

RESOLUTION NO. _____

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH GOODWILL INDUSTRIES OF TENNEVA AREA, INC. TO PLACE COLLECITON CONTAINERS AT CITY CONVENIENCE CENTERS AND AUTHORIZING THE MAYOR TO EXECUTE THE MEMORANDUM OF UNDERSTANDING AND ALL OTHER DOCUMENTS NECESSARY AND PROPER TO EFFECTUATE THE PURPSOE OF THIS RESOLUTION

WHEREAS, Goodwill Industries of Tenneva Area, Inc. ("Goodwill"), a nonprofit corporation in both Tennessee and Virginia, has requested approval for the placement of collection containers on city property to collect donated textile items/materials; and

WHEREAS, Public Works Department and Goodwill have identified sites for these containers at the city's convenience centers located on Industry Drive and at the Civic Auditorium; and

WHEREAS, the placement of these containers will provide city residents greater convenience for the donation of acceptable textile items/materials to Goodwill; and

WHEREAS; Goodwill will be responsible for maintaining the containers and for collection of all donated items.

Now therefore,

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN AS FOLLOWS:

SECTION I. That a Memorandum of Understanding establishing the rights and obligations of the city and Goodwill Industries of Tenneva Area, Inc. with regards to the placement, maintenance, and collection duties is hereby approved.

SECTION II. That the mayor or in his absence, incapacity, or failure to act, the vice-mayor, is authorized to execute, in a form approved by the city attorney, and subject to the requirements of Article X, Section 10 of the Charter of the City of Kingsport, the Memorandum of Understanding between the City of Kingsport and Goodwill Industries of Tenneva Area, Inc. for the placement of containers at city convenience centers, to deliver the Memorandum of Understanding, and take any and all action as may be required on the part of the city to carry out, give effect to, and consummate the transactions contemplated by the agreement and this resolution, said agreement being as follows:

MEMORANDUM OF UNDERSTANDING
between
GOODWILL INDUSTRIES OF TENNEVA AREA, INC. and
CITY OF KINGSPORT

This Memorandum of Understanding is entered into as of this _____ day of March, 2023 ("Effective Date"), by and between CITY OF KINGSPORT, TENNESSEE, a Tennessee municipal corporation ("City") and GOODWILL INDUSTRIES OF TENNEVA AREA, INC ("Goodwill"), a Tennessee and Virginia nonprofit corporation; for the placement of a receptacle upon city-owned property for the collection of donated items which Goodwill considers to be beneficial to the citizens of City.

NOW THEREFORE, in consideration of the mutual terms, provisions, covenants, and Agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged between the parties is as follows:

1. **Purpose.** City shall allow Goodwill, or its authorized agent, to place a "roll off" style receptacle ("receptacle") upon real property owned by the City at its convenience centers at civic auditorium and on Industry Drive. Exact placement of the receptacle shall be determined between a designated public works employee of the City in consultation with Goodwill. The receptacle shall arrive between 8:00 a.m. and 12:01 p.m. on _____ and shall be emptied/collected by Goodwill no less than weekly.

Goodwill is responsible for maintaining the area around the receptacle in a neat and tidy fashion. If area surrounding receptacle is in need of attention, City will notify Goodwill and Goodwill shall have twenty-four hours to comply. City shall bear no responsibility for the sorting of materials placed into the receptacle, nor shall City bear any liability for unwanted or improper materials placed in the receptacle.

2. **Damages.** City shall not be liable to Goodwill for any loss; whether such loss is direct, indirect, or incidental resulting in any way from, arising out of, or in connection with performance or a failure to perform any obligation under this Agreement.

3. **Indemnification.** Goodwill shall indemnify and hold City, its elected officials, officers, and employees, harmless from any and all claims, demands or causes of action to include costs and expenses due to personal injury and reasonable attorney's fees that might arise from the placement or existence of said receptacle on city-owned property.

4. **No Automatic Renewal.** The term of this Agreement is for one-year and shall not be renewed or extended beyond the initial term except by written mutual consent of the parties.

5. **Termination.** City or Goodwill may terminate this Agreement at any time for any reason. However, termination shall not take effect until thirty (30) days after written notice is delivered by the party terminating the Agreement to the other party. Upon termination, Goodwill shall immediately remove the receptacle from city property. Notices to the City shall be sent to Office of City Attorney, City of Kingsport, 415 Broad Street, Kingsport, TN 37660. Notices to Goodwill shall be sent to:

Goodwill Industries Home Office
2017 Brookside Drive
Kingsport, TN 37660

6. **Effective Date.** This Agreement shall be effective immediately after the Agreement is executed.

7. **Non-exclusivity.** Nothing in this Agreement shall be construed to prevent City from offering similar services to other vendors at other facilities.

8. **Limitation of Liability.** Any limitation of liability provision is enforceable only to the extent permitted by Tennessee law. No provision of the Agreement shall act or be deemed a waiver by City of any immunity, including its rights or privileges, or of any provision of the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101 *et seq.*

9. **No Liability of City Officials and Employees.** No official, employee or volunteer, whether disclosed or undisclosed, of City shall be personally liable to Goodwill or any other person or entity, including a third-party beneficiary, in the event any provision of the Agreement is unenforceable or there is any default or breach by City.

[Acknowledgements Deleted for Inclusion in This Resolution]

SECTION III. That the mayor is further authorized to make such changes approved by the mayor and the city attorney to the agreement set out herein that do not substantially alter the material provisions of the agreement, and the execution thereof by the mayor and the city attorney is conclusive evidence of the approval of such changes.

SECTION IV. That the board finds that the actions authorized by this resolution are for a public purpose and will promote the health, comfort, and prosperity of the citizens of the city.

SECTION V. That this resolution shall take effect from and after its adoption, the public welfare requiring it.

ADOPTED this the 21st day of March, 2023.

PATRICK W. SHULL, MAYOR

ATTEST:

ANGELA MARSHALL, DEPUTY CITY RECORDER

APPROVED AS TO FORM:

RODNEY B. ROWLETT, III, CITY ATTORNEY