

FAYETTE COUNTY LEGISLATIVE BODY
October 24, 2023

BE IT REMEMBERED that the Fayette County Legislative Body met in regular session on October 24, 2023, at the Bill G. Kelley Justice Complex in Somerville, Tennessee. Present and presiding was the County Mayor, Rhea “Skip” Taylor. Also, present and presiding were the Communication Director Katherine Allen, Shana N. Burch, Fayette County Clerk, and the following County Commissioners: Terrye Canady, David Crislip, Tim Goodroe, Steve Laskoski, Terry Leggett, Win Moore, Jim Norton, Claude Oglesby, Tommy Perkins, Mike Reeves, Steve Reeves, Matt Rhea, Elizabeth Rice, Betty Salmon, Ray Seals, Robert Sills, Larry Watkins, David Webb, and Adrian Wiggins.

A quorum was declared with nineteen (19) Commissioner present and none absent.

Commissioner Rhea gave the invocation.

The floor was open to comments on non-agenda items. Mose Payne at 10600 Feathers Chapel Drive in Oakland addressed the board about the attitude towards the discussion about the Fayette County Schools. Elton Holmes at 8600 Old Brownsville Road in Somerville addressed the board about the desegregation of the schools. Civil Miller Watkins at 745 Casey Drive in Rossville addressed the board about her concerns with the Education Committee meeting. She also invited the Commissioners to visit the schools, the classrooms, and the Board. With no one else coming forward the floor was closed.

Commissioner Wiggins made the motion to approve the September 2023 minutes. The motion was seconded by Commissioner Perkins. Commissioner Webb asked that in the Education Committee minutes that the wording for the election of officers be changed stating that Commissioner Wiggins nominated Commissioner Webb. With the correction being made the motion passed.

Under public hearing, Attorney Tom Minor was asked to speak to the board about the De-Segregation Order. Mr. Minor passed to the board a consent order.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

JOHN McFERREN, JR., et al.,
Plaintiffs,

and

UNITED STATES OF AMERICA,
Plaintiff-Intervenor,

v.

COUNTY BOARD OF EDUCATION OF
FAYETTE COUNTY, et al.,
Defendants.

CIVIL ACTION NO.: 2:65-cv-136

CONSENT ORDER

Before the Court is a Joint Motion to approve this Consent Order and issue a declaration of partial unitary status and dismissal, which arises out of the good faith efforts of Plaintiff class representatives, Vickie Shelton and Tracy Wade, ("Plaintiffs"), the Plaintiff-Intervenor United States ("United States"), and Defendant County Board of Education of Fayette County ("District") to resolve this school desegregation case. Having reviewed the terms of this Consent Order, the Court finds that it is consistent with the District's desegregation obligations, the Fourteenth Amendment to the United States Constitution, and all applicable federal law.

BACKGROUND

Because it operated a segregated school system, the District is required is "to take all steps necessary to eliminate the vestiges of the unconstitutional *de jure* system." *Freeman v. Pitts*, 503 U.S. 467, 485 (1992). In considering whether the District has eliminated the vestiges of discrimination to the extent practicable, the court must evaluate the District's policy and

practice with regard to: (1) student assignment (between and within schools);¹ (2) faculty assignment; (3) staff assignment; (4) transportation; (5) extracurricular activities; and (6) facilities. *Bd. of Educ. v. Dowell*, 498 U.S. 237, 248–50 (1991) (quoting *Green v. Sch. Bd. of New Kent Cnty.*, 391 U.S. 430, 435 (1968)). These “Green factors” are “among the most important indicia of a segregated system.” *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 18 (1971).

“[T]he burden of proof falls on the [school district], and not the aggrieved plaintiffs, to establish that it has dismantled its prior *de jure* segregated system.” *United States v. Fordice*, 505 U.S. 717, 739 (1992). To achieve unitary status (and dismissal of the case), the District must show that it has: (1) fully and satisfactorily complied with the Court’s desegregation order since it was entered; (2) eliminated the vestiges of its past *de jure* discrimination to the extent practicable; and (3) demonstrated a good faith commitment to the whole of the Court’s orders and to those provisions of the law and the Constitution that were the predicate for judicial intervention in the first instance. *See Missouri v. Jenkins*, 515 U.S. 70, 88–89 (1995); *Freeman*, 503 U.S. at 491–92, 498; *Dowell*, 498 U.S. at 248–50. If the District achieves partial compliance, however, the Court may grant partial unitary status and dismissal with respect to some Green factors and retain jurisdiction over the remaining factors. *See Freeman*, 503 U.S. at 490–91.

On July 12, 2013, this Court approved a Consent Order and directed the District to implement the desegregation plan contained therein. (ECF No. 119). That plan, as modified by this Court’s March 5, 2014 Order (ECF No. 138), required the District, *inter alia*, to close two

¹ Within student assignment, courts often review class assignment, *Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526, 537 (1979) and discipline, *Bradley v. Milliken*, 540 F. 2d 229, 240, 250 (6th Cir. 1976), *aff’d* 433 U.S. 267 (1977).

elementary schools, construct a new elementary school, implement a controlled choice program, assign faculty and staff between schools in a nondiscriminatory manner, and provide professional development training on cultural competence. All other prior orders that did not conflict with that Consent Order remained in full force and effect, and the Court retained jurisdiction to oversee “every facet of school operations.” *Green* 391 U.S. at 435; *see also Swann*, 402 U.S. at 18.

Since 2013, the parties have worked cooperatively to move the District toward unitary status, regularly exchanging information and actively monitoring the District’s desegregation efforts. For example, Plaintiffs and the United States (“Plaintiff parties”) conducted site visits in November and December 2017 and reviewed the District’s desegregation efforts in the areas of student assignment, faculty assignment, discipline, and gifted programming. In November 2022, the Plaintiff parties conducted another site visit to each of the District’s eight schools, as well as the central office, and interviewed District staff, including various school administrators, the Superintendent, and her leadership team.

Following the November 2022 site visit and after reviewing additional data from the District, the Plaintiff parties identified some lingering concerns, including alleged vestiges of discrimination and racial disparities in various aspects of the District’s operations, and the parties began negotiating the terms of this Consent Order.

DECLARATION OF PARTIAL UNITARY STATUS AND DISMISSAL

Having reviewed the Joint Motion and the full record, it is the opinion of this Court that the Joint Motion should be GRANTED because, with respect to the following facets of its operation, the District has: (1) fully and satisfactorily complied with the Court’s desegregation orders for a reasonable period of time; (2) eliminated the vestiges of its past *de jure*

discrimination to the extent practicable; and (3) demonstrated a good faith commitment to the whole of the Court's orders and to those provisions of the law and the Constitution which were the predicate for judicial intervention in the first instance:

1. Staff Assignment;
2. Facilities;
3. Transportation; and
4. Extracurricular Activities.

It is therefore ORDERED that the District is declared partially unitary with respect to the above-referenced *Green* factors, and, except to the limited extent these factors "may be intertwined or synergistic in their relation" to the remaining *Green* factors of student assignment and faculty assignment, *Freeman*, 503 U.S. at 497, all claims related to these four factors are hereby DISMISSED.

REMEDIAL TERMS

The Court also has determined the following remedial terms are reasonable, fair, and consistent with the District's continuing legal obligations regarding student assignment and faculty assignment. It is therefore ORDERED that the parties shall comply with the following:

I. Student Assignment

A. Between School Assignment

By March 1, 2024, the Plaintiffs and the District, with input from the United States, will develop a controlled choice student assignment program that does not rely on the race of individual students and is consistent with applicable law. *Swann*, 402 U.S. at 21; *Monroe v. Bd. of Comm'rs of Jackson, Tenn.*, 391 U.S. 450, 459 (1968). The District will pilot the new controlled choice program to assign students to schools for the 2024-2025 school year. On or

before October 15, 2024, the District will provide the Plaintiff parties with the results of the piloted controlled choice assignment program. The parties will evaluate the results of the pilot program and determine whether any final changes are necessary to comply with applicable law before the start of 2025-2026 school year.

B. Within School Assignment

The District will ensure that all students, regardless of race, have equal access to all grade-appropriate course offerings and academic programs in a racially nondiscriminatory manner. In no event will such program and course assignments be made in a manner that has the effect of furthering segregation.

1. Gifted Program

The District will develop, execute, and comply with a plan (the “Gifted Plan”) to ensure that all students, including Black students, are properly identified for enrollment in its gifted program and the District delivers gifted services to properly designated students in a nondiscriminatory manner. The Gifted Plan will describe how the District intends to:

- i. Identify the central office administrator(s) who will oversee the assignment of students to the gifted program. This person will ensure the District manages and reviews all relevant records; monitors and analyzes gifted referrals and designations by race and school; and reviews all relevant data to assess and refine the District’s identification and assessment procedures;
- ii. Use a uniform process to identify students who are eligible for gifted services and ensure such students receive services on an equitable basis. The District will screen all students in kindergarten through third grade to identify eligible students, using multiple reliable and valid instruments and measures, such as

portfolios, interviews, recommendations, curiosity assessments, and performance assessments;

- iii. Provide professional development for all faculty and staff involved in the gifted identification process on the District's identification and assessment policies, signs of racial and cultural biases and the priority of nondiscrimination in the identification of gifted children, and steps they can take to cultivate and promote the proper and equitable identification of gifted students;
- iv. Implement a targeted communication plan to ensure that all parents/guardians, including Black parents/guardians, are informed of the District's gifted program and the District's gifted identification process;
- v. Support teachers, including Black teachers, in obtaining gifted credentials; and
- vi. Provide enrichment instruction in regular classrooms to students who are not eligible for gifted services based on the identification and assessment criteria but may be gifted based on certain measures and should receive further talent development and future reassessments.

Within sixty (60) calendar days of entry of this order, the District will produce its draft Gifted Plan to Plaintiff parties, who will have at least sixty (60) calendar days to review and comment on the Plan. The Superintendent will consider the comments from the Plaintiff parties and take reasonable steps to address any concerns before submitting the Plan to the Board for approval.

2. Course and Curricular Offerings

Beginning with the 2023-2024 school year and each school year thereafter, the District will: (i) review its enrollment in advanced and dual enrollment courses in secondary schools to identify any racial disparities; (ii) implement practicable responses designed to reduce barriers that limit the participation of Black students; and (iii) implement a variety of methods to communicate information about courses and curricular supports to parents/guardians and students.

3. Discipline

The District will administer student discipline in a fair and non-discriminatory manner, and ensure students remain in their regular classroom environment to the greatest extent possible. The District will implement the following provisions related to student discipline in an effort to show “continuous progress” across two consecutive school years. If the District fully satisfies the requirements of this Consent Decree and applicable law, however, the failure to eliminate all racial disparities related to discipline, may not be the sole basis for denying unitary status in discipline to the District. “Continuous progress” means measurable reductions in Black/white racial disparities across two school years with respect to the number of days of lost instruction, percentage of students issued one or more in-school suspensions, percentage of students issued one or more out-of-school suspensions, and number of office referrals as compared to the 2022-2023 baseline school year data.

- i. By October 1, 2023 the District will partner or otherwise retain the services of a mutually agreeable third-party (“Equity Consultant”) (e.g. a representative(s) of the University of Memphis or the Equity Assistance Center-South (EAC)) to provide the District with appropriate technical assistance and help it build its internal capacity to identify and address racial

disparities in discipline. The District, with assistance from its Equity Consultant, will conduct a comprehensive review of the District's discipline policies and procedures, identify trends or racial disparities in the District's administration of student discipline, consider underlying causes of such trends or disparities, and recommend practicable steps the District can take in response. The Equity Consultant will provide the District and Plaintiff parties with a written summary of their findings and recommendations based on their comprehensive review. By December 31, 2023, the District will, in consultation with the Equity Consultant, revise its discipline policies and procedures and produce them to Plaintiff parties. Plaintiff parties will have at least sixty (60) calendar days to review and comment on the District's revised discipline policies. The Superintendent will consider the comments from the Plaintiff parties and take reasonable steps to address any concerns before submitting the revised discipline policies to the Board for approval. The District will make every effort to implement the revised policies during the first nine-week period of Spring semester of the 2023-2024 school year.

- ii. The District's revised discipline policies will:
 - a. Provide clear guidance to students, parents/guardians, faculty, and staff regarding disciplinary expectations, by using concrete definitions of prohibited conduct and identifying specific, developmentally appropriate criteria for assessing and responding to infractions;
 - b. Except where the safety of students or staff is threatened, incorporate a continuum of alternative consequences to suspension and expulsion

- that only escalates discipline after less-intensive strategies have been tried, documented, and demonstrated to be ineffective at modifying student behavior;
- c. Ensure that disciplinary consequences minimize students' loss of instructional time and that students who do lose instructional time due to exclusionary discipline are provided opportunities to make up missed work;
 - d. Facilitate the establishment of a positive school culture by promoting constructive teaching of school rules and social-emotional skills and positive reinforcement of appropriate student behavior, including by incorporating a continuum of alternatives to exclusionary discipline (such as positive behavioral intervention and supports, restorative justice, reflective writing assignments, conflict resolution, and restorative justice practices);
 - e. Emphasize early intervention for misbehavior before resorting to exclusionary discipline, except in instances where the safety of students and/or staff is threatened;
 - f. Provide appropriate and non-exclusionary consequences or interventions for infractions related to tardiness; and
 - g. Use the same progressive disciplinary process and provide the same protections for students before excluding them from buses as the District does when suspending or expelling students from classrooms, including, for example, opportunities to make up missed work.

- iii. The District will identify the administrator(s) who will oversee the administration of discipline and ensure the District is: (1) conducting ongoing evaluation of the discipline data collected by the District; (2) identifying any racial disparities in disciplinary referrals, in-school or out-of-school suspensions, expulsions, alternative school referrals, and/or other outcomes of referrals (by school and districtwide); and (3) proposing practicable steps to address any such disparities.
- iv. The District will provide at least one informational session each year with students and parents/guardians to discuss the District's positive core values (such as family, collaboration, perseverance, and service), behavior expectations, and disciplinary rules (including due process rights and complaint procedures), and to provide an opportunity for such persons to raise any questions or concerns about the disciplinary process.
- v. As part of the District's commitment to Positive Behavior Interventions and Supports ("PBIS") and restorative justice, the District will eliminate the use of corporal punishment for students attending any school in the FCPS system beginning with the 2023-2024 school year.
- vi. The District will also develop a mandatory annual training program for all faculty, instructional staff, bus drivers, and administrators that will promote understanding and effective implementation of the revised discipline policies and procedures. The District's training will include instruction on recognizing and reducing racial biases, including subconscious and implicit biases, increasing cross-cultural understanding, and eliminating racial discrimination.

II. Faculty

The parties acknowledge that the District has taken preliminary steps designed to increase recruitment, hiring, promotion, and retention of Black faculty. The District will increase its efforts to recruit, hire, promote, and retain Black faculty to fill vacancies, and the District commits to maintaining positive working conditions and access to career advancement opportunities for its faculty.

Within one-hundred twenty (120) calendar days of entry of this order, the District, in collaboration with its Equity Consultant or another mutually agreeable consultant will draft and provide to Plaintiff parties a proposed Minority Recruiting, Hiring and Retention Plan. Plaintiff parties will have at least sixty (60) calendar days to review and comment on the District's draft Plan. The Superintendent will consider the comments from the Plaintiff parties and take reasonable steps to address any concerns before submitting the Plan to the Board for approval. Thereafter, the District will work closely with its Equity Consultant to implement and comply with the Plan and ensure that it:

- A. Promotes equitable employment opportunities for Black teachers. To ensure that equitable employment opportunities are available and accessible for Black teachers, the District will collaborate with its Equity Consultant and conduct a comprehensive review of the District's hiring policies and procedures to identify trends or racial disparities in the recruitment, hiring, promotion, and retention of Black faculty, consider underlying causes of such trends or disparities, and recommend practicable steps the District can take in response.
- B. Analyzes and interprets data to identify trends and disparities and implements a plan to strategically coordinate with student placement offices at major universities in Tennessee

and at all Historically Black Colleges and Universities (“HBCUs”) within a 100-mile radius. The District’s Minority Recruiting, Hiring and Retention Plan should describe the District’s plans to visit HBCU campuses and advertise job vacancies in sources and publications that reach Black populations.

- C. Continuously refines and improves its “Grow Your Own” teacher preparation support program. To develop qualified Black faculty, the “Grow Your Own” program should offer targeted education and training opportunities for community members, public high school students, public high school graduates, non-certified staff (including teacher’s assistants and cafeteria workers), and paraprofessionals to become licensed teachers in District schools. The District will consult with its Equity Consultant on best practices regarding implementing strategies to reduce turnover rates of licensed teachers who participate in the program.

The District also will, for teachers leaving the school district, schedule exit surveys that, *inter alia*, will inquire about the teacher’s reason for leaving.

III. Implementation

Each school in the District will hold parent information and listening sessions no less than twice in school year 2023-24 and no less than three times per year in subsequent school years, to be attended by the school principal, at least one board member, Superintendent or other central office staff, designated notetaker provided by District, parents/guardians, and students. The District will hold these sessions at dates and times convenient for parents/guardians and students, and it will take reasonable steps to make these sessions accessible to attendees with disabilities and limited English proficiency. The District may present updates on progress under this Consent Order and other relevant information about school-based or district-wide

opportunities and resources. The District will listen and respond to questions, comments, and concerns. No later than two weeks after each session, the District will post a summary of the parent information and listening session online.

IV. Meet and Confer

The parties will meet and confer and make a good-faith effort to resolve any concerns regarding the controlled choice program, Gifted Plan, discipline policies, and Minority Recruiting, Hiring and Retention Plan. If the parties are unable to reach an agreement, then any party may move the Court to resolve the dispute so long as the motion is made within forty-five (45) calendar days of the meet and confer.

V. Monitoring and Reporting

The District will implement all components of this Consent Order by no later than the beginning of the 2024-2025 school year. The District may move for unitary status and dismissal of this case in the areas of student assignment and faculty assignment no earlier than one-hundred twenty (120) calendar days after the filing of the October 15, 2025 status report. Prior to the District filing a motion for unitary status, the parties will confer to determine whether they can agree that the District can demonstrate that it has implemented in good faith a section or sections of this Consent Order for a reasonable period of time. In the event the parties cannot agree and the District intends to file a motion for declaration of full unitary status and dismissal of this case, the parties will ask the Court to adopt a scheduling order with a discovery period and other appropriate deadlines ahead of an evidentiary hearing.

The District will retain all documents used to prepare the reports described below, and Plaintiff parties will have the right to inspect all records related to the District's efforts to comply with this Consent Order and the parties will cooperate to exchange such information. With

reasonable notice, Plaintiff parties also may conduct site visits of the schools and observe trainings. Finally, Plaintiff parties may interview, *ex parte*, or otherwise communicate individually or collectively with the Equity Consultant, parents, students with their parent's consent, teachers and other District employees who are not administrators because their acts or omissions would not be imputed to the District for purposes of this case.

The District will file with the Court an annual report no later than October 15 of each school year until the Court enters an Order granting full unitary status to the District containing the following information related to that school year, except where otherwise indicated:

1. Student Assignment

a. Between School Assignment

- i. The total number and percentage of students, by race/ethnicity and grade level, assigned to each school operated by the District.
- ii. The total number of students who have requested intra-district transfers, indicating for each such request the student's race/ethnicity, grade, zoned school, receiving school, reason for transfer request, and the reason for granting or denying the transfer. The District will provide the same information for inter-district transfers.
- iii. Whether the school satisfies the +/-15 desegregation standard.

b. Within School Assignment

- i. For each classroom in each school, the total enrollment in the class, by race/ethnicity, grade served; and the subject or program of the class, specifically indicating any groupings or assignments by ability, achievement, or other basis such as advanced placement or honors classes,

programs for students with intellectual or specific learning disabilities, gifted programs, or limited English proficient classes.

ii. Gifted Program

1. The number of students identified as gifted, disaggregated by school, grade, race/ethnicity, method of identification, and whether the student is receiving services.
2. A description of efforts to educate parents/guardians about the gifted program pursuant to Section I(B)(1)(iv).

iii. Course and Curricular Offerings

1. A description of responses designed to reduce barriers to enrollment in advanced and dual enrollment courses pursuant to Section I(B)(2)(i); and a list of outreach efforts conducted pursuant to Section I(B)(2)(ii).

iv. Discipline

1. For each infraction of the Code of Conduct that results in the referral of a student to an administrator for discipline that occurred in the preceding semester, provide the student's home school, a unique student identifier, race of the student, grade level of the student, sex of the student, infraction, description of the infraction, date the infraction occurred, action taken in response to infraction, date student returned to full instruction at home school (if relevant), number of days consequence continued, school year, disability status of the student, any restorative justice practice

employed at any point in response to the infraction, referring teacher, and race of referring teacher.

2. Number of school-based team meetings to review discipline data and description of steps taken to address any identified racial disparities in the preceding semester.
3. Number and nature of positive behavioral interventions by school in the preceding semester as well as number and nature of restorative practices by school in the preceding semester.

2. Faculty

- a. The total number and percentage of faculty, by race/ethnicity and position, assigned to each school operated by the District, specifically indicating all full-time teachers, part-time teachers, and other long-term substitutes.
- b. Whether each school operated by the District satisfies the +/-20 desegregation standard.
- c. The number of faculty with gifted credentials, disaggregated by race, position, school, and grade level;
- d. A detailed summary of the District's efforts to improve the recruitment and retention of Black faculty in the District in the previous academic year, including the steps the District plans to take to continue to improve the recruitment and retention of certified Black faculty in the District and other metrics outlined in the Minority Recruiting, Hiring and Retention Plan;
- e. A list of all faculty who were demoted, suspended, non-renewed or dismissed/terminated in the reporting year, organized by each person's name,

race, position/title, school assignment, grade level or subject area taught, if applicable, and date of demotion, suspension, or dismissal/termination;

- f. All documentation pertaining to any oral or written complaints alleging discrimination on the basis of race or color in the reporting year.

3. Implementation

- a. A list of parent information sessions conducted pursuant to Section III including the date, duration, approximate number of individuals in attendance (if applicable), and estimated participation level by race (if applicable).

The District also will file with the Court an additional report providing the information listed above at Section V(1)(b)(iv) Discipline and Section V(3)(a) Implementation on April 15 of each school year until the Court enters an Order granting full unitary status to the District.

By no later than October 15 of each school year until the Court enters an Order granting full unitary status to the District, the District will send to the Plaintiff parties, but not file with the Court:

- a. All exit interview questionnaires and survey responses, including responses to questions that call for a narrative answer, provided by departing Black faculty in the District.

IT IS SO ORDERED.

s/ S. Thomas Anderson
S. THOMAS ANDERSON
UNITED STATES DISTRICT JUDGE

Date: October 10, 2023.

Commissioner Wiggins made the motion to approve the following as notaries.

**NOTARY LIST
October 24, 2023**

Alicia Armstrong*

Amber Baird*

Theresa D. Barclay

Amy Putt Beasley

Madison Elise Chambers*

William B. Cowan Jr

Hattie Durham

Mariah J. Fussell

Dilan Patrick Gersava*

Carolyn Holt*

Sarah Parker

Raven Patterson*

Kathryn Redditt*

Elaine Sparks

H. Suzanne Wiggins

Melisa J. Williams

***DENOTES NEW NOTARY**

The motion was seconded by Commissioner Perkins and passed unanimously.

The chairman reported for the mayor's office. He started off by giving thanks to the AG Extension for the displays and the food. The final meeting for the Growth Plan will be November 1st at 6 pm at the Justice Complex. He stated that the health insurance had a decrease this year of about 8.2% which worked out to about \$30.00 to \$100.00 a month depending on which plan you are on. The Animal Shelter is looking at November 6th to start breaking ground. He stated that if it could be pulled together, the Saturday before that, there may be a ribbon cutting at the site. Mr. Miller presented the board before the meeting with the new county ambulance.

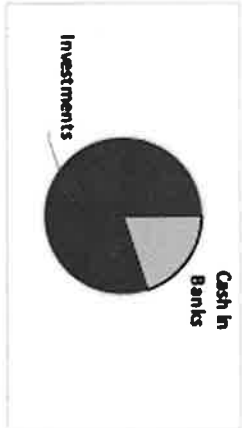
There were no new reports for the sheriff's office, juvenile courts, board of public works, or the planning and development.

Dr. Hamlett reported for the Board of Education. Dr. Hamlett thanked Sheriff Riles in his absence for the three SRO officers. She presented the board with a presentation about the letter grades that the schools will start obtaining.

Charles McNab reported for the Trustee's office. He stated that the tax bills went out the first week of October. He stated that \$149,000.00 in interest had been earned. \$1.2 million has been collected with \$276,000.00 still outstanding from last year's tax bills.

September 2023

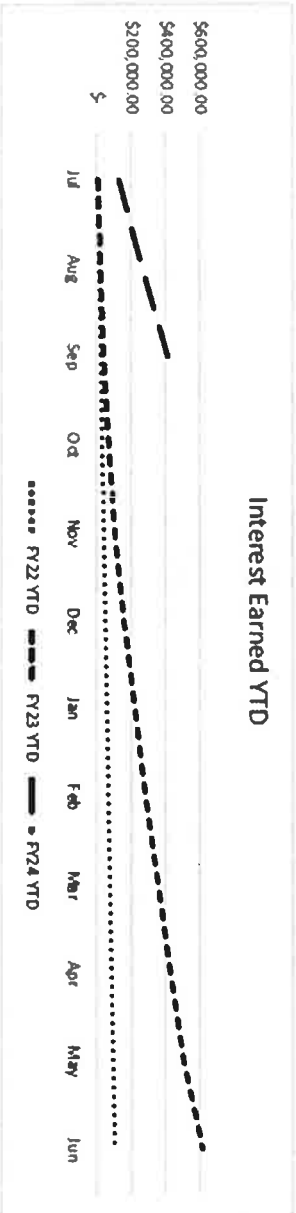
Cash on Hand	\$	500.00
Cash in Banks	\$	9,198,574.53
Investments	\$	36,872,809.30
	\$	<u>46,071,883.83</u>



	Cash Balance (Not Fund Balance)
101 - General Fund	\$ 10,140,939.28
116 - Solid Waste Fund	\$ 1,899,249.59
122 - Drug Control Fund	\$ 564,712.91
125 - AFT Fund	\$ 1,326,703.02
131 - Public Works Fund	\$ 4,979,691.35
141 - General Purpose School Fund	\$ 8,222,673.60
142 - School Federal Projects Fund	\$ 1,289,445.71
143 - Central Cafeteria Fund	\$ 733,577.12
151 - Debt Service Fund	\$ 4,914,415.14
171 - Capital Projects Fund	\$ 11,371,905.13
172 - Community Development Fund	\$ 280,642.23
175 - HUD Grant Projects Fund	\$ 281,054.62
189 - Other Capital Projects Fund	\$ 135,792.66

	Interest Earned				
	FY22 YTD	FY23 YTD	FY24 MTD	FY24 YTD	
Jul	\$ 9,082.35	\$ 11,211.37	\$ 129,450.92	\$ 129,450.92	
Aug	\$ 17,397.86	\$ 23,149.14	\$ 134,984.29	\$ 264,435.21	
Sep	\$ 25,421.28	\$ 41,188.73	\$ 149,317.72	\$ 413,752.93	
Oct	\$ 33,753.78	\$ 71,461.38			
Nov	\$ 41,810.64	\$ 105,484.85			
Dec	\$ 50,626.85	\$ 157,955.93			
Jan	\$ 59,747.88	\$ 223,382.31			
Feb	\$ 67,832.88	\$ 283,285.75			
Mar	\$ 76,569.33	\$ 356,653.10			
Apr	\$ 85,501.13	\$ 428,785.96			
May	\$ 94,340.98	\$ 506,077.11			
Jun	\$ 103,313.30	\$ 618,447.34			

Interest Earned YTD



Commissioner Robert Sill reported for the Development Committee which met on October 9, 2023. The committee had the election of officers and discussed the growth plan and the regional water-sewer joint venture.

DEVELOPMENT COMMITTEE

Minutes

October 9, 2023

Present

Moore Laskoski Reeves, M Norton Crislip Salmon

1) Election of Officers

- **Chairman – Sills nominated by Norton, no other nominations. Sills elected.**
- **Vice-Chairman – Norton nominated by Reeves, no other nominations. Norton elected.**

2) Growth Plan

- **Mayor Taylor reported to the committee that the Coordinating Committee had met and passed a map and resolution. After the meeting, it became apparent that several towns would not pass the adopted resolution. The resolution had a clause that would keep a town from annexing territory within their urban growth boundary that was not continuous with their city limits.**
- **Mayor Taylor asked that no action be taken until the Coordinating Committee can reconvene and address the resolution.**

3) Regional Water-Sewer Joint Venture

- **Mayor Taylor reported to the committee that a proposal is being discussed that would form a joint venture between Tipton, Fayette, and Haywood counties to administer grants and studies for a sewer and water area and would last for no more than 3 years or until a regional authority is formed, whichever is shorter.**
- **A private act to form a regional authority is being crafted but would take until spring of next year before being adopted. There are grants and funds for studies that will become available soon and a joint venture would allow the use of these until the authority is created.**
- **No action, just information at this time.**

Meeting adjourned.

Commissioner Goodroe reported for the Health and Welfare Committee which met on October 9, 2023. The committee had the election of officers and discussed the ambulance report, solid waste baler sale, solid waste holiday working shifts, and the drug court grant.

HEALTH AND WELFARE COMMITTEE

Minutes

October 9, 2023

Present

Reeves, S Goodroe Crislip Perkins

- 1) Election of Officers
 - Chairman – Goodroe nominated by Reeves, no other nominations. Goodroe elected.
 - Vice-Chairman – Leggett nominated by Reeves, no other nominations. Leggett elected.
- 2) Ambulance Report
 - Glenn Miller, Fayette County Ambulance Director, reported to the committee that there were 375 calls for September, compared with 425 last September; the number of calls is trending lower.
 - There were 15 times no ambulances were available, but there were no times that waited on an ambulance.
 - Revenue is currently averaging \$385/run.
 - The new demo ambulance has been received and is waiting on state inspection to be put into service.
 - Has found an engine to put into an old ambulance to put it back into service. No date yet when the ordered ambulances will arrive.
- 3) Solid Waste – Baler sale
 - Terry Chambers, Solid Waste Director, asked to sell a surplus old baler at the landfill.
 - After discussion, the committee recommended allowing the sale, on a motion by Perkins, seconded by Crislip.
- 4) Solid Waste – Holiday working shifts
 - Mr. Chambers inquired if the landfill could close on the Saturday after a holiday. This Thanksgiving, plus Christmas and New Year's Day, the landfill opens the Saturday following the holiday days off.
 - After discussion, the committee recommended that the landfill would close on the Saturday following a holiday and that the Saturday would be a paid holiday for the employees scheduled to work, on a motion by Perkins, seconded by Reeves.
- 5) Drug Court Grant – Third Party Grant Administrator contract
 - The drug court grant, being performed by Hope Restored, has funding for a third-party grant administrator. The contract is for the administrator.
 - After discussion, the committee recommended approval on a motion by Crislip, seconded by Perkins.

Meeting adjourned.

Commissioner Goodroe made the motion to approve the solid waste surplus baler sale request. The motion was seconded by Commissioner Leggett and passed unanimously.



FAYETTE COUNTY SOLID WASTE
11675 HWY 76 SOUTH
P.O. BOX 62
SOMERVILLE, TN 38068
901-465-5230

10/5/2023

Fayette County Solid Waste is requesting permission to sell old Max Pak Baler that has been out of commission for 10 + years.

Model #: HCEG60FE8

Serial #: 04024760

Terry Chambers
Director, Fayette County Solid Waste

Commissioner Goodroe made a motion to approve the solid waste holiday closures. The motion was seconded by Commissioner Steve Reeves and passed unanimously.

The Personnel Committee did not meet.

Commissioner Webb reported for the Education Committee which met on October 10, 2023. The committee had the election of officers and discussed the Fayette County school board election by position.

EDUCATION COMMITTEE

Minutes
October 10, 2023

Present

Webb Wiggins Moore Reeves, M Rhea

- 1) Election of Officers
 - Chair – Webb nominated by ~~Webb~~ ^{Wiggins}, no other nominations. Webb elected.
 - Vice-chair – Wiggins nominated by Moore, no other nominations. Wiggins elected.
- 2) Fayette County School Board – Election by Position discussion
 - The committee reviewed a draft resolution that would designate seats on the school board for election.
 - The committee heard from the audience, both for and against.
 - After the audience comments, the committee took no action on the draft.

Meeting Adjourned.

Commissioner Rice reported for the criminal justice and public safety committee which met on October 10, 2023. The committee had the election of officers and discussed the sheriff's report, fire department budget amendment, fire department request to sell salvage truck, fire department survey cost, and the sheriff's department electronic repair.

CRIMINAL JUSTICE & PUBLIC SAFETY COMMITTEE

**Minutes
October 10, 2023**

Present

Rice Leggett Wiggins Rhea Seals

- 1) Election of Officers
 - Chair – Rice nominated by Seals, no other nominations. Rice elected.
 - Vice-chair – Leggett nominated by Seals, no other nominations. Leggett elected.
- 2) Sheriff's Report
 - The committee reviewed the previous month's activity with the Sheriff.
- 3) Budget Amendment – Fire Department – Mutual Reimbursement revenue
 - Chief Richard Hartfield asked that the revenue from the mutual aid response to last year's Memphis water shortage. The department sent a tanker for five days.
 - After discussion, the committee recommended approval on a motion by Seals, seconded by Leggett.
- 4) Fire Department – Request to sell salvage truck
 - Chief Hartfield is asking permission to sell a truck that is not feasible to repair.
 - After discussion, the committee voted to recommend approval on a motion by Leggett, seconded by Wiggins.
- 5) Fire Department Survey Cost
 - Funds will be needed for the survey of proposed donated property in Hickory Withe. This will be the location for a station to serve north Hickory Withe and the interstate area. The cost is not known now but will bring additional information to the Commission.
- 6) Sheriff's Department – Electronic repair facility
 - Sheriff Riles has put out a bid for a portable building to repair computers and radios for the Sheriff's Office. This is for information only and, depending on what the results of the bid, may discuss this further in coming months.

Meeting Adjourned.

Commissioner Steve Reeves reported for the budget committee which met on October 10, 2023. The committee had the election of officers and discussed the drug court grant, fire department mutual reimbursement revenue, fire department request to sell a salvage truck, fire department survey cost, and the air show follow-up report.

BUDGET COMMITTEE

Minutes

October 10, 2023

Present

Perkins	Rice	Reeves, S	Watkins	Goodroe	Norton
Oglesby	Sills	Webb			

- 1) Election of Officers
 - Chair – Reeves nominated by Oglesby, no other nominations. Reeves elected.
 - Vice-chair – Rice nominated by Oglesby, no other nominations. Rice elected.
- 2) Drug Court Grant – Third Party Grant Administrator contract
 - The drug court grant, being performed by Hope Restored, has funding for a third-party grant administrator. The contract is for the administrator.
 - After discussion, the committee recommended approval on a motion by Goodroe, seconded by Rice.
- 3) Budget Amendment – Fire Department – Mutual Reimbursement revenue
 - Chief Richard Hartfield asked that the revenue from the mutual aid response to last year's Memphis water shortage. The department sent a tanker for five days.
 - After discussion, the committee recommended approval on a motion by Rice, seconded by Perkins.
- 4) Fire Department – Request to sell salvage truck
 - Chief Hartfield is asking permission to sell a truck that is not feasible to repair.
 - After discussion, the committee voted to recommend approval on a motion by Rice, seconded by Oglesby.
- 5) Fire Department Survey Cost
 - Funds will be needed for the survey of proposed donated property in Hickory Withe. This will be the location for a station to serve north Hickory Withe and the interstate area. The cost is not known now but will bring additional information to the Commission.
- 6) Air Show – Follow-up Report
 - Rusty Bliss, Fayette County Airport Director, reported to the committee on the airshow. The airshow had a very good attendance on Saturday, but a poor one on Sunday. For next year, the recommendation is to not have a Sunday show but to follow the rest of the same type of program.

Meeting Adjourned.

Commissioner Steve Reeves made the motion to approve the drug court grant administrator contract. The motion was second by Commissioner Webb and passed unanimously.

CONTRACT FOR PROFESSIONAL CONSULTANT SERVICES

THIS CONTRACT FOR PROFESSIONAL CONSULTING SERVICES ("Contract") is by and between FAYETTE COUNTY, TENNESSEE ("County"), a county governmental entity of the State of Tennessee, and ALLARD CONSULTING, LLC ("Consultant"), for the provision of grant evaluation and consultant services on behalf of the Fayette County Government ("County") to be provided by the Consultant subject to the terms of this Contract and any applicable grant contract received by or on behalf of the County.

This Contract incorporates the following affidavits by reference and made a part hereof:

1. Fair Employment Affidavit
2. Ethical Standards Affidavit
3. Business Tax and License Affidavit
4. The Iran Divestment Act Affidavit

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the County and Consultant hereby agree as follows:

1. Retention as Consultant. The County hereby contracts with Consultant as an independent contractor, and Consultant hereby accepts such engagement, to perform the services as further described in the Statement of Work attached hereto as Exhibit A ("Services") and made a part of this Contract as if stated in verbatim.

2. General Duties and Responsibilities.

2.1 Consultant Duties and Responsibilities. The Consultant shall provide Consultant's best skill and judgment and to cooperate with Hope Restored in furthering the interests of the County in the provision of Services and evaluation of the project as required by the grant contract which are further explained in Exhibit A (Project Narrative). Consultant agrees that the Services will focus on the following components:

2.1.1. Evaluation of whether there are established program goals for the program;

2.1.2. Evaluation of the target population that the program is reaching;

2.1.3. Evaluation of the substance abuse treatment that is provided within the program including, but not limited to, screening, assessment, and treatment;

2.1.4. Evaluation of the program's process to handle cases, court appearances, sanctions, incentives, completion of the program, and termination from the program;

2.1.5. Evaluation of the method program Services are provided including, but not limited to, medical and psychological referrals;

2.1.6. Evaluation of the method program Services are provided;

2.1.7. Evaluation of Hope Restored personnel, their roles, responsibilities, frequency of meetings, and coordination of all aspects of the program;

2.1.8. Evaluation of the support received from the project partners;

2.1.9. Evaluation of the retention or success of the program which shall compare those individuals accepted into the program and the number of those that graduate or are terminated from participation in the program;

2.1.10. Evaluation of the impact the program has on participants' criminal behavior, impact on substance abuse behavior, and life circumstances; and

2.1.11. Evaluation of the general implementation of the program.

2.1.12. Use demonstrated research and data analysis abilities to enhance evaluation projects and team efforts; ensure fidelity to Court Initiative evidence-based practices.

2.1.13. Complete reporting in accordance with funding requirements.

2.2. County Duties and Responsibilities. The County shall provide program documents to the Consultant which describe the logistical and factual program characteristics, including but not limited to the Hope Restored program, policy and procedures, organizational charts, participant materials and forms, and staff job descriptions. Hope Restored shall be responsible for updating its data system in accordance with its grant and this Contract. The County will, with the assistance of Consultant, submit reports created by the Consultant in accordance with federal reporting guidelines.

3. Representation of Consultant. Consultant represents and warrants that: (a) it will perform the Service in a competent and workmanlike manner in accordance with the level of professional care customarily observed by skilled professionals rendering similar services; (b) the Service, product of the Services, and/or other materials provided by or on behalf of Consultant will not violate or infringe any third party's patents, trade secrets, trademarks, or other proprietary rights; (c) it and its personnel will comply with all applicable ordinances, codes, standards, laws, rules, regulations, and orders of any governmental authority having jurisdiction over Consultant's performance of the Services, and will hold and fully comply with all required licenses, permits, and approvals; (d) it has all rights necessary for and is not subject to any restriction, penalty, contract, commitment, law, rule, regulation, or order which is violated by its execution and delivery of this Contract and performance of its obligations under this Contract; (e) all personnel are authorized to lawfully perform the Services pursuant to applicable immigration and work status Laws; (f) it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department, State Department, or Local Department; (g) it has not, within a three (3) year period preceding this proposal, been convicted of a Federal, State, or Local Department crime, or a crime involving a Federal, State, or Local Department transaction or contract 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; and (h) it has not within a three (3) year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

4. Time for Completion. The term of this Contract shall begin on the day this Contract is fully signed by the parties and shall extend to September 30, 2028. This Contract may be extended for one (1) additional one (1) year term by written agreement of the parties. The option to extend shall be exercised and in the discretion of the Hope Restored, the Fayette County Purchasing Agent, and the Fayette County Mayor. To be effective, any extension must be signed by the Executive Director of Hope Restored and the Fayette County Mayor. In no event shall the term of this Contract, including extensions, extend for five (5) years or longer.

5. Termination.

5.1. Termination - Breach. Should Consultant fail to fulfill, in a timely and proper manner, its obligations under this Contract or if it should violate any of the terms of this Contract, the County shall provide notice to the Consultant to cure the breach. Consultant shall have ten (10) calendar days to cure the breach. Should Consultant fail to cure the breach within the ten (10) days then the County shall have the right to immediately terminate this Contract. Such termination shall not relieve Consultant of any liability to County for damages sustained by virtue of any breach by Consultant.

5.2. Termination - Funding. The continuation of this Contract beyond the end of any fiscal year shall be subject to the appropriation and the availability of funds. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were last appropriated. The County shall notify the Contractor in writing of any such non-allocation of funds at the earliest convenient date.

5.3. Termination - Notice. The County may terminate this Contract at any time upon thirty (30) calendar days' written notice to Consultant. Termination will become effective thirty (30) days after the date of the notice of termination unless the County's notice provides for a different termination date beyond the thirty (30) day notice. Consultant shall be compensated for the provision of the Services that Consultant performed prior to the termination date and which is required to complete the Services and work product.

5.4. Termination - Bankruptcy. The County may terminate this Contract if Consultant, or any successor or assignee of Consultant, shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act or shall make assignment for the benefit of creditors or if involuntary proceedings under any bankruptcy laws or insolvency act shall be instituted against Consultant, or if a receiver or trustee shall be appointed for all or substantially all of the property of Consultant, and such proceedings shall not be dismissed or the receivership or trusteeship vacated within sixty (60) days after the institution or appointment.

5.5. Termination - Agreement. The parties may terminate this Contract upon written agreement signed by the parties.

6. Fee.

6.1. The County shall pay to the Consultant and Consultant accepts an hourly fee of Eighty and 00/100 Dollars (\$80.00) for each hour the Consultant provides Services to be paid on a monthly basis. The total fee, including out-of-pocket expenses, shall not exceed Thirty-Two Thousand Five Hundred and Sixty-Nine and 00/100 Dollars (\$32,569.00) per grant year. The fee shall be established by counting each hour the Consultant actually provides Services. The fee shall include all expenses, labor, material, and transportation necessary for the provision of the Services. The fee shall not be modified except by written agreement of the County. Should carryover funds be available to the County for the provision of Services, the parties may agree in writing to increase the maximum annual total fee available to the Consultant, subject to the terms of any grant.

6.2. In addition to the hourly fees, County shall reimburse Consultant for documented out-of-pocket expenses, to be assessed at its actual cost with no mark ups. Consultant shall bill its related expenses on a separate line item on the monthly invoice and shall provide sufficient detail and supporting documentation requested by the Hope Restored or the County to justify the expense, including, but not limited to, time sheets, and receipts. Reimbursement for out-of-pocket expenses shall be in accordance with the U.S. General Services Administration current published policies governing travel and associated expenses.

6.3. The County shall pay the Consultant the fee in accordance with the procedures set forth in this Section. Consultant shall submit a detailed invoice for the period ending on the last day of the prior month in which the Consultant completed the Services. Each Payment Request shall be signed by the Consultant and shall constitute the Consultant's representation that the Services were properly

performed in strict compliance with this Contract, and that the Consultant knows of no reason why payment should not be made as requested. The County shall make payment to the Consultant within thirty (30) days following the receipt of the detailed invoice. The amount of each such payment shall be the amount less such amounts, if any, otherwise owing by the Consultant to County or which County shall have the right to withhold as authorized by this Contract. Payment of any invoice by the County shall not preclude the County from the exercise of any of its rights as set forth in this Contract.

6.4. Neither payment to the Consultant nor any other act or omission by County shall be interpreted or construed as an acceptance of any Services or work product of the Consultant not strictly in compliance with this Contract.

7. Payment Withheld. County reserves the right, in case of Consultant's default, to procure the Services from other sources while holding the defaulting Consultant responsible for any excess costs occasioned thereby.

8. Acceptance of Payment. The acceptance by Consultant of any payment made under this Contract shall operate as and be a release to County from all claims and liabilities for compensation to, or claimed by, Consultant for anything done, finished, or relating to the Services and work product provided by Consultant for which payment is requested. However, approval or payment by the County shall not constitute nor be deemed a release of the responsibility and liability of Consultant, its employees, subcontractors, agents, and consultants for the accuracy and/or competency of the information provided or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the County for any defect or error in the Services or work product prepared by Consultant, its employees, subcontractors, agents, or consultants.

9. Standard of Care. The Services performed by Consultant shall be conducted in accordance with the skill and care ordinarily exercised by members of the same profession performing the same or similar Services at the time the Services are performed by Consultant. The Consultant hereby warrants that the labor furnished under this Contract shall be competent to perform the tasks undertaken, and shall yield only high-quality results; all related items and other materials provided shall be of high quality and in accordance with this Contract.

10. Information Provided by County.

10.1. If requested in writing by the Consultant, the County shall furnish to the Consultant any and all written and tangible material known by County to be in its possession related to the Services to be provided by Consultant. Such written and tangible material is furnished to the Consultant only in order to make disclosure of such material in the possession of County and for no other purpose. By furnishing such material, the County does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefor.

10.2. The Consultant has total responsibility for the accuracy and completeness of Consultant's analysis based on the data, documentation, and estimates prepared, obtained, or received by the Consultant to complete the Services and shall check all such material accordingly. While the County may review such data, documentation, and details for quality, completeness, and conformity, the responsibility for accuracy and completeness of such items remains solely that of the Consultant.

11. Lobbying Prohibitions. Consultant certifies, to the best of its knowledge and belief, that:

11.1. No federally appropriated funds received under this Contract have been paid or will be paid, by or on behalf of Consultant, 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 contract, 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 contract, grant, loan, or cooperative agreement.

11.2. 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 Contract, the grant, loan, or cooperative agreement, Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

11.3. Consultant 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 contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

11.4. The Consultant's certification is a material representation of fact upon which reliance was placed when the transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

12. **Public Accountability.** If Consultant is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by Consultant on behalf of the State, Consultant agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and Consultant shall display in a prominent place, located near the passageway through which the public enters in order to receive grant supported services, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY, DIRECTOR, OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

Said sign shall be displayed in a prominent place, located near the passageway(s) through which the public passes to receive funded services.

13. **Public Notice.** All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by Consultant shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by Contractor shall be approved by the County and the State of Tennessee.

14. **Records.** Consultant shall maintain documentation for all charges under this Contract. The books, records, and documents of Consultant (and any approved subcontractor), insofar as they relate to Services performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, the United States Department of Justice or their duly appointed representatives.

15. **Conflicts of Interest.** The Consultant warrants that no part of the total grant 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 Consultant in connection with any Services contemplated or performed relative to this Contract.

16. **Independent Contractor.** Consultant is an independent contractor. Consultant shall not be deemed for any purpose to be an employee of the County. The County shall not be responsible to Consultant or any governing body for any payroll-related taxes related to the performance of the Services, including but not limited to withholding or other taxes related to federal or state income tax, social security benefits, or unemployment compensation. Consultant further represents and warrants that Consultant is qualified as an independent contractor under the provisions of the Internal Revenue Code and its common law, and as such Consultant is filing all required forms and necessary payments appropriate to the Consultant's tax status. Neither party is an agent, representative, or partner of the other party. Neither party shall have any right,

power, or authority to enter into any contract for or on behalf of, or incur any obligation or liability on behalf of, or to otherwise bind, the other party. This Contract shall not be interpreted or construed to create an employment relationship, an association, agency, joint venture, or partnership between the parties or to impose any liability attributable to such a relationship upon either party. Consultant will not subcontract any Services or delegate any of its obligations under this Contract or any Services without the prior written consent of the County. If the County so consents, Consultant will ensure that any such subcontractor is bound to the terms of this Contract. Notwithstanding the existence or terms of any subcontract, Consultant is responsible for the full performance of the Services and for its subcontractors' compliance with the terms of this Contract.

17. **Licensure.** If required to perform the Services in the State of Tennessee, Consultant and its employees and all sub-grantees shall be licensed pursuant to all applicable Federal, State, and local laws, ordinances, rules, and regulations and shall, upon request, provide proof of all licenses.

18. **Statement of Confidentiality and Release of Information.**

18.1. If applicable, Consultant agrees to comply with the applicable provisions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d through d-9, ("HIPAA"), and the requirements of any regulations promulgated thereunder including, without limitation, the federal privacy regulations as contained in 45 CFR Parts 160 and 164 and the federal security standards as contained in 45 CFR Part 164.

18.2. The disclosure of patient health information by Consultant to the Hope Restored pursuant to this Contract shall be contingent upon the patient executing a valid release authorization in a form provided by the Hope Restored.

18.3. To the extent permitted by applicable law, Consultant shall keep all patient health information received, pursuant to this Contract, confidential and shall not disclose said information to any person other than as permitted or required by this Contract or as otherwise authorized by applicable law.

19. **Ownership of Documents.** All reports and reproducible documents and other data developed by the Consultant for the purpose of this Contract shall become the property of the County without restriction or limitation in connection with the County's use. The County may reuse any and all reports, studies, and documents without the need for consent of the Consultant. Upon delivery and of acceptance of the work product or upon notice of breach, Consultant shall deliver all documents, reports, and applicable data to the County within five (5) workdays.

20. **Proprietary Rights.** The Services and work product have been specifically ordered and commissioned by the County. Consultant agrees that the work product is a "work made for hire" for copyright purposes, with all copyrights in the work product owned by the County upon payment in full to the Consultant.

21. **Subletting or Assigning.** The Consultant shall not sublet, assign, or transfer any of the work product to be performed by Consultant without the prior written consent of the County. Any assignment or subcontracting in violation hereof shall be void and unenforceable and shall be deemed a material breach of this Contract. The Consultant shall be as fully responsible to the County for the acts and omissions of its subcontractors or sub-consultants as it is for the acts and omissions of people directly employed by it. The Consultant shall require each subcontractor or sub-consultant, approved by the County, to agree in its contract to observe and be bound by all obligations and conditions of this Contract to which Consultant is bound.

22. **Business Tax.** Contractor warrants that it has no delinquent business taxes owed to County or the State of Tennessee.

23. Disclosure of Personal Identity Information. Consultant shall report to the Hope Restored any instances of unauthorized disclosure of personally identifiable information that comes to the Consultant's attention. Consultant shall make any such report within twenty-four (24) hours after the instance has come to Consultant's attention. Consultant shall bear the cost of notification to individuals having personally identifiable information involved in a potential disclosure event, including individual letters or public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to the State under this Contract or otherwise available at law.

24. Indemnification.

24.1. The Consultant shall indemnify and hold the County harmless from any and all damages, claims, liability, losses, injuries, death, and causes of actions of any kind or nature arising out of a negligent error, omission, or act of the Consultant, its agents, representatives, employees, sub-consultants, sub-contractors or assigns, incident to or arising out of or resulting from the performance of the Services under this Contract. The Consultant shall pay all such claims and losses of any kind or nature whatsoever, in connection therewith, including the County's attorney's fees and expenses in the defense of any action in law or equity brought against the County arising from the negligent error, omission, or act of the Consultant, its sub-consultant or subcontractor or their agents, representatives, employees, or assigns, incident to, arising out of or resulting from the performance of the professional services contemplated by this Contract.

24.2. The Consultant agrees and recognizes that the County shall not be held liable or responsible for any claims, including the costs and expenses of defending such claims which may result from or arise out of the actions or omissions of the Consultant, its agents, representatives, employees, sub-consultants, sub-contractors, or assigns. In reviewing, approving, or rejecting any submissions or acts of the Consultant, the County in no way assumes or shares responsibility or liability of the Consultant, or its sub-consultants, their employees, agents, or assigns.

24.3. The Consultant's obligation to indemnify and hold the County harmless shall survive the termination of this Contract.

25. Rule 2 Compliance. Hope Restored and Consultant shall comply with obligations under Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying regulations as codified at 42 C.F.R. §§ 2.1 et seq

25.1. The Consultant warrants to County and Hope Restored that it is familiar with the requirements of Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying regulations, and will comply with all applicable requirements in the course of this Contract.

25.2. The Consultant warrants that it will cooperate with and assist the Hope Restored and County, including cooperation and coordination with State privacy officials and other compliance officers required by Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its regulations, in the course of performance of the subcontract so that both parties will be in compliance with Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records.

25.3. Consultant and Hope Restored shall sign documents required by Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, including but not limited to business associate agreements, that are reasonably necessary to maintain compliance with the Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records. This provision shall not apply if information received by the Consultant or Hope Restored is not "protected health information" as defined by Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, or if Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records permits the receipt of such information without entering into a business associate agreement.

25.4. **Consultant will indemnify the Hope Restored and County and hold them, their employees, officers, and agents harmless for any violation by the subcontractor of Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records. This includes the cost of responding to a breach of protected information, the cost of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by either County or Hope Restored because of the violation.**

26. **Project Changes. Changes to the Services may be modified by Hope Restored and the County by providing written notification to the Consultant. The Consultant shall cooperate in good faith with the Hope Restored to amend the Services and/or work product. Should the change cause an increase in the fee paid to Consultant, the change must be evidenced by a completed and signed amendment to this Contract. To be authorized and implemented, all amendments shall be signed by the Hope Restored Executive Director or the County Mayor.**

27. **Insurance. Without limiting its liability under this Contract, Consultant shall procure and maintain at his/her expense during the life of this Contract the insurance types and minimum amounts as provided by the Fayette County Risk Manager, including professional liability insurance. The insurance will be written by a company or companies licensed to do business in the State of Tennessee and satisfactory to Fayette County Risk Manager. Before commencing any Services, Consultant shall provide a certificate of insurance evidencing the maintenance of the insurance to the County. The general liability policy shall name Fayette County, Tennessee government as an additional insured with respect to this Contract. All insurance provided by Consultant in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by County.**

28. **Reporting. Consultant shall cooperate fully with the Hope Restored to assist the Hope Restored in completing and filing of all progress, status, and performance reports. Consultant accepts and agrees failure to assist the Hope Restored in compiling information, or completing the required documentation, may delay payment to Consultant if Consultant does not fully fulfill its obligations under this Section.**

29. **Sovereign Immunity. Notwithstanding anything contained in this Contract to the contrary, nothing in this Contract nor any document, statement, or omission of County, its officers, employees, or agents, shall be construed to be a waiver of the County's sovereign immunity.**

30. **Resolution by Court of Law. Non-binding Mediation. Claims, disputes, or other matters in question between the parties to this Contract arising out of or relating to this Contract or breach thereof, shall be subject to and decided by a court of law. The parties can agree to non-binding mediation prior to litigation.**

31. **Choice of Law. The validity, construction, and effect of this Contract and any and all extensions and/or modifications thereof, shall be governed exclusively by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the Consultant may provide.**

32. **Venue. Any action between the parties arising from this Contract shall be maintained exclusively in the courts of Fayette County, Tennessee.**

33. **Notices.**

33.1. **Delivery. Except as otherwise provided herein, any notice or other communication between the parties regarding the matters contemplated by this Contract may be sent by United States mail (first class, airmail, or express mail), commercial courier, facsimile, or electronic mail, in each case delivered to the address set forth below for the recipient.**

33.2. **Receipt. Communications shall be deemed received, if by mail, on the earlier of receipt or the third calendar day after deposit in the mail with postage prepaid; if by courier, when delivered as evidenced by the courier's records; if by facsimile, upon confirmation of receipt by the sending telecopier; and if by electronic mail, when first available on the recipient's mail server. If received on a day other than a business day, or on a business day but after 4:30 p.m., recipient's local time, the communication will be deemed received at 9:00 a.m. the next business day.**

33.3. **Addresses:**

33.3.1. If to County: Fayette County Mayor's Office
P.O. Box 218
13095 North Main Street
Somerville, TN 38068

33.3.2. If to Hope Restored Hope Restored Counseling, Inc.
P.O. Box 10836
Jackson, TN 38308

33.3.3. If to Consultant: Allard Consulting, LLC
400 Curtis Dr. SE
Huntsville, AL 35803

34. **Nondiscrimination.** The Consultant hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Consultant on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Consultant shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

35. **Environmental Tobacco Smoke.** Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn. Code Ann. §§ 39-17-1601 through 1606, the Consultant shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. Consultant shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

36. **Tennessee Open Records Act.** Consultant understands that County is subject to the Tennessee Open Records Act. This may require the County to provide requested documents to members of the public or press including, but not limited to, a copy of this Contract. Compliance by County with the Open Records Act shall not be a breach of this Contract.

37. **Severability.** Should any court of competent jurisdiction declare any provision of this Contract invalid then such provision shall be severed and shall not affect the validity of the remaining provisions of this Contract.

38. **Entire Contract.** The complete understanding between the parties is set out in this Contract, and this Contract supersedes and voids all prior and contemporaneous understandings, proposals, letters, contracts, or conditions expressed or implied, oral or written, except as herein contained. Any amendment, modification, waiver, or discharge of any requirement of this Contract will not be effective unless in writing signed by the parties hereto or by their authorized representatives.

39. **Waiver.** Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party and no such waiver shall be implied from any omission by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Contract, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

40. Employment Practices. Consultant shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal, or laying off of any individual due to race, creed, color, national origin, age, sex or which is in violation of applicable laws concerning the employment of individuals with disabilities.

41. Employment of Illegal Immigrants. The Consultant shall not knowingly hire any unauthorized employees or fail to comply with record keeping requirements set forth in the Federal Immigration Reform and Control Act of 1986, Chapter 878 of the 2006 Tennessee Public Acts and all other applicable laws. Failure to comply with the requirements of these immigration laws or other applicable laws is considered a material breach of this Contract and may lead to civil penalties and debarment or suspension from being a contractor or subcontractor under contracts with the County.

42. Anti-Deficiency Clause. Nothing contained in this Contract shall be construed as binding County to expend any sum in excess of appropriations made by its Legislative Body for the purposes of this Contract, or as involving County in any contract or other obligation for the further expenditure of money in excess of such appropriations.

43. Contract Construction. The provisions of this Contract shall be construed as a whole according to its common meaning and purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties.

44. Contingent Fees. Consultant hereby represents that Consultant has not been retained or retained persons to solicit or secure a County contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

45. Gratuities and Kickbacks. Consultant understands and agrees that it shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefor. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of the Consultant, a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order.

46. Time is of the Essence. Since this Contract is funded by public money, the parties agree that time is of the essence for the satisfactory completion of all Services within the time limitations defined by this Contract or by the Hope Restored.

47. Conflicting Terms. The parties agree that should the language in this Contract conflict with any language included in any documentation whether provided by Consultant or on behalf of Consultant, then the language or terms of this Contract shall be controlling.

48. Headings. The headings in this Contract are for convenience and reference and are not intended to define or limit the scope of any provisions of this Contract.

49. Effective Date. This Contract shall not be binding upon the parties until it has been signed first by Consultant and then by the authorized representatives of County and has been filed in the office of the Fayette County Mayor.

LAST ITEM ON PAGE
SIGNATURE PAGE AND AFFIDAVITS TO FOLLOW

FAIR EMPLOYMENT PRACTICES AFFIDAVIT

State of _____ County of _____

Fair Employment Practices Affidavit: After first being duly sworn according to law, the undersigned (Affiant) states that he is familiar with the employment policies of the Consultant and as the _____ of Consultant. Affiant states that by Consultant's employment policy, standards, and practices the Consultant does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment dismissal, or laying off of any individual due to his/her race, creed, color, national origin, age, or sex, and that the Consultant is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

And Further Affiant sayeth not:

By: _____

Title: _____

Address: _____

Sworn to and subscribed before me on this _____ day of _____, 20__.

Notary Public

My commission expires: _____

Ethical Standards Affidavit

State of _____

County of _____

Ethical Standards Affidavit. After first being duly sworn according to law, the undersigned ("Affiant") states that he/she has the legal authority to swear to this on behalf of _____ ("Consultant"); that no part of any other governmental monies provided for the services or products contemplated in this Agreement which was received from the State of Tennessee or Fayette County shall be paid directly to an employee or official of the State of Tennessee or Fayette County as wages, compensation, or gifts in exchange for acting as a Consultant, officer, agent, employee, subcontractor, or consultant to the County or the Consultant in connection with any Services contemplated or performed relative to this Agreement. Affiant and Consultant further swear that no Federal, State, or County appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, any employee of the State of Tennessee, or employee of Fayette County in connection with the awarding of any Federal, State, or County contract, the making or awarding of any government grant, the making of any government loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or County contract, grant, loan, or cooperative agreement.

Affiant

By: _____

Title: _____

State of _____

County of _____

Before me, the undersigned, a Notary public in and for the State and County aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the authorizing representative of _____, and that he/she as such authorizing representative executed the foregoing instrument for the purpose therein contained, by signing his/her name on behalf of _____.

WITNESS my hand and seal, at office in _____, Tennessee, this ____ day of _____, 20 ____.

Notary Public

My Commission Expires: _____

BUSINESS TAX AND LICENSE AFFIDAVIT

Business Tax and License Affidavit. The undersigned ("Affiant"), states that he/she has the legal authority to swear to this on behalf of _____, ("Consultant"); that Consultant is not in any manner in violation of Tennessee Code Annotated, Section, 5-14-108(I) which provides that "(n)o purchase shall be made or purchase order or contract of purchase issued for tangible personal property or services by county officials or employees, acting in their official capacity, from any firm or individual whose business tax or license is delinquent." Affiant affirms and warrants that Contractor's licenses are currently valid and all business taxes have been paid and are current as of the date of this affidavit. Consultant is licensed and pays business taxes in _____ (County), Tennessee.

Affiant

By: _____

Title: _____

Date: _____

Witness: _____

Date: _____

**CERTIFICATION OF COMPLIANCE WITH
THE IRAN DIVESTMENT ACT**

Effective July 1, 2016, this form must be submitted for any contract that is subject to the Iran Divestment Act, Tenn. Code Ann. § 12-12-101, et seq. ("Act"). This form must be submitted with any bid or proposal regardless of where the principal place of business is located.

Pursuant to the Act, this certification must be completed by any corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization, or other business organization that is contracting with a political subdivision of the State of Tennessee.

Certification Requirements.

No state agency or local government shall enter into any contract subject to the Act or amend or renew any such contract with any bidder/contractor who is found ineligible under the Act.

Complete all sections of this certification and sign and date it, under oath, in the presence of a Notary Public or a person authorized to take an oath in another state.

CERTIFICATION:

I, the undersigned, certify that by submission of this bid, each bidder and each person signing on behalf of any Respondent certifies, and in the case of a joint bid or contract each party thereto certifies, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

Respondent represents it has the full power, knowledge, and authority to make this Certification and that the signatory signing this Certification on behalf of bidder/contractor has been duly authorized to do so on behalf of the bidder/contractor.

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

Printed Respondent Name/Printed Name of Authorized Officer

Signature of Authorized Officer

STATE OF TENNESSEE
COUNTY OF _____

Before me personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the foregoing affidavit for the purposes therein contained.
Witness my hand and seal at office this ___ day of _____, 20__.

Notary Public

My commission expires: _____

FAYETTE COUNTY, TENNESSEE:

Fayette County Mayor

Purchasing Agent:

RECOMMENDED:
Department Head

Department:

APPROVED AS TO AVAILABILITY OF FUNDS:

Director of Finance

APPROVED AS TO INSURANCE:

Department of Risk Management

APPROVED AS TO FORM AND LEGALITY:

Fayette County Attorney

FILED IN THE OFFICE OF THE
FAYETTE COUNTY MAYOR:

Date: _____

CONSULTANT:

Lauren Allard, CEO

Sworn to and subscribed to before me, a
Notary Public, this ___ day of _____,
20___, by _____, the
_____ of Consultant and duly
authorized to execute this instrument on
Consultant's behalf.

Notary Public

My Commission Expires: _____

Commissioner Steve Reeves made the motion to approve the mutual aid reimbursement. The motion was seconded by Commissioner Rice and passed unanimously.

RESOLUTION

BE IT RESOLVED, by the County Legislative Body and/or the Board of County Commissioners of Fayette County, Tennessee, in regular sessions on this 24th day of October, 2023, it being the fourth Tuesday of the month and the regular monthly meeting of the County Legislative Body in the Criminal Justice Center in Somerville, Tennessee.

That the General Fund #101 Budget be amended in the following words and figures, to wit:

COUNTY GENERAL FUND BUDGET AMENDMENT F/Y 23/24 Oct-23

<u>Adjustment to Revenue Accounts:</u>	<u>INCREASE</u>	<u>DECREASE</u>
44170 Miscellaneous Refunds	\$ 12,282.37	
TOTAL INCREASE/DECREASE TO REVENUE ACCOUNTS:	\$ 12,282.37	\$ -
<u>Adjustment to Expenditure Accounts:</u>	<u>DECREASE</u>	<u>INCREASE</u>
54310 Fire Prevention & Control		
169 Part-Time Personnel		\$ 1,680.00
599 Other Charges		\$ 10,602.37
Subtotal-54310	0	\$ 12,282.37
TOTAL INCREASE/DECREASE TO EXPENDITURE ACCOUNTS:	\$ -	\$ 12,282.37
Prior Estimated Expenditures		\$ 27,881,556.54
Total Estimated Expenditures this Amendment		\$ 27,893,838.91
Projected Fund Balance before Amendment		\$ 5,555,779.85
Change in Fund Balance this Amendment		\$ -
Estimated Ending Fund Balance as of June 30, 2024		\$ 5,555,779.85

Commissioner Steve Reeves made the motion to approve the fire departments sale of surplus equipment. The motion was seconded by Commissioner Norton and passed unanimously.

Date: 10/5/23
To: Mayor Taylor
From: Richard Hartfield
Re: Sale of Vehicle

Request to sell an older vehicle not in service.

This vehicle, a 2000 Ford Expedition, given to us from the Oakland police dept., is not feasible to pay the cost for repairs needed. We have taken it out of service and request permission to sell it on GovDeals.com.

**2000 Ford Expedition
VIN# 1FMPU16L9YLB94141
Gold in color
Model EPT**

Thank you,

Chief Richard Hartfield

Commissioner Steve Reeves asked to table the fire department property survey until further information came in.

With no further business before the board the meeting was adjourned.

Rhea Taylor, County Mayor

ATTEST:

Shana N. Burch, County Clerk