PUBLICATION HEARING - MARCH 17, 2020 - 5:55 P.M.
TOWN MEETING HALL, ADMINISTRATION BUILDING

1) To amend the Future Land Use Plan of the City of Lebanon, Tennessee, by changing 411 Hill Street from MDR (Medium Density Residential) to RMU (Residential Mixed Use) in Ward 3, by Paul Corder, Planning Director. (Request by Kimberly Boykin) (Approximately 0.75 acres; Tax Map 68C, Group A, Parcel 10) (Planning Commission recommended denial by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-5999)

2) To amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 411 Hill Street from RD9 (Medium Density Residential District) to CN (Commercial Neighborhood District) in Ward 3, by Paul Corder, Planning Director. (Request by Kimberly Boykin) (Approximately 0.75 acres; Tax Map 68C, Group A, Parcel 10) (Planning Commission recommended denial by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6000)

3) To amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 1030 North Castle Heights Avenue from CG (Commercial General) to CN (Commercial Neighborhood District) in Ward 1, by Paul Corder, Planning Director. (Request by Fence Row Properties, LLC) (Approximately 3.1 acres; Tax Map 58, Parcel 57) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6001)

4) To amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 1439 Toshiba Drive from RD9 (Medium Density Residential District) to RM6 (High Density Residential District) in Ward 1, by Paul Corder, Planning Director. (Request by Krishna Patel) (Approximately 2.54 acres; Tax Map 58, Parcel 15.19) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6002)

5) To amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing unaddressed, 317, and 319 North College Street and unaddressed Lake Street from CG (Commercial General) and CS (Commercial Service) to DMU (Downtown Mixed Use District), CG (Commercial General), and CN (Commercial Neighborhood) in Ward 2, by Paul Corder, Planning Director. (Request by CRV Holdings) (Approximately 1.36 acres; Tax Map 68D, Group G, Parcels 4, 5, 16, 17, and 18) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6003)

6) To amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 233 West Spring Street from RD9 (Medium Density Residential District) to RM6 (High Density Residential District) in Ward 3, by Paul Corder, Planning Director. (Request by Cody Joe Haynes) (Approximately 0.40 acres; Tax Map 68E, Group L, Parcel 20) (Planning Commission recommended denial by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6004)

"This institution is an equal opportunity provider and employer."
7) To amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 1770 and 2000 Callis Road from RS20 (Low Density Residential District) and CG (Commercial General) to IP (Planned Business/Industrial Park) in Ward 4, by Paul Corder, Planning Director. (Request by CA South Development, Inc.) (Approximately 33.77 acres; Tax Map 79, Parcels 56 and 56.01) (Planning Commission recommended denial by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6005)

8) To amend the Future Land Use Plan of the City of Lebanon, Tennessee, by changing 203 and 373 Quarry Loop Road from RMU (Residential Mixed Use) to IC (Industrial/Commercial), by Paul Corder, Planning Director. (Request by Special Event Services) (Approximately 6.09 acres; Tax Map 55, Parcels 43 & 46.09) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6006)

9) To amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 203 and 373 Quarry Loop Road from CG (Commercial General) to IP (Planned Business/Industrial Park) in Ward 6, by Paul Corder, Planning Director. (Request by Special Event Services) (Approximately 6.09 acres; Tax Map 55, Parcels 43 & 46.09) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6007)

10) To amend Title 14, Appendix F, Section 5.1 Rehabilitation to add fencing materials, by Paul Corder, Planning Director. (Request by Staff) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6008)

11) To amend Title 14 of the Lebanon Municipal Zoning Code Chapter 3, Section 14.310 Temporary Use Permits to add Subsection 5 Fireworks, by Paul Corder, Planning Director. (Request by Ed Bess) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting) (Reference Ordinance No. 20-6009)

REGULAR CALLED CITY COUNCIL MEETING
AGENDA - MARCH 17, 2020 - 6:00 P.M.
TOWN MEETING HALL, ADMINISTRATION BUILDING

1. CALL TO ORDER
2. INVOCATION
3. PLEDGE TO FLAG
4. ROLL CALL
5. COMMUNICATION FROM CITIZENS:
6. COMMUNICATION FROM MAYOR:
7. REPORTS FROM MAYOR PRO TEM / COMMITTEES / ALDERMEN / OFFICERS:

8. CONSENT AGENDA:

1. **Ordinance No. 20-5997**, second reading, to approve budget amendments for the Wastewater Treatment Plant (to cover expenses for the remainder of the year), by Jeff Baines, Commissioner of Public Services, and Stuart Lawson, Commissioner of Finance and Revenue.

2. **Ordinance No. 20-5998**, second reading, to authorize the Commissioner of Public Services to design and bid sewer collection system extension for South Hartmann Drive Corridor between Interstate 40 and Old Murfreesboro Road, by Jeff Baines, Commissioner of Public Services.

3. **Ordinance No. 20-6013**, second reading, to approve a budget amendment and the creation of a new department entitled Tornado Relief 2020, by Stuart Lawson, Commissioner of Finance and Revenue, and Jeff Baines, Commissioner of Public Services.

9. OLD BUSINESS:

1. **Ordinance No. 20-5990**, second reading, to amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 1121 Coles Ferry Pike from RS20 (Low Density Residential District) to RM6 (High Density Residential District) in Ward 1, by Paul Corder, Planning Director. (Request by G-Team Real Estate Holdings) (Approximately 0.63 acres; Tax Map 58, Parcel 39) (Planning Commission recommended approval by a vote of 9-0 at their January 28, 2020 meeting) (Public Hearing held 2/18/20)

2. **Ordinance No. 20-5991**, second reading, to amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing unaddressed Park Avenue from RD9 (Medium Density Residential District) to CN (Commercial Neighborhood) in Ward 2, by Paul Corder, Planning Director. (Request by G-Team Real Estate Holdings) (Approximately 5.47 acres; Tax Map 67P, Group A, Parcel 1) (Planning Commission recommended approval by a vote of 9-0 at their January 28, 2020 meeting) (Public Hearing held 2/18/20)
Revised:

3. **Ordinance No. 20-6010**, second reading, to authorize the waiver of fees for properties affected by the March 3rd tornado, by Mayor Bernie Ash; Jeff Baines, Commissioner of Public Services; and Sarah Haston, Economic Development Director.

10. **NEW BUSINESS:**

1. **Ordinance No. 20-5999**, first reading, to amend the Future Land Use Plan of the City of Lebanon, Tennessee, by changing 411 Hill Street from MDR (Medium Density Residential) to RMU (Residential Mixed Use), by Paul Corder, Planning Director. (Request by Kimberly Boykin) (Approximately 0.75 acres; Tax Map 68C, Group A, Parcel 10; Ward 3) (Planning Commission recommended denial by a vote of 8-0 at their February 25, 2020 meeting)

2. **Ordinance No. 20-6000**, first reading, to amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 411 Hill Street from RD9 (Medium Density Residential District) to CN (Commercial Neighborhood District) in Ward 3, by Paul Corder, Planning Director. (Request by Kimberly Boykin) (Approximately 0.75 acres; Tax Map 68C, Group A, Parcel 10) (Planning Commission recommended denial by a vote of 8-0 at their February 25, 2020 meeting)

3. **Ordinance No. 20-6001**, first reading, to amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 1030 North Castle Heights Avenue from CG (Commercial General) to CN (Commercial Neighborhood District) in Ward 1, by Paul Corder, Planning Director. (Request by Fence Row Properties, LLC) (Approximately 3.1 acres; Tax Map 58, Parcel 57) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting)

4. **Ordinance No. 20-6002**, first reading, to amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 1439 Toshiba Drive from RD9 (Medium Density Residential District) to RM6 (High Density Residential District) in Ward 1, by Paul Corder, Planning Director. (Request by Krishna Patel) (Approximately 2.54 acres; Tax Map 58, Parcel 15.19) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting)
5. **Ordinance No. 20-6003**, first reading, to amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing unaddressed, 317, and 319 North College Street and unaddressed Lake Street from CG (Commercial General) and CS (Commercial Service) to DMU (Downtown Mixed Use District), CG (Commercial General), and CN (Commercial Neighborhood) in Ward 2, by Paul Corder, Planning Director. (Request by CRV Holdings) (Approximately 1.36 acres; Tax Map 68D, Group G, Parcels 4, 5, 16, 17, and 18) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting)

6. **Ordinance No. 20-6004**, first reading, to amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 233 West Spring Street from RD9 (Medium Density Residential District) to RM6 (High Density Residential District) in Ward 3, by Paul Corder, Planning Director. (Request by Cody Joe Haynes) (Approximately 0.40 acres; Tax Map 68E, Group L, Parcel 20) (Planning Commission recommended denial by a vote of 8-0 at their February 25, 2020 meeting)

7. **Ordinance No. 20-6005**, first reading, to amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 1770 and 2000 Callis Road from RS20 (Low Density Residential District) and CG (Commercial General) to IP (Planned Business/Industrial Park) in Ward 4, by Paul Corder, Planning Director. (Request by CA South Development, Inc.) (Approximately 33.77 acres; Tax Map 79, Parcels 56 and 56.01) (Planning Commission recommended denial by a vote of 8-0 at their February 25, 2020 meeting)

8. **Ordinance No. 20-6006**, first reading, to amend the Future Land Use Plan of the City of Lebanon, Tennessee, by changing 203 and 373 Quarry Loop Road from RMU (Residential Mixed Use) to IC (Industrial/Commercial), by Paul Corder, Planning Director. (Request by Special Event Services) (Approximately 6.09 acres; Tax Map 55, Parcels 43 & 46.09) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting)

9. **Ordinance No. 20-6007**, first reading, to amend the Official Zoning Atlas of the City of Lebanon, Tennessee, by changing 203 and 373 Quarry Loop Road from CG (Commercial General) to IP (Planned Business/Industrial Park) in Ward 6, by Paul Corder, Planning Director. (Request by Special Event Services) (Approximately 6.09 acres; Tax Map 55, Parcels 43 & 46.09) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting)
10. **Ordinance No. 20-6008**, first reading, to amend Title 14, Appendix F, Section 5.1 Rehabilitation to add fencing materials, by Paul Corder, Planning Director. (Request by Staff) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting)

11. **Ordinance No. 20-6009**, first reading, to amend Title 14 of the Lebanon Municipal Zoning Code Chapter 3, Section 14.310 Temporary Use Permits to add Subsection 5 Fireworks, by Paul Corder, Planning Director. (Request by Ed Bess) (Planning Commission recommended approval by a vote of 8-0 at their February 25, 2020 meeting)

12. **Resolution No. 20-2334**, to approve agreements with TDOT for engineering design and construction oversight of three railroad safety projects at Babb Drive, Hartmann Drive, and North Castle Heights Avenue railroad crossings (10% City match- total of $25,000), by Jeff Baines, Commissioner of Public Services, and Kristen Rice, Transportation/Traffic Engineer.

13. **Ordinance No. 20-6011**, first reading, to approve budget amendments for the Street Department (to purchase a used dump truck – replacement), by Lee Clark, General Services Administrator, and Lisa Lane, Purchasing Agent.

14. **Ordinance No. 20-6012**, first reading, to approve budget amendments for various departments to add various capital items to the 2019-2020 Fiscal Year Budget, by Stuart Lawson, Commissioner of Finance and Revenue.

15. **Ordinance No. 20-6014**, first reading, to approve the purchase of real property from Mary McCulloch (for construction of a water tower), by Jeff Baines, Commissioner of Public Services.

16. **Resolution No. 20-2337**, to approve an agreement with TDOT for the installation of a traffic signal at State Route 109 and Callis Road, by Jeff Baines, Commissioner of Public Services, and Kristen Rice, Transportation/Traffic Engineer.

11. **ADJOURNMENT**
ORDINANCE NO. 20-5997

AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO APPROVE BUDGET AMENDMENTS FOR THE WASTEWATER TREATMENT PLANT

WHEREAS, the Lebanon City Council approved and adopted the 2019 – 2020 fiscal year budget on July 16, 2019 by Ordinance No. 19-5884; and

WHEREAS, budget amendments are now necessary for the Sewer Plant to cover expenses for the remainder of the fiscal year; and

WHEREAS, the required budget amendments are detailed on the form attached hereto by reference as if appearing verbatim herein.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to amend the 2019 – 2020 City of Lebanon budget as follows:

Department: Wastewater Treatment

From: 41190001-79010 Retained Earnings $145,000.00

To: 41152213-72480 Training $20,000.00
     41152213-72900 Contractual Services $90,000.00
     41152213-72690 Landfill Remediation $35,000.00

Section 2. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same.

Attest: 

Approved:

______________________________
Commissioner of Finance & Revenue

Approved as to form:

______________________________
City Attorney

Passed first reading: 3/10/20

Passed second reading:
CITY OF LEBANON ACCTG. DEPT.  
BUDGET AMENDMENT FORM  
FY 2019 - 2020  

DEPARTMENT  Wastewater Treatment  

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Total  $ 145,000

TRANSFER TO  
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Total  $ 145,000

REQUESTED BY  

DATE  2/10/2020

DEPARTMENT HEAD  

DATE  2/11/20

COMM. OF FINANCE  

DATE  2-12-2020

MAYOR  

DATE  2-13-2021

REASON FOR THIS TRANSFER:  
cover remainder of budget year

REVISED 10-8-2013
ORDINANCE NO. 20-5998

AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO AUTHORIZE THE COMMISSIONER OF PUBLIC SERVICES TO DESIGN AND BID SEWER COLLECTION SYSTEM EXTENSION FOR SOUTH HARTMANN DRIVE CORRIDOR BETWEEN INTERSTATE 40 AND OLD MURFREESBORO ROAD

WHEREAS, the Lebanon City Council passed Ord. No. 16-5336 on January 17, 2017 to authorize and fund the South Hartmann Drive corridor land use plan/Sparta Pike interchange market analysis/economic development opportunities assessment/strategic recommendation for implementation; and

WHEREAS, the South Hartmann Gateway Study was completed in April of 2018; and

WHEREAS, a form-based code overlay for this area is currently being created; and

WHEREAS, the South Hartmann Drive corridor south of Interstate 40 has limited access to sanitary sewer; and

WHEREAS, the Commissioner of Public Services wishes to initiate the design for appropriate sewer extension and to advertise for bids.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The Commissioner of Public Services is hereby authorized to design and bid sewer collection system extension to serve the South Hartmann Drive corridor between Interstate 40 and Old Murfreesboro Road.

Section 2. That a sewer assessment shall be established to collect construction funds as new developments connect to such sewer collection system extension.

Section 3. That the Lebanon City Council shall consider bids and funding options for such project.

Section 4. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same.

Attest: 

Approved: 

Commissioner of Finance & Revenue

Mayor
Approved as to form:

________________________________________
City Attorney

Passed first reading:  3/10/20
Passed second reading:  

JEFF BAINES, P.E.
Commissioner of Public Works
200 North Castle Heights Avenue, Suite 300
Lebanon, Tennessee 37087
Phone: (615) 443-2824
Fax: (615) 444-1515
jeff.baines@lebanontn.org

BERNIE ASH, Mayor
200 North Castle Heights Ave.
Suite 100
Lebanon, Tennessee 37087

MEMORANDUM

TO: Mayor Bernie Ash and City Councilors
FROM: Jeff Baines, P.E.
Commissioner of Public Services
DATE: February 14, 2020
RE: South Hartmann Gateway Development – I-40 to Old Murfreesboro Rd.

The South Hartmann Gateway Study was completed in April of 2018.

The next step (which is in process) is to create the form-based code overlay.

The corridor south of I-40 as shown on the attached map has limited access to sanitary sewer.

I am requesting City Council consider authorizing the Commissioner of Public Services to initiate the design for appropriate sewer extension and advertise for bids.

City Council would consider bids and funding options. Funding options include cash or loan.

The Commissioner of Public Services recommends an assessment be established to allow the City to recoup construction funds as new developments connect to the sewer.

JB/arf

cc: Stuart Lawson, Commissioner of Finance and Revenue
Regina Santana, Engineering Services Director
Sarah Haston, Economic Development Director
Paul Corder, Planning Director

(This institution is an equal opportunity provider and employer.)
ORDINANCE NO. 20-6013

AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO APPROVE A BUDGET AMENDMENT AND THE CREATION OF A NEW DEPARTMENT ENTITLED TORNADO RELIEF 2020

WHEREAS, the City of Lebanon experienced a tornado on March 03, 2020, that created major damage throughout a large portion of Lebanon; and

WHEREAS, the disaster has caused and will cause the City to expend funds that were not budgeted in the FY 19 – 20 budget; and

WHEREAS, in order to receive reimbursement from the federal government through emergency FEMA funding, the City must keep a proper accounting of all funds expended due to the tornado; and

WHEREAS, in order to efficiently keep track of such expenditures, a new department entitled Tornado Relief 2020 should be created and an allocation of funds from the City’s fund balance appropriated into such department in the FY 19 – 20 budget.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to make the following FY 19 – 20 budget amendment by creating a new department known as Tornado Relief 2020 and allocating funds from the City’s fund balance into it for the purposes of tornado relief and recovery:

Department: Tornado Relief 2020

From: 11090000 79000  Budget Fund Balance $100,000.00
To: 11043111 72900 Contractual Services $100,000.00

Section 2. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same.

Attest:__________________________ Approved:__________________________

Commissioner of Finance & Revenue Mayor
Approved as to form:

_______________________________
City Attorney

Passed first reading: 3/10/20
Passed second reading: ___ ___ ___
ZONING ORDINANCE 20-5990

AN ORDINANCE TO AMEND THE OFFICIAL ZONING ATLAS OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING 1121 COLES FERRY PIKE FROM RS20 – LOW DENSITY RESIDENTIAL DISTRICT TO RM6 – HIGH DENSITY RESIDENTIAL DISTRICT IN WARD 1

WHEREAS, the City of Lebanon desires to amend the official zoning atlas of the City; and

WHEREAS, the Future Land Use Plan identifies the subject property as Residential Mixed Use; and

WHEREAS, the property owner is asking for the RM6 zoning which fits the Residential Mixed Use Land Use Category; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended approval of this rezoning from RS20 – Low Density Residential District to RM6 – High Density Residential to the Mayor and City Council by a vote of 9-0 at their January 28, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. That the property described herein be, and the same is hereby, rezoned from RS20 – Low Density Residential District to RM6 – High Density Residential District.

Approximately 0.63 acres more or less, located at 1121 Coles Ferry Pike as shown on the attached map.

For reference, see Deed Book 1404 Page 2403 in the Register’s Office of Wilson County, Tennessee, and being shown as Tax Map 58 Parcel 39, for Wilson County, Tennessee.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.
Notice of the Public Hearing was published in the Lebanon Democrat on **February 3, 2020**.
The Public Hearing was held at 5:55 PM in the City Council Chambers **February 18, 2020**.

Attest: ________________________________

Commissioner of Finance & Revenue

Approved as to Form: ________________________________

Mayor

Passed first reading: **March 10, 2020**.

Passed second reading: ______

City Attorney
ZONING ORDINANCE 20-5991

AN ORDINANCE TO AMEND THE OFFICIAL ZONING ATLAS OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING UNADDRESSED PARK AVENUE FROM RD9 – MEDIUM DENSITY RESIDENTIAL DISTRICT TO CN – COMMERCIAL NEIGHBORHOOD IN WARD 2

WHEREAS, the City of Lebanon desires to amend the official zoning atlas of the City; and

WHEREAS, the Future Land Use Plan identifies the subject property as Commercial Office; and

WHEREAS, the property owner is asking for the CN zoning which fits the Commercial Office Land Use Category; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended approval of this rezoning from RD9 – Medium Density Residential District to CN – Commercial Neighborhood to the Mayor and City Council by a vote of 9-0 at their January 28, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. That the property described herein be, and the same is hereby, rezoned from RD9 – Medium Density Residential District to CN – Commercial Neighborhood.

Approximately 5.47 acres more or less, located at unaddressed Park Avenue as shown on the attached map.

For reference, see Deed Book 1277 Page 734 in the Register’s Office of Wilson County, Tennessee, and being shown as Tax Map 67P Group A Parcel 1, for Wilson County, Tennessee.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it. 
Notice of the Public Hearing was published in the Lebanon Democrat on February 3, 2020.

The Public Hearing was held at 5:55 PM in the City Council Chambers February 18, 2020.

Attest:                                Approved:

Commissioner of Finance & Revenue     Mayor

Approved as to Form:                  Passed first reading: March 10, 2020.

City Attorney                         Passed second reading: ________
ORDINANCE NO. 20-6010

AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO AUTHORIZE THE WAIVER OF FEES FOR PROPERTIES AFFECTED BY THE MARCH 3RD TORNADO

WHEREAS, in the early morning hours of March 3, 2020, tornadoes left a path of destruction through Middle Tennessee; and

WHEREAS, the City wishes to waive all fees relative to the remodeling or rebuilding of homes and businesses damaged or destroyed by the March 3, 2020 tornado.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to waive all fees relative to the remodeling or rebuilding of homes and businesses damaged or destroyed by the March 3, 2020, tornado.

Section 2. The intention of this ordinance is to assist those victims of the tornado that are facing repairs, remodels, and rebuilds of homes and businesses destroyed by the tornado. Any person repairing, remodeling, or rebuilding a structure, or using the property in a different manner, that would have required an increase in fees over and above what was paid for the original structure shall be responsible for such increase only.

Section 3. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same, and shall be retroactive to March 03, 2020.

Attest: ___________________________ Approved: ___________________________

Commissioner of Finance & Revenue Mayor

Approved as to form:

____________________
City Attorney

Passed first reading: _______ 3/10/20 _______

Passed second reading: __________________________
ORDINANCE 20-5999

AN ORDINANCE TO AMEND THE FUTURE LAND USE PLAN OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING 411 HILL STREET FROM MDR – MEDIUM DENSITY RESIDENTIAL TO RMU – RESIDENTIAL MIXED USE

WHEREAS, the City of Lebanon desires to amend the Future Land Use Plan of the City; and

WHEREAS, the subject area has a classification of MDR – Medium Density Residential in the Future Land Use Plan; and

WHEREAS, the owner/developer of this property is requesting to be zoned to CN - Commercial Neighborhood which is a Commercial land use classification; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect, and facilitate the public health, safety, and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended denial of this amendment to the Future Land Use Plan to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 Meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The area shown on the attached map consisting of about 0.75 acres at 411 Hill Street is changed from MDR – Medium Density Residential to RMU – Residential Mixed Use in the Future Land Use Plan for the City of Lebanon.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

Notice of the Public Hearing was published in the Lebanon Democrat on February 29, 2020.

The Public Hearing was held at 5:55 PM in the City Council Chambers on March 17, 2020.
ZONING ORDINANCE 20-6000

AN ORDINANCE TO AMEND THE OFFICIAL ZONING ATLAS OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING 411 HILL STREET FROM RD9 – MEDIUM DENSITY RESIDENTIAL DISTRICT TO CN – COMMERCIAL NEIGHBORHOOD DISTRICT IN WARD 3

WHEREAS, the City of Lebanon desires to amend the official zoning atlas of the City; and

WHEREAS, the Future Land Use Plan requested for the subject property as Residential Mixed Use; and

WHEREAS, the property owner is asking for the CN zoning which fits the Residential Mixed Use Land Use Category; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended denial of this rezoning from RD9 – Medium Density Residential District to CN – Commercial Neighborhood to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. That the property described herein be, and the same is hereby, rezoned from RD9 – Medium Density Residential District to CN – Commercial Neighborhood.

Approximately 0.75 acres more or less, located at 411 Hill Street as shown on the attached map.

For reference, see Deed Book 1514 Page 668 in the Register’s Office of Wilson County, Tennessee, and being shown as Tax Map 68C Group A Parcel 10, for Wilson County, Tennessee.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.
Notice of the Public Hearing was published in the Lebanon Democrat on February 29, 2020.
The Public Hearing was held at 5:55 PM in the City Council Chambers March 17, 2020.

Attest: 

Commissioner of Finance & Revenue

Approved: 

Mayor

Approved as to Form:


Passes second reading: __________.

City Attorney

ZONING
Kimberly Hoyt
Future Land Use Amendment MDR to RMU
& Rezoning RD9 to CN
411 Hill Street
ZONING ORDINANCE 20-6001

AN ORDINANCE TO AMEND THE OFFICIAL ZONING ATLAS OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING 1030 NORTH CASTLE HEIGHTS AVENUE FROM CG – COMMERCIAL GENERAL TO CN – COMMERCIAL NEIGHBORHOOD DISTRICT IN WARD 1

WHEREAS, the City of Lebanon desires to amend the official zoning atlas of the City; and

WHEREAS, the Future Land Use Plan for the subject property as Commercial; and

WHEREAS, the property owner is asking for the CN zoning which fits the Commercial Land Use Category; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended approval of this rezoning from CG – Commercial General to CN – Commercial Neighborhood to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. That the property described herein be, and the same is hereby, rezoned from CG – Commercial General to CN – Commercial Neighborhood.

Approximately 3.1 acres more or less, located at 1030 North Castle Heights Avenue as shown on the attached map.

For reference, see Deed Book 454 Page 840 in the Register’s Office of Wilson County, Tennessee, and being shown as Tax Map 58 Parcel 57, for Wilson County, Tennessee.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

Notice of the Public Hearing was published in the Lebanon Democrat on February 29, 2020.
The Public Hearing was held at 5:55 PM in the City Council Chambers **March 17, 2020**.

Attest:  
Commissioner of Finance & Revenue  
Approved as to Form:  
City Attorney  

Approved:  
Mayor  
Passed second reading: ____ .
ZONING ORDINANCE 20-6002

AN ORDINANCE TO AMEND THE OFFICIAL ZONING ATLAS OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING 1439 TOSHIBA DRIVE FROM RD9 – MEDIUM DENSITY RESIDENTIAL DISTRICT TO RM6 – HIGH DENSITY RESIDENTIAL DISTRICT IN WARD 1

WHEREAS, the City of Lebanon desires to amend the official zoning atlas of the City; and

WHEREAS, the Future Land Use Plan for the subject property as Residential Mixed Use; and

WHEREAS, the property owner is asking for the RM6 zoning which fits the Residential Mixed Use Land Use Category; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended approval of this rezoning from RD9 – Medium Density Residential District to RM6 – High Density Residential District to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. That the property described herein be, and the same is hereby, rezoned from RD9 – Medium Density Residential District to RM6 – High Density Residential District.

Approximately 2.54 acres more or less, located at 1439 Toshiba Drive as shown on the attached map.

For reference, see Deed Book 1934 Page 1444 in the Register’s Office of Wilson County, Tennessee, and being shown as Tax Map 58 Parcel 15.19, for Wilson County, Tennessee.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.
Notice of the Public Hearing was published in the Lebanon Democrat on **February 29, 2020**.

The Public Hearing was held at 5:55 PM in the City Council Chambers **March 17, 2020**.

Attest: 

Approved:

Commissioner of Finance & Revenue 

Mayor

Approved as to Form: 

Passed first reading: 

Passed second reading:

City Attorney

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**ZONING**

Krishna Patel  
Rezoning RD9 to RM6  
1439 Toshiba Drive
ZONING ORDINANCE 20-6003

AN ORDINANCE TO AMEND THE OFFICIAL ZONING ATLAS OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING UNADDRESSED, 317, AND 319 NORTH COLLEGE STREET AND UNADDRESS LAKE STREET FROM CG – COMMERCIAL GENERAL AND CS – COMMERCIAL SERVICE TO DMU – DOWNTOWN MIXED USE DISTRICT, CG – COMMERCIAL GENERAL, AND CN – COMMERCIAL NEIGHBORHOOD IN WARD 2

WHEREAS, the City of Lebanon desires to amend the official zoning atlas of the City; and

WHEREAS, the Future Land Use Plan for the subject properties as Commercial and Residential/Public/Commercial; and

WHEREAS, the property owner is asking for the DMU, CG, and CN zoning which fit the Commercial and Residential/Public/Commercial Land Use Categories; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended approval of this rezoning from CG – Commercial General and CS – Commercial Service to DMU – Downtown Mixed Use District, CG – Commercial General, and CN – Commercial Neighborhood to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. That the properties described herein be, and the same is hereby, rezoned from from CG – Commercial General and CS – Commercial Service to DMU – Downtown Mixed Use District, CG – Commercial General, and CN – Commercial Neighborhood.

Approximately 1.36 acres more or less, located at unaddressed, 317, and 319 North College Street and unaddressed Lake Street as shown on the attached map.

For reference, see Deed Book 381 Page 469, Deed Book 404 Page 999, Deed Book 433 Page 502, Deed Book 463 Page 277, and Deed Book 815 Page 1424 in the Register’s Office of Wilson County, Tennessee, and being shown as Tax Map 68D Group G Parcels 4, 5, 16, 17, and 18, for Wilson County, Tennessee.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.
Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

Notice of the Public Hearing was published in the Lebanon Democrat on February 29, 2020.

The Public Hearing was held at 5:55 PM in the City Council Chambers March 17, 2020.

Attest:  

Approved:

________________________  
Commissioner of Finance & Revenue  
Approved as to Form:

Mayor  

________________________  
City Attorney  
Passed second reading: _______.
ZONING ORDINANCE 20-6004

AN ORDINANCE TO AMEND THE OFFICIAL ZONING ATLAS OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING 233 WEST SPRING STREET FROM RD9 – MEDIUM DENSITY RESIDENTIAL DISTRICT TO RM6 – HIGH DENSITY RESIDENTIAL DISTRICT IN WARD 3

WHEREAS, the City of Lebanon desires to amend the official zoning atlas of the City; and

WHEREAS, the Future Land Use Plan for the subject property as Residential Mixed Use; and

WHEREAS, the property owner is asking for the RM6 zoning which fits the Residential Mixed Use Land Use Category; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended denial of this rezoning from RD9 – Medium Density Residential District to RM6 – High Density Residential District to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. That the property described herein be, and the same is hereby, rezoned from RD9 – Medium Density Residential District to RM6 – High Density Residential District.

Approximately 0.40 acres more or less, located at 233 West Spring Street as shown on the attached map.

For reference, see Deed Book 1909 Page 1168 in the Register’s Office of Wilson County, Tennessee, and being shown as Tax Map 68E Group L Parcel 20, for Wilson County, Tennessee.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.
Notice of the Public Hearing was published in the Lebanon Democrat on February 29, 2020. The Public Hearing was held at 5:55 PM in the City Council Chambers March 17, 2020.

Attest: Approved:

Commissioner of Finance & Revenue

Approved as to Form:

Mayor


Passed second reading: _____.

City Attorney
ZONING ORDINANCE 20-6005

AN ORDINANCE TO AMEND THE OFFICIAL ZONING ATLAS OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING 1770 AND 2000 CALLIS ROAD FROM RS20 – LOW DENSITY RESIDENTIAL DISTRICT AND CG – COMMERCIAL GENERAL TO IP – PLANNED BUSINESS/INDUSTRIAL PARK IN WARD 4

WHEREAS, the City of Lebanon desires to amend the official zoning atlas of the City; and

WHEREAS, the Future Land Use Plan for the subject properties as Industrial/Commercial; and

WHEREAS, the property owner is asking for the IP zoning which fits the Industrial/Commercial Land Use Category; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended denial of this rezoning from RS20 – Low Density Residential District and CG – Commercial General to IP – Planned Business/Industrial Park to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. That the property described herein be, and the same is hereby, rezoned from RS20 – Low Density Residential District and CG – Commercial General to IP – Planned Business/Industrial Park.

Approximately 33.77 acres more or less, located at 1770 and 2000 Callis Road as shown on the attached map.

For reference, see Deed Book 1592 Page 2320 and Deed Book 1922 Page 107 in the Register’s Office of Wilson County, Tennessee, and being shown as Tax Map 79 Parcels 56 and 56.01, for Wilson County, Tennessee.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.
Notice of the Public Hearing was published in the Lebanon Democrat on **February 29, 2020.**
The Public Hearing was held at 5:55 PM in the City Council Chambers **March 17, 2020.**

Attest:                                  Approved:

__________________________              ______________________
Commissioner of Finance & Revenue       Mayor

Approved as to Form:                    Passed first reading: _______ , 2020.

__________________________              Passed second reading: _______
City Attorney
ORDINANCE 20-6006

AN ORDINANCE TO AMEND THE FUTURE LAND USE PLAN OF THE CITY OF LEBANON, TENNESSEE, BY CHANGING 203 AND 373 QUARRY LOOP ROAD FROM RMU – RESIDENTIAL MIXED USE TO IC – INDUSTRIAL/COMMERCIAL

WHEREAS, the City of Lebanon desires to amend the Future Land Use Plan of the City; and

WHEREAS, the subject area has a classification of RMU – Residential Mixed Use in the Future Land Use Plan; and

WHEREAS, the owner/developer of this property is requesting to be zoned to IP – Planned Business/Industrial Park which is an Industrial land use classification; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect, and facilitate the public health, safety, and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended approval of this amendment to the Future Land Use Plan to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 Meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The area shown on the attached map consisting of about 6.09 acres at 203 and 373 Quarry Loop Road is changed from RMU – Residential Mixed Use to IC – Industrial/Commercial in the Future Land Use Plan for the City of Lebanon.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

Notice of the Public Hearing was published in the Lebanon Democrat on February 29, 2020.

The Public Hearing was held at 5:55 PM in the City Council Chambers on March 17, 2020.
ZONING ORDINANCE 20-6007

AN ORDINANCE TO AMEND THE OFFICIAL ZONING ATLAS OF THE CITY OF LEBANON, TENNESSE, BY CHANGING 203 AND 373 QUARRY LOOP ROAD FROM CG – COMMERCIAL GENERAL TO IP – PLANNED BUSINESS/INDUSTRIAL PARK IN WARD 6

WHEREAS, the City of Lebanon desires to amend the official zoning atlas of the City; and

WHEREAS, the requested Future Land Use Plan for the subject properties as Industrial/Commercial; and

WHEREAS, the property owner is asking for the IP zoning which fits the Industrial/Commercial Land Use Category; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended approval of this rezoning from CG – Commercial General to IP – Planned Business/Industrial Park to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. That the property described herein be, and the same is hereby, rezoned from CG – Commercial General to IP – Planned Business/Industrial Park.

Approximately 6.09 acres more or less, located at 203 and 373 Quarry Loop Road as shown on the attached map.

For reference, see Deed Book 1770 Page 737 and Deed Book 1933 Page 830 in the Register’s Office of Wilson County, Tennessee, and being shown as Tax Map 55 Parcels 43 and 46.09, for Wilson County, Tennessee.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.
Notice of the Public Hearing was published in the Lebanon Democrat on February 29, 2020.

The Public Hearing was held at 5:55 PM in the City Council Chambers March 17, 2020.

Attest:  

Commissioner of Finance & Revenue  

Approved as to Form:  

Mayor  


Passed second reading: _____.

City Attorney
ORDINANCE NO. 20-6008

AN ORDINANCE TO AMEND TITLE 14 APPENDIX F SECTION 5.1 REHABILITATION TO ADD FENCING MATERIALS

WHEREAS, Fences are an important visual feature in Historic areas; and

WHEREAS, Fences have not been regulated in the Downtown Square Historic District; and

WHEREAS, The Historic Preservation Commission has recommended guidelines for fences in the Downtown Square Historic District; and

WHEREAS, the City of Lebanon believes that such amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended approval of this amendment of the Zoning Ordinance to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, that Title 14, Appendix F Section 5.1 Rehabilitation be amended as follows:

Section 1. Title 14, Appendix F Section 5.1 Rehabilitation

j. Fences
   i. The following fencing material will be prohibited: untreated wood, chain link, and vinyl.
   ii. New fences visible from the road would shall be reviewed by the HPC.

Section 2. That all Ordinances in conflict herewith are repealed to the extent of said conflict.

Section 3. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

Notice of the Public Hearing was published in the Lebanon Democrat on February 29, 2020.

The Public Hearing was held at 5:55 PM in the City Council Chambers on March 17, 2020.

Attest:                                      Approved:

Commissioner of Finance & Revenue          Mayor

Approved as to Form:

Passed first reading: ____________________.

Passed second reading: ________________.

City Attorney
ORDINANCE NO. 20-6009

AN ORDINANCE TO AMEND TITLE 14 OF THE LEBANON MUNICIPAL ZONING CODE CHAPTER 3 SECTION 14.310 TEMPORARY USE PERMITS TO ADD SUBSECTION 5 FIREWORKS

WHEREAS, A request has come to the City Staff to consider reducing the distance between buildings and fireworks stands; and

WHEREAS, The City Council has heard the request and asked Staff to place the regulations in the Zoning Code so the Board of Zoning Appeals can look at each individual case; and

WHEREAS, the amendment will promote, protect and facilitate the public health, safety and welfare of the community through coordinated and practical land use and land development for the betterment of Lebanon’s population; and

WHEREAS, the Lebanon Municipal Regional Planning Commission recommended approval of this amendment of the Zoning Ordinance to the Mayor and City Council by a vote of 8-0 at their February 25, 2020 meeting.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF LEBANON, TENNESSEE that Title 14 be amended as follows:

5. Fireworks: A temporary use permit may be issued for outdoor displays and sales conducted either as a part of an existing business or as a free-standing use in any commercial or industrial district provided all fireworks tents shall be a minimum of fifty (50) feet from an adjacent property line or other building. To be measured from the edge of the tent side or overhang of the top, not to include ropes, tie-downs or other appendages used to secure tents.

Section 2. That this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

Notice of the Public Hearing was published in the Lebanon Democrat on February 29, 2020.

The Public Hearing was held at 5:55 PM in the City Council Chambers March 17, 2020.

Attest: _______________________________ Approved: _______________________________

Commissioner of Finance & Revenue Mayor

Approved as to Form: _______________________________

Passed first reading: _______________________________

Passed second reading: _______________________________

City Attorney
RESOLUTION NO. 20-2334

A RESOLUTION OF THE CITY COUNCIL OF LEBANON TO APPROVE AGREEMENTS WITH TDOT FOR ENGINEERING DESIGN AND CONSTRUCTION OVERSIGHT OF THREE RAILROAD SAFETY PROJECTS AT BABB DRIVE, HARTMANN DRIVE, AND NORTH CASTLE HEIGHTS AVENUE RAILROAD CROSSINGS

BABB PIN: 129121 HARTMANN PIN: 128516 NORTH CASTLE HEIGHTS PIN: 128447

WHEREAS, the City of Lebanon has a need for railroad safety projects at Babb Drive, Hartmann Drive, and North Castle Heights Avenue in order to better protect the health, safety, and welfare of the citizens of Lebanon; and

WHEREAS, such railroad safety projects require agreements with TDOT for engineering design and construction oversight; and

WHEREAS, the City’s local match for such projects is 10% for a total of $25,000.00; and

WHEREAS, the necessary agreements are attached hereto by reference as if appearing verbatim herein.

NOW, THEREFORE, BE IT RESOLVED by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to enter into the Local Agency Project Agreements, all three of which are attached hereto by reference as if appearing verbatim herein, with Tennessee Department of Transportation for railroad crossing improvements at the following: crossing 348-747S, Babb Drive, State Project No. 95945-2578-94, PIN 129121, crossing 348-828S, Hartmann Drive, State Project No. 95950-2585-94, PIN 128516, and crossing 348-831A, Castle Heights Ave, PIN 128447.

Section 2. The total local share for such railroad safety projects is Twenty-five Thousand Dollars ($25,000.00). Payment for such local share shall be issued upon the signing of the agreements by the City of Lebanon.

Section 3. This resolution shall take effect immediately upon its passage, the public welfare requiring the same.

Adopted this ___________ day of __________, 2020.
Attest:  

Commissioner of Finance & Revenue

Approved:

Mayor

Approved as to form:

City Attorney
February 19, 2020

Mr. Lee Clark, Public Works Director
City of Lebanon
410 Park Drive
Lebanon, TN 37087

Re: Railroad crossing improvement, Crossing 348-831A
Castle Heights Ave at Nashville & Eastern Railroad
Log Mile 2.11 in Lebanon, Tennessee
Agreement Number: CRR070335
PIN: 128447.00
Federal Project Number: HSIP-R-3338(10)
State Project Number: 95950-2583-94

Dear Mr. Clark,

The estimated cost for your Cities 10 percent share of the Design Phase & Construction Oversight is $9,000.00. If you find the contract fully satisfactory, please have the appropriate City representative and attorney review, sign and return the contract with your Design Phase & Construction Oversight deposit of $9,000.00 to me. Once the contract is fully executed, we will forward a copy to you for your records.

If you have any questions or need any additional information, please contact me at 615-253-1043 or Erik.Andersen@tn.gov.

Sincerely,

Erik Andersen, P.E.
TN Highway-Railroad Crossing Program Manager

Attachment
Agreement Number: CRR070335
Project Identification Number: 128447.00
Federal Project Number: HSIP-R-3338(10)
State Project Number: 95950-2583-94
State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this February day of 19th, 2020 by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the City of Lebanon, Tennessee (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

Railroad crossing improvement, Crossing 348-831A, Castle Heights Ave at Nashville & Eastern Railroad, Log Mile 2.11 in Lebanon, Tennessee

A. PURPOSE OF AGREEMENT

A.1 Purpose:

a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

a) Exhibit(s) are attached hereto and by this reference made a part hereof.
B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

a) Responsible Party Funding Provided by
   Environmental Clearance by: Department Agency or Project.
   Preliminary Engineering by: Department Project
   Right-of-Way by: Department Project
   Utility Coordination by: Department Project
   Construction by: Department Project

b) After receiving authorization for a phase, the Agency shall commence and complete
the phases as assigned above of the Project as described in Exhibit A with all
practical dispatch, in a sound, economical, and efficient manner, and in accordance
with the provisions herein, and all applicable laws. The Project will be performed
in accordance with all latest applicable Department procedures, guidelines,
manuals, standards, and directives as described in the Department’s Local
Government Guidelines, available in electronic format, which by this reference is
made a part hereof as if fully set forth herein.

c) A full time employee of the Agency shall supervise the herein described phases of the
Project. Said full time employee of the Agency shall be qualified to and shall
ensure that the Project will be performed in accordance with the terms of this
Agreement and all latest applicable Department procedures, guidelines, manuals,
standards, and directives as described in the Department’s Local Government
Guidelines and this Agreement.

B.2 Completion Date:

a) The Agency agrees to complete the herein assigned phases of the Project on or before
   N/A. If the Agency does not complete the herein described phases of the Project
   within this time period, this Agreement will expire on the last day of scheduled
   completion as provided in this paragraph unless an extension of the time period is
   requested by the Agency and granted in writing by the Department prior to the
   expiration of the Agreement. An extension of the term of this Agreement will be
effected through an amendment to the Agreement. Expiration of this Agreement
   will be considered termination of the Project. The cost of any work performed
   after the expiration date of the Agreement will not be reimbursed by the
   Department.
B.3 Environmental Regulations:

a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department’s Local Government Guidelines.

b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department’s Local Government Guidelines.

c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.

b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.

1) After resolution of these comments and recommendations to the Department’s satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.

c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for
the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.

b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.

c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.

d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if
the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.

d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.

e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.

b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:

1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.

2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.
B.9 Railroad

a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.
b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.

c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.

b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.

c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department
to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**
   The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**
   There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**
   The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**
   There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**
   The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

**C.6 Final Invoices:**

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

**C.7 Offset:**

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon
demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the “State Comprehensive Travel Regulations,” as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.

b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be
made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

b) Nothing in this agreement shall be construed to limit the Department’s right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting
entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

**D.9 Maintenance:**

a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

**D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:**

In the event that the herein-described project is funded with federal funds, the following shall apply:

a) **DBE Policy:**

   It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.
b) **DBE Obligation:**

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

**D.11 Tennessee Department of Transportation Debarment and Suspension:**

a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

**D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):**

a) **Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.
3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.


5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.

6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.

8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.
b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;

2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and

4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. 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 compensation; and selection for training, including apprenticeship.

b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to
insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

**D.14 Title VI – Civil Rights Act of 1964:**

a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

**D.15 Americans with Disabilities Act of 1990 (ADA):**

a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

**D.16 Conflicts of Interest:**

a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.

b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of it's subcontracts, the following provision:

1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

**D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):**

a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.
D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.

b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.

b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

a) In the event that an Agency expends $500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.

b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.

c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the

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Department of Finance and Administration and shall be made available to the public.

**D.22 Termination for Convenience:**

a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

**D.23 Termination for Cause:**

a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.

b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.

c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.
D.24 How Agreement is Affected by Provisions Being Held Invalid:

a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.

b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.

c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.

d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

a) The Department shall have no liability except as specifically provided in this Agreement.
D.29 Force Majeure:

a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties’ control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc.

b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.
D.35 Congestion Mitigation and Air Quality Requirement:

a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.

1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

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<thead>
<tr>
<th>Amount</th>
<th>Open to Public and Vehicular Traffic</th>
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<tr>
<td>$1.00 - $200,000</td>
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</tr>
<tr>
<td>&gt;$200,000 - $500,000</td>
<td>10 Years</td>
</tr>
<tr>
<td>&gt;$500,000 - $1,000,000</td>
<td>20 Years</td>
</tr>
</tbody>
</table>

b) Projects over $1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

a) If the Project is funded with federal funds the following shall apply: The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

D.38 Iran Divestment Act:

a) The requirements of Tenn. Code Ann. § 12-12-101 et seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Agreement. The Agency certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF LEBANON, TENNESSEE

By: ________________________________ Date ________________________________

Bernie Ash
Mayor

By: ________________________________ Date ________________________________

John C. Schroer
Commissioner

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

APPROVED AS TO FORM AND LEGALITY

By: ________________________________ Date ________________________________

Andy Wright
Attorney

APPROVED AS TO FORM AND LEGALITY

By: ________________________________ Date ________________________________

John Reinbold
General Counsel
EXHIBIT “A”

**AGREEMENT NUMBER:** CRR070335  
**PROJECT IDENTIFICATION NUMBER:** 128447.00  
**FEDERAL PROJECT NUMBER:** HSIP-R-3338(10)

**PROJECT DESCRIPTION:** Railroad crossing improvement, Crossing 348-831A, Castle Heights Ave at Nashville & Eastern Railroad, Log Mile 2.11 in Lebanon, Tennessee

**Type of Work:** Design & Construction Oversight project

**CHANGE IN COST:** Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

<table>
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<tr>
<th>PHASE</th>
<th>FUNDING SOURCE</th>
<th>FED %</th>
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<th>LOCAL %</th>
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<td>$90,000.00</td>
</tr>
</tbody>
</table>

**INELIGIBLE COST:** One hundred percent (100%) of the actual cost will be paid from Agency funds if the use of said state or federal funds is ruled ineligible at any time by the Federal Highway Administration due to any action on the part of the Agency.

**LEGISLATIVE AUTHORITY:**  

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.
February 19, 2020

Mr. Lee Clark, Public Works Director  
City of Lebanon  
410 Park Drive  
Lebanon, TN 37087

Re: Railroad crossing improvement, Crossing 348-747S  
Babb Dr at Nashville & Eastern Railroad  
Log Mile 0.21 in Lebanon, Tennessee  
Agreement Number: CRR070337  
PIN: 129121.00  
Federal Project Number: HSIP-R00S(502)  
State Project Number: 95945-2578-94

Dear Mr. Clark,

The estimated cost for your Cities 10 percent share of the Design Phase & Construction Oversight is $8,000.00. If you find the contract fully satisfactory, please have the appropriate City representative and attorney review, sign and return the contract with your Design Phase & Construction Oversight deposit of $8,000.00 to me. Once the contract is fully executed, we will forward a copy to you for your records.

If you have any questions or need any additional information, please contact me at 615-253-1043 or Erik.Andersen@tn.gov.

Sincerely,

Erik Andersen, P.E.  
TN Highway-Railroad Crossing Program Manager

Attachment
Agreement Number: CRR070337
Project Identification Number: 129121.00
Federal Project Number: HSIP-R00S(502)
State Project Number: 95945-2578-94
State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this February day of 19th, 2020 by and between the
STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of
Tennessee (hereinafter called the "Department") and the City of Lebanon, Tennessee (hereinafter
called the "Agency") for the purpose of providing an understanding between the parties of their
respective obligations related to the management of the project described as:

Railroad crossing improvement, Crossing 348-747S,Babb Dr at Nashville & Eastern Railroad,
Log Mile 0.21 in Lebanon, Tennessee

A. PURPOSE OF AGREEMENT

A.1 Purpose:

a) The purpose of this Agreement is to provide for the Department's participation in the
project as further described in Exhibit A attached hereto and by this reference
made a part hereof (hereinafter called the "Project") and state the terms and
conditions as to the manner in which the Project will be undertaken and
completed.

A.2 Modifications and Additions:

a) Exhibit(s) are attached hereto and by this reference made a part hereof.
**B. ACCOMPLISHMENT OF PROJECT**

**B.1 General Requirements:**

<table>
<thead>
<tr>
<th>Task</th>
<th>Responsible Party</th>
<th>Funding Provided by</th>
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<tbody>
<tr>
<td>Environmental Clearance by:</td>
<td>Department</td>
<td>Agency or Project.</td>
</tr>
<tr>
<td>Preliminary Engineering by:</td>
<td>Department</td>
<td>Project</td>
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<tr>
<td>Right-of-Way by:</td>
<td>Department</td>
<td>Project</td>
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<tr>
<td>Utility Coordination by:</td>
<td>Department</td>
<td>Project</td>
</tr>
<tr>
<td>Construction by:</td>
<td>Department</td>
<td>Project</td>
</tr>
</tbody>
</table>

b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.

c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

**B.2 Completion Date:**

a) The Agency agrees to complete the herein assigned phases of the Project on or before **N/A**. If the Agency does not complete the herein described phases of the Project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.
B.3 Environmental Regulations:

a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department’s Local Government Guidelines.

b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department’s Local Government Guidelines.

c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.

b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.

1) After resolution of these comments and recommendations to the Department’s satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.

c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for
the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.

b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.

c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.

d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if
the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department’s Resident Engineer in charge.

c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.

d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency’s sole expense.

e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department’s pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

**B.7 Detours**

a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

**B.8 Utilities**

a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.

b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:

1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT’s coordination instructions for approval prior to the Project advertisement for bids.

2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.
B.9 Railroad

a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.
b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.

c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.

b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency’s invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.

c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department
to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**  
The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**  
There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**  
The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**  
There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**  
The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

**C.6 Final Invoices:**

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

**C.7 Offset:**

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon
demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the “State Comprehensive Travel Regulations,” as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.

b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be
made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

b) Nothing in this agreement shall be construed to limit the Department’s right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting
entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

a) DBE Policy:

It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.
b) **DBE Obligation:**

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

**D.11 Tennessee Department of Transportation Debarment and Suspension:**

a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subcontractor.

**D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):**

a) **Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.
3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.


5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.

6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.

8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.
b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;

2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and

4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. 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 compensation; and selection for training, including apprenticeship.

b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to
insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.

b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of it's subcontracts, the following provision:

1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.
D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.

b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.

b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

a) In the event that an Agency expends $500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.

b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller’s duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.

c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the
Department of Finance and Administration and shall be made available to the public.

**D.22 Termination for Convenience:**

a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

**D.23 Termination for Cause:**

a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.

b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.

c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.
D.24 How Agreement is Affected by Provisions Being Held Invalid:

a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.

b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.

c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.

d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

a) The Department shall have no liability except as specifically provided in this Agreement.
D.29 Force Majeure:

a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc.

b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.
D.35 Congestion Mitigation and Air Quality Requirement:

a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.

1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Open to Public and Vehicular Traffic</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.00 - $200,000</td>
<td>5 Years</td>
</tr>
<tr>
<td>&gt;$200,000 - $500,000</td>
<td>10 Years</td>
</tr>
<tr>
<td>&gt;$500,000 - $1,000,000</td>
<td>20 Years</td>
</tr>
</tbody>
</table>

b) Projects over $1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

a) If the Project is funded with federal funds the following shall apply: The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

D.38 Iran Divestment Act:

a) The requirements of Tenn. Code Ann. § 12-12-101 et.seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Agreement. The Agency certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

| CITY OF LEBANON, TENNESSEE | STATE OF TENNESSEE  
|----------------------------|----------------------
|                            | DEPARTMENT OF TRANSPORTATION |

**By:**

<table>
<thead>
<tr>
<th>Bernie Ash</th>
<th>By:</th>
<th>John C. Schroer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor</td>
<td>Date</td>
<td>Commissioner</td>
</tr>
</tbody>
</table>

**Approved as to Form and Legality**

**By:**

<table>
<thead>
<tr>
<th>Andy Wright</th>
<th>By:</th>
<th>John Reinbold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney</td>
<td>Date</td>
<td>General Counsel</td>
</tr>
</tbody>
</table>

**Approved as to Form and Legality**

Revised 03/08/10

Version 8
EXHIBIT "A"

AGREEMENT NUMBER: CRR070337
PROJECT IDENTIFICATION NUMBER: 129121.00
FEDERAL PROJECT NUMBER: HSIP-R00S(502)

PROJECT DESCRIPTION: Railroad crossing improvement, Crossing 348-747S, Babb Dr at Nashville & Eastern Railroad, Log Mile 0.21 in Lebanon, Tennessee

Type of Work: Design & Construction Oversight project.

CHANGE IN COST: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

<table>
<thead>
<tr>
<th>PHASE</th>
<th>FUNDING SOURCE</th>
<th>FED %</th>
<th>STATE %</th>
<th>LOCAL %</th>
<th>ESTIMATED COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONST</td>
<td>SECTION 130</td>
<td>90%</td>
<td>0%</td>
<td>10%</td>
<td>$80,000.00</td>
</tr>
</tbody>
</table>

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds if the use of said state or federal funds is ruled ineligible at any time by the Federal Highway Administration due to any action on the part of the Agency.

LEGISLATIVE AUTHORITY:

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.
February 19, 2020

Mr. Lee Clark, Public Works Director
City of Lebanon
410 Park Drive
Lebanon, TN 37087

Re: Railroad crossing improvement, Crossing 348-828S
    Hartman Dr at Nashville & Eastern Railroad
    Log Mile 4.50 in Lebanon, Tennessee
    Agreement Number: CRR070336
    PIN: 128516.00
    Federal Project Number: HSIP-R-4285(13)
    State Project Number: 95950-2585-94

Dear Mr. Clark,

The estimated cost for your Cities 10 percent share of the Design Phase & Construction Oversight is $8,000.00. If you find the contract fully satisfactory, please have the appropriate City representative and attorney review, sign and return the contract with your Design Phase & Construction Oversight deposit of $8,000.00 to me. Once the contract is fully executed, we will forward a copy to you for your records.

If you have any questions or need any additional information, please contact me at 615-253-1043 or Erik.Andersen@tn.gov.

Sincerely,

Erik Andersen, P.E.
TN Highway-Railroad Crossing Program Manager

Attachment
Agreement Number: CRR070336
Project Identification Number: 128516.00
Federal Project Number: HSIP-R-4285(13)
State Project Number: 95950-2585-94
State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this February day of 19th, 2020 by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the City of Lebanon, Tennessee (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

Railroad crossing improvement, Crossing 348-828S, Hartman Dr at Nashville & Eastern Railroad, Log Mile 4.50 in Lebanon, Tennessee

A. PURPOSE OF AGREEMENT

A.1 Purpose:

a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

a) Exhibit(s) are attached hereto and by this reference made a part hereof.
B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

a) Environmental Clearance by: Responsible Party Funding Provided by Agency or Project. Department Project

Preliminary Engineering by: Department Project

Right-of-Way by: Department Project

Utility Coordination by: Department Project

Construction by: Department Project

b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department’s Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.

c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department’s Local Government Guidelines and this Agreement.

B.2 Completion Date:

a) The Agency agrees to complete the herein assigned phases of the Project on or before N/A. If the Agency does not complete the herein described phases of the Project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.
B.3 Environmental Regulations:

a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department’s Local Government Guidelines.

b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department’s Local Government Guidelines.

c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.

b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.

1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.

c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for
the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

**B.5 Right-of-Way**

a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.

b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.

c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.

d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

**B.6 Approval of the Construction Phase**

a) In the event that the Agency is made responsible for the Construction phase in section B.1(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.

b) In the event that the Department is made responsible for the Construction phase in section B.1(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if
the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department’s Resident Engineer in charge.

c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.

d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency’s sole expense.

e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department’s pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

**B.7 Detours**

a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

**B.8 Utilities**

a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.

b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:

   1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.

   2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.
B.9 Railroad

a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.
b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.

c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.

b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.

c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department
to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**
   The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**
   There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**
   The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**
   There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**
   The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

### C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

### C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon
demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the “State Comprehensive Travel Regulations,” as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.2 General Compliance with Federal, State, and Local Law:

a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.

b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be
made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

b) Nothing in this agreement shall be construed to limit the Department’s right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

a) The parties hereto, in the performance of this Agreement, shall not act as agents, employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting
entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.

b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

a) DBE Policy:

It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.
b) DBE Obligation:

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

a) Instructions for Certification - Primary Covered Transactions:

By signing and submitting this Agreement, the Agency is providing the certification set out below.

1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.
3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.


5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.

6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.

8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.
b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;

2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and

4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. 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 compensation; and selection for training, including apprenticeship.

b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to
insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.

b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of it’s subcontracts, the following provision:

1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.
D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.

b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

**D.20 Inspection:**

a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.

b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

**D.21 Annual Report and Audit:**

a) In the event that an Agency expends $500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.

b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.

c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the
Department of Finance and Administration and shall be made available to the public.

**D.22 Termination for Convenience:**

a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

**D.23 Termination for Cause:**

a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.

b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.

c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.
D.24 How Agreement is Affected by Provisions Being Held Invalid:

a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.

b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.

c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.

d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

a) The Department shall have no liability except as specifically provided in this Agreement.
D.29 Force Majeure:

a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc.

b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq. and all applicable laws.

D.33 Deposits:

a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.
**D.35 Congestion Mitigation and Air Quality Requirement:**

a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.

1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

**D.36 Investment of Public Funds:**

a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Open to Public and Vehicular Traffic</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.00 - $200,000</td>
<td>= 5 Years</td>
</tr>
<tr>
<td>$200,000 - $500,000</td>
<td>= 10 Years</td>
</tr>
<tr>
<td>$500,000 - $1,000,000</td>
<td>= 20 Years</td>
</tr>
</tbody>
</table>

b) Projects over $1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

**D.37 Federal Funding Accountability and Transparency Act:**

a) If the Project is funded with federal funds the following shall apply: The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

**D.38 Iran Divestment Act:**

a) The requirements of Tenn. Code Ann. § 12-12-101 et seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Agreement. The Agency certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF LEBANON, TENNESSEE

By: ____________________________  Date: ____________________________
    Bernie Ash
    Mayor

By: ____________________________  Date: ____________________________
    John C. Schroer
    Commissioner

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

APPROVED AS TO FORM AND LEGALITY

By: ____________________________  Date: ____________________________
    Andy Wright
    Attorney

By: ____________________________  Date: ____________________________
    John Reinbold
    General Counsel

APPROVED AS TO FORM AND LEGALITY

Revised 03/08/10  Version 8
EXHIBIT “A”

AGREEMENT NUMBER: CRR070336
PROJECT IDENTIFICATION NUMBER: 128516.00
FEDERAL PROJECT NUMBER: HSIP-R-4285(13)

PROJECT DESCRIPTION: Railroad crossing improvement, Crossing 348-828S, Hartman Dr at Nashville & Eastern Railroad, Log Mile 4.50 in Lebanon, Tennessee

TYPE OF WORK: Design & Construction Oversight Project.

CHANGE IN COST: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

<table>
<thead>
<tr>
<th>PHASE</th>
<th>FUNDING SOURCE</th>
<th>Fed %</th>
<th>State %</th>
<th>Local %</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Const</td>
<td>Section 130</td>
<td>90%</td>
<td>0%</td>
<td>10%</td>
<td>$80,000.00</td>
</tr>
</tbody>
</table>

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds if the use of said state or federal funds is ruled ineligible at any time by the Federal Highway Administration due to any action on the part of the Agency.

LEGISLATIVE AUTHORITY:

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.
ORDINANCE NO. 20-6011

AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO APPROVE BUDGET AMENDMENTS FOR THE STREET DEPARTMENT

WHEREAS, the Lebanon City Council approved and adopted the 2019 – 2020 fiscal year budget on July 16, 2019 by Ordinance No. 19-5884; and

WHEREAS, a Mack Dump Truck for the Street Department has been deadlined and needs to be replaced; and

WHEREAS, budget amendments are now necessary to allocate funds from the sale of equipment and from fund balance to cover the cost of a replacement dump truck; and

WHEREAS, the required budget amendments are detailed on the form attached hereto by reference as if appearing verbatim herein.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to amend the 2019 – 2020 City of Lebanon budget for the purchase of a used replacement dump truck:

Department: Street

<table>
<thead>
<tr>
<th>From:</th>
<th>Budget Fund Balance</th>
<th>$7,526.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>11090000-79000</td>
<td>1104-36330</td>
<td>Sale of Equipment</td>
</tr>
<tr>
<td>11043110-79440</td>
<td>Transportation Equipment</td>
<td>$35,000.00</td>
</tr>
</tbody>
</table>

Section 2. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same.

Attest:                              Approved:

Commissioner of Finance & Revenue    Mayor

Approved as to form:

City Attorney

Passed first reading: Passed second reading:
**DEPARTMENT**  Street

---

**TRANSFER FROM**

<table>
<thead>
<tr>
<th>G/L ACCT NO</th>
<th>ACCT DESCRIPTION</th>
<th>DEBIT</th>
<th>CREDIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>11090000 79000</td>
<td>Budget Fund Balance</td>
<td>$ 7,526.00</td>
<td></td>
</tr>
<tr>
<td>1104 36330</td>
<td>Sale of Equipment</td>
<td>$ 27,474.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$ 35,000.00</td>
<td></td>
</tr>
</tbody>
</table>

---

**TRANSFER TO**

<table>
<thead>
<tr>
<th>G/L ACCT NO</th>
<th>ACCT DESCRIPTION</th>
<th>DEBIT</th>
<th>CREDIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>11043110 79440</td>
<td>Transportation Equipment</td>
<td></td>
<td>$ 35,000.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td>$ 35,000.00</td>
</tr>
</tbody>
</table>

Department Head certifies that no funds have or will be obligated prior to approval of this transfer.

REQUESTED BY  Lee Clark

DEPARTMENT HEAD  Jeff Brown

COMM. OF FINANCE  Stuart Lawrence

MAYOR  Don Allen

---

**REASON FOR THIS TRANSFER:**

Unit #15-85 a Mack dump truck has been deadlined and needs to be sold. Sold various equipment from the General Services departments and would like to use those funds and additional funds from fund balance to purchase a used replacement dump truck.

---

**REVISED 5-2-12**
List of vehicles sold on GovDeals that were from the General Services departments:

<table>
<thead>
<tr>
<th>Unit #</th>
<th>Vehicle</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>15-18</td>
<td>99 GMC Sierra 2500 Reg Cab with Utility Bed</td>
<td>1,339.50</td>
</tr>
<tr>
<td>15-24</td>
<td>96 Chevrolet 1500 Reg Cab</td>
<td>627.00</td>
</tr>
<tr>
<td>18-36</td>
<td>2005 Chevrolet Trailblazer</td>
<td>722.00</td>
</tr>
<tr>
<td>80-94</td>
<td>95 Ford Bucket Truck</td>
<td>6,184.50</td>
</tr>
<tr>
<td>15-12</td>
<td>Serling Dump Truck</td>
<td>18,601.00</td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td>27,474.00</td>
</tr>
</tbody>
</table>

Lee Clark had Unit #15-85 a Mark dump truck deadline and needs to be sold. Until then he would like to use the funds above to try to purchase a used replacement dump truck. He thinks he will need $35,000 and we will use the $27,474 on the sale of equipment and an additional $7,526 from fund balance to purchase a dump truck.
ORDINANCE NO. 20-6012

AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO APPROVE BUDGET AMENDMENTS FOR VARIOUS DEPARTMENTS TO ADD VARIOUS CAPITAL ITEMS TO THE 2019 – 2020 FISCAL YEAR BUDGET

WHEREAS, the Lebanon City Council approved and adopted the 2019 – 2020 fiscal year budget on July 16, 2019 by Ordinance No. 19-5884; and

WHEREAS, various capital items were removed during the 2019 – 2020 budget process; and

WHEREAS, budget amendments are now necessary to add such capital items, detailed on the list attached hereto by reference as if appearing verbatim herein, to the 2019 – 2020 fiscal year budget; and

WHEREAS, the required budget amendments are detailed on the form attached hereto by reference as if appearing verbatim herein.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to amend the 2019 – 2020 City of Lebanon budget as follows:

**Departments:** Public Works Admin, General Maintenance, Police, Fire, Traffic Maintenance, Recreation, and Community Park

<table>
<thead>
<tr>
<th>From: 11090000-79000</th>
<th>Budget Fund Balance</th>
<th>$552,100.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>To: 11041610-79300</td>
<td>Improvements</td>
<td>$17,000.00</td>
</tr>
<tr>
<td>11041840-79300</td>
<td>Improvements</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>11041840-79490</td>
<td>Machinery &amp; Equip</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>11042100-79450</td>
<td>Communication Equip</td>
<td>$19,400.00</td>
</tr>
<tr>
<td>11042100-79490</td>
<td>Machinery &amp; Equip</td>
<td>$178,200.00</td>
</tr>
<tr>
<td>11042200-79470</td>
<td>Office Equipment</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>11043130-79300</td>
<td>Improvements</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>11044410-79300</td>
<td>Improvements</td>
<td>$55,000.00</td>
</tr>
<tr>
<td>11044410-79300</td>
<td>Improvements</td>
<td>$91,000.00</td>
</tr>
</tbody>
</table>

Section 2. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same.
Attest:

Commissioner of Finance & Revenue

Approved as to form:

City Attorney

Passed first reading:

Passed second reading:
# City of Lebanon, Accounting Department
## Budget Amendment Form
### FY 2019-2020

**Department: General Fund**

<table>
<thead>
<tr>
<th>G/L ACCT NO</th>
<th>ACCT DESCRIPTION</th>
<th>DEBIT</th>
<th>CREDIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>11090000</td>
<td>Budget Fund Balance</td>
<td>$552,100.00</td>
<td></td>
</tr>
</tbody>
</table>

**Total** $552,100.00

<table>
<thead>
<tr>
<th>G/L ACCT NO</th>
<th>ACCT DESCRIPTION</th>
<th>DEBIT</th>
<th>CREDIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>11041610</td>
<td>Improvements</td>
<td>$17,000.00</td>
<td></td>
</tr>
<tr>
<td>11041840</td>
<td>Improvements</td>
<td>$25,000.00</td>
<td></td>
</tr>
<tr>
<td>11041840</td>
<td>Machinery &amp; Equipment</td>
<td>$1,500.00</td>
<td></td>
</tr>
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</tr>
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<td>Improvements</td>
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<td></td>
</tr>
<tr>
<td>11044410</td>
<td>Improvements</td>
<td>$91,000.00</td>
<td></td>
</tr>
</tbody>
</table>

**Total** $552,100.00

Department Head certifies that no funds have or will be obligated prior to approval of this transfer.

**Requested By:** Stuart Lawson

**Date:**

---

**Department Head**

**Date:**

**Comm. of Finance**

**Date:** 3-2-2020

**Mayor**

**Date:** 3-5-2020

**Reason for this Transfer:**

These are the capital items that were taken out of the 19-20 Budget to help balance the budget. These items are being added back to the 19-20 Budget. These are one time expenditures to the budget.
<table>
<thead>
<tr>
<th>Amount</th>
<th>Item</th>
<th>Account</th>
<th>Department</th>
<th>Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>$587,100.00</td>
<td>TOTAL GENERAL FUND</td>
<td>11044420</td>
<td>Community Park</td>
<td>General</td>
</tr>
<tr>
<td>$45,000.00</td>
<td>Lights for parking lot &amp; trail in front, LHS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$31,600.00</td>
<td>Seal parking lots and trail in front of LHS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$12,600.00</td>
<td>Remove LED fixtures at pavilions at park</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$1,040.00</td>
<td>LED lights around track at Don Fox Park</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$55,000.00</td>
<td>Replacing two fields at Bird Park</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$3,000.00</td>
<td>4' x 72' Trailers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$31,200.00</td>
<td>MDT Replacement and MDT Car Adapters</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$39,500.00</td>
<td>Repair MDT in car cameras</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$22,500.00</td>
<td>Verizon Private Network</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$2,140.00</td>
<td>Don Fox Park Internet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$14,000.00</td>
<td>6' x 72' Trailers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$7,300.00</td>
<td>Hartmann Dr Lighting &amp; Landscaping</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$7,000.00</td>
<td>Seal &amp; Stripe Parking Lot</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$1,000.00</td>
<td>Security Upgrades</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Capital Items Not on a Capital Outlay Note*
ORDINANCE NO. 20-6014

AN ORDINANCE OF THE CITY COUNCIL OF LEBANON TO APPROVE THE PURCHASE OF REAL PROPERTY FROM MARY MCCULLOCH

WHEREAS, Article II, Section 1(11) of the City of Lebanon Charter requires an ordinance for the acquisition of real property; and

WHEREAS, the City wishes to purchase property from Mary McCulloch for the construction of a water tower in order to better protect the health, safety, and welfare of the citizens of Lebanon; and

WHEREAS, funds for such real property purchase are available in the Water Department budget.

NOW, THEREFORE, BE IT ORDAINED by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to execute any necessary documents related to the purchase of real property from Mary McCulloch, such property being detailed in the legal description on the deed attached hereto by reference as if appearing verbatim herein.

Section 2. This ordinance shall take effect immediately upon its passage, the public welfare requiring the same.

Attest: 

Approved: 

Commissioner of Finance & Revenue 

Mayor 

Approved as to form:

City Attorney 

Passed first reading: 

Passed second reading: 
WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of Ten Dollars and No Cents ($10.00), cash in hand paid, and other good and valuable considerations, the receipt of which are hereby acknowledged, I, Mary McCulloch, a single person, has this day bargained and sold and by these presents, does hereby transfer and convey unto the City of Lebanon, Tennessee, a municipal corporation, its successors and assigns, the following described tract(s) or parcel(s) of land situated and lying in the 3rd Civil District of Wilson County, Tennessee, more particularly described as follows, to-wit:

Lying within the Mary McCulloch tract (shown as tax map 69, parcel 75.01) located on the north side of Hickory Ridge Road and adjacent to the existing 0.5 million-gallon water tank site (shown as tax map 69, parcel 75.02).

Said tract being described as follows:

Situated in the 3rd Civil District, Wilson County, Tennessee and being a portion of Tax Map 69, Parcel 75.02, Bounded on the north and west by Tax Map 69, Parcel 75.01, conveyed to Mary McCulloch in deed book 806, page 2237, on the south by Tax Map 69, Parcel 75.02 conveyed to the City of Lebanon in deed book 408, page 947, and on the east by Tax Map 69, parcel 73.01 conveyed to J. Ben & Lois Ann Wauford in deed book 1874, page 339 and shown as lot 3 on the recorded plat entitled “Final Plat of the Seay Hill Water Tank Property” as recorded in plat book __, Page __, Wilson County Register of Deeds and being described as follows:

Beginning at an iron pin found at the Northeast corner of aforementioned City of Lebanon parcel, in the west line of the Wauford tract, and at the southeast corner of said lot 3, thence with the City of
Lebanon’s north line, N 76°47’13” W, a distance of 207.68’ to an iron pin set at the southwest corner of said lot 3;

Thence severing aforementioned McCulloch tract, N 13°12’59” E, a distance of 175.00’ to an iron pin set at the northwest corner of said lot 3;

Thence S 76°46’29” E, a distance of 205.80’ to an iron pin at the northeast corner of said lot 3 in the west line of said Wauford tract;

Thence with the Wauford’s west line, S 12°35’57” W, a distance of 174.97’ to the point of beginning, containing 36,175 square feet or 0.83 acres more or less.

DEED REFERENCE: Being part of the same property conveyed to Mary McCulloch by deed dated December 30, 1999 from Gary Patton as shown of record in Deed Book 806, Page 2237, Register’s Office for Wilson County, Tennessee.

TO HAVE AND TO HOLD said tract(s) or parcel(s) of land, together with any and all appurtenances, improvements, estate, title and interest thereunto belonging unto the said City of Lebanon, Tennessee, a municipal corporation, its successors and assigns, for so long as said land and easement shall be used for the sole purpose of constructing, operating and maintaining a water storage tank thereon, and gaining access thereto; but provided that the same shall revert to the Grantor, or his heirs and assigns, if the said property shall cease to be used by the Grantee, or its successors and assigns, for said purposes.

I COVENANT that I am lawfully seized and possessed of said property; that I have a good and lawful right to transfer and convey the same; that the same is free, clear and unencumbered; and that I shall forever WARRANT AND DEFEND the title thereto against the lawful claims of all persons whomsoever.

Grantor shall retain the right to use, for his personal use, the access road so long as use by the Grantor does not interfere with the purpose and use of the Grantee. Furthermore, Grantor shall have no responsibility for the maintenance and upkeep of the access road.

POSSESSION shall be given with the delivery of this deed.
IN WITNESS WHEREOF, I have hereunto set my hand(s) on this _____ day of
______________, 2020.

MARY MCCULLOCH

STATE OF TENNESSEE
COUNTY OF WILSON

On this _____ day of ____________, 2020, before me, the undersigned authority, a
Notary Public in and for said State and County, personally appeared the within named
Bargainor(s), Mary McCulloch, a single person, to me known or proved to me on the basis of
satisfactory evidence to be the person(s) described in and who executed the foregoing instrument
and acknowledged the execution of the foregoing instrument as his free act and deed for the
purposes of therein contained.

WITNESS my hand and official seal at Lebanon, Tennessee.

MY COMMISSION EXPIRES

NOTARY PUBLIC
RESOLUTION NO. 20-2337

A RESOLUTION OF THE CITY COUNCIL OF LEBANON TO APPROVE AN AGREEMENT WITH TDOT FOR THE INSTALLATION OF A TRAFFIC SIGNAL AT STATE ROUTE 109 AND CALLIS ROAD

STATE PROJECT NO. 95011-3223-04 PIN:130123

WHEREAS, the City of Lebanon has a need for the installation of a traffic signal at State Route 109 and Callis Road in order to better protect the health, safety, and welfare of the citizens of Lebanon; and

WHEREAS, TDOT will fund the design and construction of the traffic signal; and

WHEREAS, the City will be responsible for the maintenance and operation of such traffic signal after it is constructed; and

WHEREAS, a Local Agency Program Agreement is required prior to construction of such traffic signal; and

WHEREAS, this project does not require a local match.

NOW, THEREFORE, BE IT RESOLVED by the City of Lebanon, Tennessee, as follows:

Section 1. The Mayor and the Commissioner of Finance and Revenue are hereby authorized to enter into the Local Agency Program Agreement for State Project No. 95011-3223-04 PIN: 130123, attached hereto by reference as if appearing verbatim herein, with Tennessee Department of Transportation for the installation of a traffic signal at State Route 109 and Callis Road.

Section 2. This resolution shall take effect immediately upon its passage, the public welfare requiring the same.

Adopted this ________________ day of __________, 2020.

Attest: ___________________________ Approved: ___________________________

Commissioner of Finance & Revenue                        Mayor

Approved as to form:

________________________
City Attorney
AGREEMENT NO: 200050
PROJECT IDENTIFICATION NO: 130123.00
FEDERAL PROJECT NO: N/A
STATE PROJECT NO: 95011-3223-04
State of Tennessee Department of Transportation

LOCAL AGENCY PROGRAM AGREEMENT

THIS AGREEMENT, made and entered into this________ day of __________, 20____ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the CITY OF LEBANON (hereinafter called the "Agency").

W I T N E S S E T H:

WHEREAS, the Department desires to install a traffic signal within the jurisdictional limits of the Agency and

WHEREAS, the Agency, in recognition of the benefits to be received from the installation of said traffic signal desires to cooperate with the Department such that the traffic signal may be installed, operated and maintained.

NOW THEREFORE, in consideration of these premises, the Department and the Agency hereby enter into agreement to provide performance of the project.

SECTION I: The Project to be performed is described as follows:

"SR-109 and Callis Rd."

SECTION II: The Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.

SECTION III: The Agency agrees to comply with all applicable federal and state laws and regulations in the performance of its duties under this contract. The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this agreement and subject the Agency to the repayment of all state funds expended, or expenses incurred, under this agreement.
IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF LEBANON

By: ____________________________  By: ____________________________

Bernie Ash  
Mayor  

Date  

Date

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

By: ____________________________  By: ____________________________

Clay Bright  
Commissioner  

Date  

Date

APPROVED AS TO FORM AND LEGALITY

By: ____________________________  By: ____________________________

Andy Wright, Jr.  
Attorney  

Date  

Date

APPROVED AS TO FORM AND LEGALITY

By: ____________________________  By: ____________________________

John Reinbold  
General Counsel  

Date  

Date