover of American City magazine and embraced by members of the community; and

*Whereas*, the Sculpture, created by artist James Garner, in the center of the Fountain was commissioned and paid for by the Civic Beautification Board in 1964; and

*Whereas*, the Civic Beautification Board wishes to restore the centerpiece of City Hall to its original purpose and design as a fountain; and

*Whereas*, the Civic Beautification Board seeks support from the Paducah Board of Commissioners to engage in fundraising to restore the fountain feature inside City Hall; and

*Whereas*, the Civic Beautification Board recognizes the significant complexity and associated costs surrounding the restoration of the fountain; and

*Whereas*, restoration efforts will include returning water to the Fountain but not running through the Sculpture; and

*Whereas*, the final restoration plan for the Fountain will be approved by the City Engineer.

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

SECTION 1. That the Board of Commissioners is formally supports the fundraising efforts of the Civic Beautification Board to restore the fountain feature in the Paducah City Hall.

SECTION 2. This Resolution shall be in full force and effect from and after its adoption.

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Brandi Harless, Mayor

ATTEST:

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Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, May 28, 2019

Recorded by Lindsay Parish, May 28, 2019

\resoln\Fountain Restoration Fundraising – Civic Beautification

**CITY OF PADUCAH**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 58 “HUMAN  
RELATIONS”, OF THE CODE OF ORDINANCES OF THE  
CITY OF PADUCAH, KENTUCKY**

WHEREAS, this Ordinance amends Chapter 58, Article VI “Administration and Enforcement” of the *Code of Ordinances of the City of Paducah, Kentucky*, which governs human relations; and

WHEREAS, this Ordinance is being enacted to add a new Section to Chapter 58, Article VI “Administration and Enforcement” referencing the Kentucky Religious Freedom Restoration Act;

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

**SECTION 1.** That Section 58-133, is hereby added to read as follows:

**Sec. 58-133. Enforcement Consistent with Kentucky Religious Freedom Restoration Act.**

It is the intent of the City Commission that all sections of this Ordinance shall be interpreted in a manner consistent with KRS 446.350, which provides as follows:

“Government shall not substantially burden a person’s freedom of religion. The right to act in a manner motivated by a sincerely held religious belief may not be substantially burdened unless the government proves by clear and convincing evidence that it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest. A “burden” shall include indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities.”

**SECTION 2. SEVERABILITY.** If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 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. CONFLICTS.** All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

Introduced by the Board of Commissioners, May 14, 2019  
Adopted by the Board of Commissioners, \_\_\_\_\_, 2019  
Recorded by City Clerk, \_\_\_\_\_, 2019  
Published by *The Paducah Sun*, \_\_\_\_\_, 2019  
Ord\58-133 Amend Human Relations Ordinances Harless  
Ordinance prepared by Denton Law Firm

**CITY OF PADUCAH**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 58 “HUMAN  
RELATIONS”, OF THE CODE OF ORDINANCES OF THE  
CITY OF PADUCAH, KENTUCKY**

WHEREAS, this Ordinance amends Chapter 58, Article VI “Administration and Enforcement” of the *Code of Ordinances of the City of Paducah, Kentucky*, which governs human relations; and

WHEREAS, this Ordinance is being enacted to add a new Section to Article VI “Administration and Enforcement” relating to religious beliefs;

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

**SECTION 1.** That Section 58-133, is hereby added to read as follows:

**Sec. 58-133. Enforcement Against Private Business Owners.**

A private business owner, individual, or non-profit shall not be forced to violate his or her sincerely held religious beliefs.

**SECTION 2. SEVERABILITY.** If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 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. CONFLICTS.** All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

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

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MAYOR

ATTEST:

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CITY CLERK

Introduced by the Board of Commissioners, May 21, 2019

Adopted by the Board of Commissioners, \_\_\_\_\_, 2019

Recorded by City Clerk, \_\_\_\_\_, 2019

Published by *The Paducah Sun*, \_\_\_\_\_, 2019

Ord/58-133 Amend Human Relations Ordinance Abraham Final

Ordinance Prepared by Denton Law Firm

# Agenda Action Form

## Paducah City Commission

Meeting Date: May 28, 2019

Short Title: Approve a budget amendment in the amount of \$80,000 for the Bob Leeper Bridge Project - **J PERKINS**

Category: Ordinance

Staff Work By: James Arndt  
Presentation By: James Arndt

**Background Information:** The Bob Leeper Bridge will be built through a partnership of McCracken County, Four Rivers Nuclear Partnership, State of Kentucky and City of Paducah over the Perkins Creek.

The total project cost is expected to be \$250,000. The State will provided \$100,000 while the three local partners are responsible for the balance. In order to ensure that the bridge is successfully constructed the City desire provide up to \$80,000 toward the completion of the project.

In order to ensure the City's share of the project funding is in place we need to move \$80,000 from the FY2019 General Fund fund reserves into the Bob Leeper Bridge project (PA00XX).

State of Kentucky grant	\$100,000
Local partners	<u>\$150,000</u>
Total Project Cost	\$250,000

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: Bob Leeper Bridge Project

Account Number: PA00XX

**Staff Recommendation:** Approve moving \$80,000 from the General Fund fund reserve into the Bob Leeper Bridge project.

Attachments:

1. Ordinance

ORDINANCE NO. 2019-\_\_ - \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. 2018-06-8537, ENTITLED, “AN ORDINANCE ADOPTING THE CITY OF PADUCAH, KENTUCKY, ANNUAL OPERATING BUDGET FOR THE FISCAL YEAR JULY 1, 2018, THROUGH JUNE 30, 2019, BY ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE OPERATION OF CITY GOVERNMENT”

WHEREAS, the City of Paducah plans to partner with McCracken County, Four Rivers Nuclear Partnership, and the State of Kentucky to build the Bob Leeper Bridge over Perkins Creek; and

WHEREAS, in order to ensure the City’s share of the project funding is in place, \$80,000 must be moved from the FY2019 General Fund into the Bob Leeper Bridge Project; and

WHEREAS, KRS prohibits expenses to exceed the budget in any department and it is therefore necessary to amend the City’s FY2018 budget.

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

SECTION 1. That the annual budget for the fiscal year beginning July 1, 2018, and ending June 30, 2019, as adopted by Ordinance No. 2018-06-8537, be amended by the following re-appropriations:

- Transfer \$80,000 from the FY2019 General Fund to the Bob Leeper Bridge Project

SECTION 2. 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, May 28, 2019

Adopted by the Board of Commissioners, \_\_\_\_\_

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

Published by The Paducah Sun, \_\_\_\_\_

\ord\finance\budget amend 2018-19 - May 2019 (1<sup>st</sup> Amendment)