

LEGISLATIVE TRACKING FORM

Filing for Council Meeting Date: 01/20/26 Resolution Ordinance
 Contact/Prepared By: Thomas Jones/Lindsay Taylor Date Prepared: 12/23/25

Title (Caption): A resolution approving an intergovernmental agreement by and between the State of Tennessee, Department of Transportation ("TDOT"), and the Metropolitan Government of Nashville and Davidson County, acting by and through the Nashville Department of Transportation ("NDOT"), for the repairing of existing pavement failures and resurfacing of 2.58 miles of Tusculum Road; State Project No. 19SAR1-S8-021, PIN: 136791.00. (Prop. No. 2025M-061AG-001)

Submitted to Planning Commission? N/A Yes - Date: 12/2/2025 Proposal No: 2025M-061AG-001
 Proposing Department: NDOT Requested By: Thomas Jones
 Affected Department(s): n/a Affected Council District(s): 27, 33

- Legislative Category (check one):
- | | | |
|---|--|---|
| <input type="checkbox"/> Bonds | <input type="checkbox"/> Contract Approval | <input checked="" type="checkbox"/> Intergovernmental Agreement |
| <input type="checkbox"/> Budget - Pay Plan | <input type="checkbox"/> Donation | <input type="checkbox"/> Lease |
| <input type="checkbox"/> Budget - 4% | <input type="checkbox"/> Easement Abandonment | <input type="checkbox"/> Maps |
| <input type="checkbox"/> Capital Improvements | <input type="checkbox"/> Easement Accept/Acquisition | <input type="checkbox"/> Master List A&E |
| <input type="checkbox"/> Capital Outlay Notes | <input type="checkbox"/> Grant | <input type="checkbox"/> Settlement of Claims/Lawsuits |
| <input type="checkbox"/> Code Amendment | <input type="checkbox"/> Grant Application | <input type="checkbox"/> Street/Highway Improvements |
| <input type="checkbox"/> Condemnation | <input type="checkbox"/> Improvement Acc. | <input type="checkbox"/> Other: _____ |

<p>FINANCE Amount +/-: \$ <u>\$ 1,613,000.00</u></p> <p>Funding Source: <input type="checkbox"/> Capital Improvement Budget <input type="checkbox"/> Capital Outlay Notes <input type="checkbox"/> Departmental/Agency Budget <input type="checkbox"/> Funds to Metro <input type="checkbox"/> General Obligation Bonds <input checked="" type="checkbox"/> Grant <input type="checkbox"/> Increased Revenue Sources</p> <p>Approved by OMB: <u>GLM</u> Approved by Finance/Accounts: _____ Approved by Div Grants Coordination: _____</p>	<p>Match: \$ <u>\$ 32,260.00</u></p> <p>Judgments and Losses Local Government Investment Project Revenue Bonds Self-Insured Liability Solid Waste Reserve Unappropriated Fund Balance 4% Fund Other: _____</p> <p>Date to Finance Director's Office: <u>12/29/2025</u> APPROVED BY <u>AP</u> FINANCE DIRECTOR'S OFFICE: _____</p>
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ADMINISTRATION

Council District Member Sponsors: _____

Council Committee Chair Sponsors: _____

Approved by Administration: _____ Date: _____

DEPARTMENT OF LAW Date to Dept. of Law: _____ Approved by Department of Law: _____

Settlement Resolution/Memorandum Approved by: _____

Date to Council: _____ For Council Meeting: _____ E-mailed Clerk

All Dept. Signatures Copies Backing Legislative Summary Settlement Memo Clerk Letter Ready to File

RESOLUTION NO. _____

A resolution approving an intergovernmental agreement by and between the State of Tennessee, Department of Transportation (“TDOT”), and the Metropolitan Government of Nashville and Davidson County, by and through the Nashville Department of Transportation and Multimodal Infrastructure (NDOT), for the repair of existing pavement failures and resurfacing of 2.58 miles of Tusculum Road; State Project No. 19SAR1-S8-021, PIN: 136791.00. (Proposal No. 2025M-061AG-001).

WHEREAS, pursuant to the terms of the agreement attached hereto, the Metropolitan Government and TDOT seek to enter into an intergovernmental agreement for the repair of existing pavement failures and resurfacing of 2.58 miles of Tusculum Road, from Nolensville Pk (SR-11) to Blue Hole Rd; and,

WHEREAS, Tennessee Code Annotated § 12-9-104(a)(2)(b) authorizes the Metropolitan Government of Nashville and Davidson County to enter into agreements with the State of Tennessee by resolution; and,

WHEREAS, it is in the best interest of the Metropolitan Government of Nashville and Davidson County that this intergovernmental agreement be approved.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the intergovernmental agreement between the State of Tennessee, Department of Transportation, and the Metropolitan Government of Nashville and Davidson County, by and through the Nashville Department of Transportation and Multimodal Infrastructure, for the repair of existing pavement failures and resurfacing of 2.58 miles of Tusculum Road, attached hereto and incorporated herein by reference, is hereby approved, and the Metropolitan Mayor is authorized to execute the same.

Section 2. That the Metropolitan Government’s participation is subject to the availability of funds as determined by the Department of Finance.

Section 3. Any amendments, renewals, or extension of the terms of the agreement may be approved by resolution of the Metropolitan Council.

Section 4. That this resolution shall take effect from and after its final passage, the welfare of the Metropolitan Government of Nashville & Davidson County requiring it.

RECOMMENDED BY:

DocuSigned by:
Diana W. Alarcon
CCA6046554D9461...
Diana W. Alarcon, Director
Nashville Department of Transportation
And Multimodal Infrastructure

INTRODUCED BY:

APPROVED AS TO AVAILABILITY
OF FUNDS:

Signed by:
Jenneen Reed/mjr
62377A2A8742460...
Jenneen Reed, Director
Department of Finance

Member(s) of Council

APPROVED AS TO FORM
AND LEGALITY:

DocuSigned by:
Erica Haber
D4E54A5815BD454...
Assistant Metropolitan Attorney

**AGREEMENT
BETWEEN THE STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
AND
DAVIDSON COUNTY**

THIS AGREEMENT is entered into between the State of Tennessee, Department of Transportation, hereinafter referred to as the "Department," and **Davidson County**, hereinafter referred to as the "Local Government," for the purpose of providing for maintenance of the State-Aid system of local routes in accordance with Tenn. Code Ann. 54-4-401 *et seq.*, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

PREAMBLE:

WHEREAS, a state-aid highway system consisting of certain routes in the county road network was established by Tenn. Code Ann. 54-4-401 *et seq.* ("State-Aid"); and

WHEREAS, the parties want to enter into agreement to provide for certain maintenance of a State-Aid route(s) as described herein; and

WHEREAS, the Local Government has prepared plans and specifications for the following maintenance activities:

State-Aid Route #: **SA 19056-1**

State Project #: **19SAR1-S8-021**

Route Name: **Tusculum Road**

From: **SR-11** To **Blue Hole Road**

(If Applicable) Contractor Name: **Jones Bros.**

(If Applicable) Shoulders resurfaced with: **ACS-HM (PG76-22) Grade "D" Mix**

PIN: **136791.00**

TDOT Contract Number: **250282**

hereinafter referred to as the "Project"; Resurfacing with ACS-HM Grade "D" mix on 2.58 miles of Tusculum Road in Davidson County.

NOW, THEREFORE, in consideration of the premises, the Department and the Local Government enter into this Agreement to provide for the funding and performance of the Project.

A. SCOPE OF SERVICES AND DELIVERABLES:

A.1. The Local Government shall provide plans and specifications for the construction of the Project for the Department's approval. If the Project includes replacement or construction of a bridge, then the plans shall be prepared by an engineer licensed in the State of Tennessee and designed in accordance with the latest AASHTO LRFD Standard Specifications for Highway Bridges, with Addenda, in effect on the Effective Date. If the

Project is for resurfacing only, then the Local Government shall provide, in lieu of plans, a typical section drawing including the paving schedule for the Department's approval.

- A.2. All construction shall be performed in accordance with the approved construction plans, the Department's Standard Specifications of Road and Bridge Construction (current Edition), as amended and supplemented by the Department's Supplemental Specifications, the Manual on Uniform Traffic Control Devices, and normally accepted construction practices.
- A.3. The Department hereby approves Attachment One, which is attached hereto and incorporated herein as a part of this Agreement, detailing the Project work to be performed by the Local Government. The Local Government agrees that where any State-Aid Route intersects with a state highway or other public road the Project work will continue across the right-of-way of the intersecting state highway or public road to the point where the State-Aid-Route abuts with the roadway of the state highway or public road.
- A.4. Construction Schedule: Work to begin as soon as possible after execution of this Agreement and to be completed on or before **June 30, 2026**.
- A.5. The Project shall be constructed subject to the approval of the Department only for conformity with the plans and specifications.
- A.6. The Local Government shall adhere to the provisions of Tenn. Code Ann. § 54-4-401 *et seq.*, the Department's State-Aid Program Guidelines, and to the Local Government's own adopted rules and regulations, and hereby certifies that these provisions, guidelines, and rules and regulations will be carried out. In the event of any conflict between the Department's State-Aid Program Guidelines and the Local Government's own adopted rules and regulations, the Department's State-Aid Program Guidelines shall control.
- A.7. Final determination of actual costs allowable under the terms of this Agreement shall be based upon a final review and approval by the Department of quantities and agreed unit prices, as certified to by the Local Government's engineer. The Local Government shall permit, and shall require its contractor and engineer to permit, the Department to inspect all work, materials, payrolls, and other data and records with regard to the Project and to audit the books, records and accounts of the Local Government and its contractor with regard to the Project.
- A.8. If applicable, the Local Government has requested that it be authorized to perform with its own forces those items of work identified on the "Estimated Quantities of Work and Agreed Unit Prices," attached hereto and incorporated herein as Attachment One, and the Department, having found the Local Government to be equipped and qualified to perform such work, hereby concurs in said request. The Local Government has elected to have the remaining work, if any, identified on Attachment One to be accomplished by awarding a construction contract after advertising for bids in a newspaper having circulation in the county where the Project is located for at least two (2) weekly issues prior to the date of accepting bids. The Local Government shall comply with its adopted rules and regulations governing competitive bid procedures, consistent with laws governing the awarding of highway or road construction contracts.

A.9. The Department has encumbered its share of the Project cost. In the event the work under the contract is not completed in the current fiscal year, the encumbered funds will be carried over to the next fiscal year.

B. TERM OF CONTRACT:

This Agreement shall be effective on the last date of signature (“Effective Date”) and extend until June 30, 2026 (“Term”). The Department shall have no obligation to the Local Government for fulfillment of the Scope outside the Term.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Estimated Maximum Liability. The estimated total cost of the Project under this Agreement is **One Million Six Hundred Thirteen Thousand Dollars and No Cents (\$1,613,000.00)** (“Estimated Maximum Liability”). The “Department Share” listed in Section C.2. of this Agreement is the maximum amount due the Local Government under this Agreement; provided that with advance written approval of the Department, the final total cost of the Project and the parties’ pro rata share thereof may increase as follows without execution of an amendment to this Agreement:

If the Department provides advance written approval for the actual cost of the Project to exceed the Estimated Maximum Liability, and if the Local Government has any unexpended balance of the current fiscal year State-Aid program funds to cover the costs, then the Department and the Local Government shall pay the amount above the Estimated Maximum Liability in the pro rata percentages set forth in Section C.2., and the Local Government’s share thereof shall be paid from its unexpended balance of the current fiscal year State-Aid program funds. In the event that the Local Government’s current fiscal year State-Aid program funds all have been expended, the costs above the Estimated Maximum Liability shall be paid entirely from Local Government funds. The Department shall not participate in any Project costs once the Local Government’s current fiscal year State-Aid program funds all have been expended, and the Department shall not participate in any Project costs for which advance written approval has not been given.

C.2. Department Share and Local Government Share. In accordance with Tenn. Code Ann. 54-5-404, the Local Government shall provide at least two percent (2%) of the approved Project cost in cash from Local Government funds or in-kind Project work approved by the commissioner of the Department, or both.

The parties agree that their respective shares of the Estimated Maximum Liability for the Project shall be as follows:

Department Share: (98%) \$ **1,580,740.00**

Local Government Share: (2%) \$ **32,260.00**

Total Project Cost: \$ **1,613,000.00**

C.3. Reimbursements to Reflect Match/Share. Reimbursements to Local Government shall reflect the percentage of Local Government Share detailed in Section C.2. Reimbursements are subject to the other provisions of this Agreement, including but not limited to, Section C.1.

C.4. Invoice Requirements. The Local Government shall invoice the Department no more often than monthly, with all necessary supporting documentation, and present such to:

Tennessee Department of Transportation
Benjamin Jordan, Region 3 State-Aid Office
6601 Centennial Blvd
Nashville, TN 37243
Email: Benjamin.R.Jordan@tn.gov
Telephone # (615) 350-4363

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Local Government).
 - (2) State Aid Number.
 - (3) State Project Number.
 - (4) Local Road Name.
 - (5) Invoice Date.
 - (6) Invoice Period (to which the reimbursement request is applicable).
 - (7) Agreement Number (assigned by the Department).
 - (8) Local Government Name.
 - (9) Local Government Remittance Address.
 - (10) Local Government Contact for Invoice Questions (name, phone or fax).
 - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
 - i. All line-item numbers as shown in Attachment 1 in numerical order
 - ii. Item Description
 - iii. Estimated Quantities
 - iv. Current Quantities
 - v. Previous Quantities
 - vi. Unit
 - vii. Unit Price
 - viii. The current amount requested
 - ix. The previous amount requested
 - x. Total amount reimbursed to date
- b. The Local Government understands and agrees to all of the following.
- (1) An invoice under this Agreement shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the

delivery of service described by this Agreement and shall be subject to Attachment One and any other provision of this Agreement relating to allowable reimbursements.

- (2) An invoice under this Agreement shall not include any reimbursement request for future expenditures.
- (3) An invoice under this Agreement shall initiate the timeframe for reimbursement only when the Department is in receipt of the invoice, and the invoice meets the minimum requirements of this Section C.4.

C.5. Payment Methodology. Payments will be made by the Department to the Local Government on the basis of actual quantities of items of work performed at the agreed unit price(s) set forth in Attachment One, including any adjusted unit prices and/or additional required pay items applicable to the Project as provided in the TDOT Standard Specifications for Road and Bridge Construction (current Edition).

Payment to the Local Government may be a sum made in advance, upon the Department's approval of the invoice submitted by the Local Government's contractor to the Local Government. For such payments, the Local Government shall pay its contractor within thirty (30) days of the Local Government's receipt of such funds from the Department and shall retain records of such payments.

C.6. Payment of Invoice. A payment by the Department shall not prejudice the Department's right to object to or question any reimbursement, invoice, or related matter. A payment by the Department shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.

C.7. Non-allowable Costs. Any amounts payable to the Local Government shall be subject to reduction for amounts included in any invoice or payment that are determined by the Department, on the basis of audits or monitoring conducted in accordance with the terms of this Agreement, to constitute unallowable costs.

C.8. Department's Right to Set Off. The Department reserves the right to set off or deduct from amounts that are or shall become due and payable to the Local Government under this Agreement or under any other agreement between the Local Government and the Department under which the Local Government has a right to receive payment from the Department.

C.9. Prerequisite Documentation. The Local Government shall not invoice the Department under this Agreement until the Department has received the following, properly completed documentation.

- a. The Local Government shall complete, sign, and return to the Department an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the Department. By doing so, the Local Government acknowledges and agrees that, once this form is received by the Department, all payments to the Local Government under this or any other Agreement will be made by automated clearing house ("ACH").

- b. The Local Government shall complete, sign, and return to the Department the Department-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Local Government's Federal Employer Identification Number or Social Security Number referenced in the Local Government's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The Department is not bound by this Agreement until it is signed by the parties and approved by appropriate officials.
- D.2. Modification and Amendment. This Agreement may be modified only by a written amendment signed by all parties.
- D.3. Termination for Convenience. The Department may terminate this Agreement without cause for any reason. A termination for convenience shall not be a breach of this Agreement by the Department. The Department shall give the Local Government at least thirty (30) days written notice before the effective termination date. The Local Government shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Local Government for compensation for any service that has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. The Local Government shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the Department's exercise of its right to terminate for convenience.
- D.4. Termination for Cause. If the Local Government fails to properly perform its obligations under this Agreement, or if the Local Government violates any terms of this Agreement, the Department shall have the right to immediately terminate this Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the Department's right to terminate this Agreement for cause, the Local Government shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Local Government.
- D.5. Subcontracting. The Local Government shall not assign this Agreement or enter into a subcontract for any of the services performed under this Agreement without obtaining the prior written approval of the Department. If such subcontracts are approved by the Department, each shall contain, at a minimum, sections of this Agreement pertaining to "Conflicts of Interest," "Nondiscrimination," "Debarment and Suspension," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Local Government shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Local Government warrants that no part of the total Agreement Amount shall be paid directly or indirectly to an employee or official of the Department of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Local Government in connection with any work contemplated or performed relative to this Agreement.

- D.7. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The Department:

Lisa Dunn / Manager State-Aid Office
Suite 600, James K. Polk Office Building
505 Deaderick Street
Nashville, TN 37243
Email: Lisa.Dunn@tn.gov
Telephone # (615) 253-2684
FAX # (615) 741-9673

The Local Government:

Diana Alarcon / Road Superintendent
Davidson County Highway Department
720 South 5th Street
Nashville, TN 37206
Email: diana.alarcon@nashville.gov
Telephone # (615) 862-8706

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.8. Subject to Funds Availability. This Agreement is subject to the appropriation and availability of State funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate this Agreement upon written notice to the Local Government. The Department's right to terminate this Agreement due to lack of funds is not a breach of this Agreement by the Department. Upon receipt of the written notice, the Local Government shall cease all work associated with the Agreement. Should such an event occur, the Local Government shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Local Government shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.9. Nondiscrimination. The Local Government 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 Agreement or in the employment practices of the Local Government 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 Local Government shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.10. Licensure. The Local Government, its employees, and any approved subcontractor 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.
- D.11. Records. The Local Government and any approved subcontractor shall maintain documentation for all charges under this Agreement. The books, records, and documents of the Local Government and any approved subcontractor, insofar as they relate to work performed or money received under this Agreement, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Local Government's records shall be subject to audit at any reasonable time and upon reasonable notice by the Department, the Comptroller of the Treasury, or their duly appointed representatives.
- D.12. Monitoring. The Local Government's activities conducted and records maintained pursuant to this Agreement shall be subject to monitoring and evaluation by the Department, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Local Government shall submit brief, periodic, progress reports to the Department as requested.
- D.14. Strict Performance. Failure by any party to this Agreement to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Agreement is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.15. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Agreement. The parties acknowledge that they are independent contracting entities and that nothing in this Agreement shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.16. Limitation of Department's Liability. The Department shall have no liability except as specifically provided in this Agreement. In no event will the Department be liable to the Local Government or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Agreement or otherwise. The Department's total liability under this Agreement (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally

established in Section C.1 of this Agreement. This limitation of liability is cumulative and not per incident.

D.17. Debarment and Suspension. The Local Government certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Agreement been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant 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;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.

The Local Government shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

D.18. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Agreement. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Agreement arising from a Force Majeure Event is not a default under this Agreement or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Local Government's representatives, suppliers, subcontractors, customers or business apart from this Agreement is not a Force Majeure Event under this Agreement. Local Government will promptly notify the Department of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the Department within one (1) day of the inception of the delay) that a Force

Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Local Government's performance longer than forty-eight (48) hours, the Department may, upon notice to Local Government: (a) cease payment of the fees until Local Government resumes performance of the affected obligations; or (b) immediately terminate this Agreement or any purchase order, in whole or in part, without further payment except for fees then due and payable. Local Government will not increase its charges under this Agreement or charge the Department any fees other than those provided for in this Agreement as the result of a Force Majeure Event.

- D.19. Procurement. If other terms of this Agreement allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Local Government shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Agreement. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement.
- D.20. Tennessee Department of Revenue Registration. The Local Government shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Agreement.
- D.21. State and Federal Compliance. The Local Government shall comply with all applicable state and federal laws and regulations in the performance of this Agreement.
- D.22. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Local Government agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Local Government acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-407.
- D.23. Completeness. This Agreement is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Agreement supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.24. Severability. If any terms and conditions of this Agreement are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Agreement are declared severable.
- D.25. Headings. Section headings are for reference purposes only and shall not be construed as part of this Agreement.

D.26. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101 *et seq.*, addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Agreement. The Local Government certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

D.27. Maintenance. Pursuant to T.C.A. § 54-1-126(b), upon completion of the construction of the Project, the Local Government shall be solely responsible for the maintenance of the completed Project. The Local Government acknowledges that where any county road intersects with a state highway or other public road, the Local Government’s maintenance responsibility for the county road, including but not limited to traffic control devices, continues across the right-of-way of the intersecting state highway or public road to the point where the local road abuts the roadway of the state highway or public road.

D.28. No Retainage Allowed. The Local Government may not withhold retainage on progress payments from the prime contractor and the prime contractor may not withhold retainage from their subcontractors.

IN WITNESS WHEREOF,

DAVIDSON COUNTY:

DocuSigned by:
Diana W. Alarcon
CGA6046554B9461...

Diana Alarcon, Davidson County Road Superintendent

APPROVED AS TO FORM AND LEGALITY:

DocuSigned by:
Erica Haber
B4F54A5815BD454...

Metropolitan Attorney

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Freddie O’Connell, Mayor

ATTEST, this the _____ day of _____, 20_____.

Metropolitan Clerk
February 25, 2022

APPROVED AS TO AVAILABILITY OF FUNDS

Signed by:

Jenneen Reed/mjw

62377A2A8742469...

Jenneen Reed, Director of Finance

APPROVED AS TO RISK AND INSURANCE

DocuSigned by:

Balaqun Cobb

68804BF12FD741C...

Director of Insurance

TENNESSEE DEPARTMENT OF TRANSPORTATION:

Will Reid, TDOT Commissioner

APPROVED AS TO FORM AND LEGALITY:

Leslie South, TDOT General Counsel

Daniel Pallme, TDOT Assistant Bureau Chief

ATTACHMENT ONE

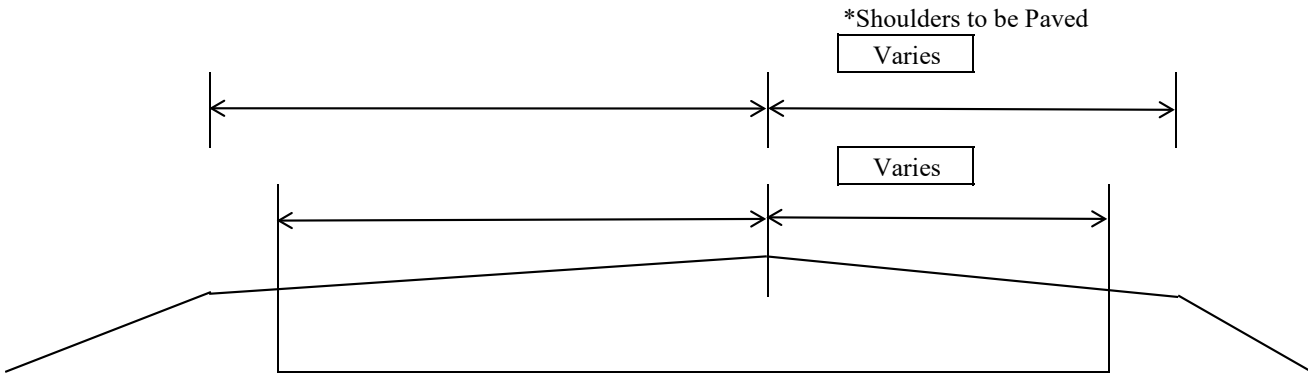
ESTIMATED QUANTITIES OF WORK AND AGREED UNIT PRICES

<u>Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Price</u>	<u>Amount</u>
203-05	Undercutting	300	CY	\$ 350.00	\$ 105,000.00
307-03.01	BPMB-HM (PG76-22) Grade "A" Mix	300	TN	\$ 199.48	\$ 59,844.00
307-03.08	BPMB-HM (PG76-22) Grade "B-M2" Mix	300	TN	\$ 209.48	\$ 62,844.00
403-02.01	Trackless Tack Coat (TTT-1)	13.5	TN	\$ 1,200.00	\$ 16,200.00
411-03.10	ACS-HM (PG76-22) Grade "D" Mix	4,950	TN	\$ 144.48	\$ 715,176.00
415-01.01	Cold Planing Bituminous Material	4,900	TN	\$ 32.78	\$ 160,622.00
611-01.21	Rework Manhole	22	EA	\$ 650.00	\$ 14,300.00
611-01.23	Rework Water Valve	57	EA	\$ 625.00	\$ 35,625.00
611-09.02	Rework Catch Basin	2	EA	\$ 650.00	\$ 1,300.00
712-06	Signs (Construction)	1,024	SF	\$ 9.00	\$ 9,216.00
712-08.06	Uniformed Police Officer	500	HR	\$ 75.00	\$ 37,500.00
712-10.21	Snowplowable Raised Pavement Markers (Bi-Dir, 1 Color)	42	EA	\$ 35.00	\$ 1,470.00
716-02.01	Plastic Pavement Marking (4" Line)	9	LM	\$ 4,000.00	\$ 36,000.00
716-02.05	Plastic Pavement Marking (Stop Line)	350	LF	\$ 15.50	\$ 5,425.00
716-02.06	Plastic Pavement Marking (Turn Lane Arrow)	10	EA	\$ 165.00	\$ 1,650.00
716-02.09	Plastic Pavement Marking (Longitudinal Crosswalk)	500	LF	\$ 20.00	\$ 10,000.00
716-02.10	Plastic Pavement Marking (6" Line)	4.5	LM	\$ 4,400.00	\$ 19,800.00
716-02.10 BZ	Plastic Pavement Marking (6" Buffer Zone Line)	5,800	LF	\$ 1.10	\$ 6,380.00
716-02.11	Plastic Pavement Marking (6" Dotted Line)	8,200	LF	\$ 1.10	\$ 9,020.00
716-04.03	Plastic Pavement Marking (4" Dotted Line)	4,900	LF	\$ 1.10	\$ 5,390.00
716-04.05	Plastic Pavement Marking (Straight Arrow)	2	EA	\$ 205.00	\$ 410.00
716-04.11	Plastic Pavement Marking (Bicycle Symbol w/ Helmeted Rider-Symbol Only)	3	EA	\$ 330.00	\$ 990.00
716-04.13	Plastic Pavement Marking (Bike Symbol w/ Helmeted Rider & Directional Arrow)	51	EA	\$ 650.00	\$ 33,150.00
716-04.15	Plastic Pavement Marking - Bicycle Symbol/Arrow Shared	2	EA	\$ 170.00	\$ 340.00
716-04.21	Green Textured Bike Lane	820	SY	\$ 110.00	\$ 90,200.00
716-05.01	Painted Pavement Marking (4" Line)	9	LM	\$ 700.00	\$ 6,300.00
716-05.03	Painted Pavement Marking (Crosswalk)	500	LF	\$ 7.75	\$ 3,875.00
716-05.05	Painted Pavement Marking (Stop Line)	350	LF	\$ 8.00	\$ 2,800.00
716-05.06	Painted Pavement Marking (Turn Lane Arrow)	10	EA	\$ 100.00	\$ 1,000.00
716-05.11	Painted Pavement Marking (Straight Arrow)	2	EA	\$ 100.00	\$ 200.00
716-05.20	Painted Pavement Marking (6" Line)	4.5	LM	\$ 875.00	\$ 3,937.50
730-14.02	Saw Slot	600	LF	\$ 8.50	\$ 5,100.00
730-14.03	Loop Wire	2,400	LF	\$ 1.65	\$ 3,960.00
920-11.04	FG 300 Surface Mount Channelizer Post, Model EFX, UR, PE, With Metro Base (PEXCO)	800	EA	\$ 70.00	\$ 56,000.00
	Consultant Engineering Fee	1	LS	\$ 76,025.00	\$ 76,025.00
Total					\$ 1,597,049.50
TDOT Inspection					\$ 15,950.50
Total Project Cost					\$ 1,613,000.00

ADDITIONAL ITEMS (WHERE APPLICABLE)			
SP109B	Payment Adjustment for Bituminous Material	TN	Paid per TDOT Special Provision 109B

ATTACHMENT TWO

County: Davidson County
 Local Road Name: Tusculum Road
 Termini: From SR-11 (Nolensville Pike) To Blue Hole Road
 Type of Work: Resurface
 Project Length: 2.58 miles



PROPOSED PAVEMENT SCHEDULE

Phase	DESCRIPTION
Tack Coat:	TTT-1 @ 0.05 gal./sq.yd.
Surface:	1-1/2" (Approx. 159.0 lbs./sq.yd.) (PG 76-22) ACS-HM Grade "D"

Davidson County

Tusculum Road

From: SR-11 (Nolensville Pike) To: Blue Hole Road

