

KINGSTON CITY COUNCIL PUBLIC HEARING
TUESDAY, AUGUST 8, 2023 – 5:45 P.M.
KINGSTON CITY HALL

The Kingston City Council held a Public Hearing on Tuesday, August 8, 2023 at 5:45 p.m. Mayor Neal called the Hearing to Order. City Council Members present include Council Member Philip Bredwell, Council Member Randy Childs, Council Member Tommy Guinn, Council Member Lucy Johnson, Council Member Stephanie Wright and Mayor Tim Neal. Staff present: City Manager David Bolling, City Clerk Kelly Jackson, Finance Director Michelle Kelley, City Attorney Andrew Thompson and Utility Director Kevin Hamilton (5:52PM). Others present include Dawn Carlock (Roane Alliance), Mr. & Mrs. Tim Shirran, BBB Communications staff Dudley Evans (5:55PM), Roane County News Damon Lawrence (5:55PM), Beverly Heilman, Nancy Hamilton (5:56PM), Linda Wolfenbarger, Sue Collins and William Wilson.

The hearing was for the purpose of:

Consideration of Ordinance 23-07-11-01, an ordinance amending the zoning map of the City of Kingston, Tennessee by rezoning property from R-2 residential district to C-2 highway business district (Roane County Tax Map 058K, Group G, Parcel 013.00)

Mayor Neal made two announcements inquiring if anyone wished to address Council regarding the above-listed Ordinance. Mayor Neal adjourned the Public Hearing at 6:00 P.M. after seeing there was no one present that wished to address Council regarding this ordinance.

REGULAR MEETING KINGSTON CITY COUNCIL
TUESDAY, AUGUST 8, 2023 – 6:00 P.M.
KINGSTON CITY HALL

The Kingston City Council met in regular session on Tuesday, August 8, 2023 at 6:00 P.M. Mayor Tim Neal called the meeting to order. Council Member Tommy Guinn gave the Invocation and Council Member Lucy Johnson led the pledge. Upon roll call the following members were present: Council Member Philip Bredwell, Council Member Randy Childs, Council Member Tommy Guinn, Council Member Lucy Johnson, Council Member Stephanie Wright, and Mayor Tim Neal. Staff present: City Manager David Bolling, City Clerk Kelly Jackson, Finance Director Michelle Kelley, City Attorney Andrew Thompson and Utility Director Kevin Hamilton. Vice-Mayor Tony Brown was absent.

APPROVAL OF PREVIOUS MINUTES

A motion was made by Member Guinn, second by Member Wright to waive the reading and approve as written the minutes of the Public Hearing/Regular Meeting on July 11, 2023.

The motion passed with a unanimous roll call vote. 6 Ayes.

CITIZEN COMMENTS/PERSONS TO APPEAR/PROCLAMATIONS

- Dawn Carlock (Roane Alliance) updated council on recent events and upcoming events. Complimented the Kingston Police and Fire Departments during National Night Out. She mentioned the new tourism cards to promote local businesses. She announced an upcoming charity softball tournament and hopes a team will be formed from each city to participate on November 4th. She also explained the upcoming “Roane Taste of Holidays” event.
- Matt Caldwell addressed council and gave a brief update on the Dollar Tree project and advised he forwarded the paving quotes. (City Manager Bolling stated we could add this to the September work session meeting)

REPORTS-MAYOR AND COUNCIL-

- Member Bredwell-No additional comments
- Member Brown-Absent
- Member Childs-Commented on REU’s work to restore power following the recent storms.
- Member Guinn-No additional comments.
- Member Johnson-No additional comments.
- Member Wright-Advised that the Tennessee Riverline has approached us about a concept plan that they will present to the public on September 29th and she would like feedback on that project.
- Mayor Neal- No additional comments

REPORTS-CITY MANAGER’S REPORT

- Commended City Personnel for their hard-working cleaning up after the recent storms.
- Received a proposal from Ardurra for professional services for the ARC project at Ladd Park. It has been vetted and meets the requirements. This will be ready for next month’s agenda for approval to proceed.
- Have a conference call tomorrow with the officials from BASSMASTER to continue planning for the upcoming tournament in September
- We are in the process of updating our 5-year capital plans which we plan to have complete by November 1st.
- The new school zone light for Cherokee Middle will be installed next week.
- Planning future facilities tour this year for Council Members. Possible dates of October 6th or 13th.

ADDITION OF ITEMS TO THE MEETING AGENDA RECEIVED AFTER CLOSE OF AGENDA DEADLINE (BY UNANIMOUS CONSENT OF ALL MEMBERS PRESENT. - NONE

UNFINISHED BUSINESS:

- A. **Consideration of the second and final reading of Ordinance 23-07-11-01, an ordinance amending the zoning map of the City of Kingston, Tennessee by rezoning property from R-2 residential district to C-2 highway business district (Roane County Tax Map 058K, Group G, Parcel 013.00)**

A motion was made by Member Wright, second by Member Guinn to approve the second and final reading of Ordinance 23-07-11-01, an ordinance amending the zoning map of the City of Kingston, Tennessee by rezoning property from R-2 residential district to C-2 highway business district (Roane County Tax Map 058K, Group G, Parcel 013.00)

The motion passed with a unanimous roll call vote. 6 Ayes.

NEW BUSINESS:

A. Consideration of Resolution 23-08-08-01, a resolution authorizing continuous records disposition based upon current records retention schedules.

A motion was made by Member Guinn, second by Member Bredwell to adopt Resolution 23-08-08-01, a resolution authorizing continuous records disposition based upon current records retention schedules

The motion passed with a unanimous roll call vote. 6 Ayes.

B. Consideration to authorize the Mayor to enter in to an agreement with Rockwood Electric Utility for the replacement of lights at Exit 352 in an amount not to exceed \$150,000.

A motion was made by Member Childs, second by Member Johnson to authorize the Mayor to enter in to an agreement with Rockwood Electric Utility for the replacement of lights at Exit 352 in an amount not to exceed \$150,000.

The motion passed with a unanimous roll call vote. 6 Ayes.

C. Consideration to authorize the placement of a Safe Haven Baby Box at fire station 1

A motion was made by Member Guinn, second by Member Wright to authorize the placement of a Safe Haven Baby Box at fire station 1

The motion passed with a unanimous roll call vote. 6 Ayes.

Mayor Neal adjourned the meeting at 6:15 pm

APPROVED September 12, 2023



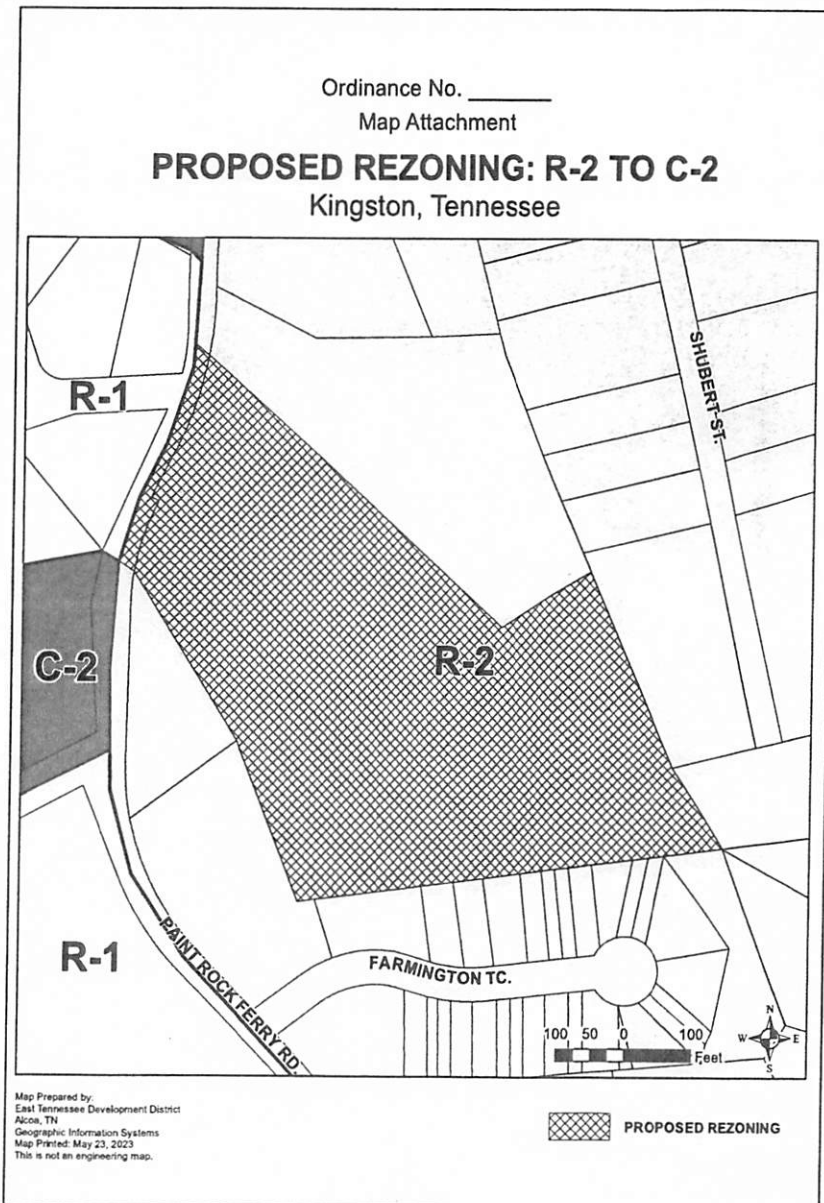
Tim Neal, Mayor

ATTEST:


City Clerk

NOTICE OF PUBLIC HEARING CITY OF KINGSTON, TENNESSEE PROPOSED ORDINANCE TO REZONE PROPERTY

The Kingston City Council will hold a public hearing at 5:45 p.m. on Tuesday, August 8, 2023 at the second floor of the Kingston City Office Building, 900 Waterford Place. The purpose of the hearing will be to receive comments from the public regarding proposed Ordinance 23-07-11-01, which if adopted, will rezone one lot located on Paint Rock Ferry Road - (Roane County tax map 058K, Group C, Parcel 013.00) from R-2, Residential District to C-2, Highway Business District. Three copies of the proposed ordinance are available for public inspection at the office of the City Manager, second floor of the Kingston City Office Building.



Public Hearing

TUESDAY, AUGUST 8, 2023 (5:45pm-6:00pm)

Ordinance 23-07-11-01

An Ordinance amending the zoning map of the City of Kingston, Tennessee by rezoning property from R-2 residential district to C-2 highway business district (Roane County Tax Map 058K, Group G, Parcel 013.00

SIGN IN SHEET

PLEASE PRINT NAME/ADDRESS

NAME _____

ADDRESS

[illegible]

ORDINANCE NO. 23-07-11-01

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF KINGSTON, TENNESSEE BY REZONING PROPERTY FROM R-2, RESIDENTIAL DISTRICT TO C-2, HIGHWAY BUSINESS DISTRICT, ROANE COUNTY TAX MAP 058K, GROUP G, PARCEL 013.00

WHEREAS, the City Council of the City of Kingston, in accordance with Sections 13-7-203 and 13-7-204 of the Tennessee Code Annotated, may amend the zoning ordinance and zoning map; and,

WHEREAS, on June 20, 2023, the Kingston Municipal Planning Commission recommended that the zoning map be amended by rezoning the property described below from R-2, residential district to C-2, highway business district.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kingston, Tennessee that:

Section 1. The Zoning Map of the City of Kingston is hereby amended by rezoning Tax Map 058K, Group G, Parcel 013.00, as shown on the attached map, from R-2, Residential District to C-2, Highway Business District.

Section 2. This ordinance shall take effect upon final passage, the public welfare requiring it.

Passed on first reading: July 11, 2023

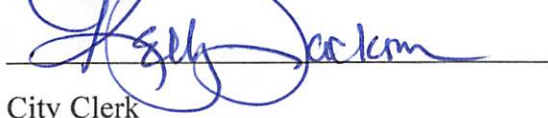
Passed on second reading: August 8, 2023

Public hearing held: August 8, 2023



Mayor

ATTEST:

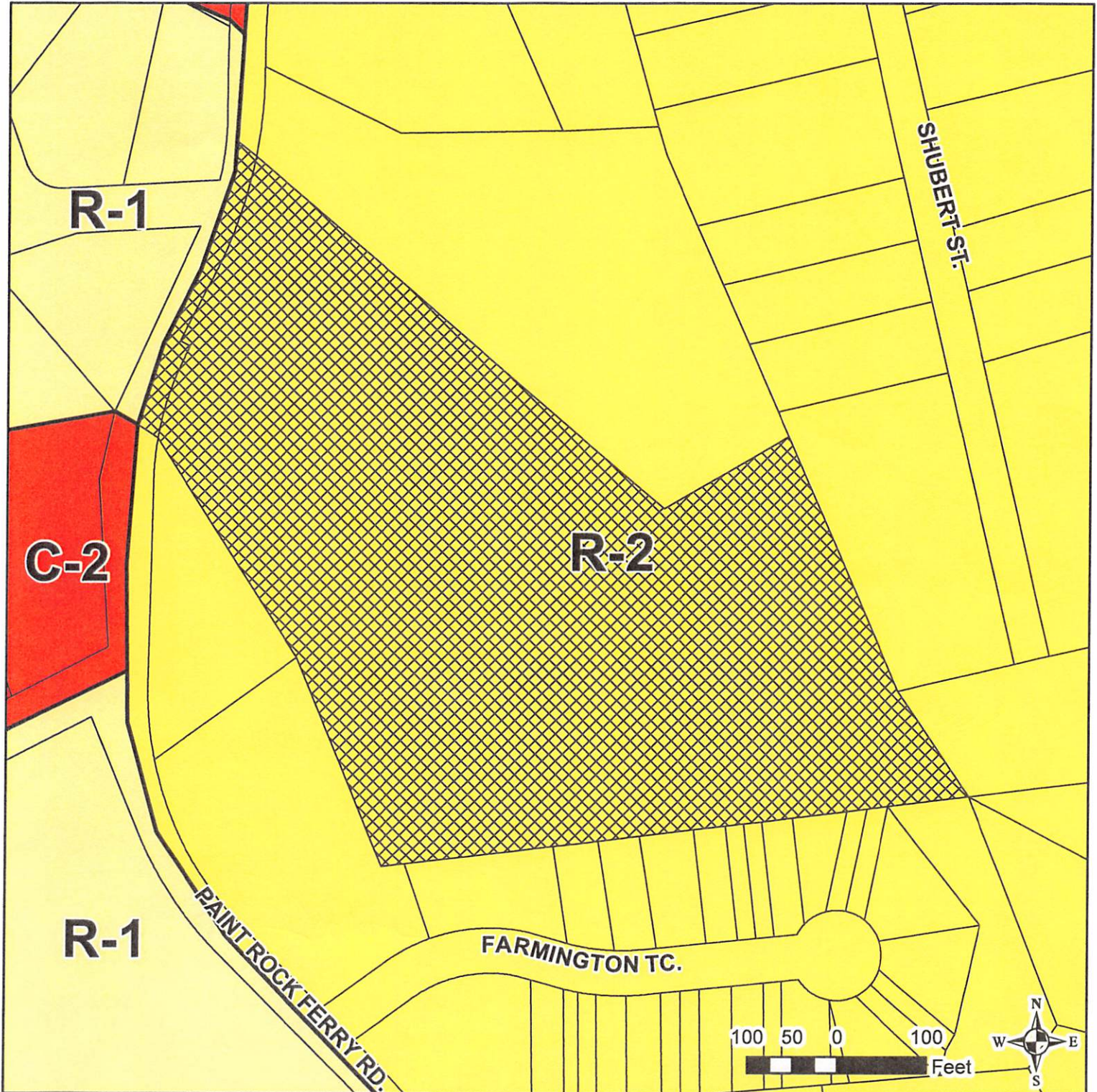

City Clerk

Ordinance No. 23-07-11-01

Map Attachment

PROPOSED REZONING: R-2 TO C-2

Kingston, Tennessee



Map Prepared by:
East Tennessee Development District
Alcoa, TN
Geographic Information Systems
Map Printed: May 23, 2023
This is not an engineering map.



PROPOSED REZONING



August 9, 2023

Molly Hartup
Roane County Assessor of Property
200 East Race Street, Suite 5
Kingston, TN 37763

Glen Cofer
Roane County Building Codes/Zoning Office
308 N. Third St.
Kingston, TN 37763

Timothy Shirran
1560 River Road
Kingston, TN 37763

Re: ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF KINGSTON, TENNESSEE BY REZONING
PROPERTY LOCATED AT ROANE COUNTY TAX MAP 058K, GROUP G, PARCEL 013.00 FROM R-2,
RESIDENTIAL DISTRICT TO C-2, HIGHWAY BUSINESS DISTRICT.

Greetings:

Enclosed please find a copy of an Ordinance rezoning the above-described property, together with a copy of the map
attachment for the above-described property which ordinance and map were adopted on second reading on August 8,
2023 at the regular meeting of the Kingston City Council following a public hearing as required by law.

Sincerely,

A blue ink signature of David L. Bolling, written in a cursive style. The signature is positioned above the printed name and title of the City Manager.

David L. Bolling
City Manager

Enclosures: Ordinance # 23-07-11-01

RESOLUTION 23-08-08-01

A RESOLUTION AUTHORIZING CONTINUOUS RECORDS DISPOSITION BASED UPON CURRENT RECORDS RETENTION SCHEDULES

WHEREAS, pursuant to Tennessee Code Annotated Title 10 Chapter 7 which defines Public Records and Retention schedules and,

WHEREAS, the City of Kingston adopted the records retention schedule as set forth by Municipal Technical Advisory Service and,

WHEREAS, the City of Kingston desires the authorization to destroy applicable records in accordance with the MTAS retention schedule on a continual basis in accordance with the current schedule.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Kingston, authorizes continuous records disposition based upon current MTAS records retention schedules.

ADOPTED, this 8th day of August, 2023.



Mayor Timothy Neal

Attest:



City Clerk

SPECIAL LIGHTING AGREEMENT

BETWEEN

**CUSTOMER: CITY OF KINGSTON
 900 WATERFORD PLACE
 SUITE 200
 KINGSTON, TN 37763**

**DISTRIBUTOR: ROCKWOOD ELECTRIC UTILITY
 341 W. ROCKWOOD STREET
 ROCKWOOD, TN 37854**

THIS AGREEMENT, made and entered into this 24th day of August, 2023, by and between Rockwood Electric Utility (hereinafter called "DISTRIBUTOR"), a municipal corporation duly created, organized, and existing under and by virtue of the laws of the State of Tennessee, acting by and through THE ELECTRIC POWER BOARD OF ROCKWOOD; ROCKWOOD, TN; and City of Kingston (hereinafter called "CUSTOMER"):

WITNESSETH

WHEREAS, DISTRIBUTOR currently owns and operates a street lighting system for the City of Kingston ("CUSTOMER") which also includes 60 fixtures along I-40 at Exit 352, including off- and on-ramps; Rockwood Electric Utility Customer Location/Account Number 208828-108905.

WHEREAS, CUSTOMER wishes for DISTRIBUTOR to replace the lighting fixtures at I-40 Exit 352 with new LED fixtures generally described as Holophane Mongoose Medium LED offset roadway fixtures.

WHEREAS, DISTRIBUTOR and CUSTOMER wish to agree upon the terms and conditions under which costs can be recovered by DISTRIBUTOR from CUSTOMER for infrastructure and lighting caused to be installed and paid for by the DISTRIBUTOR;

WHEREAS, the Tennessee Valley Authority (TVA) is the regulatory authority for the DISTRIBUTOR and the parties intend to comply with TVA's requirements;

NOW, THEREFORE, and in consideration of the premises and mutual covenants set forth, the parties hereto covenant, confirm, and agree as follows:

1.0 DISTRIBUTOR will purchase a total of sixty (60) LED fixtures plus applicable spares as designated by CUSTOMER at the estimated cost of \$945.00 per fixture per the attached Quotation #2420-23-10672-6 dated 7/20/2023 attached as Exhibit "A". CUSTOMER agrees to refund DISTRIBUTOR upon being billed to repay DISTRIBUTOR's total cost for purchasing the lighting fixtures.

2.0 DISTRIBUTOR agrees to facilitate the replacement of the fixtures and repairs to damaged infrastructure per its proposal to the City of Kingston dated July 28, 2023 which is attached as Exhibit "B". CUSTOMER agrees to refund DISTRIBUTOR upon being billed to repay DISTRIBUTOR's cost for the labor and materials.

3.0 CUSTOMER agrees to pay for energy consumed by these lights according to the rates set forth in TVA's Schedule LS for Outdoor Lighting as it currently exists or as it may be amended in the future. CUSTOMER agrees to pay DISTRIBUTOR each month to cover the cost of energy consumed by these lights. CUSTOMER agrees to pay any future amended rates set forth in TVA's Schedule LS for Outdoor Lighting.

4.0 DISTRIBUTOR shall invoice CUSTOMER on a monthly basis as part of its normal billing cycle. All statements shall be submitted to the following address. CUSTOMER may elect to change the mailing address at any time by notifying DISTRIBUTOR.

**City of Kingston
Attn: Accounts Payable
900 Waterford Place
Suite 200
Kingston, TN 37763**

5.0 This Agreement shall inure to the benefit of and be binding upon the respective successors, legal representatives and assigns of the parties hereto, but is not assignable by the CUSTOMER without the express written consent of the DISTRIBUTOR.

6.0 The CUSTOMER and DISTRIBUTOR have mutually agreed to the location of all poles, fixtures and other associated infrastructure. If, at any time during, or after these facilities are installed, the CUSTOMER wishes to relocate them for any reason, the DISTRIBUTOR will estimate the cost of such relocation and the CUSTOMER agrees to pay this estimated cost before the relocations are made. If the actual costs significantly exceed the estimated costs, the CUSTOMER agrees to pay the DISTRIBUTOR these cost overruns upon receipt of an invoice from the DISTRIBUTOR. Likewise, if the actual costs of relocation are significantly less than the estimated costs, the DISTRIBUTOR agrees to refund the excess amounts collected back to the CUSTOMER.

7.0 Upon completion of the work, the entire lighting system will be owned by the DISTRIBUTOR.

8.0 CUSTOMER shall contact DISTRIBUTOR via phone, e-mail, or other acceptable means for requesting work associated with operation, maintenance, additions, removals, or changes to the system after installation. The CUSTOMER shall reimburse the DISTRIBUTOR all material costs, including appropriate stores expenses, labor costs, including appropriate overheads, and transportation costs for future work on the lighting system.

IN WITNESS THEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representatives, and to the day and year first above written.

DISTRIBUTOR: ROCKWOOD ELECTRIC UTILITY

BY: Kendall D. Bear

TITLE: General Manager

CUSTOMER: CITY OF KINGSTON

BY: Jimmy Neal

TITLE: Mayor

State of Tennessee
County of Roane

Before me, a Notary Public of the State and County aforesaid, personally appeared Kendall D. Bear, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the General Manager of Rockwood Electric Utility, an arm of the City of Rockwood, Tennessee, a municipal corporation, the within named bargainer, and that he as such Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Manager.

Witness my hand and official seal at office this 24th day of August, 2023.

Angela R Wampler
Notary Public

My commission expires: 4-18-26
State of Tennessee
County of Roane



Personally appeared before me, a Notary Public in and for said county, the within named bargainer,
Tim Neal, with whom I am personally acquainted, and who
acknowledged that they executed the within instrument for the purposes therein contained.

Witness my hand and official seal at office this 25 day of August
2023.

Kelly O. Jackson
Notary Public



My commission expires: April 26, 2027

My Commission Expires 4/27/27

LEASE AND SERVICE AGREEMENT

THIS LEASE AND SERVICE AGREEMENT ("Agreement") is made and entered into effect as of August 8, 2023 by and between Safe Haven Baby Boxes, Inc., an Indiana nonprofit corporation, ("SHBB") and the City of Kingston ("Provider").

RECITALS

WHEREAS, SHBB is a nonprofit educational organization that provides information and services related to child welfare, safe haven laws, initiation and implementation of newborn safety devices ("Safety Device"), and awareness related to preventing child abandonment.

WHEREAS, Tennessee Code §68-11-255, *et al* (the "Safe Haven Laws"), provides certain protections to local hospitals, EMS facilities, fire departments, and law enforcement facilities that install a newborn safety device (the "Safety Device");

WHEREAS, Provider desires to install a Safety Device on Provider's premises pursuant to the Safe Haven Laws; and

WHEREAS, SHBB is agreeable to placing a Safety Device to the Provider's premises and undertaking certain services in relation thereto;

WHEREAS, Provider has consulted its legal, financial and insurance related advisors and has confirmed that its location and operation is acceptable under the laws and regulations of its jurisdiction for the placement of a Safety Device.

NOW, THEREFORE, for and in consideration of the mutual terms and premises contained herein and for other good and valuable consideration, the parties agree as follows:

Section 1. Installation. SHBB shall provide to Provider one (1) Safety Device for installation by Provider on the premises located at 125 West Cumberland Street, Kingston, TN. Delivery of the Safety Device shall be the expense of the Provider. SHBB has the option at any time to oversee the installation of the Safety Device and advise as to installation on the appropriate placement to maximize awareness and implementation of its educational objectives as set forth in this Agreement. SHBB and Provider agree to cooperate with respect to the appropriate third-party contractors for the placement of the Safety Device and to ensure that such third-party has the appropriate skill and knowledge for constructing improvements to Provider's facility. Provider is to pay for all installation costs and expenses for labor and/or materials. Provider is responsible for compliance with all applicable federal, state, and municipal or local laws, rules, and regulations and all laws, rules, and regulations pertaining to permitting requirements for the installation of the Safety Device. Provider agrees to abide by the policies and procedures for installation as outlined in Exhibit "A" (the "Policies and Procedures") of this Agreement, which is hereby made a substantive part of this Agreement by reference.

Section 2. Services by SHBB. SHBB shall provide annual services related to the performance of this Agreement. Such services shall include: (1) providing educational materials to Provider and policies and procedures relating to the maintenance of the Safety Device to Provider; (2) operating a toll-free phone number for the general public to utilize in emergency situations involving abandoned children or issues related thereto; (3) educating emergency services personnel related to the use of the Safety Device; (4) providing educational information to the general public regarding the location and awareness of the Safety Device at the Provider's facility as well as other educational resources related to child welfare advocacy and safe haven law awareness; (5) provide at minimum annual inspection and maintenance on the Safety Device; and (6) Will exclusively repair or replace parts if/when the Safety Device is malfunctioning at expense of Provider as set forth under Section 4 of this Agreement and as otherwise provided in this Agreement (collectively the "Services").

Section 3. Lease and Service Term. The term of this Agreement shall be for five (5) years ("Term") and shall renew for successive five (5) year terms upon the mutual agreement of terms, fees, and conditions or unless terminated in accordance with Section 9, below or as otherwise agreed to by the parties

Section 4. Consideration. In consideration for leasing the Safety Device and providing the Services described under Sections 1 and 2 above, Provider agrees to pay SHBB an initial fee of Eleven Thousand and 00/100 Dollars (\$11,000.00), unless otherwise agreed to by the Parties under Section 3 of this Agreement. Provider shall pay a renewal fee of Five Hundred and 00/100 Dollars (\$500.00) for each successive Term under this agreement, due within thirty (30) days of the start of each successive Term. Additionally, Provider shall pay an annual fee of Three Hundred and 00/100 Dollars (\$300.00) and other associated expenses as determined from time to time by SHBB on January 1 of every year that this Agreement is in force. The foregoing fees and expenses include but are not limited to the services and expenses listed in the Services, Fees, and Expenses Schedule attached hereto as Exhibit "B".

Section 5. Obligations of Provider. In addition to any and all other obligations of the Provider set forth herein, Provider agrees to follow all policies and procedures provided by SHBB which may change from time to time. SHBB shall provide thirty (30) days' prior Notice to Provider. Such policies and procedures are included as Exhibit A to this Agreement and, by way of Provider's signature hereto, shall evidence Provider's acknowledgement and receipt of the Policies and Procedures. Provider agrees to maintain the Safety Device in good working order, the costs of which are to be borne by Provider. Provider agrees to not change, add to, subtract from, alter, rebrand, or otherwise modify the Safety Device and accompanying signage as set forth in Exhibit A in any manner whatsoever without the prior written approval of SHBB. Provider agrees to use best efforts to prevent any third parties from adding to, subtracting from, altering, rebranding, or otherwise modifying the Safety Device and accompanying materials/signage as set forth in Exhibit A in any manner whatsoever without prior written approval by SHBB. Provider agrees to immediately

notify SHBB of any modification to the Safety Device. Provider agrees to accept complete liability for any and all unapproved modifications to the Safety Device and any and all unapproved modifications to accompanying parts of the Safety Device, including required signage/materials. Provider agrees to accept complete liability for modifications to the Safety Device which are the result of its own actions, omissions, and/or failure to use best efforts to maintain the Safety Device in good working order or best efforts to prevent any modifications to the Safety Device by a third party. Provider shall refer to the Safety Device as a "Safe Haven Baby Box". Further, Provider shall procure and maintain a twenty-four (24) hour alarm monitoring of the Safety Device at all times and shall confirm with SHBB that such service is acceptable. Should alarm monitoring service be disconnected for any reason, Provider shall immediately notify SHBB and shall secure the Safety Device by locking its exterior door and removing all signage and materials related to its use and functionality. SHBB may, but is not required to, inspect the Safety Device at any time, including, but not limited to: to ensure that it is in good working order, to ensure proper branding and signage is being displayed, and to conduct tests related to its functionality and monitoring and alarm systems.

IT IS IMPERATIVE THAT ANY MALFUNCTION IDENTIFIED WITH RESPECT TO THE SAFETY DEVICE OR ANY DISCONNECTION IN THE SAFETY DEVICE MONITORING SYSTEM RESULT IN THE IMMEDIATE SECURING AND LOCKING OF THE SAFETY DEVICE SO THAT IT MAY NOT BE USED BY THE PUBLIC DURING THIS TIME PERIOD. FAILURE TO DO SO MAY RESULT IN A THREAT OF BODILY HARM OR DEATH TO AN INFANT PLACED IN THE SAFETY DEVICE DURING ANY PERIOD OF TIME IN WHICH THE SAFETY DEVICE IS MALFUNCTIONING OR NOT.

Section 6. Representations and Warranties.

- A. Representations & Warranties of Provider. Provider represents and warrants that the undersigned is a duly acting and authorized agent of Provider who is empowered to execute this Agreement with full authority of Provider. Further, Provider has undertaken a reasonable investigation into the laws and regulations governing the jurisdiction with which it intends to place the Safety Device and has confirmed that such placement and administration of the Safety Device does not violate any provision of any law, ordinance, governmental regulation, court order or other similar governmental controls.
- B. Representations & Warranties of SHBB. SHBB represents and warrants that the undersigned is a duly acting and authorized agent of SHBB who is empowered to execute this Agreement with full authority of SHBB. Further, SHBB has full ownership of the Safety Device.

SHBB REPRESENTS THAT THE SAFETY DEVICE IS NOT A MEDICAL DEVICE AND HAS CONFIRMED SUCH WITH THE FOOD AND DRUG ADMINISTRATION. SHBB REPRESENTS THAT THE SAFETY DEVICE IS NOT INTENDED AS A CONSUMER PRODUCT AND THUS IS NOT REGISTERED WITH THE CONSUMER PRODUCT SAFETY COMMISSION. SHBB FURTHER REPRESENTS THAT THE SAFETY DEVICE IS NOT REGISTERED WITH THE FEDERAL TRADE COMMISSION AND/OR THE FEDERAL COMMUNICATIONS COMMISSION. SHBB REPRESENTS THAT THE SAFETY DEVICE IS NOT TESTED BY NATIONALLY RECOGNIZED TESTING LABORATORIES PROGRAM.

Section 7. Insurance. Provider agrees to procure and maintain in full force and effect at all times during the Term of this Agreement and any renewals thereof, at its own cost and expense, a policy or policies of comprehensive commercial general liability insurance on an occurrence basis, in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate and a \$2,000,000 limit umbrella coverage related to the Safety Device's placement and operation in or about Provider's facility against all loss, damage or liability for personal injury or death of any person or loss or damage to property occurring in upon or about the Safety Device during the Term of this Agreement and all extensions thereof. This insurance policy shall not be a separate policy solely because of this Agreement but, rather, will be part of the City of Kingston's master general liability and umbrella policies. SHBB's liability as to the Safety Device in relation to the Provider under this Agreement is covered under [City of Kingston's master general liability and umbrella policies.

Section 8. Termination. Provider may terminate this Agreement upon sixty (60) days prior written notice from Provider to SHBB. SHBB may terminate this Agreement for any reason specified under Section 10, below. At the point of termination of this Agreement, Provider shall secure and lock the Safety Device and remove all signage provided by SHBB. Provider shall place new visible signage denoting that the Safety Device is not functional and that any person desiring to utilize the Safety Device should instead contact emergency services. If Provider removes the Safety Device, then it shall make arrangements with SHBB for its conveyance or retrieval to SHBB. SHBB shall not be obligated to remove the Safety Device; however, at any time after this Agreement has terminated, SHBB may, at its sole discretion, notify Provider that it intends to remove and recover the Safety Device. Under such circumstances, Provider agrees to cooperate with SHBB in the retrieval of the Safety Device, the expenses of which shall be borne by SHBB, so long as expenses do not exceed \$500 and unless the termination of this Agreement was under Section 10, below, in which case the costs hereunder shall be borne by Provider.

Section 9. Remedies.

A. Option to Cure. Any uncured breach of this Agreement by Provider shall give SHBB the option of immediately terminating this Agreement and retrieving the Safety Device from Provider's facility at Provider's own cost and expense. If Provider is notified by SHBB that the Safety Device is not properly functional or lacks monitoring required by this Agreement, then SHBB may order the Safety Device secured and locked until further inspection. Provider shall have thirty (30) days to cure any lack of monitoring or improper functioning of the Safety Device, such time may be extended by any delay attributable to SHBB. If Provider does not cure any lack of monitoring or improper functioning of the Safety Device within the initial thirty (30) day period upon SHBB's review and report, Provider may have an additional thirty (30) days to cure any breach. If Provider fails to cure any breach of this Agreement after two attempts to cure as set forth above, SHBB may terminate this Agreement if it concludes in its sole discretion that Provider has not upheld its obligations under this Agreement. Any breach of this Agreement by Provider which has not been cured by Provider within thirty (30) days after notice received from SHBB shall give SHBB the option of terminating this Agreement and retrieving the Safety Device from Provider's facility at Provider's own cost and expense.

B. Attorneys' fees. Attorneys' fees, costs and expenses, shall be awarded to the prevailing party for any dispute relating to or arising from this Agreement.

Section 10. Ownership of Safety Device. Provider agrees and acknowledges that ownership of the Safety Device remains with SHBB and this Agreement is merely a services and lease agreement. Provider shall not sell or otherwise transfer the Safety Device during or after the term of this Agreement without the specific written consent of SHBB.

Section 11. Disclaimer and Limitation of Warranties.

SHBB IS NOT THE MANUFACTURER OF THE SAFETY DEVICE AND MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, MERCHANTABILITY, CONDITION, QUALITY, PERFORMANCE OR NON-INFRINGEMENT OF THE SAFETY DEVICE. WITH RESPECT TO SAFETY DEVICE, PROVIDER ACCEPTS IT "AS IS." THE SAFETY DEVICE SHALL BE SUBJECT TO ANY WARRANTIES PROVIDED TO PROVIDER BY THE SAFETY DEVICE MANUFACTURER AND/OR AVAILABLE BY THE SAFETY DEVICE'S COMPOSITE PARTS.

SHBB neither assumes nor authorizes any other person associated or related by legal right, corporate entity, governmental entity, or any other entity associated or related by legal right to assume for it, or any other liability in connection with the lease of

the Safety Device. There are no warranties which extend beyond the terms of this Agreement, unless otherwise stated or provided for herein or by law via preemption. These warranties shall not apply to the Safety Device or improvements, restoration, repair, remodel, modifications, and/or any other construction work on the Safety Device, related to the Safety Device, or any other part thereof which has been subject to accident, negligence, alteration, abuse or misuse. SHBB makes no warranty whatsoever with respect to accessories or parts not supplied by it.

Section 12. Miscellaneous.

- A. Notice. Notice is effective when made in writing and sent to the parties' addresses or by email. Notice will be considered given as of the date of mailing.

SHBB Notice shall be given to:

Safe Haven Baby Boxes
Attn: Monica Kelsey
P.O. Box 185
Woodburn, IN 46797

Provider Notice shall be given to:

City of Kingston
Attn: Tim Neal, Mayor
900 Waterford Place
Kingston, TN 37763

- B. Assignability. This Agreement is binding and benefits the successors and assignees of the Provider, which includes any entity with which the Provider may merge or consolidate, or to which it may transfer substantially all of its assets or equity interests. Provider shall not transfer or assign this Agreement, however, without the specific written consent of SHBB, which consent shall not be unreasonably withheld.

- C. Governing Law/Jurisdiction. The validity, interpretation, construction, and performance of this Agreement shall be governed by the laws of Indiana and Indiana courts. Each Party waives, to the fullest extent it may legally and effectively do so, any objection which it may now or subsequently have to the laying of venue of any claim or dispute at law or equity arising out of or relating to this Agreement or the transactions contemplated by it in any Indiana court in Allen County, State of Indiana, United States of America. Parties agree that any and all claims of any kind arising out of and relating to this Agreement if brought in a Court shall be brought in a court in Allen County, State of Indiana, United States of America. Each party


waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. Each party agrees and acknowledges that any term not defined herein shall be construed to have its every-day, contextual meaning as defined in the latest editions of the Merriam Webster Dictionary, and if a legal term, Black's Law Dictionary; and should any term, condition, or provision of this Agreement be deemed vague, ambiguous, or confusing, it shall not be construed in favor of either party.

- D. Integration. This Agreement along with the attached exhibits is the final written expression of the parties' agreement with respect to such terms included and may not be contradicted by evidence of any prior agreement.
- E. No Oral Modification. No change, modification, extension, termination, or waiver of this Agreement, or any of the provisions contained, will be valid unless made in writing and signed by duly authorized representatives of the parties.
- F. Waivers. No waiver of any of the provisions of this Agreement shall be valid and enforceable unless such waiver is in writing and signed by the Parties to be charged, and, unless otherwise stated, no such waiver shall constitute a waiver of any other provision or a continuing waiver.
- G. Severability. In the event that one or more of the provisions of this Agreement shall become invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained shall not be affected as a whole.
- H. Time of the Essence. The Parties expressly recognize that in the performance of their respective obligations under this Agreement and that each Party is relying on timely performance by the other Party and will schedule operations and incur obligations to third parties in reliance upon timely performances by the other Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and be effective on the date first above written.

"SHBB"

By:


Monica Kelsey, Founder / CEO
Safe Haven Baby Boxes, Inc.

"PROVIDER"

By:

Justin Neal

Its:

MAYOR