



May 13, 2021 Board of Commissioners City Hall - Massie Chambers
6:30 PM

Agenda:

1. Call to order by the Mayor

Prayer

Pledge of Allegiance
2. Roll call by the Recorder.
3. Approval of minutes.
 - a. Reading of the minutes of the April 22, 2021 regular meeting of the Board of Commissioners by the Recorder for approval or correction.
4. Comments from citizens.
5. Comments of the City Manager and staff.
6. Reports and comments from committees, members of the Board of Commissioners and other officers.
7. Old Business.
 - a. Consider Ordinance 21-993, an ordinance to amend the official zoning map of Goodlettsville adopted per Ordinance 15-851 to change properties on Dickerson Road, Dry Creek Road, and Robert Cartwright Drive from CPUD, Commercial Services to HDRPUD, High Density Residential Planned Unit Development and revised Dry Creek Farms Master Plan approval. **SECOND READING & PUBLIC HEARING**

- b. Consider Ordinance 21-994, an ordinance to amend Ordinance 06-674 as amended, the Zoning Ordinance of the City of Goodlettsville, to expand adult oriented establishment definitions, define use separation distances per Tennessee Code Annotated Section 7-51-1407, and define the use permitted in the IG, General Industrial Zoning District. **SECOND READING & PUBLIC HEARING**

8. New Business.

- a. Consider Ordinance 21-995, an ordinance of the City of Goodlettsville, Tennessee adopting the annual budget for the fiscal year beginning July 1, 2021 through June 30, 2022. **FIRST READING**
- b. Consider Ordinance 21-996, an ordinance to amend the City of Goodlettsville Municipal Code Title 9, by creating a new Chapter 6 entitled Sexually Oriented Businesses. **FIRST READING**
- c. Consider Resolution 21-983, a resolution approving a contract with the Tennessee Department of Transportation for traffic flow improvements and traffic signal upgrades (Phase III) as a part of the Congestion Mitigation and Air Quality Improvement program.

9. Adjournment.

For more information regarding this agenda, please contact the city recorder by email at:

abaker@goodlettsville.gov

A government committed to operating with efficiency and integrity in all we do as we strive to enhance the quality of life for the community we serve.

105 S. Main Street – Goodlettsville, TN 37072 – 615-851-2200 – Fax 615-851-2212

www.goodlettsville.gov



Board of Commissioners

April 22, 2021

6:30 PM

City Hall - Massie Chambers

Minutes:

Present: Jimmy D. Anderson, Jennifer Duncan, Stuart Huffman, and Rusty Tinnin.

Absent: Zach Young.

Also Present: Russell Freeman, Tim Ellis, Allison Baker, Sarah Jennings, Addam McCormick, Gary Goodwin, Kimberly Lynn, Ken Reeves, and Julie High.

Mayor Rusty Tinnin called the meeting to order.

Pastor Philip Smith offered prayer. Mayor Rusty Tinnin led the chambers in the pledge of allegiance.

City Recorder Allison Baker called the roll: Mayor Tinnin present, Vice Mayor Duncan present, Commissioner Anderson present, Commissioner Huffman present, and Commissioner Young absent.

Consider the minutes of the April 8, 2021 regular meeting of the Board of Commissioners. Commissioner Anderson made a motion to approve the minutes as written. Vice Mayor Duncan seconded the motion and motion passed 4-0.

City Manager Tim Ellis stated the early part of the traffic synchronization project will begin next week and it will require some lane closures. He also announced the Goodlettsville Ministerial Association will host the National Day of Prayer on Thursday, May 6th at 7:00am at City Hall.

Consider old business.

Consider Ordinance 21-990, an ordinance establishing a local litigation tax in accordance to Tennessee Code Annotated 67-4-601 and a court administrative fee in accordance to Tennessee Code Annotated 16-18-304, second reading and public hearing. Commissioner Huffman made a motion to consider Ordinance 21-990. Commissioner Anderson seconded the motion. The public hearing was opened. With no one speaking in favor or against the proposed ordinance, the public hearing was closed. Vote was then taken which resulted in a 4-0 vote to approve Ordinance 21-990.

Consider new business.

Consider Ordinance 21-993, an ordinance to amend the official zoning map of Goodlettsville adopted per Ordinance 15-851 to change properties on Dickerson Road, Dry Creek Road, and Robert Cartwright Drive from CPUD, Commercial Services to HDRPUD, High Density Residential Planned Unit Development and revised Dry Creek Farms Master Plan approval, first reading. City Manager Ellis stated we are having to work through some concerns about sewer capacity. Commissioner Anderson made a motion to consider Ordinance 21-993. Commissioner Huffman seconded the motion. Scotty Bernick with Ragan Smith addressed the board on behalf of Natelli Communities. He explained the plans that would implement some townhomes as well as keep some Commercial PUD. The land uses are consistent with the land use policy in place. Vote was then taken which resulted in a 4-0 vote to approve Ordinance 21-993.

Consider Resolution 21-979, a resolution establishing when a multi-way stop is warranted on residential streets in order to provide for safe traffic flow. City Manager Ellis stated we have had discussion regarding traffic calming and one of the items that could be done immediately and at less cost is to look at the possibility of multi-way stops. He said this will match what the MUTCD guidelines call for. Commissioner Huffman made a motion to consider Resolution 21-979. Commissioner Young seconded the motion. Vote was then taken which resulted in a 5-0 vote to approve Resolution 21-979.

Consider Resolution 21-980, a resolution requesting the Honorable US Senator Marsha Blackburn, the Honorable US Senator Bill Hagerty, the Honorable US Congressman Jim Cooper and the Honorable US Congressman John Rose to assist the City of Goodlettsville in remedying the issue that will prevent the City of Goodlettsville from receiving any American Rescue Plan Act funding. City Manager Ellis stated this resolution shows this board is calling on them to help with this issue and putting it on record. Commissioner Young made a motion to consider Resolution 21-980. Vice Mayor Duncan seconded the motion. Vote was then taken which resulted in a 5-0 vote to approve Resolution 21-980.

Consider Resolution 21-981, a resolution requesting the Honorable Governor Bill Lee, the Honorable State Senator Ferrell Haile, the Honorable State Senator Heidi Campbell, the Honorable State Representative Bo Mitchell and the Honorable State Representative Johnny Garrett to assist the City of Goodlettsville in working with the Tennessee Federal Delegation in remedying the issue that will prevent the City of Goodlettsville from receiving any American Rescue Plan Act funding. Vice Mayor Duncan made a motion to consider Resolution 21-981. Commissioner Anderson seconded the motion. Vote was then taken which resulted in a 5-0 vote to approve Resolution 21-981.

Consider Resolution 21-982, a resolution authorizing a grant application for a State of Tennessee Infrastructure Planning Grant through the Department of Economic and Community Development for the purpose of updating GIS Wastewater Mapping. City Manager Ellis stated this is a 95%/5% matching grant so our max cost would be \$2,500. Commissioner Anderson made a motion to consider Resolution 21-982. Commissioner Young seconded the motion. Vote was then taken which resulted in a 5-0 vote to approve Resolution 21-982.

Commissioner Young updated the board and residents regarding this being a reappraisal year in Davidson County. He stated the Assessor of Property sent out a packet of information to the

council and wanted everyone to know the median appraised percent increase in value across Davidson County is 34% and that means the Davidson County tax rate will drop 34%. He said the value change for District 10, which includes Goodlettsville, increased 37% which is a higher rate county-wide. He said this is in reverse for the reappraisal from 2017. He said all of the new appraisals will be posted on Friday and can be viewed on the Assessor's website padctn.org and everyone will get a piece of mail stating their new appraised value. He encouraged those that disagree with the reappraised value to file an appeal through the Assessor's website. He stated he wasn't sure how this affected the City of Goodlettsville's tax rate since we are in two counties. City Manager Ellis said he anticipated this board adopting a budget without a tax rate. He said our budget does not require any type of increase or a levy. Commissioner Young clarified the percentages he gave were averages of the area.

With no further business, Commissioner Anderson made a motion to adjourn. Commissioner Young seconded the motion. The meeting adjourned at approximately 6:54 p.m. with a 5-0 vote.



AGENDA SUMMARY SHEET

**Board of Commissioners
City of Goodlettsville**

SUBJECT TITLE: ORDINANCE 21-993

An ordinance to amend the official zoning map of Goodlettsville adopted per Ordinance 15-851 to change properties on Dickerson Road, Dry Creek Road, and Robert Cartwright Drive from CPUD, Commercial Services to HDRPUD, High Density Residential Planned Unit Development and revised Dry Creek Farms Master Plan approval.

FIRST READING

PRESENTED BY: Tim Ellis, City Manager
Addam McCormick, Planning Dir.

Agenda Item: Ordinance 21-993

Dept. of Origin: Planning

For Agenda of: April 22, 2021

Originator: Addam McCormick

Cost of Item: N/A

AGENDA ITEM ATTACHMENTS:

Ordinance 21-993

SUMMARY STATEMENT:

An ordinance to amend the official zoning map of Goodlettsville adopted per Ordinance 15-851 to change properties on Dickerson Road, Dry Creek Road, and Robert Cartwright Drive from CPUD, Commercial Services to HDRPUD, High Density Residential Planned Unit Development and revised Dry Creek Farms Master Plan approval.

FINANCIAL SUMMARY:

This ordinance will have no fiscal impact on the City of Goodlettsville.

RECOMMENDED ACTION:

Staff and Planning Commission recommend approval of Ordinance 21-993.

ORDINANCE NO. 21-993

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF GOODLETTSVILLE ADOPTED PER ORDINANCE 15-851 TO CHANGE PROPERTIES ON DICKERSON ROAD, DRY CREEK ROAD, AND ROBERT CARTWRIGHT DRIVE FROM CPUD, COMMERCIAL SERVICES TO HDRPUD, HIGH DENSITY RESIDENTIAL PLANNED UNIT DEVELOPMENT AND REVISED DRY CREEK FARMS MASTER PLAN APPROVAL

WHEREAS, the City's Zoning Ordinance intent and purpose includes but is not limited to dividing the city into zones and districts restricting and regulating therein the location, construction, and use of residential and commercial buildings, structures; and,

WHEREAS, the City's Zoning Ordinance intent and purpose includes but is not limited to protecting the character and maintain the stability of residential and business areas within the city, and to promote the orderly and beneficial development of such areas; and,

WHEREAS, the Planned Unit Development section of the City's Zoning Ordinance intent and purpose includes but is not limited to promoting flexibility in design and permit planned diversification in the location of structures; to promote efficient use of land that will facilitate a more economic arrangement of buildings; circulation systems, land use, and utilities; to preserve as much as possible existing landscape features and utilize them in a harmonious fashion; to encourage the total planning of tracts of land; and to provide a mechanism for the ownership of land, utilities, streets, and facilities in common as well as the maintenance and disposition thereof; and,

WHEREAS, the Goodlettsville Planning Commission has reviewed and discussed this proposed amendment and voted on April 5, 2021 to recommend its passage to the Board of Commissioners based on the lack of commercial development possibilities per the scale of the commercial center and office development designated in the original 2003 Dry Creek Farms Master Plan; and,

WHEREAS, the Goodlettsville Planning Commission also approved and recommended passage of the amendment Dry Creek Farms PUD Master Plan dated March 25, 2021 for the High Density Residential Planned Unit Development Master Plan section including 117 attached townhouse lots on 16.6 acres and two (2) commercial outparcels totaling 3.23 acres intended for one or a mixture of the following uses: convenience commercial, restaurant, day care, or a retail sales and service commercial center development, and;

NOW, THEREFORE, BE IT ORDAINED AND IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GOODLETTSVILLE, TENNESSEE, AS FOLLOWS:

SECTION 1. That the Official Zoning Map adopted by Ordinance No. 15-851 entered on second reading on November 12, 2015 being the municipal zoning map of Goodlettsville, Tennessee, be and the same is hereby amended as follows:

By changing the existing CPUD, Commercial Planned Unit Development zoning classification and replacing the property zoning designation to HDPUD, High Density Residential Planned Unit Development for 16.6 acres of the total 19.83 acres, per the Dry Creek PUD Master Plan dated March, 2021 for the properties attached as "EXHIBIT A" and described as follows:

PORTION OF PROPERTY TAX MAP 33, PARCEL 42.00 and PROPERTY TAX MAP 33, PARCEL 297.00 CONTAINING APPROXIMATELY 16.6 ACRES AS SHOWN IN THE RECORDS OF THE ASSESSOR OF PROPERTY OF DAVIDSON COUNTY, TENNESSEE.

SECTION 2. That the Commissioners of the City of Goodlettsville, Tennessee, hereby certify that this Ordinance has been submitted to the Planning Commission of the City of Goodlettsville for a recommendation, and a notice of hearing thereon has been ordered after at least fifteen (15) days notice of the time and place of said meeting has been published in a newspaper circulated in the City of Goodlettsville, Tennessee. This Ordinance shall take effect fifteen (15) days from the date of its final passage, the public welfare demanding it.

SECTION 3. If any section, clause, provision, or portion of this Ordinance is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this Ordinance which is not itself invalid or unconstitutional.

SECTION 4. In case of conflict between this Ordinance or any part thereof and the whole or part of any existing or future Ordinance of the City of Goodlettsville, the most restrictive shall in all cases apply.

MAYOR RUSTY TINNIN

CITY RECORDER

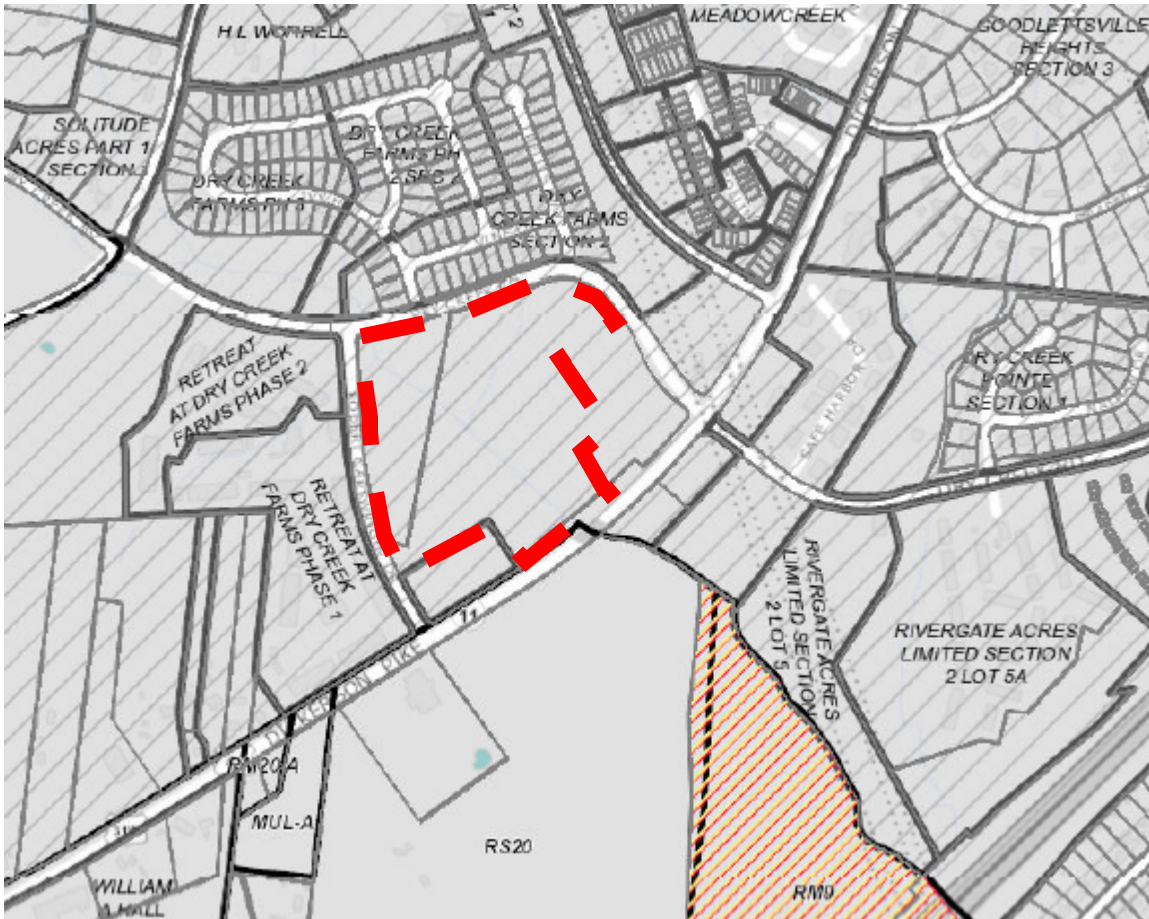
APPROVED AS TO LEGALITY AND FORM:

CITY ATTORNEY

Passed First Reading: _____

Passed Second Reading: _____

ORDINANCE 21-993
“EXHIBIT A”





AGENDA SUMMARY SHEET

**Board of Commissioners
City of Goodlettsville**

<u>SUBJECT TITLE: ORDINANCE 21-994</u> An ordinance to amend Ordinance 06-674 as amended, the Zoning Ordinance of the City of Goodlettsville, to expand adult oriented establishment definitions, define use separation distances per Tennessee Code Annotated Section 7-51-1407, and define the use permitted in the IG, General Industrial Zoning District. FIRST READING <u>PRESENTED BY:</u> Tim Ellis, City Manager Addam McCormick, Planning Dir.	Agenda Item: Ordinance 21-994 Dept. of Origin: Planning For Agenda of: April 22, 2021 Originator: Addam McCormick Cost of Item: N/A
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AGENDA ITEM ATTACHMENTS:

Ordinance 21-994

SUMMARY STATEMENT:

An ordinance to amend Ordinance 06-674 as amended, the Zoning Ordinance of the City of Goodlettsville, to expand adult oriented establishment definitions, define use separation distances per Tennessee Code Annotated Section 7-51-1407, and define the use permitted in the IG, General Industrial Zoning District.

FINANCIAL SUMMARY:

This ordinance will have no fiscal impact on the City of Goodlettsville.

RECOMMENDED ACTION:

Staff and Planning Commission recommend approval of Ordinance 21-994.

ORDINANCE 21-994

AN ORDINANCE TO AMEND ORDINANCE 06-674 AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF GOODLETTSVILLE, TO EXPAND ADULT ORIENTED ESTABLISHMENT DEFINITIONS, DEFINE USE SEPARATION DISTANCES PER TENNESSEE CODE ANNOTATED SECTION 7-51-1407, AND DEFINE THE USE PERMITTED IN THE IG, GENERAL INDUSTRIAL ZONING DISTRICT

WHEREAS, the City's Zoning Ordinance intent and purpose includes but is not limited to dividing the city into zones and districts restricting and regulating therein the use of buildings; and,

WHEREAS, the City's Zoning Ordinance intent and purpose includes but is not limited to protecting the character and maintaining the stability of business, commercial, and manufacturing areas within the city, and to promote the orderly and beneficial development of such areas; and,

WHEREAS, the State of Tennessee General Assembly adopted 2007 Public Act Chapter 541 in 2007 and these Zoning Ordinance amendments include consistent use separation distances based on the finding and intentions defined by the State of Tennessee General Assembly 2007 Public Chapter Act 541; and,

WHEREAS, the Commissioners of the City of Goodlettsville finds that adult-oriented establishments, as a category of establishments, have deleterious secondary effects and are often associated with illicit sexual activities, crime, and adverse effects on surrounding properties; and

WHEREAS, the Commissioners of the City of Goodlettsville desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of neighborhoods and deter the spread of urban blight; and,

WHEREAS, it is not the intent of the Commissioners of the City of Goodlettsville with these zoning ordinance amendments to suppress any speech activities protected by the United States or Tennessee Constitutions, but to enact legislation to further content-neutral governmental interests, to wit, the controlling of secondary effects of adult-oriented/sexually-oriented establishments; and,

WHEREAS, the Goodlettsville Planning staff received confirmation from Metro Nashville Codes Department that Metro Nashville's Sexually Oriented Business Regulations would not apply in the City of Goodlettsville which was a prior incorrect understanding; and,

WHEREAS, the Goodlettsville Planning Commission's review included that the City currently does not permit the adult oriented establishment use in any zoning districts in the City of Goodlettsville and without any permitted designation and regulations, the City has a constitutional challenge liability due to defined discrimination against the use; and,

WHEREAS, The Goodlettsville Planning Commission at the April 5, 2021 regularly scheduled meeting reviewed and discussed this proposed amendment and voted to recommend its passage to the Board of Commissioners.

NOW, THEREFORE, BE IT ORDAINED AND IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GOODLETTSVILLE, TENNESSEE, AS FOLLOWS:

SECTION 1. That Ordinance No. O6-674 adopted on second and final reading on June 22, 2006, being the municipal zoning ordinance of Goodlettsville, Tennessee, be and the same is hereby amended by deleting the existing sections and replacing in entirety the following sections: 14-201 (3)(d), 14-201(3)(i), and 14-201(3)(ii) as listed in "Exhibit A"

SECTION 2. That Ordinance No. O6-674 adopted on second and final reading on June 22, 2006, being the municipal zoning ordinance of Goodlettsville, Tennessee, be and the same is hereby amended by expanding the existing definition Section 14-201(3)(iv) and adding new definitions in sections 14-201 (3)(vii), 14-201(3)(viii), 14-201(3)(ix), 14-201(3)(x), 14-201(3)(xi), and 14-201(3)(xii) as listed in "Exhibit A"

SECTION 3. That Ordinance No. O6-674 adopted on second and final reading on June 22, 2006, being the municipal zoning ordinance of Goodlettsville, Tennessee, be and the same is hereby amended by expanding the existing section 14-207 (2)(b) as listed in “Exhibit A”

SECTION 4. That Ordinance No. O6-674 adopted on second and final reading on June 22, 2006, being the municipal zoning ordinance of Goodlettsville, Tennessee, be and the same is hereby amended by expanding the existing section 14-207(3)(a)(i) as listed in “Exhibit A”

SECTION 5. That Ordinance No. O6-674 adopted on second and final reading on June 22, 2006, being the municipal zoning ordinance of Goodlettsville, Tennessee, be and the same is hereby amended by expanding section 14-207 (3)(c) as listed in “Exhibit A”

SECTION 6. That Ordinance No. O6-674 adopted on second and final reading on June 22, 2006, being the municipal zoning ordinance of Goodlettsville, Tennessee, be and the same is hereby amended by adding new section 14-207 (3)(d) listed in “Exhibit A”

SECTION 7. That the Commissioners of the City of Goodlettsville, Tennessee, hereby certify that this Ordinance has been submitted to the Planning Commission of the City of Goodlettsville for a recommendation, and a notice of hearing thereon has been ordered after at least fifteen (15) days notice of the time and place of said meeting has been published in a newspaper circulated in the City of Goodlettsville, Tennessee. This Ordinance shall take effect fifteen (15) days from the date of its final passage, the public welfare demanding it.

SECTION 8. If any section, clause, provision, or portion of this Ordinance is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion, of this Ordinance which is not itself invalid or unconstitutional.

SECTION 9. In case of conflict between this Ordinance or any part thereof and the whole or part of any existing or future Ordinance of the City of Goodlettsville, the most restrictive shall in all cases apply.

MAYOR RUSTY TINNIN

Passed First Reading:_____

Passed Second Reading:_____

CITY RECORDER

APPROVED AS TO LEGALITY AND FORM:

CITY ATTORNEY

ORDINANCE 21-994

"EXHIBIT A"

SECTION 1 AMENDMENTS

14-201 Provisions Relating to Construction of Language and Definitions (3)

~~(d) "Adult-oriented establishment." Any commercial establishment, business or service, or portion thereof, which offers, as its principal or predominant stock and trade, sexually oriented or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or any class of adults. "Adult-oriented establishment" includes but is not limited to:~~

(d) "Adult-oriented establishment." but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, sexual encounter center, massage parlor, or sauna, and further means any premises to which patrons or members of the public are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult entertainment, when such is held, conducted, operated or maintained for a profit, direct or indirect

~~(i) "Adult book stores" any corporation, partnership or business of any kind which has as its principal or predominant stock or trade, books, magazines or other periodicals and which offers, sells, provides or rents for a fee:~~

~~(A) Any sexually oriented material which is available for viewing by patrons on the premises by means of the operation of movie machines or slide projectors; or~~

~~(B) Any sexually oriented material which has a substantial portion of its contents devoted pictorial depiction of sadism, masochism or bestiality; or~~

~~(C) Any sexually oriented material which has as its principal theme the depiction of sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region or buttocks of children who are or appear to be under eighteen (18) years of age.~~

(i) Adult bookstore, adult novelty store, or adult video store means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1)

Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, computer software or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or

(2)

Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of the principal business purposes

is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

~~(ii) "Adult theatres" an enclosed building used for presenting film presentations which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities for observation by patrons therein; and~~

ii: **Adult theater means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure or "specified anatomical areas" or by "specified sexual activities."**

SECTION 2 AMENDMENTS:

14-201 Provisions Relating to Construction of Language and Definitions (3)

(iv) "Specified sexual activities" means activities, services or performances that include the following sexual activities and/or the exhibition of the following *specified* anatomical areas:

(A) Human genitals in a state of sexual stimulation or arousal;

(B) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio or any excretory function, or representation thereof; or

(C) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(v) "Sexually-oriented material" means any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording, which depicts sexual activity, actual or simulated, involving human beings or human beings and animals, or which exhibit uncovered human genitals or pubic region in a lewd or lascivious manner or which depicts human male genitals in a discernibly turgid state, even if completely covered.

(vi) **Adult arcade means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."**

(vii) **Adult cabaret means a nightclub, bar, restaurant or similar establishment which regularly features:**

(1)

Persons who appear in a state of nudity or semi-nude; or

(2)

Live performances which are characterized by "specified sexual activities" or by the exposure of any of the "specified anatomical areas," even if partially covered by opaque material or partially or completely covered by translucent material, including swim suits, lingerie, or latex covering; or

(3)

Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(viii) Adult motion picture theater means a commercial establishment where, as one of its principal purposes, and for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(ix) Massage parlor means an establishment or place primarily in the business of providing massage or tanning services for purposes of sexual stimulation or where one or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

(x) Nude model studio means a commercial establishment where a person appears semi-nude or in a state of nudity, or displays "specified anatomical areas," and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio as defined herein shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or a structure:

(1)

That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(2)

Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

(3)

Where no more than one nude or semi-nude model is on the premises at any one time.

(xi) Sauna means an establishment or place primarily in the business of providing, for purposes of sexual stimulation:

(1)

A steam bath or dry heat sauna; or

(2)

Massage services.

(xii) Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1)

Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2)

For purposes of sexual stimulation, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SECTION 3 AMENDMENT:

14-207. Industrial District Regulations. (2)(b)

(b) General industrial district. This class of district is intended to provide space for the types of industrial activities which by reason of volume of raw materials or freight, scale of operations, type of structures required, or other similar characteristics require locations relatively well separated from non-industrial uses and a **defined commercial use that is typically located in close proximity to an interstate corridor and due to the possible negative impacts associated with the defined commercial use onto to adjacent interchange commercial and residential areas.** Performance standards must still be met. New residential activities are excluded, and commercial establishments and community facilities which provide needed services for industry and are complementary thereto are permitted. The district also to provide commercial uses that

SECTION 4 AMENDMENT:

14-207. Industrial District Regulations. (3)(a)(i)

(3) Use and structure provisions. The uses and structures indicated herein may be permitted within the various commercial districts only in manner and subject to any specific design criteria that apply.

(a) Uses permitted.

(i) Principal permitted uses. Principal permitted uses

for both industrial districts are listed in Table I as presented in

Appendix A. **Additionally, adult-oriented establishments as defined in § 14-201(3) are permitted in the IG, General Industrial zoning district as defined per Section 14-207 (3)(d)**

SECTION 5 AMENDMENT:

14-207. Industrial District Regulations. (3)(c)

(c) Prohibited uses. Any use or structure not specifically

permitted by right or conditional use as presented in Table I is

prohibited. **Additionally, adult-oriented establishments as defined in § 14-201(3) are prohibited in the IR, Industrial Restrictive**

SECTION 6 AMENDMENT:

14-207. Industrial District Regulations. (3)(d)

An adult oriented establishment shall be permitted only within the IG, General Industrial zoning district and per the provisions of Tennessee Code Annotated section 7-51-1407 shall not be permitted on any property which is within 1,000 feet of:

A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

A public or private educational or child care facility, including but not limited to day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities, and the school grounds of any such facility, provided that this requirement shall not apply to facilities used primarily for another purpose and only incidentally as a school;

A boundary of any residential zoning district or the property line of a lot devoted to a residential use, including single-family detached and attached dwellings, nursing homes and assisted living facilities;

A public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land which is under the control, operation or management of any government park and recreation authority;

An entertainment business which is oriented primarily towards entertainment for children or families, including but not limited to any business featuring skating, go-carts, miniature golf, game rooms which include games intended primarily for children, or other similar recreation or entertainment; or

A funeral parlor, mausoleum or cemetery.

For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where an adult oriented establishment is conducted, to the nearest property line of the premises of a listed use. The presence of a city boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

No adult oriented establishment may be established or operated within 250 feet of another adult oriented establishment. For the purpose of this subsection, the distance between any two (2) adult oriented establishment shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the nearest portion of the building or structure used as the part of the

premises where the adult oriented business is conducted, to the nearest property line of the premises proposed for the location of an adult oriented establishment. No structure or parcel that contains an adult oriented establishment shall contain any other kind of adult oriented establishment.

No adult oriented establishment may be enlarged so as to violate the provisions of this section.



AGENDA SUMMARY SHEET

**Board of Commissioners
City of Goodlettsville**

<u>SUBJECT TITLE: ORDINANCE 21-995</u> An ordinance of the City of Goodlettsville, Tennessee adopting the annual budget for the fiscal year July 1, 2021 through June 30, 2022 FIRST READING <u>PRESENTED BY:</u> Tim Ellis, City Manager Julie High, Assistant City Manager	Agenda Item: Ordinance 21-995 Dept. of Origin: Administration For Agenda of: May 13, 2021 Originator: Julie High Cost of Item: See Attached Ordinance
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AGENDA ITEM ATTACHMENTS:

Ordinance 21-995

SUMMARY STATEMENT:

This Ordinance adopts the FY 2022 budget.

FINANCIAL SUMMARY:

See Attached Ordinance

RECOMMENDED ACTION:

Staff recommends approval of Ordinance 21-995.

ORDINANCE # 21-995

**AN ORDINANCE OF THE CITY OF GOODLETTSVILLE, TENNESSEE,
ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING
JULY 1, 2021 THROUGH JUNE 30, 2022.**

- Whereas, *Tennessee Code Annotated* Title 9 Chapter 1 Section 116 requires that all funds of the State of Tennessee and all its political subdivisions shall first be appropriated before being expended and that only funds that are available shall be appropriated; and
- Whereas, the Municipal Budget Law of 1982 requires that the governing body of each municipality adopt and operate under an annual budget ordinance presenting a financial plan with at least the information required by that state statute, that no municipality may expend any moneys regardless of the source except in accordance with a budget ordinance and that the governing body shall not make any appropriation in excess of estimated available funds; and
- Whereas, the governing body has published the annual operating budget and budgetary comparisons of the proposed budget with the prior year (actual) and the current year (estimated) in a newspaper of general circulation not less than ten (10) days prior to the meeting where the governing body will consider final passage of the budget.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF GOODLETTSVILLE, TENNESSEE BOARD OF COMMISSIONERS AS FOLLOWS:

SECTION 1: That the governing body estimates anticipated revenues of the municipality from all sources to be as follows:

General Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Local Taxes	\$ 12,177,086	\$ 12,253,518	\$ 12,673,102
Intergovernmental Revenue	\$ 2,505,908	\$ 3,016,289	\$ 2,777,800
Fines and Forfeitures	\$ 220,275	\$ 70,659	\$ 120,000
Licenses and Permits	\$ 552,916	\$ 457,037	\$ 402,000
Charges for Services	\$ 158,185	\$ 98,256	\$ 96,000
Other Financing Sources	\$ -	\$ -	\$ -
Transfers from Other Funds	\$ 122,677	\$ -	\$ 206,000
Miscellaneous Revenue	\$ 338,287	\$ 48,318	\$ 27,000
Total Revenue	\$ 16,075,334	\$ 15,944,077	\$ 16,301,902
Fund Balance	\$ 6,616,029	\$ 8,425,609	\$ 10,758,132
Total Available Funds	\$ 22,691,363	\$ 24,369,686	\$ 27,060,034

Drug Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Court Fines and Costs	\$ 35,869	\$ 7,500	\$ 15,000
Miscellaneous	\$ 18,223	\$ -	\$ -
Transfers from General Fund	\$ -	\$ -	\$ -
Total Revenue	\$ 54,092	\$ 7,500	\$ 15,000
Fund Balance	\$ 88,652	\$ 128,967	\$ 77,879
Total Available Funds	\$ 142,744	\$ 136,467	\$ 92,879

Electronic Citation Fee	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Fines and Fees	\$ 5,520	\$ 3,000	\$ 7,000
Miscellaneous Revenue	\$ -	\$ -	
Total Revenue	\$ 5,520	\$ 3,000	\$ 7,000
Fund Balance	\$ 13,782	\$ 19,302	\$ 17,302
Total Available Funds	\$ 19,302	\$ 22,302	\$ 24,302

Sanitation Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Service Fees	\$ 1,038,282	\$ 1,010,309	\$ 955,500
Miscellaneous Revenue	\$ 26,375	\$ 26,346	\$ 20,000
Grant Proceeds	\$ 67,218	\$ -	\$ -
Total Revenue	\$ 1,131,875	\$ 1,036,655	\$ 975,500
Fund Balance	\$ 361,562	\$ 340,355	\$ 316,722
Total Available Funds	\$ 1,493,437	\$ 1,377,010	\$ 1,292,222

Tourism Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Hotel/Motel Tax	\$ 744,869	\$ 507,579	\$ 600,000
Miscellaneous Revenue	\$ 61,812	\$ 52,185	\$ 84,200
Grant Revenue	\$ 14,850	\$ 70,174	
Total Revenue	\$ 821,531	\$ 629,938	\$ 684,200
Fund Balance	\$ 1,010,287	\$ 1,040,511	\$ 967,774
Total Available Funds	\$ 1,831,818	\$ 1,670,449	\$ 1,651,974

Capital Projects Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Grant Revenue	\$ 381,540	\$ 129,772	\$ 13,825,407
Loan Proceeds	\$ 272,107	\$ -	\$ 1,894,343
Transfer from General Fund	\$ -	\$ -	\$ -
Total Revenue	\$ 653,647	\$ 129,772	\$ 15,719,750
Fund Balance	\$ (498,422)	\$ (329,830)	\$ (360,558)
Total Available Funds	\$ 155,225	\$ (200,058)	\$ 15,359,192

Sewer Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Sewer User Fees	\$ 4,617,613	\$ 4,663,267	\$ 4,949,698
Sewer Tap Fees	\$ 159,850	\$ 113,250	\$ 55,000
Other Fees	\$ 7,025	\$ 9,815	\$ 7,000
Non Operating Revenue	\$ 157,597	\$ 53,000	\$ 38,000
Grants	\$ 100,000	\$ -	\$ -
Total Revenue	\$ 5,042,085	\$ 4,839,332	\$ 5,049,698

Stormwater Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Utility Fees	\$ 971,429	\$ 864,931	\$ 850,000
Miscellaneous Revenues	\$ 19,807	\$ 15,360	\$ 10,000
Total Revenue	\$ 991,236	\$ 880,291	\$ 860,000
Fund Balance	\$ 1,355,320	\$ 1,474,711	\$ 923,570
Total Available Funds	\$ 2,346,556	\$ 2,355,002	\$ 1,783,570

SECTION 2: That the governing body appropriates from these anticipated revenues and unexpended and unencumbered funds as follows:

General Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
General Government	\$ 2,800,188	\$ 2,645,370	\$ 2,785,732
Police	\$ 5,439,231	\$ 5,086,923	\$ 5,713,974
Fire	\$ 2,521,054	\$ 2,588,152	\$ 2,589,839
Hwys and Streets	\$ 1,386,749	\$ 1,467,807	\$ 2,901,752
Parks and Recreation	\$ 1,558,097	\$ 1,424,481	\$ 1,617,653
Debt Service	\$ 639,832	\$ 530,069	\$ 408,872
Transfers to Other Funds	\$ -	\$ -	\$ -
Total Appropriations	\$ 14,345,151	\$ 13,742,802	\$ 16,017,822

Drug Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Operating Expenditures	\$ 9,537	\$ 6,000	\$ 40,000
Debt Service	\$ -	\$ -	\$ -
Capital Expenditures	\$ 4,240	\$ 52,588	\$ 45,000
Miscellaneous	\$ -	\$ -	\$ -
Total Appropriations	\$ 13,777	\$ 58,588	\$ 85,000

Electronic Citation Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Operating Expenditures	\$ 5,520	\$ 3,000	\$ 7,000
Capital Outlay	\$ -	\$ -	\$ -
Total Appropriations	\$ 5,520	\$ 3,000	\$ 7,000

Sanitation Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Operating Expenditures	\$ 986,000	\$ 1,010,286	\$ 1,020,329
Debt Service	\$ -	\$ -	\$ -
Capital	\$ 167,082	\$ 50,000	\$ 50,000
Total Appropriations	\$ 1,153,082	\$ 1,060,286	\$ 1,070,329

Tourism Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Administration	\$ 611,416	\$ 551,724	\$ 632,083
Historic Sites	\$ 60,920	\$ 48,251	\$ 33,500
Economic Development	\$ 31,179	\$ 27,700	\$ 27,200
Tourism	\$ 87,792	\$ 75,000	\$ 54,000
Total Appropriations	\$ 791,307	\$ 702,675	\$ 746,783

Capital Projects Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Main Street Redevelopment	\$ 425,164	\$ 150,000	\$ 9,619,201
Conference Drive Enhancement	\$ 33,250	\$ 10,000	\$ 275,482
CMAQ Project-Confer Dr II	\$ -	\$ 500	\$ 1,609,101
CMAQ Project-III	\$ -	\$ -	\$ 3,109,000
Sidewalk Tap Project	\$ 9,230	\$ -	\$ 745,500
LPRF Grant Splash Pad Proj	\$ 17,413	\$ -	\$ -
Total Appropriations	\$ 485,057	\$ 160,500	\$ 15,358,284

Sewer Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Operating Expenses	\$ 4,915,027	\$ 4,344,977	\$ 4,457,110
Interest Expense	\$ 171,671	\$ 148,700	\$ 170,202
Payment in Lieu of Tax	\$ 122,677	\$ 135,000	\$ 125,000
Capital	\$ 1,623,430	\$ 1,800,000	\$ 1,400,000
Total Appropriations	\$ 6,832,805	\$ 6,428,677	\$ 6,152,312

Stormwater Fund	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Operating Expenses	\$ 461,890	\$ 419,290	\$ 549,734
Non-Operating Expenses	\$ -	\$ -	\$ -
Capital	\$ 409,955	\$ 1,012,142	\$ 685,000
Total Appropriations	\$ 871,845	\$ 1,431,432	\$ 1,234,734

SECTION 3. At the end of the fiscal year 2022, the governing body estimates balances/deficits as follows:

General Fund	\$ 11,042,212
Drug Fund	\$ 7,879
Electronic Citation Fund	\$ 17,302
Sanitation Fund	\$ 221,893
Tourism Fund	\$ 905,191
Stormwater Fund	\$ 548,836
Capital Projects Fund	\$ 908

SECTION 4. That the governing body recognizes that the municipality has bonded and other indebtedness as follows:

Bonded or Other Indebtedness	Debt Outstanding 06/30/21	New Debt Issued FY21-22	Debt Redemption	Interest Requirements	Debt Outstanding 06/30/22
Bonds	\$ 1,940,000	\$ -	\$ 145,000	\$ 45,205	\$ 1,795,000
SRLF	\$ 7,055,379	\$ -	\$ 635,143	\$ 179,627	\$ 6,420,236
Notes	\$ -	\$ -	\$ -	\$ -	\$ -
Capital Leases	\$ 107,621	\$ -	\$ 19,196	\$ 4,046	\$ 88,425
Other Debt	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ 9,103,000	\$ -	\$ 799,339	\$ 228,878	\$ 8,303,661

SECTION 5. During the coming fiscal year the governing body has planned capital projects and proposed funding as follows:

Proposed Capital Projects	Proposed Amount Financed by Appropriations	Proposed Amount Financed by Grants
Main Street Redevelopment	\$ 9,619,201	\$ 8,296,310
Conference Drive Improvements	\$ 275,482	\$ 256,370
Conference Drive CMAQ II	\$ 1,609,101	\$ 1,567,327
Conference Drive CMAQ III	\$ 3,109,000	\$ 3,109,000
Sidewalk Tap Project	\$ 745,500	\$ 596,400
Software migration to cloud	\$ 70,000	\$ -
Police Fleet replacement	\$ 182,000	\$ -
Parks 3/4 ton truck replacement	\$ 24,000	\$ -
Parks tractor	\$ 20,000	\$ -
Parks Tennis Court Resurface/Pickleball	\$ 50,000	\$ -
Highways and Streets Annual Paving	\$ 2,000,000	
Police Laptop replacement	\$ 30,000	
RMS	\$ 15,000	
Sanitation carts	\$ 40,000	
Sanitation Cardboard Recycling Container	\$ 10,000	
Stormwater Improvements	\$ 685,000	\$ -
Sewer Mansker Creek Pump Station Rehab	\$ 1,400,000	\$ -
	\$ 19,884,284	\$ 13,825,407

SECTION 6. No appropriation listed above may be exceeded without an amendment of the budget ordinance as required by the Municipal Budget Law of 1982 T.C.A. Section 6-56-208. In addition, no appropriation may be made in excess of available funds except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the municipality and declared by a two-thirds (2/3) vote of at least a quorum of the governing body in accord with Section 6-56-205 of the *Tennessee Code Annotated*.

SECTION 7. Money may be transferred from one appropriation to another in the same fund by the City Manager, subject to such limitations and procedures as it may describe as allowed by Section 6-56-209 of the *Tennessee Code Annotated*. Any resulting transfers shall be reported to the governing body at its next regular meeting and entered into the minutes.

SECTION 8. A detailed financial plan will be attached to this budget and become part of this budget ordinance. In addition, the published operating budget and budgetary comparisons shown by fund with beginning and ending fund balances and the number of full time equivalent employees required by Section 6-56-206, *Tennessee Code Annotated* will be attached.

SECTION 9. If for any reason a budget ordinance is not adopted prior to the beginning of the next fiscal year, the appropriations in this budget ordinance shall become the appropriations for the next fiscal year until the adoption of the new budget ordinance in accordance with the Section 6-56-210, *Tennessee Code Annotated* provided sufficient revenues are being collected to support the continuing appropriations. Approval of the Director of the Division Local Finance in the Comptroller of the Treasury for a continuation budget will be requested if any indebtedness is outstanding.

SECTION 10. City Property Tax rates will be approved when the State Board of Equalization sets a certified property tax rate for the City. This budget assumes no property tax increase.

SECTION 11. All unencumbered balances of appropriations remaining at the end of the fiscal year shall lapse and revert to the respective fund balances.

SECTION 12. This ordinance shall take effect on July 1, 2021, the public welfare requiring it.

Passed First Reading:

Passed Second and Final Reading:

Mayor Rusty Tinnin

Approved as to form and legality:

City Recorder

City Attorney



AGENDA SUMMARY SHEET

**Board of Commissioners
City of Goodlettsville**

<u>SUBJECT TITLE:</u> Ordinance 21-996 An ordinance to amend the City of Goodlettsville Municipal Code Title 9, by creating a new Chapter 6 entitled Sexually Oriented Businesses. FIRST READING <u>PRESENTED BY:</u> Tim Ellis, City Manager	Agenda Item: Ordinance 21-996 Dept. of Origin: Administration For Agenda of: May 13, 2021 Originator: Tim Ellis Cost of Item: N/A
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AGENDA ITEM ATTACHMENTS:

Ordinance 21-996

SUMMARY STATEMENT:

An ordinance to amend the City of Goodlettsville Municipal Code Title 9, by creating a new Chapter 6 entitled Sexually Oriented Businesses.

FINANCIAL SUMMARY:

N/A

RECOMMENDED ACTION:

Staff recommends approval of Ordinance 21-996.

Ordinance 21-996

AN ORDINANCE TO AMEND THE CITY OF GOODLETTSVILLE MUNICIPAL CODE TITLE 9, BY CREATING A NEW CHAPTER 6 ENTITLED SEXUALLY ORIENTED BUSINESSES

WHEREAS, it has been deemed in the best interest of the City of Goodlettsville to adopt policies that will regulate a wide variety of sexually oriented businesses within the city; and

WHEREAS, the Board of Commissioners desires adopt such policies as a part of the City of Goodlettsville Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GOODLETTSVILLE BOARD OF COMMISSIONERS:

Section 1: There is hereby created a new Title 9, Chapter 6, entitled Sexually Oriented Businesses as follows:

TITLE 9 - CHAPTER 6. - SEXUALLY ORIENTED BUSINESSES

Sec. 9-601. - Title.

This article shall be known and may be cited as "The Sexually Oriented Business Ordinance."

Sec. 9-602. - Definitions.

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

Adult arcade means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult bookstore, adult novelty store or adult video store means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, computer software or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or

(2) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified

anatomical areas" and still be categorized as an adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of the principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult cabaret means a nightclub, bar, restaurant or similar establishment which regularly features:

- (1) Persons who appear in a state of nudity or semi-nude; or
- (2) Live performances which are characterized by "specified sexual activities" or by the exposure of any of the "specified anatomical areas," even if partially covered by opaque material or partially or completely covered by translucent material, including swim suits, lingerie, or latex covering; or
- (3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult entertainment means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has as a significant or substantial portion of such exhibition any actual or simulated performance of "specified sexual activities" or the viewing of "specified anatomical areas."

Adult motel means a hotel, motel or similar commercial establishment which

- (1) Offers sleeping room accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than ten hours.

Adult motion picture theater means a commercial establishment where, as one of its principal purposes, and for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult theater means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Codes department means the department or division of the city which is authorized to enforce building codes and other provisions of this Code of Ordinances.

Employee means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated as an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Entertainer means any person who provides entertainment within a sexually oriented business as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Massage parlor means an establishment or place primarily in the business of providing massage or tanning services for purposes of sexual stimulation or where one or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

Nude model studio means a commercial establishment where a person appears semi-nude or in a state of nudity, or displays "specified anatomical areas," and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio as defined herein shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or a structure:

- (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- (2) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and
- (3) Where no more than one nude or semi-nude model is on the premises at any one time.

Nudity or state of nudity means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Operator means a person operating, conducting or maintaining a sexually oriented business or a person who is identified in any report filed with the city as the operator of a sexually oriented business.

Sauna means an establishment or place primarily in the business of providing, for purposes of sexual stimulation:

- (1) A steam bath or dry heat sauna; or
- (2) Massage services.

Semi-nude means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel, provided the areola is not exposed in whole or in part.

Sexual conduct means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of that person or another person.

Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) For purposes of sexual stimulation, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually oriented business includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, sexual encounter center, massage parlor, or sauna, and further means any premises to which patrons or members of the public are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult entertainment, when such is held, conducted, operated or maintained for a profit, direct or indirect.

Sexual stimulation means to excite or arouse the prurient interest or to offer or solicit acts of "sexual conduct" as defined in this chapter.

Specified anatomical areas means:

(1) Less than completely and opaquely covered:

a. Human genitals;

b. Pubic region;

c. Buttocks; and

d. Female breasts below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

Specified criminal activity means any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; rape; sexual assault; molestation; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state or other states or countries; for which:

(1) Less than five years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction or plea is for a misdemeanor offense;

(2) Less than ten years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction is of a felony offense; or

(3) Less than ten years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed for the last conviction or plea, whichever is the later date, if the convictions or pleas are for two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four-month period;

provided further that the fact that a conviction is being appealed shall have no effect whatsoever on the provisions of this article.

Specified services mean's massage services, private dances, private modeling, or acting as an "escort" as defined in this chapter.

Specified sexual activities means:

(1) Human genitals in a state of sexual arousal;(2)Acts of human masturbation, oral copulation, sexual intercourse or sodomy; or(3)Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

Sec. 9-603. - Prevention of sexual activity.

(a) No person who owns, operates or manages a sexually oriented business shall permit "specified sexual activities," as defined in this chapter, to occur on the premises.

(b) No commercial building, structure, premises or portion thereof shall be designed for or used to promote high-risk sexual conduct.

(c) No person who owns, operates, causes to be operated or manages a sexually oriented business, other than an adult motel, which exhibits on the premises in any one or more viewing rooms or booths of less than 150 square feet of floor space, a film, video cassette, other reproduction or live entertainment which depicts "specified sexual activities" or "specified anatomical areas," shall cause or allow any deviation from the following requirements:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. No manager's station may exceed 32 square feet of floor area. If the premises have two or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the manager's stations. Each such area shall remain unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials. All viewing rooms and booths shall have at least one side open so that the area inside is visible from a manager's station. The view required in this subsection must be by direct line of sight from the manager's station.

(2) No alteration in the configuration or location of a manager's station may be made without the prior approval of the codes department.

(3) At least one employee shall be on duty and situated in each manager's station at all times that any patron is present inside the premises.

(4) No viewing room or booth may be occupied by more than one person at any time.

(5) Each viewing room or booth shall be lighted in such a manner that persons within are visible from a manager's station. The illumination level of each viewing room or booth, when not in use, shall be a minimum of ten footcandles at all times, as measured from the floor. The illumination level of all other portions of the premises open to the public shall be a minimum of ten footcandles at all times.

(6) No patron shall be permitted access to any area which has been designated as an area in which patrons will not be allowed.

(7) Each viewing room or booth shall be totally separated from adjacent viewing rooms and booths and any nonpublic areas by walls. All such walls shall be solid and extended from the floor to a height of not less than six feet and shall be of light colored, nonporous, nonabsorbent, smooth textured and easily cleanable material. No such wall may be constructed of plywood or composition board. No opening or aperture of any kind shall be allowed to exist between viewing rooms or booths. No person shall make or attempt to make an opening or aperture of any kind between viewing rooms or booths.

(8) All floor coverings in viewing rooms or booths shall be light colored, nonporous, nonabsorbent, smooth textured, easily cleanable surfaces, with no rugs or carpeting.

(9) The premises shall be maintained in a clean and sanitary manner at all times.

(10) No occupant of a viewing room or booth shall be allowed to damage or deface any portion therein or to engage in any type of sexual activity, cause any bodily discharge or litter while inside.

Sec. 9-604. - Involvement of minors.

An operator of a sexually oriented business is in violation of this article if:

(1) The operator is less than 18 years of age, if an individual.

(2) Any officer, director, partner, stockholder or other individual having a direct or beneficial financial interest in the operator is less than 18 years of age, if the operator is a corporation, partnership or other form of business organization.

(3) Any employee of the sexually oriented business is less than 18 years of age.

(4) Any entertainer at the sexually oriented business is less than 18 years of age.

Sec. 9-605. - Specified criminal activity by operators, employees, entertainers and others.

(a) No person may own or operate a sexually oriented business within the city if:

(1) He has a record of "specified criminal activity," as defined in this article, if the owner or operator is an individual.

(2) Any officer, director, partner or other individual having at least a ten percent direct or beneficial financial interest in the operator has a record of "specified criminal activity," as defined in this article, if the owner or operator is a corporation, partnership or other form of business organization.

(b) No operator of a sexually oriented business may allow any employee who has a record of "specified criminal activity," as defined in this article, to work on the premises of the business.

(c) No operator of a sexually oriented business may allow any entertainer who has a record of "specified criminal activity," as defined in this article, to perform on the premises of the business.

(d) No operator or employee of a sexually oriented business may knowingly allow any "specified criminal activity" to occur on the premises of the business.

(e) No operator or employee of a sexually oriented business may allow any patron or customer who has carried out any "specified criminal activity" on the premises of the business to reenter the premises.

(f) The police department may at any time investigate the criminal record of any person identified pursuant to section 9-609(4) or of any employee of a sexually oriented business or any entertainer performing at a sexually oriented business.

Sec. 9-606. - Prohibited hours of operation.

No sexually oriented business, except for an adult motel, shall be open between the hours of 11:00 p.m. and 8:00 a.m. No adult motel may allow any guest to check into a room between the hours of 11:00 p.m. and 8:00 a.m.

Sec. 18-157. - Duties and responsibilities of operators, entertainers and employees.

(a) The operator of each sexually oriented business shall maintain a register of all employees, showing the name, all aliases, home address, age, birth date, sex, weight, color of hair and eyes, telephone number, social security numbers, driver license or other state identification number and state of issuance, date of employment and termination, and duties of each employee. The above information for each employee shall be maintained on the premises during his or her employment and for a period of three years following termination.

(b) The operator shall make such information available for inspection immediately upon request by the city manager or his authorized representative or by the police department or codes department. Alternatively, if the city manager or his authorized representative, the police department or the codes department requests that copies of any such information be delivered to them, the operator shall have such copies delivered within three days of the request.

(c) An operator shall be responsible for the conduct of all employees on the premises of the sexually oriented business and any act or omission of any employee constituting a violation of the provisions of this part shall be deemed the act or omission of the operator.

(d) There shall be posted and conspicuously displayed in the common areas of each sexually oriented business a list of any and all entertainment and services provided on the premises. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the city manager or his authorized representative or by the police department or codes department.

(e) No operator or employee of a sexually oriented business shall allow any person under the age of 18 years on the premises of a sexually oriented business.

(f) A sign shall be conspicuously displayed in the common area of the premises of each sexually oriented business, and shall read as follows:

This sexually oriented business is regulated by the City of Goodlettsville, Tennessee. Employees, entertainers and customers are not permitted to engage in any type of sexual conduct.

(g) Operators of sexually oriented businesses that provide "specified services," as defined in this article, for customers or patrons shall comply with the following requirements:

(1) For each "specified service," such customers or patrons shall be provided with written receipts. Operators shall keep copies of such receipts for at least three years, showing:

- a. "Specified service" provided.
- b. Cost of "specified service."
- c. Date and time of service provided.
- d. Name of person providing the "specified service."
- e. Method of payment for service.

(2) Copies of all published advertisements for the business shall be kept for at least three years.

(3) Copies of the receipts and advertisements required under this section shall be made available immediately upon request by the city manager or his authorized representative or by the police department or codes department.

(h) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that the line of sight between the manager's station(s) and each viewing room or booth remains unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials.

(i) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that the illumination required by this article is maintained at all times during business hours.

(j) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that no openings of any kind exist between viewing rooms or booths.

(k) The operator or his/her agent shall, during each business day, regularly inspect the walls of all viewing rooms and booths to determine if any openings or holes exist. If such openings exist, it is the duty of the operator to immediately repair the damage. No patron shall be permitted access to a viewing room or booth where such an opening exists. It shall be the duty of the operator and all employees on the premises to ensure that such rooms or booths are unoccupied by patrons until the opening is repaired and covered.

Sec. 9-608. - Prohibited activities.

(a) No operator, entertainer or employee of a sexually oriented business shall perform or offer to perform any specified sexual activities on the premises of the business, or allow or encourage any person on the premises to perform or participate in any specified sexual activities.

(b) No entertainer, employee, or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches above the immediate floor level and removed at least six feet from the nearest entertainer, employee, and/or customer.

(c) No business shall advertise that it offers or provides any entertainment or services which would fall under the definitions of "sexual conduct," "sexual stimulation" or "specified sexual activities" as defined in this chapter.

(d) No operator or employee shall serve or allow to be served or consumed any intoxicating liquor or malt beverage on the premises of a sexually oriented business.

(e) No operator or employee shall knowingly allow possession, use or sale of controlled substances on the premises of a sexually oriented business.

(f) The possession of weapons by any patron or customer on the premises of a sexually oriented business shall be prohibited. Notice of such prohibition shall be posted on the premises. No operator or employee shall knowingly allow a patron or customer on the premises of a sexually oriented business to have a weapon in his possession.

(g) No hotel, motel or similar commercial establishment may knowingly allow a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

Sec. 9-609. - Reports.

Any person operating or desiring to operate a sexually oriented business shall file a report with the codes department at least thirty days prior to the opening of the business and no later than November 1 of each year thereafter. The report shall be filed in triplicate with and dated by the codes department upon receipt. One copy of the dated report shall be returned to the operator and one copy shall be promptly provided to the police department. The report shall be upon a form provided by the codes department and shall include the following information, which shall be sworn by the operator to be true and correct under oath:

(1) The name under which the sexually oriented business is or will be operated.

(2) The location and all telephone numbers for the sexually oriented business.

(3) The type of sexually oriented business which is being or will be operated, using the terms included in the definition of "sexually oriented business" provided in this article, if applicable, and a complete description of all types of entertainment and services provided or to be provided by the business.

(4) If the operator is an individual, or for any individual who owns or will own at least a ten percent direct or beneficial interest in the business:

a. Legal name and any other names or aliases used by the individual.

b. Mailing address and residential address and telephone number.

c. Business address and telephone number.

d. A recent photograph of the individual.

e. Age, date and place of birth.

f. Height, weight, and hair and eye color.

g. Date, issuing state and number of the individual's driver's license or other state identification card information.

h. Social Security number.

i. Proof that the individual is at least 18 years of age.

j. The business, occupation or employment of the individual for five years immediately preceding the date of the report.

(5) If the operator is a partnership:

a. The partnership's complete name.

b. The names of all partners and the information required above for all individuals who own or will own at least a ten percent direct or beneficial interest in the business.

c. Whether the partnership is general or limited.

d. A copy of any printed partnership agreement.

(6) If the operator is a corporation:

a. The corporation's complete name, address and telephone number.

b. The date and state of incorporation.

c. The corporation's federal tax identification number.

d. Evidence that the corporation is in good standing under the laws of the state of incorporation.

e. The names and capacity of all officers, directors and principal stockholders and the information required above for all individuals who own or will own at least a ten percent direct or beneficial interest in the business.

f. The name and address of the registered corporate agent for service of process.

(7) The sexually oriented business or similar business history of the operator and of each individual listed under section 9-609(4) above, including:

a. The name and location of each sexually oriented business or similar business currently or previously owned or operated by such operator or individual.

b. If the operator or individual is or was a partner, officer, or director or holds or held at least a ten percent direct or beneficial interest in a partnership, corporation or other business entity which operates or operated or is or was majority owner of any sexually oriented business or similar business, the name and location of each such business and the owning or operating business entity.

c. Whether such operator or individual, has had any license or permit issued to a sexually oriented business or similar business denied, suspended or revoked.

d. The name and location of each sexually oriented business or similar business for which the license or permit was denied, suspended or revoked, and the dates and reasons for each such suspension or revocation.

(8) Whether the operator or any of the operator's officers or directors or any individual listed under section 9-609(4) above has a record of any "specified criminal activity" as defined in this article, and, if so, the "specified criminal activity" or activities involved and the date, place and jurisdiction of each.

(9) If the premises are leased or being purchased under contract, a copy of such lease or contract.

(10) A sketch or diagram showing the configuration of the premises, including the total amount of floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. The codes department may waive this requirement if the report adopts a sketch or diagram that was previously submitted and the operator certifies that the configuration of the premises has not been altered since it was prepared. This requirement does not excuse the operator from compliance with all other applicable requirements for approval of building plans.

(11) For the initial report, a current certificate and straight-line drawing prepared within 30 days prior to the filing of the report by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property of the business filing the report; the boundary lines of any residential zoning district within 1,000 feet of said property; and the property lines of any parcel which includes an established religious facility, child care or educational facility, public park or recreation area, family entertainment business, liquor store or residence within 1,000 feet of said property. For purposes of this section, a use shall be considered existing or established if it is in existence at the time a report is submitted.

(12) A signed statement by the operator that the operator is familiar with the provisions of this article and is and will continue to be in compliance therewith, provided that if the operator is not an individual, such statement shall be signed by each individual who owns or will own at least a ten percent direct or beneficial interest in the operator. (13) Any other reasonably available information determined by the city manager, codes department or police department to be necessary in determining whether the operator and the sexually oriented business meet the requirements of this article.

Sec. 9-610. - Inspections.

In order to effectuate the provisions of this article, the police department, codes department, city manager and/or his authorized representatives are empowered to:

(1) Conduct investigations of the premises of any sexually oriented business or any business believed by any of them to be a sexually oriented business at any time such business is occupied or open for business.

(2) Inspect all licenses and records of any sexually oriented business and its operators and employees for compliance with this article at any time such business is occupied or open for business.

(3) Conduct investigations of persons engaged or believed to be engaged in the operation of any sexually oriented business.

Sec. 9-611. - Applicability of state statutes.

The provisions of this article are not intended to supersede any obligations or requirements, including licensing requirements, imposed by state statute and shall be in addition thereto.

Sec. 9-612. - Violations.

(a) Each of the following acts and omissions shall be considered a civil offense against the city:

(1) Failure to file any report required under this article at the time required or submittal of false or misleading information or omission of any material facts in any report required under this article.

(2) Any operator, entertainer, or any employee of the operator, violates any provision of this article.

(3) Any operator, employee or entertainer denies access to the police department, codes department, fire department, city manager or his authorized representatives to any portion of the premises of the sexually oriented business at any time it is open for business.

(4) Any operator fails to maintain the premises of a sexually oriented business in a clean, sanitary and safe condition.

(b) Upon a second or subsequent violation by an operator, entertainer or employee of a sexually oriented business, of any part of this article, or of any state statute regarding nudity, sexually oriented businesses or adult entertainment, such business shall be deemed a nuisance and shall also be subject to an order of closure, and/or to cease and desist, by chancery court action seeking injunctive relief to enforce the provisions of this article, provided that such second or subsequent violation occurs after a conviction or plea of nolo contendere has been obtained for the previous such violation

Section 2. This ordinance shall take effect fifteen (15) days from and after its final passage, the public welfare requiring it.

MAYOR RUSTY TINNIN

Passed: _____

Passed: _____

CITY RECORDER

APPROVED AS TO LEGALITY AND FORM:

CITY ATTORNEY



AGENDA SUMMARY SHEET

Board of Commissioners City of Goodlettsville

<u>SUBJECT TITLE:</u> Resolution 21-983 A resolution approving a contract with the Tennessee Department of Transportation for traffic flow improvements and traffic signal upgrades (Phase III) as a part of the Congestion Mitigation and Air Quality Improvement program. <u>PRESENTED BY:</u> Tim Ellis, City Manager Jeff McCormick, Dir. Public Works	Agenda Item: Resolution 21-983 Dept. of Origin: Administration & Public Services For Agenda of: May 13, 2021 Originator: Tim Ellis Cost of Item: \$3,006,000.00 City Obligation: \$113,000.00 (3.75%)
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AGENDA ITEM ATTACHMENTS:

Resolution 21-983
TDOT Contract

SUMMARY STATEMENT:

A resolution approving a contract with the Tennessee Department of Transportation for traffic flow improvements and traffic signal upgrades (Phase III) as a part of the Congestion Mitigation and Air Quality Improvement program

FINANCIAL SUMMARY:

\$3,006,000.00 Total Contract.

\$113,000.00 City of Goodlettsville's share of cost (3.75% of Total Project Cost)

RECOMMENDED ACTION:

Staff recommends approval of Resolution **21-983**

RESOLUTION NO. 21-983

A RESOLUTION APPROVING A CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR TRAFFIC FLOW IMPROVEMENTS AND TRAFFIC SIGNAL UPGRADES (PHASE III) AS A PART OF THE CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

WHEREAS, it has been determined that certain traffic improvements are needed in the City of Goodlettsville; and

WHEREAS, The City has solicited and received a grant from the Tennessee Department of Transportation for traffic improvements along Conference Drive, Long Hollow Pike, and Main Street to Old Springfield Highway; and

WHEREAS, The execution of a contract for such grant funding is needed.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The City of Goodlettsville Board of Commissioners hereby approves the aforementioned contract. A copy of this contract is attached to this resolution.

Section 2. The mayor is hereby authorized to execute this contract and any other documents necessary to carry out the intent as provided herein.

THIS RESOLUTION IS EFFECTIVE UPON ADOPTION, THE WELFARE OF THE CITIZENS OF GOODLETTSVILLE REQUIRING IT.

MAYOR RUSTY TINNIN

Adopted: May 13, 2021

CITY RECORDER

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
PROGRAM DEVELOPMENT & ADMINISTRATION DIVISION
LOCAL PROGRAMS DEVELOPMENT OFFICE
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TN 37243-1402
(615) 741-5314

CLAY BRIGHT
COMMISSIONER

BILL LEE
GOVERNOR

April 23, 2021

The Honorable Rusty Tinnin
Mayor, City of Goodlettsville
105 South Main Street
Goodlettsville, TN 37072

Re: SR-174, (Long Hollow Pike), From Main Street East to Loretta Drive; Conference Drive, From Mission Ridge Drive North to Long Hollow Pike; SR-11 (US-31W, US-41, Main Street), From Memorial Drive to Old Springfield Pike
Goodlettsville, Davidson and Sumner County
PIN: 130749.00
Federal Project Number: CM-REG3(207)
State Project Number: 19LPLM-F3-179
Agreement Number: 200207

Dear Mayor Tinnin:

I am attaching a contract providing for the development of the referenced project. Please review the contract and advise me if it requires further explanation. If you find the contract satisfactory please execute it in accordance with all rules, regulations and laws, obtain the signature of the attorney for your agency, and return the contract to me. Once the contract is fully executed, we will send a copy to you for your records.

As you are aware, TDOT will provide reviews of your work during project development. To ensure that TDOT staff schedules adequate time for your project, we are asking that you provide the dates on which you will accomplish project activities. We've listed those activities in this letter. We realize your proposed dates are tentative and subject to change. We will check with you during project development to update project information. The charges for these reviews are noted on Exhibit A of this contract as TDOT ES (for TDOT Engineering Services).

Remember that activities for which you want reimbursement cannot proceed until you receive a Notice to Proceed (NTP) from this office. For those activities please provide an estimate of the number of weeks after the receipt of the NTP you will begin the activity. For all other activities, those for which you are providing the funding, or have an NTP, please provide a month and year estimate.

If you have any questions or need any additional information, please contact Simchah Edwards at 615-741-0805 or Simchah.Edwards@tn.gov.

Sincerely,

Kimery Grant
Transportation Manager 2

Attachment

Project Schedule

PIN _____

Activity
Month/Year

Begin NEPA Phase	___/___
Select Consultant	___/___
Submit Environmental Document to TDOT for Review	___/___
Begin Design Phase	___/___
Submit Preliminary Engineering Plans to TDOT for Review	___/___
Submit Right-of-Way Plans to TDOT for Review	___/___
Begin Right-of-Way acquisition if Applicable, and Utilities Coordination	___/___
Submit ROW, Utility and Railroad Estimates to TDOT	___/___
Submit Construction Plans to TDOT for Review	___/___
Submit Construction Estimate to TDOT for Review	___/___
Submit Bid Book and Advertisement to TDOT for Review	___/___
Advertise Project for Bids	___/___
Hold Bid Opening	___/___
Submit Bid Tabs to TDOT for Approval	___/___
Award Project	___/___
Hold Pre-Construction Conference	___/___

Date Completed_____

Agreement Number: 200207

Project Identification Number: 130749.00

Federal Project Number: CM-REG3(207)

State Project Number: 19LPLM-F3-179

State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT 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 GOODLETTSVILLE (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:

"SR-174, (Long Hollow Pike), From Main Street East to Loretta Drive; Conference Drive, From Mission Ridge Drive North to Long Hollow Pike; SR-11 (US-31W, US-41, Main Street), From Memorial Drive to Old Springfield Pike"

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 Agency or Project.
Environmental Clearance by:	AGENCY	PROJECT
Preliminary Engineering by:	AGENCY	PROJECT

Right-of-Way by:	AGENCY	AGENCY
Utility Coordination by:	AGENCY	AGENCY
Construction by:	AGENCY	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) This Agreement shall be effective from the period beginning on the fully executed date, and ending **four (4) years from the fully executed date**. The Agency shall provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase by **two (2) years from the fully executed date**. If the Agency does not provide the Department with the documents, certifications and clearances necessary to obtain the Department's Notice to Proceed to the Construction Phase by the aforesaid date, then the Department may terminate this Agreement. If the Agency does not complete the herein described phases of the Project within the 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. The Agency hereby acknowledges and affirms that the Department shall have no obligation for Agency services or expenditures that were not completed within this specified contract period.

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.
- 4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
- 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 its 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:

Amount		Open to Public and Vehicular Traffic
\$1.00 - \$200,000	=	5 Years
>\$200,000 - \$500,000	=	10 Years
>\$500,000 - \$1,000,000	=	20 Years

- 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.

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 GOODLETTSVILLE

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

By: _____ By: _____
Rusty Tinnin **Date** **Clay Bright** **Date**
Mayor **Commissioner**

**APPROVED AS TO
FORM AND LEGALITY**

**APPROVED AS TO
FORM AND LEGALITY**

By: _____ By: _____
Russell Freeman **Date** **John Reinbold** **Date**
Attorney **General Counsel**

EXHIBIT "A"

AGREEMENT #: 200207

PROJECT IDENTIFICATION #: 130749.00

FEDERAL PROJECT #: CM-REG3(207)

STATE PROJECT #: 19LPLM-F3-179

PROJECT DESCRIPTION: SR-174, (Long Hollow Pike), From Main Street East to Loretta Drive; Conference Drive, From Mission Ridge Drive North to Long Hollow Pike; SR-11 (US-31W, US-41, Main Street), From Memorial Drive to Old Springfield Pike - 2019 CMAQ Award. This project will include traffic signal infrastructure upgrades and signal coordination along SR-174 (Long Hollow Pike), Conference Drive, and SR-11 (US-31W, US-41, Main Street). Traffic adaptive technology will be installed at all the signals along Long Hollow Pike. Three intersections along Long Hollow Pike (I-65 SB Ramps, I-65 NB Ramps, and Caldwell Drive) will be reconstructed to include mast arms. A new traffic signal with mast arms will be installed at the intersection of southbound Conference at Vietnam Veterans Boulevard WB Ramp. Other improvements, which varies by intersection, include flashing yellow arrows, new cabinets, video detection, wireless communications, and ADA improvements.

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

TYPE OF WORK: Signalization

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-NEPA	CMAQ	100	0	0	\$181,000.00
PE-DESIGN	CMAQ	100	0	0	\$100,000.00
CONSTRUCTION	CMAQ	100	0	0	\$1,910,250.00
CONSTRUCTION	CMAQ	80	0	20	\$515,000.00
CEI	CMAQ	100	0	0	\$272,500.00
TDOT ES	CMAQ	100	0	0	\$27,250.00

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds following expenditure the most recently approved TIP cost or if the use of said federal funds is ruled ineligible at any time by the Federal Highway Administration.

TDOT ENGINEERING SERVICES (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to insure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction Inspection and Material and Testing Expenses (Quality Assurance Testing).

LEGISLATIVE AUTHORITY: CMAQ: 23 U.S.C.A., Section 149, Congestion Mitigation and Air Quality Improvement Program funds allocated or subject to allocation to the Agency.

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.