

AGENDA
PUBLIC BUILDING AUTHORITY
August 13, 2024 Meeting

Sevierville Chamber of Commerce – Board Room

2:00 P.M.



AGENDA
PUBLIC BUILDING AUTHORITY
August 13, 2024
Sevierville Chamber of Commerce
Board Room
2:00 P.M.

A. CALL TO ORDER

1. Pledge of Allegiance
2. Invocation

B. ROLL CALL

C. MINUTES – *April 16, 2024*

D. PUBLIC FORUM

E. REPORTS

F. OLD BUSINESS

G. NEW BUSINESS

1. Consider approval to **enter into an “Operating Contract Respecting the Construction of the Kodak Center Project”** with the City of Sevierville – *Bob Moncrief* **1**
2. Consider approval to **enter into a Construction Manager-at-Risk Contract** with Vannoy Construction for the Kodak Center Project – *Bob Moncrief* **9**
3. Consider approval to **pave and stripe the impound lot** adjacent to the new Police Department equipment building – *Bob Moncrief* **12**

H. OTHER BUSINESS

I. ADJOURNMENT

**PUBLIC BUILDING AUTHORITY of the
CITY OF SEVIERVILLE, TENNESSEE**

April 16, 2024

A called meeting of the Public Building Authority of the City of Sevierville, Tennessee, was held at Sevierville City Hall, 120 Gary Wade Boulevard, Sevierville, Tennessee, on April 16, 2024, at 2:00 PM.

There were present and participating at the meeting:

Howard Murrell, Director
Jessica Ratcliff, Director
Mike Sutton, Vice Chairman
Andrew Temple, Chairman

Absent:

Brenda McCroskey, Secretary/Treasurer
Jim Medlin, Director
Rodney Tarwater, Director

Senior Staff Present:

Lynn McClurg, CFO/City Recorder
Ed Owens, City Attorney
Dustin Smith, Deputy City Administrator
Russell Treadway, City Administrator

Chairman Temple chaired the meeting with Lisa Taylor as secretary of the meeting. A motion was made by Director Ratcliff and seconded by Vice Chairman Sutton to approve the January 31, 2024, minutes and to dispense with the reading. Motion carried.

PUBLIC FORUM

Chairman Temple opened the public forum. There being no comments, the public forum was closed.

NEW BUSINESS

Chairman Temple recognized Bob Moncrief, who requested approval of Prime Contract change order #009. Moncrief explained all options and stated Option #4 was the best, Denark has offered to absorb all additional costs for the delays including demobilization and remobilization costs and overhead costs to be incurred by the various subcontractors and Denark. Denark will also absorb any additional costs or claims by the supplier for additional engineering costs. In exchange, Denark requested splitting the remaining contractor contingency and expediting/supply chain contingency 50/50 and reimburse all remaining owner contingency and allowances not used at 100%. The contract will convert to a lump sum agreement and overall deduction to the contract will be \$387,281.48. A motion was made by Director Ratcliff and seconded by Director Murrell to approve the change order as presented. Motion carried.

Chairman Temple recognized Russell Treadway, who requested approval of donation of right-of-way for Veterans Extension from SR 35 (Dolly Parton Parkway) to Robert Henderson Road. TDOT appraisers valued the 3.108 acres at \$596,400 and the property is in the name of the Public Building Authority. A motion was made by Vice-Chairman Sutton and seconded by Director Ratcliff to approve the donation of right-of-way and authorize the execution of al related documents. Motion carried.

There being no further business to discuss, the meeting adjourned at 2:24 PM.

Approved: _____
Andrew Temple, Chairman

Attest: _____
Lisa K. Taylor, Recorder



**PBA Board
Memorandum**

DATE: August 13, 2024

AGENDA ITEM: Consider approval to enter into an “Operating Contract Respecting the Construction of the Kodak Center Project” with the City of Sevierville.

PRESENTATION: The Kodak Center Project includes construction of Fire Station 4, meeting space and offices for general use by the Police and other City departments, a pre-engineered metal storage building for Public Works and other departments to store equipment, a fuel farm, salt storage bin, and other material storage bins. The total budget is \$10,000,000. The Board of Mayor and Aldermen approved on July 22, 2024.

REQUESTED ACTION: Approve as presented.

**OPERATING CONTRACT
RESPECTING THE CONSTRUCTION OF THE KODAK CENTER PROJECT**

This OPERATING CONTRACT is made and entered into as of the ___ day of July, 2024, by and between the CITY OF SEVIERVILLE, TENNESSEE ("the City") and the PUBLIC BUILDING AUTHORITY OF THE CITY OF SEVIERVILLE, TENNESSEE ("PBA").

RECITALS

The City is a municipal corporation created pursuant to the laws of the State of Tennessee; and PBA is a public building authority created pursuant to the provisions of the Public Building Authorities Act of 1971, TCA § 12-10-101 et seq.; and

The City plans to retain the services of a Construction Managers at Risk ("CMAR") to oversee the following projects: (1) construction of fire station 4; (2) construction of meeting space and offices for general use by the City Police Department and other city departments for meetings; (3) construction of a pre-engineered metal building for public works and police department equipment storage; (4) construction of Salt Storage Bin and material storage areas, and (4) construction of a fuel farm, collectively, the ("Projects").

The City desires to contract with PBA to provide project management services to the City with respect to the Projects, as hereinafter specified; and

As PBA has no funds of its own for use in the undertaking of the Projects, all costs and expenses for the planning, design and construction of the Projects will be borne by the City; and

This Operating Contract sets forth the terms and conditions under which PBA will manage the construction of the Projects, including administrative services to the City with respect thereto.

NOW, THEREFORE, for and in consideration of the covenants and agreements set forth herein, the parties agree as follows:

**ARTICLE I
STATEMENT OF INTENT AND DEFINITIONS**

Section 1.01 - Statement of Intent. It is the intent of the parties to set forth in this Contract the framework and procedures to be followed so as to permit PBA to manage the construction of the Projects on behalf of the City.

Section 1.02 - Definitions. For all purposes under this Contract, the following terms shall have the following definitions, unless a contrary intent clearly appears from the context or use of a term:

"Act" shall mean the Public Building Authorities Act of 1971, as amended, which is presently codified in Title 12, Chapter 10 of Tennessee Code Annotated as Sections 12-10-101 through 12-10-124, inclusive.

"Architects" shall mean the Architects selected by the City for the Projects.

"Budget" shall mean, at any relevant time, the then effective itemized estimate of the total costs (including an allowance for contingencies with respect to unanticipated construction costs, reserves, furniture, fixtures, equipment and related costs, and any financing costs) with respect to a Project.

"City Administrator" shall mean the City Administrator of the City.

"Contract" shall mean this Contract for construction of the Project and any amendments or supplements hereto, which the parties declare to be an "Operating Contract" as defined in the Act.

"Council" shall mean the Board of Mayor and Aldermen of the City.

ARTICLE II PROJECT CONSTRUCTION

Section 2.01 – Commencement of Construction Activities. Upon execution of this Contract, PBA shall proceed with the following construction activities:

(a) PBA shall, in accordance with law applicable to PBA and the Contract Documents, obtain the services of a CMAR to build the Projects in accordance with the Construction Drawings, Plans and Specifications prepared by the Architects, as may be amended from time to time by written change orders. The CMAR shall be selected and contracted with by PBA, in consultation with the City Administrator or his designee(s), in accordance with the Act and other law applicable to PBA; provided, however, no contract which causes the Budget for a Project to be exceeded may be accepted. The CMAR shall be licensed in the State of Tennessee, appropriately insured against liabilities and appropriately bonded for the timely construction and completion of the Project in accordance with the Construction Drawings, Plans and Specifications, as amended from time to time by written change orders, and to secure PBA against liens for labor and materials.

(b) As provided in Section 3.02, PBA shall submit a recommended final Budget for each Project to the Council based upon actual construction proposals received for that Project.

(c) PBA will provide selection and hiring of the CMAR, approval of contracts and supervision of construction as an owner's representative; and the processing of payment authorizations and warrant requests for architects, contractors, subcontractors, suppliers, consultants and other parties involved in the Projects.

(d) PBA also will provide contract administration, inspection and monitoring to ensure that the structure is erected according to plans. PBA may obtain the services of such professionals, externally and from City staff, as it deems necessary to properly administer the construction of the Projects. These services also include consultation services relating to any claim or cause of action arising in the event of defective or deficient construction. PBA shall be the contracting party on all contracts related to the Projects.

(e) PBA may agree to any written change orders for the construction of the Projects; provided, however, that any change order which increases the overall Budget of a Project shall require the written approval of the City Administrator or his designee.

(f) If at any time during construction PBA determines that the final Budget for a Project may be exceeded, PBA promptly will notify the City Administrator, who shall notify Council. Thereupon, the City Administrator may:

(1) instruct PBA, with PBA's advice, as to how the Project is to be modified so as to be within the final Budget; or

(2) ask Council to increase the final Budget by such amount as is then determined to be necessary to complete construction of the Project in accordance with the construction contract therefor.

**ARTICLE III
BUDGETS AND COST ESTIMATES**

Section 3.01 – Preliminary Budget. The City has developed a Budget for the Projects, as follows:

- (1) The overall budget for the Projects shall not exceed Ten Million Dollars (\$10,000,000).

Section 3.02 - Final Budget. Upon receipt of construction proposals or contracts which it deems acceptable for the Projects, PBA will submit a recommended final Budget to Council, based upon the actual construction proposals or contracts received for the Projects. Upon approval by Council, the submission shall be the final Budget for the Projects, subject to any modification of the Budget as provided in Article II hereof.

**ARTICLE IV
PROJECT COSTS AND REIMBURSEMENT**

Section 4.01 - PBA Staff and Consultants. PBA shall assign one or more individuals, approved by the City Administrator, to serve as Project Managers for the Projects. PBA is hereby authorized to retain such consultants and to use such City staff as may be necessary to perform all tasks contemplated to be performed by PBA or such other tasks as may from time to time be requested by the City.

Section 4.02 - Costs of Projects. The City shall be responsible for all direct and indirect costs incurred by PBA associated with the Projects and this Contract and shall promptly pay such costs when due or as requested by PBA.

**ARTICLE V
TERMINATION**

Section 5.01 - Termination. This Contract can be terminated by either party by giving written notice of termination to the other party at least sixty (60) days prior to the effective termination date specified in the notice. All costs and expenses of PBA with regard to this Contract which accrue or are incurred or committed before the termination date will be paid by the City to PBA and to third-party service providers, including without limitation any termination costs and any direct or indirect costs, expenses, liabilities, or obligations of PBA under contracts or commitments entered into by PBA prior to termination. PBA shall have the right and, upon request by the City, the obligation to assign to the City any agreements which extend beyond the termination date, and the City may assume PBA's obligations under such agreements. In addition, the City will pay PBA for all costs reasonably incurred by PBA after the termination of this Contract which relate to this Contract or the Projects.

Section 5.02 - Effect of Termination. It is the intent of the parties that, since PBA has no independent source of funds for the Projects, upon termination by either party, and irrespective of the reason for termination, and consistent with the terms of this Contract, the City must pay all costs, liabilities, expenses and obligations incurred by PBA with respect to the Projects. Therefore, the parties agree that after PBA gives notice of termination or receives a notice of termination from the City, PBA shall cease its activities with respect to the Projects on or as soon as reasonably practicable after the effective date of such termination, and PBA shall transfer to the City all drawings, personal property and general intangibles applicable the Projects.

**ARTICLE VI
NON-DISCRIMINATION**

PBA hereby agrees that it:

A. Will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, familial status or national origin;

B. Will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, age, disability or familial status or national origin;

D. Will in all solicitations or advertisements for employees placed by or on behalf of itself, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, disability, familial status or national origin; and

Will include these provisions in every subcontract or sublease let by or for it.

**ARTICLE VII
AMERICANS WITH DISABILITIES ACT**

With regard to the services performed under this Agreement, PBA will comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.* ("ADA").

**ARTICLE VIII
INDEMNIFICATION AND RELEASE**

The City acknowledges that PBA has no funds of its own to spend on the Projects. Subject to the limits of Tennessee law, including but not limited to the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101, *et seq.*, the City agrees to indemnify and hold harmless PBA, its officers, directors and employees, from and against any and all claims, costs (including but not limited to attorneys' fees), obligations or liabilities with respect to the Projects, including any claims arising from PBA's negligence, but only to the extent that such claims are not covered by insurance required by this Contract or any other applicable insurance. The City further agrees that PBA, its officers, directors, agents, and employees will have no personal liability for any claim respecting performance or non-performance by PBA of its obligations under this Operating Contract, all of which are hereby expressly released. The City acknowledges that PBA must assure that payments are made to contractors, suppliers, architects, consultants and other service providers in accordance with the terms of contracts between PBA and such entities. The City acknowledges and agrees that it must promptly make the payments to PBA and to contractors, architects and other providers hereunder, notwithstanding any dispute which may exist in regard to the Projects.

Notwithstanding anything else herein to the contrary, the provisions of this indemnity and hold harmless clause shall not be construed to change the liability of any party hereto to any third party (that is, any party other than the parties hereto and their respective officers, directors and employees) from any claim that would otherwise be prohibited or limited under Tennessee law, including but not limited to the Tennessee Governmental Tort Liability Act, as codified at T.C.A. §29-20-101, *et seq.*, (the TGTLA) it being the intent of this clause not to waive, diminish or otherwise affect the statutory limits of liability, the statutory immunity or the extent of such immunity that may have been established by any party hereto under the TGTLA in regard to any third party claims.

**ARTICLE IX
MISCELLANEOUS PROVISIONS**

Section 9.01 - Operating Contract. This document is intended and declared to be an Operating Contract within the meaning of the Public Building Authority Act of 1971, Tennessee Code Annotated §§ 12-10-101, et seq.

Section 9.02 - Notices. Unless otherwise specified in this Contract, any notice or other communication permitted or required to be given hereunder by one party to another, and required by this Contract to be in writing, shall be hand delivered or sent by nationally recognized courier service with next day service designated or mailed by registered or certified United States Mail, postage prepaid, return receipt requested, to the party entitled or required to receive the same at the address specified below or at such other address as may hereafter be designated by notice given in accordance with the other terms hereof, to the following address:

**If to PBA: Public Building Authority of the City of Sevierville
 Attn: Mr. Andrew Temple, Chairman
 P.O. Box 5500
 Sevierville, TN 37864-5500**

**If to the City: City of Sevierville
 Attn: Mr. Russell Treadway
 P.O. Box 5500
 Sevierville, TN 37864-5500**

All such notices shall be deemed effectively given, in the case of hand delivery on the date of actual receipt, in the case of overnight courier service on the next business day after delivery to such courier service, and in the case of certified or registered United States Mail, on the date of receipt or rejection or refusal according to the receipt therefore. Any party may from time to time change the address to which such notices or communications may be delivered or sent by giving the other party written notice of such change.

Section 9.03 - Written Amendments. This Agreement may be modified only by a written amendment or addendum that has been executed and approved by the appropriate, authorized officials of the City and PBA.

Section 9.04 - Assignment. This Contract and the rights and obligations of the parties hereunder shall not be assignable by any of the parties without the express written consent of the other party.

Section 9.05 - Entire Agreement. This Contract embodies all of the terms and conditions between the parties hereto with respect to the subject matter hereof. There are no statements, representations, warranties or agreements which have not been included in this Operating Contract.

Section 9.06 - Particular Waiver Not Subsequent Waiver. No waiver by any party hereto of any right of such party or obligation of any other party shall be or be deemed to be a continuing waiver of any such right or obligation or a waiver of any other right of such party or other obligation of any other party.

Section 9.07 - Captions for Convenience Only. Captions have been inserted to various articles and sections of this Contract as a matter of convenience only and shall not be or be deemed to have substantive meaning.

Section 9.08 - Invalidity and Severability. No provision of this Contract shall be or be deemed to be invalid or unenforceable except upon the ruling of a court of competent jurisdiction as to such invalidity or unenforceability which is, by rule of court or the passage of time, final and not subject to further appeal. The invalidity or unenforceability of anyone or more provisions of the Contract under any particular circumstances shall not affect the validity or enforceability of any of the remaining portions of this Contract; provided, however, the invalidity of anyone or more provisions providing for or assuring the payment to PBA for all costs and liabilities incurred in connection with PBA's performance of its duties and responsibilities hereunder with respect to this Contract or the Project shall relieve PBA of all duties and responsibilities of further performance hereunder with respect to the Contract or Project.

Section 9.09 - No Benefit for Third Parties. The services to be performed by PBA pursuant to this agreement with the City are intended solely for the benefit of the City, and no benefit is conferred hereby, nor is any contractual relationship established herewith, upon or with any person or entity not a party to this Agreement. No such person or entity shall be entitled to rely on PBA's performance of its services hereunder, and no right to assert a claim against the City or PBA, its officers, employees, agents or contractors shall accrue to PBA or to any subcontractors, independently retained professional consultant, supplier, fabricator, manufacturer, lender, tenant, insurer, surety or any other third party as a result of this Agreement or the performance or non-performance of PBA's services hereunder.

Section 9.10 - Counterpart Execution. This Contract may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 9.11 - Binding Effect. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

CITY OF SEVIERVILLE, TENNESSEE

By: 
Robert W. Fox, Mayor

Date: 7-29-24

PUBLIC BUILDING AUTHORITY
OF THE CITY OF SEVIERVILLE, TENNESSEE

By: _____
Andrew Temple, Chairman

Date: _____



**PBA Board
Memorandum**

DATE: August 13, 2024

AGENDA ITEM: Consider approval to enter into a Construction Manager-at-Risk Contract with Vannoy Construction for the Kodak Center Project.

PRESENTATION: The City advertised a Request for Qualifications for Construction Manager at Risk for City of Sevierville Fire Station 4 and Public Works Auxiliary (Kodak Center Project). Four companies responded with qualifications and proposed rates. A selection committee of the Deputy City Administrator, Fire Chief, Public Works Director, Project Manager, and Assistant Project Manager individually reviewed and scored the qualifications and met as a group to discuss. After reviewing all information submitted and checking references, we recommend Vannoy Construction as having the best qualifications for this project.

REQUESTED ACTION: Approval to enter into agreement with final review and approval by PBA Attorney and City Risk Manager.

CMAR Kodak Center Project - Fee Schedule									
	Honer		Joseph		Mavin		Vannoy		Notes
	Mixed	Cost	Mixed	Cost	Mixed	Cost	Mixed	Cost	\$
CM Fee Percentage	3%	\$ 240,000.00	3.50%	\$ 280,000.00	3.5%-7%	\$280,000.00-\$560,000.00	3.45%	\$ 276,000.00	8,000,000.00
Preconstruction Services Fee	\$ 18,500.00	\$ 18,500.00	\$ 5,000.00	\$ 5,000.00	\$25,000.00-\$45,000.00	\$25,000.00-\$45,000.00	\$ 49,875.00	\$ 49,875.00	
General Conditions Percentage	5.75%	\$ 460,000.00	3.60%	\$ 288,000.00	4%-8%	\$320,000.00-\$640,000.00	7.27%	\$ 581,600.00	Joseph provided a \$24,000.00 per month fee. Assuming 12-month construction, this is \$288,000 or 3.6% of \$8 million.
Special Conditions	N/A	\$ -	N/A	\$ -	N/A	\$ -	N/A	\$ -	Vannoy did not include insurances and bonds.
Markups for Change Orders	6%	\$ -	10%	\$ -	5%	\$ -	5%	\$ -	Mavin's proposed percentage is only applicable to additive change orders
Shared Savings (Owner/CM)	80/20	\$ -	100/0	\$ -	60/40	\$ -	70/30	\$ -	
All-in Cost (Based on \$8 Million Construction Cost)	\$	718,500.00	\$	573,000.00	\$625,000.00-\$1,245,000.00	\$	907,475.00		
Cost Ranking (1 being cheapest, 4 being most expensive)	2		1		4		3		
Number of Fire Stations/EMS	0		0		2		7		

I. GENERAL COMPANY HISTORY / QUALIFICATIONS

I A. Provide a brief history of the firm and the services routinely provided in house on projects of this nature.



From our humble beginnings in 1952, *James R. Vannoy & Sons Construction Company, Inc. (Vannoy Construction)* has always maintained a family atmosphere among its employees, subcontractors, partners, and clients. Evidenced by the company's client retention rate and the many employees who have been a member of the team for decades, Vannoy Construction remains one of the Southeast's top builders.

When we first opened our doors in 1952 business was done on a handshake and a person's word was all you needed to know the job would be done right. Today, with single projects ranging from \$50,000 to \$280 million, and **annual revenues exceeding \$850 million**, that same focus on commitment and honor remains.

Vannoy Construction's culture has consistently been defined by the character of its founders. Jim and Wilma Vannoy started a family company **72 years ago** with North Carolina mountain roots which fostered the character of our people. Our character remains today under the leadership of their sons, Eddie & Mark Vannoy.

We call this character the **4Hs - Honor, Humility, Hospitality and Hustle**. Different than Core Values or Mission Statements, the 4Hs are our behavior standards and are expected to be visible in our everyday interactions. Together, these attributes built our reputation and define our working relationship with every customer, partner and vendor we work with every day.

V HONOR | HUMILITY | HOSPITALITY | HUSTLE

\$850+ Million Annual Volume
90% of Annual Revenue is CM at Risk Services
10 Years Running - Best Places to Work
#127 Nation's Top 400 Contractors (ENR)

8 LOCATIONS
 Jefferson, NC (HQ)
 Charlotte, NC
 Asheville, NC
 Winston-Salem, NC
 Anderson, SC
 Charleston, SC
 Greenville, SC
 Lynchburg, VA

MANAGING OFFICE
 1500 Ridgefield Boulevard
 Asheville, North Carolina 28806
 t: 828.575.1300
 Brian Walker, Vice President
 e: brian.walker@jrvannoy.com



**PBA Board
Memorandum**

DATE: August 13, 2024

AGENDA ITEM: Consider approval to pave and stripe the impound lot adjacent to the new Police Department equipment building.

PRESENTATION: The parking area for the PD impound lot had drainage issues. The Public Works Department (PW) installed drainage pipe and storm drains to alleviate this issue. The pavement in the parking area is in poor condition and needs to be paved and striped. PW has an annual contract with Blalocks for paving. Our estimate for paving is \$32,375. The estimate to stripe is \$600. We have funds available within the budget for the PD facility to cover all costs. Since these numbers are approximate, we would recommend approving a not-to-exceed cost of \$35,000.

REQUESTED ACTION: Approve as presented.