



Mayor & City Council
Special Called Meeting Agenda

Monday, September 27, 2021, 8:00 PM

Tucker City Hall

1975 Lakeside Pkwy, Ste 350B, Tucker, GA 30084

Members:

Frank Auman, Mayor

Pat Soltys, Council Member District 1, Post 1

Matt Robbins, Council Member District 2, Post 1

Michelle Penkava, Council Member District 3, Post 1

Vacant, Council Member District 1, Post 2

Noelle Monferdini, Council Member District 2, Post 2

Anne Lerner, Council Member District 3, Post 2

ZOOM link; <https://us02web.zoom.us/j/87413287525> or Telephone: 877 853 5247 (Toll Free) ID: 874 1328 7525

Pages

A. CALL TO ORDER

B. ROLL CALL

C. MAYOR'S OPENING REMARKS

D. NEW BUSINESS

D.1.	Contract C2021-005-SP1910 Carlton.Robertson	3
	Update the Contract Award for ITB 2021-005 Henderson Park Sidewalk Project	
D.2.	Contract C2021-003-PR2114 Carlton.Robertson	10
	Update the Contract Award for ITB 2021-003 William Probst Park Memorial Project	
D.3.	Contract C2021-300-1330-CC2201 Robert.Porche	17
	Contract Approval of the BS&A Software Cloud Version Upgrade	
D.4.	Ordinance O2021-09-18 Robert.Porche	43
	An Ordinance to Amend the 2022 Fiscal Year Budget	
D.5.	Ordinance O2021-09-19 Brian.Anderson	46
	An Ordinance to Amend the City of Tucker Code CH 10 BUSINESSES to state the	

current Exemptions to Local Occupation Taxes

E. EXECUTIVE SESSION

- As required for the purpose of litigation, real estate and/or personnel

F. ACTION AFTER EXECUTIVE SESSION (As Needed)

G. ADJOURNMENT



MEMO

To: Honorable Mayor and City Council Members
From: Tami Hanlin, City Manager
CC: Robert Porche, Finance Director
By: Rip Robertson, Director, Parks & Recreation
Date: September 13, 2021
RE: Henderson Park Sidewalk Project

Issue: With the City of Tucker's commitment to quality parks and outdoor activity, we continue to make improvements in our park system. This project will create a pedestrian sidewalk along the east side of Henderson Park Road lot in Henderson Park.

Recommendation: Staff recommends approving a contract, for a total of \$120,922.00 (\$117,400.00 base bid with \$3,522.00 for performance and payment bonds), with AJB Construction Group, INC. to add new sidewalks along Henderson Park Road from the Livsey Street entrance to the first parking lot. We had 9 contractors submit bids. AJB has numerous parks projects and just recently completed a similar park sidewalk project in a neighboring community.

Background: As part of our Master Plan, access was mentioned as priorities in our parks. We continue to strive to add these priority features in our system. This will enable walkers to travel safely from the entrance along the road to several trail starting points. We are bringing this back to Council to add the necessary bonds due to the amount of the project.

Summary: This project will install sidewalks tying into the existing sidewalk at Livsey Street at the park entrance and run the full length to the first parking lot on Henderson Park Road. Due to some topography issues, there will be sections adjacent to the curb and some with landscape (beauty) strips. This project is intended to provide safer access to the park and trails.

Financial Impact: This item will be funded in the Departments General Fund CIP, 320-6210-54-12000 (SP1910).

CITY OF TUCKER, GEORGIA INVITATION TO BID: ITB# 2021-005

HENDERSON PARK: SIDEWALK

Invitation: The City of Tucker is requesting bids for the HENDERSON PARK: SIDEWALK project. Bids will be received at the City of Tucker City Hall located at 1975 Lakeside Pkwy Suite 350, Tucker, GA 30084, until **Thursday, August 26, 2021 at 1:00 pm**. Bids will be reviewed by the City's staff and will be awarded to the responsive and responsible bidder whose bid, conforming with all the material terms and conditions of the ITB, is the lowest in price. Bid tabulation will be made available to all bidders upon request.

Work to Be Performed: The project consists of installing a new sidewalk along the east side of the east entrance driveway, from Livsey Road to the first parking lot. The work to be performed by the General Contractor consists of, but is not limited to, the following major items:

1. Construction of a new four-foot to five-foot wide concrete sidewalk, including several concrete flumes with steel grate trench drains, two accessible curb ramps and replacement of two ten-foot sections of existing curb and gutter.

Mandatory Pre-Bid Conference: A mandatory pre-bid conference is scheduled for **Thursday, August 12, 2021 at 10:00 am**. Attendees will meet at the east entrance of Henderson Park located at 1 Henderson Park Road, Tucker, GA 30084. **Attendees will be required to follow the most current CDC guidelines and protocols for social distancing. Any questions shall be submitted in writing per the "Instructions to Bidders".**

Specifications and Contract Documents: Digital copies (PDFs) of the Specifications and Contract Documents will be available for download from the City's website, starting on **August 5, 2021**.

Questions: Questions concerning this solicitation shall be submitted in writing via email to procurement@Tuckerga.gov. **The deadline for questions is Wednesday, August 18, 2021 by 4:00 pm.**

BID ACTIVITY SCHEDULE	
Issue RFP	Thursday, August 5, 2021
Mandatory Pre-Bid Conference	Thursday, August 12, 2021 at 10:00 am
Deadline for Questions	Tuesday, August 17, 2021 by 4:00 pm
Answers Posted by the City (Addendum)	Thursday, August 19, 2021 by 4:00 pm
Proposals Due / Bid Opening	Thursday, August 26, 2021 at 1:00 pm
Award Contract	Monday, September 13, 2021 at Regular Council Meeting

NOTE: PLEASE CHECK THE CITY WEBSITE (<http://www.tuckerga.gov>) FOR ADDENDA AND SCHEDULE UPDATES.

The City reserves the right to reject any or all proposals, to waive informalities, and to re-advertise.

The City of Tucker Procurement Department



ITB #2021-005 Henderson Park Sidewalk

BID SUBMISSION SHEET

The below listed firms submitted bids which were turned in at the time indicated.

Any bid or proposal submitted after the due date and time may not be considered for award.

<u>COMPANY</u>	<u>RECEIVED</u>	<u>BID AMOUNT</u>
1. DAF Concrete Inc	8/26/2021 10:50 AM	\$169,290.00
2. Multiplex LLC	8/26/2021 11:13 AM	\$300,000.00
3. AJB Construction Group Inc	8/26/2021 12:25 PM	\$117,400.00
4. SOL Construction LLC	8/26/2021 12:20 PM	\$134,481.00
5. HFJ Concrete	8/26/2021 12:23 PM	\$168,265.00
6. Summit Construction & Development LLC	8/26/2021 12:31 PM	\$148,893.98
7. Helix Group	8/26/2021 12:31 PM	\$195,000.00
8. TriScapes Inc	8/26/2021 12:55 PM	\$188,886.10
9. LLANO	8/26/2021 12:55 PM	\$153,446.00

Opened/Verified by: Bonnie Warne 8/26/2021

Rip Robertson

Jason Collins

Ron Griffith

HENDERSON PARK SIDEWALK

BID PROPOSAL, Page 1 of 4

Proposal of AJB Construction Group, Inc. (hereinafter called
“**BIDDER**”) a contractor organized and existing under the laws of the state of
Georgia, *an individual, a corporation, or partnership doing business
as AJB Construction Group, Inc.

*Strike out Inapplicable Terms.

THIS BID SUBMITTED TO: The City of Tucker Parks and Recreation Department (hereinafter called “**OWNER**”)

The undersigned **BIDDER** proposes and agrees, if this Bid accepted, to enter into an Agreement with the **OWNER** in the form included in the Contract Documents to complete all Work as specified or indicated in the Contract Documents for the Lump Sum Fee and within the Contract Time indicated in this Bid.

BIDDER agrees to provide the necessary machinery, tools, apparatus, all materials and labor, and other means of construction necessary to complete the **HENDERSON PARK SIDEWALK PROJECT**, including but not limited to: the construction of a four-foot to five-foot concrete sidewalk, twenty-four-inch curb and gutter, metal sidewalk flumes, and two accessible ramps.

In submitting this Bid, the **BIDDER** represents that:

1. **BIDDER** agrees that in case of failure on his/her part to execute said contract and bond, or provide satisfactory proof of carriage of the insurance required, within ten (10) calendar days after the award thereof, the Bid Bond or certified check accompanying his bid and the money payable thereon shall be forfeited to the **OWNER** as liquidated damages; otherwise, the check or Bond accompanying this proposal shall be returned to the **BIDDER**.
2. **BIDDER** has examined the plans, specifications and related documents with respect to the site of the proposed work. Being familiar with all of the conditions surrounding the construction of the proposed project, including the availability of materials and supplies, the **BIDDER** agrees to construct the project within the time set forth herein and in accordance with the Contract Documents.
3. **BIDDER** has given the **OWNER** written notice of all conflicts, errors or discrepancies discovered in the Contract Documents. **BIDDER** has received written resolution thereof by Addendum from the **OWNER**.

HENDERSON PARK SIDEWALK

BID PROPOSAL, Page 2 of 4

4. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation.
5. **BIDDER** has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid.
6. **BIDDER** has not solicited or induced any person, firm, or corporation to refrain from bidding; and, **BIDDER** has not sought by collusion to obtain for himself any advantage over any other Bidder or over the **OWNER**.

Further, **BIDDER** agrees that the cost of any work performed, materials furnished, services provided, or expenses incurred, which are not specifically delineated in the Contract Documents, but which are incidental to the scope, intent, and completion of the Contract, shall be deemed to have been included in the prices bid for the various items scheduled.

BIDDER further proposes and agrees hereby to promptly commence the Work with adequate force and equipment within five (5) calendar days from receipt of Notice to Proceed, or as may be specified by Special Provision; to continuously pursue the Work without interruption; and, to complete the Work within four (4) calendar months of the Notice to Proceed.

TOTAL LUMP SUM BASE BID:

1. Having become completely familiar with the local conditions affecting the cost of work at the place where work is to be executed, and having carefully examined the site conditions as they currently exist, and having carefully examined Bidding Documents prepared by the Design Consultants and titled: **Henderson Park Sidewalk**, together with any addenda to such Bidding Documents as listed hereinafter, the undersigned hereby proposes and agrees to provide all labor, materials, plants, equipment, transportation, taxes, permits and other facilities as necessary and/or required to execute all of the work described by the aforesaid Bidding Documents for the lump sum consideration of:

TOTAL BASE BID \$ 117,400.00

One hundred seventeen thousand four hundred
(insert written amount) Dollars

Said amount above shall be hereinafter referred to as the "Base Bid" or "Base Proposal".

HENDERSON PARK SIDEWALK

BID PROPOSAL, Page 3 of 4

2. If the Contractor is given a Notice of Award by the Owner, within Thirty (30) calendar days after receipt of bids, the Contractor agrees to execute a contract for the above-named project work and the above-stated consideration on the form required within ten (10) calendar days of such notification. The undersigned hereby designates the office address stated on the last page of this proposal as the address to which a Notice of Award of this Construction Contract may be delivered and to which all official correspondence and notices may be mailed, or delivered, unless the Owner is otherwise notified in writing by the Contractor.

ACKNOWLEDGEMENT OF ADDENDA:

(The Bidder hereby acknowledges receipt of addenda to this solicitation)

Addendum No: 1 Date: 8/20/21 Addendum No: Date:

Addendum No: Date: Addendum No: Date:

Addendum No: Date: Addendum No: Date:

Attached hereto is a bid bond or certified check on the (Bank) The Cincinnati Insurance

Company in the amount of \$5,870

(Five percent of Total Amount Bid).

HENDERSON PARK SIDEWALK

BID PROPOSAL, Page 4 of 4

This Bid Proposal is respectfully submitted by:

AJB Construction Group, Inc.

BIDDER (Company Name)

Company Physical Address:

97 Keys Ferry St

McDonough, Ga 30253

Company Mailing Address (if different):

Point of Contact: Phone Number

(678) 880-4912

Point of Contact: E-mail Address

amathews@ajbconstructiongroup.com

Signed and sealed this 24 day of August, 2021.

By:

Anja Mathews

(Printed Name)

President and CEO

(Title)

(Seal)

(Signature)

Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to conduct business in the State of Georgia.



MEMO

To: Honorable Mayor and City Council Members
From: Tami Hanlin, City Manager
CC: Robert Porche, Finance Director
By: Rip Robertson, Director, Parks & Recreation
Date: September 13, 2021
RE: Probst Park Memorial Project

Issue: With the City of Tucker's commitment to quality parks and outdoor activity, we continue to make improvements in our park system. This project will create a permanent memorial in newly named Probst Park.

Recommendation: Staff recommends approving a contract, for a total of **\$129,611.00 (\$125,800.00 base bid with \$3,811.00 for performance and payment bonds)**, with Willow Construction, INC. to construct the Probst Memorial along the northern loop of the trail that encircles the park. We had 3 contractors submit bids. Willow Construction is a well-known park project contractor and just recently completed our Peters Park renovation project.

Background: With the passing of Smoke Rise community visionary and developer, William "Bill" Probst, the city was approached about constructing a memorial in honor of this community icon. In February, the city renamed Smoke Rise Park in honor of Mr. Probst and is now known as "Probst Park". Community members have raised all necessary funding for a permanent memorial to honor Mr. Probst. **We are bringing this back to Council to add the necessary bonds due to the amount of the project.**

Summary: The project consists of creating a new memorial plaza and observation deck for William R. Probst. The work to be performed consists of the construction of a granite chimney, granite seat walls, a paver plaza and a small wooden observation deck. The chimney will have a bronze plaque with Mr. Probst's history and the recognizable Smoke Rise community seal.

Financial Impact: This item is fully funded through donations from Smoke Rise community members. Fund # 300-6211-54-23100 (PR2114).

CITY OF TUCKER, GEORGIA INVITATION TO BID: ITB# 2021-003

WILLIAM R. PROBST MEMORIAL

Invitation: The City of Tucker is requesting bids for the WILLIAM R. PROBST MEMORIAL project. Bids will be received at the City of Tucker City Hall located at 1975 Lakeside Pkwy Suite 350, Tucker, GA 30084, until **Thursday, August 26, 2021 at 2:00 pm**. Bids will be reviewed by the City's staff and will be awarded to the responsive and responsible bidder whose bid, conforming with all the material terms and conditions of the ITB, is the lowest in price. Bid tabulation will be made available to all bidders upon request.

Work to Be Performed: The project consists of creating a new memorial plaza and observation deck for William R. Probst. The work to be performed by the General Contractor consists of, but is not limited to, the following major items:

1. Construction of a granite chimney, granite seat walls, a paver plaza and a small wooden observation deck.

Mandatory Pre-Bid Conference: A mandatory pre-bid conference is scheduled for **Thursday, August 12, 2021 at 2:00 pm**. Attendees will meet at Probst Park (Formerly Smoke Rise Park), located at 5623 Hugh Howell Road, Tucker, GA 30084. **Attendees will be required to follow the most current CDC guidelines and protocols for social distancing. Any questions shall be submitted in writing per the "Instructions to Bidders".**

Specifications and Contract Documents: Digital copies (PDFs) of the Specifications and Contract Documents will be available for download from the City's website, starting on **August 5, 2021**.

Questions: Questions concerning this solicitation shall be submitted in writing via email to: procurement@Tuckerga.gov. **The deadline for questions is Wednesday, August 18, 2021 by 4:00 pm.**

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Award Contract	Monday, September 13, 2021 at Regular Council Meeting

NOTE: PLEASE CHECK THE CITY WEBSITE (<http://www.tuckerga.gov>) FOR ADDENDA AND SCHEDULE UPDATES.

The City reserves the right to reject any or all proposals, to waive informalities, and to re-advertise.

The City of Tucker Procurement Department



ITB #2021-003 William R. Probst Memorial

BID SUBMISSION SHEET

**The below listed firms submitted bids which were turned in at the time indicated.
Any bid or proposal submitted after the due date and time may not be considered for award.**

<u>COMPANY</u>	<u>RECEIVED</u>	<u>BID AMOUNT</u>
1. Multiplex LLC	8/26/2021 11:13 AM	\$240,000.00
2. Willow Construction Inc	8/26/2021 12:50 PM	\$125,800.00
3. TriScapes Inc	8/26/2021 12:55 PM	\$338,746.00

Opened/Verified by: Bonnie Warne 8/26/2021

Jason Collins

Ron Griffith

WILLIAM R. PROBST MEMORIAL

BID PROPOSAL, Page 1 of 4

Proposal of Willow Construction, Inc. (hereinafter called
"BIDDER") a contractor organized and existing under the laws of the state of
Georgia, ~~*an individual~~, a corporation, ~~or partnership~~ doing business
as Willow Construction, Inc.

*Strike out Inapplicable Terms.

THIS BID SUBMITTED TO: The City of Tucker Parks and Recreation Department (hereinafter called "OWNER")

The undersigned BIDDER proposes and agrees, if this Bid accepted, to enter into an Agreement with the OWNER in the form included in the Contract Documents to complete all Work as specified or indicated in the Contract Documents for the Lump Sum Fee and within the Contract Time indicated in this Bid.

BIDDER agrees to provide the necessary machinery, tools, apparatus, all materials and labor, and other means of construction necessary to complete the **WILLIAM R. PROBST MEMORIAL PROJECT**, including but not limited to: the construction of a granite chimney, granite seat walls, a paver plaza, and a wooden observation deck.

In submitting this Bid, the BIDDER represents that:

1. BIDDER agrees that in case of failure on his/her part to execute said contract and bond, or provide satisfactory proof of carriage of the insurance required, within ten (10) calendar days after the award thereof, the Bid Bond or certified check accompanying his bid and the money payable thereon shall be forfeited to the OWNER as liquidated damages; otherwise, the check or Bond accompanying this proposal shall be returned to the BIDDER.
2. BIDDER has examined the plans, specifications and related documents with respect to the site of the proposed work. Being familiar with all of the conditions surrounding the construction of the proposed project, including the availability of materials and supplies, the BIDDER agrees to construct the project within the time set forth herein and in accordance with the Contract Documents.
3. BIDDER has given the OWNER written notice of all conflicts, errors or discrepancies discovered in the Contract Documents. BIDDER has received written resolution thereof by Addendum from the OWNER.

WILLIAM R. PROBST MEMORIAL

BID PROPOSAL, Page 2 of 4

4. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation.
5. **BIDDER** has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid.
6. **BIDDER** has not solicited or induced any person, firm, or corporation to refrain from bidding; and, **BIDDER** has not sought by collusion to obtain for himself any advantage over any other Bidder or over the **OWNER**.

Further, **BIDDER** agrees that the cost of any work performed, materials furnished, services provided, or expenses incurred, which are not specifically delineated in the Contract Documents, but which are incidental to the scope, intent, and completion of the Contract, shall be deemed to have been included in the prices bid for the various items scheduled.

BIDDER further proposes and agrees hereby to promptly commence the Work with adequate force and equipment within five (5) calendar days from receipt of Notice to Proceed, or as may be specified by Special Provision; to continuously pursue the Work without interruption; and, to complete the Work within four (4) calendar months of the Notice to Proceed.

TOTAL LUMP SUM BASE BID:

1. Having become completely familiar with the local conditions affecting the cost of work at the place where work is to be executed, and having carefully examined the site conditions as they currently exist, and having carefully examined Bidding Documents prepared by the Design Consultants and titled: **William R. Probst Memorial**, together with any addenda to such Bidding Documents as listed hereinafter, the undersigned hereby proposes and agrees to provide all labor, materials, plants, equipment, transportation, taxes, permits and other facilities as necessary and/or required to execute all of the work described by the aforesaid Bidding Documents for the lump sum consideration of:

TOTAL BASE BID \$ 125,800.00

ONE HUNDRED TWENTY FIVE THOUSAND EIGHT HUNDRED Dollars
(insert written amount)

Said amount above shall be hereinafter referred to as the "Base Bid" or "Base Proposal".

WILLIAM R. PROBST MEMORIAL

BID PROPOSAL, Page 3 of 4

2. If the Contractor is given a Notice of Award by the Owner, within Thirty (30) calendar days after receipt of bids, the Contractor agrees to execute a contract for the above-named project work and the above-stated consideration on the form required within ten (10) calendar days of such notification. The undersigned hereby designates the office address stated on the last page of this proposal as the address to which a Notice of Award of this Construction Contract may be delivered and to which all official correspondence and notices may be mailed, or delivered, unless the Owner is otherwise notified in writing by the Contractor.

ACKNOWLEDGEMENT OF ADDENDA:

(The Bidder hereby acknowledges receipt of addenda to this solicitation)

Addendum No: 1 Date: 8/25/2021 Addendum No: Date:

Addendum No: Date: Addendum No: Date:

Addendum No: Date: Addendum No: Date:

Attached hereto is a bid bond or certified check on the (Bank) Suretec Insurance Company in the amount of Five Percent of the Greatest Amount Bid
(Five percent of Total Amount Bid).

WILLIAM R. PROBST MEMORIAL

BID PROPOSAL, Page 4 of 4

This Bid Proposal is respectfully submitted by:

Willow Construction, Inc.

BIDDER (Company Name)

Company Physical Address:

3970 Flint Hill Road

Powder Springs, GA 30127-2809

Company Mailing Address (if different):

same

Point of Contact: Phone Number

(770) 222-1555

Point of Contact: E-mail Address

agravel@wilocon.com

Signed and sealed this 26th day of August, 2021.

By: Alan C. Gravel
(Printed Name)

President
(Title)

Alan C. Gravel
(Signature)



Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to conduct business in the State of Georgia.



MEMO

To: Honorable Mayor and City Council Members
From: Robert J. Porche, Jr., Finance Director
CC: Tami Hanlin, City Manager
Date: September 27, 2021
RE: BS&A Software Cloud Version Upgrade

Issue:

The City of Tucker is utilizing BS&A software as its ERP system. The vendor has been working on a “cloud” version for several years and asked if the City of Tucker would be the initial client to install and upgrade. The upgrade will address and solve several current problems that some departments are experiencing with the client-hosted version:

- The challenges with remote access will go away with the cloud version.
- Virtual servers will no longer be needed to be maintained for BS&A.
- Firewall & virus definitions will now be the responsibility of BS&A.
- Remote printing will be available
- Back-up of each database will be done by BS&A
- Payroll Tax Table updates will be pushed out timely by BS&A
- Inspector access from the field will improve greatly
- Building Module will have better data integrity
- User security is upgraded
- IT duties are shifted to BS&A
- Numerous new reports available in the cloud version
- Significant training hours included in the contract that can be transferred to each department as needed

Recommendation:

Council consideration & approval

Summary:

With the City of Tucker being the first client to install & upgrade, pricing considerations were given by BS&A.

Financial Impact:

Utilize existing funding and Capital Contingency
300-1330-54.24000 CC2201

Proposal for BS&A Cloud Software and Services, Presented to...

City of Tucker, DeKalb County GA

August 2, 2021

Quoted by: Kevin Schafer



Thank you for the opportunity to quote our software and services.

At BS&A, we are focused on delivering unparalleled service, solutions, support, and customer satisfaction. You'll see this in our literature, but it's not just a marketing strategy... it's a mindset deeply embedded in our DNA. Our goal is to provide such remarkable customer service that our customers feel compelled to remark about it.

*We are extremely proud of the many long-term customer relationships we have built. Our success is directly correlated with putting the customer first and consistently choosing to **listen**. Delivering unparalleled customer service is the foundation of our company.*

Cost Summary

Modules and Annual Service Fee prices based on an approximate population of 35,322. Software is licensed for use only by municipality identified on the cover page. If used for additional entities or agencies, please contact BS&A for appropriate pricing. Prices subject to change if the actual count is significantly different than the estimated count.

Upgrade - Cloud Modules

Financial Management

General Ledger	\$3,150
Accounts Payable	\$2,675
Cash Receipting	\$2,675
Purchase Order	\$2,675
Fixed Assets	\$2,675

Personnel Management

Payroll	\$4,330
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Community Development

Building Department	\$3,935
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Subtotal	\$22,115
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New - Cloud Modules

Personnel Management

Human Resources	\$3,150
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Project Management and Implementation Planning

Services include:

- Analyzing customer processes to ensure all critical components are addressed.
- Creating and managing the project schedule in accordance with the customer's existing processes and needs.
- Planning and scheduling training around any planned process changes included in the project plan.
- Modifying the project schedule as needed to accommodate any changes to the scope and requirements of the project that are discovered.
- Providing a central contact between the customer's project leaders, developers, trainers, IT staff, conversion staff, and other resources required throughout the transition period.
- Installing the software and providing IT consultation for network, server, and workstation configuration and requirements.
- Reviewing and addressing the specifications for needed customizations to meet customer needs (when applicable).

\$20,900

Implementation and Training

- \$1,100/day
- Days quoted are estimates; you are billed for actual days used

Services include:

- Setting up users and user security rights for each application
- Performing final process and procedure review
- Configuring custom settings in each application to fit the needs of the customer
- Setting up application integration and workflow methods
- Onsite verification of converted data for balancing and auditing purposes
- Training and Go-Live

Software Setup	Days:	8		\$8,800
Financial Management Modules	Days:	12		\$13,200
Personnel Management Modules	Days:	8		\$8,800
Community Development Modules	Days:	8		\$8,800
		Total:	36	Subtotal \$39,600



Cost Totals

Not including Annual Service Fees

Upgrade Modules	\$22,115
New Modules	\$3,150
Project Management and Implementation Planning	\$20,900
Implementation and Training	\$39,600
Total Proposed	\$85,765
<i>Travel Expenses</i>	<i>\$21,800</i>
<i>Hosting Fees</i>	<i>\$9,000</i>

Payment Schedule

- 1st Payment: **\$20,900** to be invoiced upon execution of this agreement.
2nd Payment: **\$34,265** to be invoiced at activation of customer's site.
3rd Payment: **\$61,400** to be invoiced upon completion of training.



Annual Service Fees

Unlimited support during your first year with the program is included in your purchase price. Thereafter, Service Fees are billed annually. After two (2) years, BS&A Software reserves the right to increase the Annual Service Fee by no more than the yearly Consumers Price Index for All Urban Consumers U.S. city average (CPI-U).

Upgrade – Cloud Modules

Financial Management	
General Ledger	\$3,150
Accounts Payable	\$2,675
Cash Receipting	\$2,675
Purchase Order	\$2,675
Fixed Assets	\$2,675
Personnel Management	
Payroll	\$4,330
Community Development	
Building Department	\$3,935
Total Annual Service Fees	\$22,115

New – Cloud Modules

Personnel Management	
Human Resources	\$3,150

Hosting Fees

Fees relating to the hosting and storage of data through Microsoft Azure are to be billed annually, for all modules included above.

\$9,000



Additional Information

Program Customization

BS&A strives to provide a flexible solution that can be tailored to each municipality's needs. However, in some cases, custom work may be required. Typical examples include:

- custom payment import/lock box import
- custom OCR scan-line
- custom journal export to an outside accounting system
- custom reports

If you require any custom work, please let us know so that we can better understand the scope of your request and include that in a separate proposal.

Cash Receipting Hardware

		Quantity		Cost
Epson THM-6000V Series Receipt Printer*	\$925	x	_____	= \$_____
APG Series 100Cash Drawer**	\$250	x	_____	= \$_____
Honeywell Hyperion 1300g Linear-Imaging Scanner	\$250	x	_____	= \$_____
Credit Card Reader (if using Invoice Cloud)	\$75	x	_____	= \$_____

This will add \$_____ to the Total Proposed.

**IMPORTANT. The receipt printer must be plugged into the USB port on one workstation (not your server). This printer is not to be shared with other workstations. If more than one workstation will be used for receipting, please consider purchasing more than one receipt printer.*

Please provide the number of cash drawers that will be hooked up to the printer_____

Note: The availability, model numbers, and pricing for all third party hardware listed above is subject to availability from the manufacturers. In the event that the listed hardware is no longer available at the time of purchase, a comparable replacement will be available, at the then current cost.

Additional Training - Building Department Report Designer

Most of our Building Department customers heavily use our Report Designer, which is included free with the program. Report Designer Training is not included in the training quoted on this proposal and is highly recommended. You may attend a class at our office in Bath Township, or we can train at your location. Report Designer Training is typically completed in one day.

Please check the option you are interested in. Report Designer Training will be scheduled after successful implementation and training of your Building Department software.

___ Classroom training, \$205/person/day

___ On-site training (unlimited attendees), \$1,100/day, travel not included



BS&A Online

Connection Requirements

BS&A Cloud modules require a high-speed internet connection (cable modem or DSL).

Payment Processing Requirements

Acceptance of online payments requires a contract with one of BS&A's approved Online Credit Card Processing companies. Please visit <https://www.bsasoftware.com/solutions/bsonline/public-records-search/> for information.



Acceptance

Signature constitutes...

1. An order for products and services as quoted
Quoted prices do not include Program Customization, training beyond the estimated number of days, or recommended Bank Reconciliation Consultation
2. Agreement with the proposed Annual Service Fees

Signature

Date

BS&A PLEDGE. We offer a one-year, risk-reversal pledge on our software. If, up to a year after installation, you are not happy with our software and service, you can return our software for a full refund.

Returning Accepted Proposal to BS&A

Please return the entire proposal, with signature/date (this page) and contact information (next page) filled out, by any of these methods:

Mail: BS&A Software
14965 Abbey Lane
Bath, MI 48808

Fax: (517) 641-8960

Email: kschafer@bsasoftware.com

Once your proposal is received, a BS&A representative will contact you to begin the scheduling process.



Contact Information

If any mailing addresses are PO Boxes, please also provide a Street Address for UPS/Overnight mail.

If additional contacts need to be submitted, please make a copy of this page.

Key Contact for Implementation and Project Management

Name _____ Title _____

Phone/Fax _____ Email _____

Mailing Address _____

City, State, Zip _____

IT Contact

Name _____ Title _____

Phone/Fax _____ Email _____

Mailing Address _____

City, State, Zip _____



SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement, including the attached Exhibits ("Agreement"), is entered into by and between Bellefeuil, Szur & Associates, Inc. ("BSA"), a Michigan corporation and the City of Tucker, DeKalb County GA ("Customer"), effective the date of the signature of the last Party to sign the Agreement ("Effective Date"). Each party to the Agreement is referred to as a "Party" and the parties, collectively, are referred to as "Parties."

This Agreement sets the terms and conditions under which BSA will furnish certain Software as a Service ("SaaS") and certain professional services described herein to Customer.

SECTION A – SAAS SERVICES

1. Rights Granted.

- 1.1.** Upon the Effective Date, subject to the terms of this Agreement and Customer's ongoing compliance therewith, BSA hereby grants to Customer a non-exclusive, non-transferable, and non-assignable license to use the BSA Software Products. "BSA Software Product(s)" means, the: (i) BSA Software as a Service set forth in **Schedule 1 to Exhibit A**; (ii) related interfaces and customizations; (iii) BSA manuals, BSA official specifications, and BSA user guides provided in or with BSA software products set forth in **Schedule 1 to Exhibit A** ("Documentation"); and (iv) all modifications to the BSA software products set forth in **Schedule 1 to Exhibit A**, including, but not limited to, fixes, new versions, new releases, updates, upgrades, corrections, patches, work-arounds (collectively, "Modifications"). For the avoidance of doubt, Documentation does not include advertising, other general statements about products, or statements by sales or other staff members.
- 1.2.** Customer acknowledges that BSA will not ship copies of the BSA Software Products as part of the SaaS Services.

- 2. Restrictions.** Customer will not (i) sublicense, modify, adapt, translate, or otherwise transfer, reverse compile, disassemble or otherwise reverse engineer BSA Software Products or any portion thereof without prior written consent of BSA; (ii) access or otherwise use the BSA Software Products to create or support, and/or assist a third party in creating or supporting software products competing with the BSA Software Products; or (iii) assign, disclose, display, distribute, host, lease, license, outsource, permit timesharing or service bureau use, rent, sell, transfer or otherwise use the BSA Software Products for any commercial use other than fulfilling Customers own internal business purposes. Without limiting the foregoing, the BSA Software Products may not be modified by anyone other than BSA. If Customer modifies the BSA Software Products without BSA's prior written consent, any BSA obligation to provide support services on, and the warranty for, the BSA Software Products will be void. All rights not expressly granted are reserved.

- 3. SaaS Fees.** Customer agrees to pay BSA, and BSA agrees to accept from Customer as payment in full for the rights granted herein, the SaaS fees set forth in **Schedule 1 to Exhibit A**.

4. Ownership.

- 4.1.** BSA retains all ownership and intellectual property rights to the SaaS Services, the BSA Software Product(s), and anything developed by BSA under this Agreement. Customer does not acquire under this Agreement any license to use the BSA Software Product(s) beyond the scope and/or duration of the SaaS Services. Customer agrees not to challenge such rights and hereby assigns any and all copyrights and other intellectual property rights in and to the BSA Software Products to BSA and agrees to execute any and all documents necessary to effect the purpose of this paragraph. "Intellectual property rights" means all trademarks, copyrights, patents, trade secrets, moral rights, know-how, and all other proprietary rights.
- 4.2.** Customer retains all ownership and intellectual property rights to the data.

5. Limited Software Warranty.

- 5.1.** BSA warrants, for the term of use granted, that the BSA Software Products will perform without material defects in workmanship or materials. Customer's exclusive remedy in the event of a breach of this warranty shall be to have BSA use reasonable efforts, consistent with industry standards, to repair or replace the non-conforming BSA Software Product so as to render it conforming to the warranty, in accordance with the maintenance and support process set forth below in **Exhibit C** and BSA's then current Support Call Process.
- 5.2.** THE FOREGOING LIMITED SOFTWARE WARRANTY IS IN LIEU OF ALL OTHER REPRESENTATIONS OR WARRANTIES RELATING IN ANY WAY TO THE BSA SOFTWARE PRODUCTS INCLUDING, *BUT NOT LIMITED TO*, THEIR FEATURES, ATTRIBUTES, FUNCTIONALITY, AND PERFORMANCE. THE FOREGOING LIMITED SOFTWARE WARRANTY IS IN LIEU OF ALL SUCH REPRESENTATIONS OR WARRANTIES WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR REPRESENTATIONS OF MERCHANTABILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM THE COURSE OF DEALING OR USAGE OF TRADE. BSA DOES NOT REPRESENT OR WARRANT THAT THE BSA SOFTWARE PRODUCTS WILL MEET ANY OR ALL OF CUSTOMER'S PARTICULAR REQUIREMENTS, THAT THE OPERATION OF THE BSA SOFTWARE PRODUCTS WILL OPERATE ERROR FREE OR UNINTERRUPTED, OR THAT ALL PROGRAMMING ERRORS IN THE BSA SOFTWARE PRODUCTS CAN BE FOUND IN ORDER TO BE CORRECTED.

- 6. One Year Money Back Guarantee.** BSA offers a one (1) year Money Back Guarantee on all SaaS products. If, for any reason, you are not satisfied with the BSA Software Product, you may cancel service within one (1) year of the date that the BSA Software Product becomes available for use ("Activation Date"), for a full refund of the SaaS Fees, as identified in **Schedule 1 to Exhibit A**. Customer must notify BSA of intention to terminate at least thirty (30) days prior to the end of the one (1) year period.

7. SaaS Services.

- 7.1.** Customer will utilize shared hardware in a data center, but in a database dedicated to Customer's use, which is not accessible to other customers.
- 7.2.** Data centers utilized by BSA will have fully redundant telecommunications access, electrical power, and the necessary hardware to provide access to the BSA Software Products in the event of a

disaster or component failure. In the event any of Customer's data is lost or damaged due to a negligent act or omission of BSA, or due to a defect in the BSA Software Product, BSA will use best commercial efforts to restore data on servers in accordance with the system capabilities and with the objective of minimizing any data loss possible. At no point shall the recovery point exceed a maximum of twenty-four (24) hours from declaration of disaster. For purposes of this section, the declaration of disaster shall be declared by BSA in response to issues discovered by BSA, or upon confirmation of issues relayed by Customer to BSA. Said declaration of disaster will not be unreasonably withheld by BSA.

- 7.3. In the event a declaration of disaster is made by BSA, access to the BSA Software Products shall be restored within one (1) business day of the declaration of disaster.
- 7.4. BSA performs tests of our disaster recovery plan at least annually. Such tests are not specific to individual Customer databases.
- 7.5. Customer will not attempt to reverse engineer, bypass, or otherwise subvert security restrictions in the BSA Software Products or the SaaS environment related to the BSA Software Products. Unauthorized attempts to access files, passwords, other confidential information, or unauthorized vulnerability and penetration testing of BSA's system (hosted or otherwise) is prohibited without the prior express written approval of BSA.
- 7.6. In the event of a declaration of disaster, BSA will be responsible for importing or restoring back up data and verifying that Customer can log in to the BSA Software Products. Customer will be solely responsible for performance of tests on critical process and verification of restored data to verify the imported or restored data.

SECTION B – PROFESSIONAL SERVICES

- 8. **Professional Services.** BSA shall provide the services ("Professional Services") set forth in **Schedule 2 to Exhibit A**, for the prices indicated, provided Customer fulfills its obligations set forth in this Agreement. BSA and Customer may enter into future Statements of Work, which shall become part of this Agreement. Future Statements of Work resulting from a change in scope to the contracted services may necessitate Change Orders to indicate changes to the agreed upon scope of work and any increase or decrease in costs related to the change in scope. Customer acknowledges that the fees stated in the Cost Summary are good-faith estimates of the amount of time and materials required for Customer's implementation. BSA will bill Customer for the actual fees incurred based on the services provided to Customer.
- 9. **Change Orders.** In the event of a change in the agreed upon project scope for professional services not covered or otherwise included in the existing Agreement, Customer shall deliver to BSA's Project Manager a written change order and specify in such change order the proposed work with sufficient detail to enable BSA to evaluate it ("Change Order"). BSA may, at its discretion, prescribe the format of the Change Order. BSA shall provide the Customer with an evaluation of the Change Order, which may include a written proposal containing the following: (i) implementation plan; (ii) the timeframe for performance; and (iii) the estimated price for performance of such change, based on the then current rates for said services. Upon execution, all Change Orders shall be governed by the terms and conditions of this Agreement, unless mutually agreed upon otherwise in writing. Customer acknowledges that such Change Orders may affect the implementation schedule and dates otherwise established as part of the

project plan. The implementation schedule and schedule of activities for contracted services (the "Project") shall be established based on a timeline mutually agreed upon between the Parties following the execution of this Agreement.

10. License and Ownership.

10.1. All rights, including intellectual property rights, in and to work product delivered as a result of Professional Services under this Agreement shall be owned by BSA. For the avoidance of doubt, work product that constitutes a BSA Software Product, or portion thereof shall be governed by Section A including Section 1.1 thereof.

10.2. Subject to Section 9.1 and Customer's compliance with this Agreement (including payment in full), BSA grants to Customer a non-exclusive, non-transferrable, and non-assignable license to use the work product and the intellectual property rights therein for Customer's internal business purposes only.

11. Cancellation. In the even Customer cancels or reschedules Professional Services (other than for Force Majeure or breach by BSA), and without prejudice to BSA's other rights and remedies, Customer is liable to BSA for: (i) all non-refundable expenses actually incurred by BSA on Customer's behalf; and (ii) daily Project Management or Training fees associated with the cancelled Professional Services (in accordance with the daily fee rate), if less than thirty (30) days advance notice is given regarding the need to cancel or reschedule and BSA cannot reasonably reassign its affected human resources to other projects where comparable skills are required.

12. Limited Professional Services Warranty.

12.1. BSA warrants that its Professional Services will be performed in a professional and workmanlike manner, consistent with industry standards. In the event of a breach of the foregoing warranty and a claim in accordance with the breach, BSA's sole obligation and Customer's exclusive remedy with respect to such claim will be to have BSA reperform the portion of the Professional Services with respect to which the warranty has been breached, to bring it into compliance with such warranty. Any claim for breach of the foregoing warranty must be made by notice to BSA within thirty (30) days of performance of the portion of the Professional Services with respect to which the claim is made or said claim shall be deemed waived.

12.2. THE FOREGOING LIMITED PROFESSIONAL SERVICES WARRANTY IS IN LIEU OF ALL OTHER REPRESENTATIONS OR WARRANTIES RELATING TO THE PROFESSIONAL SERVICES, EXPRESS OR IMPLIED. INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR REPRESENTATIONS OF MERCHANTABILITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM THE COURSE OF DEALING OR USAGE OF TRADE.

13. Customer Site Access and Assistance.

13.1. Customer agrees and acknowledges that the implementation of the BSA Software Products is a cooperative process requiring time and resources of Customer personnel. Customer shall, and shall cause Customer personnel to, use all reasonable efforts to cooperate with and assist BSA as may be reasonably required to meet the project deadlines and other project milestones agreed to

by the Parties for implementation. BSA shall not be liable for failure to meet such deadlines and milestones when such failure is due to force majeure (as defined in Paragraph 29, below) or to the failure by Customer personnel to provide such cooperation and assistance (either through action or omission.)

- 13.2.** At no cost to BSA, Customer agrees to provide to BSA full access to and use of personnel, facilities, and equipment as reasonably necessary for BSA to provide implementation and training services. Such access will be subject to any reasonable security protocols or written policies provided to BSA prior to Effective Date of this Agreement, or mutually agreed to thereafter.

SECTION C – MAINTENANCE AND SUPPORT

14. Maintenance and Support Generally.

- 14.1.** For a one (1) year period, commencing on the Activation Date, and subject to Customer's compliance with the Agreement, BSA will provide, at no charge to Customer, "Maintenance and Support", meaning the following; (i) Modifications (such as patches, corrections and updates) as are generally provided at no additional charge by BSA to BSA customers; and (ii) technical support assistance, as further described in paragraph 14, during BSA's normal business hours.
- 14.2.** Commencing one (1) year from the Activation Date, Maintenance and Support will continue to be provided subject to compliance with the terms of the Agreement and payment of the SaaS Fees outlined in **Exhibit B**.
- 14.3.** BSA guarantees that the annual SaaS Fees, as set forth in **Exhibit B** will not change for two (2) years from the Activation Date. After that date, BSA reserves the right each year to increase the fee over the previous year by no more than an amount that is proportionate to the increase (measured from the beginning of such previous year) in the Consumer Price Index as set forth by the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index – All Urban Customers – U.S. City Average (CPI-U), or a similar measure should such data become unavailable.
- 14.4.** Maintenance and Support and the SaaS fee do not include amounts that may be due for such items as additional training, additional BSA Software Products, custom development work, hardware purchases, BSA staff time to create or modify report writer based reports, configurable imports or exports, or data entry. Additional fees may be payable for items charged on a per event basis, such as Permit Application Submission Fees related to online permit applications.

15. Support.

- 15.1.** With respect to Errors following expiration of the Limited Software Warranty, BSA's sole obligation and Customer's sole remedy are set forth in this paragraph 14. Subject to Customer's compliance with the terms of the Agreement and payment of SaaS fees, BSA shall use commercially reasonable efforts, commensurate with the severity level, to achieve its support response and resolution targets with respect to Errors as set forth in **Exhibit C**. An "Error" means a verifiable and reproducible failure of a BSA Software Product to operate in accordance with the Documentation under conditions of normal use and where the Error is directly attributable to the BSA Software Product as updated with current Modifications. If the customer modifies the BSA Software Products without BSA's written consent, BSA's obligation to provide support services on the BSA Software Products will be void.

- 15.2.** Support does not include the following: (i) installation or implementation of the BSA Software Products; (ii) onsite training/support, remote training, application design, and other consulting services; (iii) support of an operating system, hardware, or support outside of BSA's normal business hours; (iv) support or support time due to a cause external to the BSA Software Products adversely affecting their operability or serviceability, which shall include, but not be limited to, water, fire, lightning, other natural calamities, misuse, abuse, or neglect; (v) repair of the BSA Software Products modified in any way other than modifications made by BSA or its authorized agents; and (vi) support of any other third-party vendors' software, such as operating system software, network software, database managers, word processors, etc. All such excluded Maintenance and Support Services performed by BSA at Customer's request shall be invoiced to Customer on a time and materials basis, plus reasonable expenses associated therewith.
- 15.3.** Notwithstanding anything to the contrary, Customer shall provide prompt notice of any Errors discovered by Customer, or otherwise brought to the attention of Customer. Proper notice may include, without limitation, prompt telephonic and written (either via e-mail or postal mail) notice to BSA of any purported Error. If requested by BSA, Customer agrees to provide written documentation of Errors to substantiate those Errors and to otherwise assist BSA in the detection and correction of said Errors. BSA will use its commercially reasonable judgment to determine if an Error exists, and the severity of the Error.
- 15.4.** Customer acknowledges and agrees that BSA and product vendors may require online access to the BSA Software Product in order for BSA to provide Maintenance and Support Services hereunder. Accordingly, Customer shall provide a high-speed internet connection to facilitate BSA's remote access to the BSA Software Products. BSA shall provide remote connection software, which may require installation of a software component on a workstation or server computer.

SECTION D – THIRD PARTY PRODUCTS

16. Third Party Products.

- 16.1.** BSA will sell, deliver and install onsite any Third-Party Hardware, if purchased by Customer, for the prices set forth in **Schedule 1 to Exhibit A**, as modified by any subsequent Change Order(s).
- 16.2.** BSA shall not provide any warranty services on Third Party Hardware sold. BSA is not the manufacturer of the Third Party Products. To the extent applicable, BSA will grant and pass through to Customer any warranty that we may receive from the supplier of the Third-Party Product(s).

SECTION E – GENERAL TERMS AND CONDITIONS

17. BSA Proprietary Information.

- 17.1.** Customer acknowledges that the information associated with or contained within the BSA Software Products and information used in the performance of Professional Services include trade secrets and other confidential and proprietary information of BSA (the "Proprietary Information").
- 17.2.** Customer shall maintain in confidence and not disclose Proprietary Information, directly or indirectly, to any third party without BSA's prior written consent. Customer shall safeguard the Proprietary Information to the same extent that it safeguards its own most confidential materials or data, but in no event shall the standard implemented be less than industry standard. Proprietary

Information shall be used by Customer solely to fulfill its obligations under this Agreement. Customer shall limit its dissemination of such Proprietary Information to employees within the Customer's business organization who are directly involved with the performance of this Agreement and have a need to use such Proprietary Information. Customer shall be responsible for all disclosures by any person receiving Proprietary Information, by or through it, as if Customer itself disseminated such information.

17.3. Proprietary Information shall not include any information that: (a) is or becomes publicly known through no wrongful act of breach of any obligation of confidentiality by Customer; (b) was lawfully known to Customer prior to the time it was disclosed to or learned by Customer in connection with this Agreement, provided that such information is not known to Customer solely because of its prior business relationship with BSA; (c) was received by Customer from a third party that is not under an obligation of confidentiality to BSA; or (d) is independently developed by Customer for a party other than BSA without the use of any Proprietary Information. The following circumstances shall not cause Proprietary Information to fall within any of the exceptions (a) through (d) above: (i) a portion of such Proprietary Information is embraced by more general information said to be in the public domain or previously known to, or subsequently disclosed to, the Customer; or (ii) it is a combination derivable from separate sources of public information, none of which discloses the combination itself.

17.4. If Customer is required, or anticipates that it will be required, to disclose any Confidential Information pursuant to a court order or to a government authority, Customer shall, at its earliest opportunity, provide written notice to BSA so as to give BSA a reasonable opportunity to secure a protective order or take other actions as appropriate. Customer shall at all times cooperate with BSA so as to minimize any disclosure to the extent allowed by applicable law.

18. Limitation on Liability and Damages. BSA'S ENTIRE LIABILITY AND RESPONSIBILITY FOR ANY AND ALL CLAIMS, DAMAGES, OR LOSSES ARISING FROM THE BSA SOFTWARE PRODUCTS (INCLUDING BUT NOT LIMITED TO THEIR USE, OPERATION AND/OR FAILURE TO OPERATE), PROFESSIONAL SERVICES, MAINTENANCE AND SUPPORT, ANY THIRD-PARTY PERFORMANCE OR LACK THEREOF, OR OTHERWISE ARISING OUT OF OR RELATING TO THIS AGREEMENT, SHALL BE ABSOLUTELY LIMITED TO DIRECT DAMAGES NOT IN EXCESS OF THE INITIAL SAAS FEES PAID FOR THE FIRST YEAR OF SERVICE OF THE BSA SOFTWARE PRODUCTS PLUS, TO THE EXTENT APPLICABLE, THE PURCHASE PRICE OF ANY PROFESSIONAL SERVICE SET FORTH IN THIS AGREEMENT THAT GIVES RISE TO THE CLAIM. NOTWITHSTANDING ANY PROVISION CONTAINED HEREIN, BSA SHALL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR CONTINGENT DAMAGES OR EXPENSES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, ARISING IN ANY WAY OUT OF THIS AGREEMENT, BSA SOFTWARE PRODUCTS, ANY THIRD-PARTY PERFORMANCE, OR LACK THEREOF, OR BSA'S PERFORMANCE, OR LACK THEREOF, UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LOSS OF REVENUE, PROFIT, OR LOSS OF USE. TO THE EXTENT THAT APPLICABLE LAW DOES NOT PERMIT THE LIMITATIONS SET FORTH HEREIN, THE LIABILITY AND DAMAGES SHALL BE LIMITED AND RESTRICTED TO THE EXTENT PERMITTED BY LAW.

- 19. Additional Disclaimer.** SUPPLIER PROVIDES NO WARRANTY FOR ANY THIRD-PARTY SOFTWARE AND/OR HARDWARE, EXCEPT AS SET FORTH IN THIS AGREEMENT, SUPPLIER WILL NOT BE RESPONSIBLE FOR ANY THIRD-PARTY SOFTWARE, THIRD-PARTY SERVICES AND/OR HARDWARE.
- 20. Indemnification for Intellectual Property Infringement.** If a claim is made or an action is brought alleging that a BSA Software Product infringes on a U.S. patent, or any copyright, trademark, trade secret or other proprietary right, BSA will defend Customer against such claim and will pay resulting costs and damages finally awarded, provided that: (a) customer promptly notifies BSA in writing of the claim; (b) BSA has sole control of the defense and all related settlement negotiations; (c) Customer reasonably cooperates in such defense at no expense to BSA; and (d) Customer remains in compliance with the Agreement and has continued to remain current on payment of SaaS fees. The obligations of BSA under this Section are conditioned on Customer's agreement that if the applicable BSA Software Product, in whole or in part, or the use or operation thereof, becomes, or in the opinion of BSA is likely to become, the subject of such a claim, BSA may at its expense and without obligation to do so, either procure the right for the Customer to continue using the BSA Software Product or, at the option of BSA, replace or modify the same so that it becomes non-infringing (provided such replacement or modification maintains the same material functionality and does not adversely affect Customer's use of the Update as contemplated hereunder). In the event that BSA provides a replacement for Customer, Customer shall cease use of the infringing product immediately upon receiving the replacement.
- 21. No Intended Third-Party Beneficiaries.** This Agreement is entered into solely for the benefit of BSA and Customer. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement.
- 22. Governing Law and Venue.** This Agreement shall be governed by, and construed in accordance with, the laws of the state of Michigan, without regard to its choice of law rules. BSA and the Customer agree that the exclusive venue for any legal or equitable action shall be the Courts of the County of Clinton, State of Michigan, or in any court in the United States of America lying in the Western District of Michigan.
- 23. Entire Agreement.** This Agreement represents the entire agreement of Customer and BSA with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Customer hereby acknowledges that in entering into this Agreement, it did not rely on any information not explicitly set forth in this Agreement.
- 24. Contract Term.** This initial term of this Agreement extends from the Effective Date of the Agreement until one (1) year from the Activation Date. Upon expiration of the initial term, this Agreement will renew automatically for successive one (1) year terms under the same terms and conditions set forth herein without further documentation being required unless and until either party provides written notice to the other party, at least sixty (60) days prior to the end of the then current term. Customer's right to access or use the BSA Software Product will terminate at the end of the Agreement.

25. Payment Terms. Customer shall pay BSA for all amounts in accordance with this Agreement and **Exhibit A.**

26. Termination. Without prejudice to other rights and remedies, and except as otherwise provided in this Agreement, either Party may terminate this Agreement as set forth below. Upon termination of this Agreement: (a) Customer shall promptly pay BSA for all fees and expenses that are not subject to a good faith dispute and that are related to the software, products, and/or services received, or expenses BSA has incurred or delivered, prior to the effective date of the termination (b) Customer shall return or destroy, at the direction of BSA, BSA's Proprietary Information in its possession. The termination of this Agreement will not discharge or otherwise affect any pre-termination obligations of either Party existing under this Agreement at the time of termination. Sections 2, 4, 16 through 18, 23, 25, 27, 29 through 32, 37, and the provisions of this Agreement which by their nature extend beyond the termination of this Agreement, will survive the termination of the Agreement. No action arising out of this Agreement, regardless of the form of action, may be brought by Customer more than one (1) year after the date the action occurred.

26.1. Termination for Cause. If Customer believes that BSA has materially breached this Agreement, Customer may terminate this Agreement for Cause in the event BSA does not cure, or create a mutually agreeable plan to address, a material breach of this agreement within thirty (30) days after Notification by Customer. Notice shall be provided in accordance with Paragraph 31, below.

26.2. Force Majeure. Either Party may terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or greater.

26.3. Lack of Appropriations. If Customer cannot appropriate, or otherwise make available funds sufficient to continue to utilize the SaaS Services, Customer may unilaterally terminate this Agreement with thirty (30) days written notice to BSA. Customer shall not be entitled to a refund, offset, or credit for previously paid, but unused SaaS fees.

26.4. Failure to Pay SaaS Fees. Customer acknowledges that timely payment of SaaS Fees is necessary to maintain continued access to the SaaS Services. In Customer does not make timely payment of SaaS fees, BSA may discontinue the SaaS Services, and deny access to the BSA Software Products. If such failure to pay is not cured within forty-five (45) days of receiving BSA's notice of intent to terminate, BSA may terminate this Agreement.

26.5. Convenience. If Customer terminates SaaS Services for convenience, any SaaS fees already paid will not be prorated, and will be retained by BSA.

27. Severability. If any term or provision of this Agreement, or the application thereof, to any extent, is held invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term and provision of this Agreement will be valid and enforced to the fullest extent permitted by law.

28. No Waiver. In the event that any terms or conditions of this Agreement are not strictly enforced by either Party, such nonenforcement will not act as, or be deemed as, a waiver or modification to this

Agreement, nor will such nonenforcement prevent either Party from enforcing terms of the Agreement thereafter.

29. Successors and Assigns. This Agreement shall be binding upon the successors, permitted assigns, representatives, and heirs of the Parties hereto. For avoidance of doubt, any expanded use by Customer of the Program, for example, in the event of annexation or desired shared services, shall require the consent of BSA.

30. Force Majeure. "Force Majeure" is defined as an event beyond the reasonable control of a Party, including governmental action, war, riot or civil commotion, fire, natural disaster, public health emergency, problematic weather, lack of availability of Customer provided technology, labor disputes, restraints affecting shipping or credit, delay of carriers or any other cause that could not, with reasonable diligence, be foreseen, controlled or prevented by the Party. Neither Party shall be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure.

31. Notice. All notices, requests, demands, and determinations under the Agreement (other than routine operational communications), shall be in writing and shall be deemed duly given: (i) when delivered by hand; (ii) one (1) business day after being given to a nationally recognized overnight delivery service for next-business-day delivery, all fees prepaid; (iii) when sent by confirmed facsimile with a copy sent by another means specified in this provision; or (iv) six (6) calendar days after the day of mailing, when mailed by United States mail, *via* registered or certified mail, return receipt requested, postage prepaid, and in each case addressed as shall be set forth below. A Party may from time-to-time change its address or designee for notification purposes by giving the other prior written notice of the new address or designee and the date upon which it will become effective.

If to BSA:
BSA Software
14965 Abbey Lane
Bath, MI 48808
Attn: Contracts Manager
Telephone: 517-641-8900

If to Customer:
City of Tucker
1975 Lakeside Parkway
Tucker, GA 30084
Telephone: 678-597-9040

32. Independent Contractor. This is not an agreement of partnership or employment of BSA or any of BSA's employees by Customer. BSA is an independent contractor for all purposes under this Agreement.

33. Cooperative Procurement. To the maximum extent permitted by applicable law, BSA agrees that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. BSA reserves

the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances fitting to that cooperative procurement.

34. Business License. In the event a local business license is required for BSA to perform the services under this Agreement, Customer agrees to promptly notify and inform BSA of such requirement, as well as to provide BSA with the necessary paperwork and contact information so that BSA can obtain such license in a timely manner.

35. Nondiscrimination. BSA will not discriminate against any person employed, or applying for employment, concerning the performance of BSA's responsibilities under this Agreement. This discrimination prohibition will apply to all matters of employment including hiring, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that does not impact the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. BSA will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.

36. Taxes. Fees for SaaS Services, Professional Services, or any other fees shown in Schedule 1 to Exhibit A do not include any taxes, including, without limitation, any sales, use or excise tax. Customer shall be responsible for all taxes, exclusive of taxes on BSA's net income, arising out of this Agreement. If Customer is not validly tax-exempt, and BSA is required to remit taxes on customer's behalf, Customer agrees to reimburse BSA for any taxes by BSA.

37. Contract Documents and Order of Precedence. The text of this Agreement without any Exhibits and Schedules shall control over any inconsistent text in any of the Exhibits or Schedules. This Agreement includes the following Exhibits and Schedules:

Exhibit A – Payment Terms Generally

Schedule 1 to Exhibit A – SaaS/Interface/Customization Fees

Schedule 2 to Exhibit A – Professional Service Fees

Exhibit B – Annual Service and Hosting Fees

Exhibit C – Support Call Process

IN WITNESS THEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

BSA SOFTWARE, INC.

CUSTOMER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

Payment Terms

1. Customer shall pay BSA within thirty (30) days of invoice. Payments not received within fifteen (15) days of the due date shall be subject to a one and one-half percent (1.5%) per month interest charge (or, if lower, the highest amount chargeable at law) assessed against the unpaid balance from the date due until the date payment is received
2. Any amount not subject to good faith dispute and not paid within fifteen (15) days of the due date of each invoice shall, without prejudice to other rights and remedies, be subject to an interest charge equal to the lesser of 1.5% monthly or the maximum interest charge permissible under applicable law, payable on demand. Any charges not disputed by Customer in good faith will be deemed approved and accepted by Customer. For purposes of this Agreement, a good faith dispute regarding amounts owed exists only if Customer provides in writing at least ten (10) days prior to due date of payment on the invoice, notification of such dispute, the specific portion of the invoice in dispute, and the specific grounds of the dispute (which must be asserted in good faith), and Customer pays in timely fashion such portions that are not subject to such dispute.
3. BSA shall invoice Customer \$20,900 upon Effective Date for BSA's Project Management/Implementation Planning Fees and Data Conversion fees as set forth in Schedule 2.
4. BSA shall invoice Customer \$34,265 upon activation of Customer's site for use of the BSA Software Product(s). Such amount equals BSA's SaaS Fees as set forth in Schedule 1.
5. BSA shall invoice Customer \$61,400 at completion of On-Site Implementation and Training. Such amount equals On-Site Implementation and Training costs, Customization and Interface costs, and travel expenses, as set forth in Schedule 2.

Schedule 1 to Exhibit A

SaaS Fees

Upgrade - Cloud Modules

Financial Management

General Ledger	\$3,150
Accounts Payable	\$2,675
Cash Receipting	\$2,675
Purchase Order	\$2,675
Fixed Assets	\$2,675

Personnel Management

Payroll	\$4,330
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Community Development

Building Department	\$3,935
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Subtotal **\$22,115**

New - Cloud Modules

Personnel Management

Human Resources	\$3,150
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Hosting Fees

Hosting Fees **\$9,000**

Schedule 2 to Exhibit A

Professional Services Fees

Project Management and Implementation Planning

Services include:

- Analyzing customer processes to ensure all critical components are addressed.
- Creating and managing the project schedule in accordance with the customer's existing processes and needs.
- Planning and scheduling training around any planned process changes included in the project plan.
- Modifying the project schedule as needed to accommodate any changes to the scope and requirements of the project that are discovered.
- Providing a central contact between the customer's project leaders, developers, trainers, IT staff, conversion staff, and other resources required throughout the transition period.
- Installing the software and providing IT consultation for network, server, and workstation configuration and requirements.
- Reviewing and addressing the specifications for needed customizations to meet customer needs (when applicable).

\$20,900

Implementation and Training

- \$1,100/day
- Days quoted are estimates; you are billed for actual days used

Services include:

- Setting up users and user security rights for each application
- Performing final process and procedure review
- Configuring custom settings in each application to fit the needs of the customer
- Setting up application integration and workflow methods
- Onsite verification of converted data for balancing and auditing purposes
- Training and Go-Live

Software Setup	Days:	8		\$8,800
Financial Management Modules	Days:	12		\$13,200
Personnel Management Modules	Days:	8		\$8,800
Community Development Modules	Days:	8		\$8,800
		Total:	36	Subtotal \$39,600

Travel Expenses

\$21,800

EXHIBIT B

Annual Service Fees

Upgrade – Cloud Modules

Financial Management	
General Ledger	\$3,150
Accounts Payable	\$2,675
Cash Receipting	\$2,675
Purchase Order	\$2,675
Fixed Assets	\$2,675
Personnel Management	
Payroll	\$4,330
Community Development	
Building Department	\$3,935
Total Annual Service Fees	\$22,115

New – Cloud Modules

Personnel Management	
Human Resources	\$3,150

EXHIBIT C

Support Call Process

BSA's standard hours for telephone support are from 8:30 a.m. to 5:00 p.m. (EST), Monday through Friday, excluding holidays.

You can lodge a support request in three ways: (i) **Contact Customer Support** option located within the Help menu of all of BSA's applications (ii) BSA's toll-free support line (1-855-BSA-SOFT) or via email.

BSA targets less than thirty (30) minutes for initial response ("Initial Response Target").

Customer service requests fall into four main categories:

- A. Technical.** Questions or usage issues relating to I.T. functionality, future hardware purchases, and configuration. BSA tries to resolve these issues within BSA's Initial Response Target or as soon thereafter as reasonably possible.
- B. Questions/Support.** General questions regarding functionality, use, and set-up of the applications. BSA tries to resolve these issues within BSA's Initial Response Target or as soon thereafter as reasonably possible.
- C. Requests.** Customer requests for future enhancements to the applications. Key product management personnel meet with development staff on a regular basis to discuss the desirability and priority of such requests. BSA tries to resolve these issues within BSA's Initial Response Target or as soon thereafter as reasonably possible.
- D. Issues/Bugs.** Errors fall into three (3) subcategories:
 - i. Critical.** Cases where an Error has rendered the application or a material component unusable or not usable without substantial inconvenience causing material and detrimental consequences to business -- with no viable Customer workaround or alternative. The targeted resolution time for critical issues is less than one (1) business day.
 - ii. Moderate.** Cases where an Error causes substantial inconvenience and added burden, but the application is still usable by Customer. The targeted resolution time for all moderate issues is within two (2) weeks, which is within BSA's standard update cycle.
 - iii. Minimal.** Cases that are mostly cosmetic in nature, and do not substantially impede functionality in any significant way. These issues are assigned a priority level at BSA's regular meetings, and resolution times are based on the specified priority.

Remote Support Process

Some support calls may require further analysis of Customer's database or set-up to diagnose a problem or to assist Customer with a question. BSA's remote support tools share Customer's desktop *via* the Internet to provide Customer with virtual on-site support. BSA's support team is able to quickly connect remotely to Customer's desktop and view its setup, diagnose problems, or assist Customer with screen navigation.



MEMO

To: Honorable Mayor and City Council Members
From: Robert J. Porche, Jr., Finance Director
CC: Tami Hanlin, City Manager
Date: September 27, 2021
RE: FY22 Budget Amendment#2

Issue:

This is a first read and public hearing for an ordinance to amend the fiscal year 2022 budget. The following items are included in this budget amendment:

- The largest part of this budget amendment is to move from ARPA Contingency to Payments to Other Agencies (NETWorks). Please note that the funding came from the US Treasury in the amount of \$6,795,608.
- To move funds from ARPA Contingency to Land Acquisition.
- Increase professional services in the amount of \$50,000 and fund the increase from Contingency-General Fund (Atlas).
- Recognize additional contributions in the amount of \$40,000 and transfer funds to the Capital Project (William R. Probst Memorial-PR2114).
- Increase Project BS&A Cloud Version (CC2201) in the amount of \$80,210 and utilize Capital Contingency and re-allocate from the Court Kiosk project (CT2201), as it is not feasible at the current location.

Recommendation:

Council to consider and approve Budget Amendment#2

Background:

Summary:

Financial Impact:

Utilization of existing funds

AN ORDINANCE TO AMEND THE 2022 FISCAL YEAR BUDGET

WHEREAS, the City of Tucker may amend an operating and capital budget in accordance with Section 5.04 of the Charter;

WHEREAS the City of Tucker held a public hearing on the amendment to the 2022 Operating and Capital and Grant Budget on October 12, 2021; and

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the City of Tucker while at a regular meeting on October 12, 2021 that the attached Exhibit A 2022 amendment to the operating and capital and grant budget is hereby adopted for the fiscal year 2022 and becomes effective upon its adoption;

SO ORDAINED AND EFFECTIVE this 12th day of October 2021.

Approved:

Frank Auman, Mayor

Attest:

Bonnie Warne, City Clerk (Seal)



MEMO

To: Honorable Mayor and City Council Members
From: Brian Anderson
CC: Tami Hanlin, City Manager
Date: 09/27/2021
RE: Ordinance O2021-09-19 to Amend CH 10 BUSINESSES

Issue:

Existing language in the code conflicts with the State law.

Recommendation:

Replacing Section 10-42 of the City of Tucker Code in its entirety with the following:

Sec. 10-42. Exemption for certain people and businesses.

- (a) This Chapter expressly exempts the following people and businesses from paying occupation taxes:
- (1) Disabled veterans of any war or armed conflict in which any branch of the United States armed forces was involved, whether under United States command or otherwise;
 - (2) Blind persons;
 - (3) Veterans of peace-time service in the United States armed forces who have a physical disability which was incurred during that service;
 - (4) A practitioner whose office is maintained by, and who is employed exclusively by, the United States, the State of Georgia, a city or county in Georgia, or instrumentalities thereof;
 - (5) Any state or local authority, nonprofit organization, or vendor acting pursuant to a contract with a tax-exempt agricultural fair;
 - (6) Businesses regulated by the Georgia Public Service Commission;
 - (7) Electrical service businesses organized under Chapter 3 of Title 46 of the Georgia Code;
 - (8) Any farm operation producing agricultural products, but not including agribusiness;
 - (9) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls in carload lots for distribution among the purchasers for use and not sale;
- (b) Notwithstanding the exemption from payment of city occupation taxes, an exempt person or business shall comply with the same laws and regulations as are required of other registered businesses.

Background:

The existing language cause conflict with the State law. It reads as follows:

Sec. 10-42. - Exemption for disabled veterans, disabled indigent persons, certain organizations.

(a)Persons who qualify for a state veteran's or disabled indigent person's license shall be eligible for exemption from the city occupational tax fee. Any such person claiming an exemption shall secure evidence of qualification for the exemption from the proper authority and present it to the finance department.

(b)Organizations which are exempt from federal income taxation under section 501(c)(3) or section 501(c)(4) of the United States Internal Revenue Code shall be eligible for exemption from the city occupational tax. Any such organization claiming an exemption shall provide to the finance department a federal tax exemption letter showing the code section under which an exemption is claimed. However, with respect to any activity for which an organization otherwise entitled to an exemption under this section shall be liable for federal income tax on unrelated business income or shall be deemed to be a feeder organization under the United States Internal Revenue Code, the exemption from payment of occupational taxes shall not be available.

(c)Notwithstanding the exemption from payment of city occupation taxes, an exempt person or business shall comply with the same laws and regulations as are required of other registered businesses.

(Ord. No. 2016-03-04, exh. (16-44), 3-29-2016; Ord. No. 2017-06-73, exh. (16-44), 7-10-2017)

Financial Impact:

This change will improve the city's efficiency in the collection of occupational taxes.

**AN ORDINANCE TO AMEND THE CITY OF TUCKER CODE CHAPTER 10
BUSINESSES TO STATE THE CURRENT EXEMPTIONS TO LOCAL OCCUPATION
TAXES; AND FOR OTHER PURPOSES**

WHEREAS, the Mayor and City Council desire to amend Chapter 10 Businesses of the City Code to state the current exemptions to local occupation taxes specified in the Official Code of Georgia Annotated;

NOWTHEREFOR, the Mayor and City Council hereby ordains that Chapter 10 Businesses of the City Code is hereby amended by replacing Section 10-42 in its entirety with the following:

Sec. 10-42. Exemption for certain people and businesses.

- (a) This Chapter expressly exempts the following people and businesses from paying occupation taxes:
 - (1) Disabled veterans of any war or armed conflict in which any branch of the United States armed forces was involved, whether under United States command or otherwise;
 - (2) Blind persons;
 - (3) Veterans of peace-time service in the United States armed forces who have a physical disability which was incurred during that service;
 - (4) A practitioner whose office is maintained by, and who is employed exclusively by, the United States, the State of Georgia, a city or county in Georgia, or instrumentalities thereof;
 - (5) Any state or local authority, nonprofit organization, or vendor acting pursuant to a contract with a tax-exempt agricultural fair;
 - (6) Businesses regulated by the Georgia Public Service Commission;
 - (7) Electrical service businesses organized under Chapter 3 of Title 46 of the Georgia Code;
 - (8) Any farm operation producing agricultural products, but not including agribusiness;
 - (9) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls in carload lots for distribution among the purchasers for use and not sale;
- (b) Notwithstanding the exemption from payment of city occupation taxes, an exempt person or business shall comply with the same laws and regulations as are required of other registered businesses.

Any ordinance or parts of an ordinance that conflicts with this amendment is hereby repealed.

SO ORDAINED AND EFFECTIVE this _____ day of September 2021.

Approved:

Frank Auman, Mayor

Attested:

Bonnie Warne, City Clerk