

**Knoxville Utilities Board
Board Meeting
Minutes
Thursday, October 20, 2022 Noon**

Call to Order

The Knoxville Utilities Board met in regular session in the Larry A. Fleming Board Room at 445 S. Gay Street, on Thursday, October 20, 2022, pursuant to the public notice published in the January 4, 2022, edition of the *News Sentinel*. Chair Jerry Askew called the meeting to order at 12:00 p.m.

Roll Call

Commissioners Present: Jerry Askew, Ron Feinbaum, Celeste Herbert, Adrienne Simpson-Brown, and Tyvi Small.

Commissioner Absent: Claudia Caballero and Kathy Hamilton

Approval of Minutes

Upon a motion by Commissioner Herbert and a second by Commissioner Feinbaum, the September 15, 2022 Board Meeting minutes were approved by a roll call vote. The following Commissioners voted "aye": Askew, Feinbaum, Herbert, Simpson-Brown, and Small. No Commissioner voted "nay".

Old Business

None.

New Business

Consideration of Nominees for Commissioner Term Beginning January 1, 2023

Commissioner Herbert, Chair of the Nominating Committee, gave the following report:

This year's nominating process for the term beginning January 1, 2023 began in January of this year when the online application became available on KUB's website. The Committee met in August, and advertisements ran in the *News Sentinel*, KUB's website, and on social media that month.

October 20, 2022

The committee evaluated submitted applications and identified qualified applicants. The Charter requires that the Board provide the Mayor at least five nominees for each Commissioner vacancy. The Nominating Committee submitted the following six nominees:

1. Cynthia Gibson
2. Helen Hennon
3. David Long
4. Craig Pickett
5. Charles Sims
6. Bo Townsend

Chair Askew recognized Mark Walker, Board Secretary, who distributed and collected the ballots. Mr. Walker then reported that each of the following nominees received a majority of the votes:

1. Cynthia Gibson
2. Helen Hennon
3. David Long
4. Craig Pickett
5. Charles Sims
6. Bo Townsend

Chair Askew stated the names of the six nominees would be submitted to Mayor Kincannon, and he thanked the members of the Nominating Committee for their work.

Resolution 1465, A Resolution Authorizing the Execution of Tranche Amendments to the Knoxville Utilities Board's ("KUB") Green Invest Agreement with the Tennessee Valley Authority ("TVA"), Replacing Previously Executed Tranche Amendments for the Purchase of 270 MW of New Solar Energy under the Green Invest Program

President Gabriel Bolas recognized Mark Walker, Senior Vice President and Chief Financial Officer, to present for the Board's consideration a resolution authorizing the execution of amendments for solar purchases through TVA's Green Invest Program.

Upon a motion by Commissioner Small and a second by Commissioner Simpson-Brown, Resolution 1465 (*Attachment 1*) was adopted by a roll call vote on first and final reading. The following Commissioners voted "aye": Askew, Feinbaum, Herbert, Simpson-Brown, and Small. No Commissioner voted "nay".

October 20, 2022

Resolution 1466, A Resolution Amending the Knoxville Utilities Board Procurement Procedures

President Bolas recognized Mr. Walker to present a resolution amending KUB's Procurement Procedures. He provided details regarding current procedures and reviewed the proposed changes in purchasing limits to be effective January 1, 2023.

Upon a motion by Commissioner Herbert and a second by Commissioner Feinbaum, Resolution 1466 (*Attachment 2*) was adopted by a roll call vote on first and final reading. The following Commissioners voted "aye": Askew, Feinbaum, Herbert, Simpson-Brown, and Small. No Commissioner

President's Report

Community Advisory Panel Update

President Bolas provided the Board with background information on the Community Advisory Panel and noted the Panel spent the last year reviewing rate design and related topics. The Panel's thoughts on these issues were discussed and finalized at their meeting on October 6, 2022, and a report of their input was provided for the Board's review.

Stars of Energy Efficiency Award

President Bolas advised the Board he recently attended the Alliance to Save Energy's Stars of Energy Efficiency Gala in Washington D.C where KUB and our partners received the Super Nova Star award in recognition of KUB's weatherization assistance programs, the large number of customers we have served, and the sustainable funding we've established to continue this work. He expressed his appreciation for KUB's partners: TVA, the City of Knoxville, CAC, and the Tennessee Department of Environment and Conservation, and he thanked the Board for their commitment to these programs.

Other Business

None.


Public Comment

None

October 20, 2022

Adjournment

There being nothing further to come before the Board, Chair Askew declared the Board meeting adjourned at 12:50 p.m.



Jerry Askew, Chair



Mark Walker, Board Secretary

Attachments

		<u>Page(s)</u>
Attachment 1	Recommendation Letter and Resolution 1465 – A Resolution Authorizing the Execution of Tranche Amendments to the Knoxville Utilities Board’s (“KUB”) Green Invest Agreement with the Tennessee Valley Authority (“TVA”), Replacing Previously Executed Tranche Amendments for the Purchase of 270 MW of New Solar Energy under the Green Invest Program	11797 – 11805
Attachment 2	Resolution 1466 – A Resolution Amending the Knoxville Utilities Board Procurement Procedures	11806 - 11815



October 14, 2022

Knoxville Utilities Board
445 S. Gay Street
Knoxville, Tennessee 37902-1109

Commissioners:

The October 20 Board meeting agenda includes three official action items:

- Selection of nominees to be sent to the City Mayor to fill the Board seat to be vacated by Commissioner Askew (no resolution).
- Authorization to execute Tranche Amendments to our Green Investment Agreement with TVA, replacing previously executed amendments for the purchase of 270 MW of solar power.
- Amendment of the KUB Procurement Procedures to reflect new municipal purchasing limits in state law.

Resolution 1465

As you will recall, the Board previously approved KUB's participation in TVA's Green Invest Program, which is designed to help companies in the Valley achieve their sustainability goals by bringing new, renewable sources of electric power generation to the Valley.

In March and November of 2020, KUB entered a series of Tranche Amendments to our Green Invest Agreement with TVA, providing for the purchase of 502 MW of new solar power generation to be developed over the next several years.

Over the past year, the solar industry has been heavily impacted by global policies, regulations, and other economic factors, which have resulted in supply constraints and significant price increases for critical components of solar equipment. Like many other solar projects in development across the country, KUB's four solar projects in Green Invest are experiencing price and schedule pressures.

Each developer of KUB's solar projects has come back to TVA (and subsequently KUB) requesting price and time concessions to our original commitments. KUB staff has worked with TVA to negotiate and understand the drivers and market-driven impacts of these requests. It is staff's recommendation to proceed with three of the four solar projects with revised costs and in-service dates. The three projects account for 325 MW of solar. KUB will not be participating in the remaining project, accounting for 177 MW of solar, as the developer's requested price increase was unacceptable.

The total expected annualized cost of the 325 MW of solar power is \$3,077,000, as compared to the previously contracted 502 MW of solar at an annualized cost of \$1,618,000.

Staff is requesting the Board authorize the execution of a new series of Tranche Amendments for the 325 MW of solar. While the new amendments reflect higher prices, the amendments also allow the potential for developer cost decreases associated with the new Inflation Reduction Act to reduce KUB's cost and would also provide KUB with a higher percentage of liquidated damages in the event of developer default.

Resolution 1465 authorizes the execution of two new Tranche Amendments for 270 MW of solar, replacing the previously executed amendments. We anticipate an additional Tranche Amendment for 55 MW of solar in the coming months, which will also replace a previously executed amendment.

Drafts of the resolution and proposed new Tranche Amendments are enclosed for your information. I recommend the approval of Resolution 1465 on first and final reading.

Resolution 1466

The Board has previously adopted KUB Procurement Procedures, governing the purchase of goods and services for KUB subject to the municipal purchasing requirements set forth in state law.

Among the other things, the Procurement Procedures reflect maximum monetary limits for the solicitation of bids and proposals for goods and services to KUB. The Tennessee General Assembly recently adopted legislation raising the threshold amounts for municipal purchases requiring public advertising and competitive bidding.

Staff is recommending the Board adopt revised Procurement Procedures, reflecting the new maximum threshold amounts set forth in state law, authorizing the President and CEO to amend the Procedures in the future in response to changes in state law threshold amounts, and providing for some minor housekeeping edits.

Resolution 1466 adopts the amended Procurement Procedures. A draft of the resolution is enclosed for your information, in addition to clean and red-lined versions of the Procurement Procedures. I recommend the approval of Resolution 1466 on first and final reading.

President's Report

In addition to our other President's Report items, we will be formally presenting to you the input made by the Community Advisory Panel regarding rate design. As you know, the CAP has spent about a year reviewing rate design and related topics. The Panel's thoughts on these issues were discussed and finalized at the CAP meeting on October 6, and a report of their input is enclosed for your review. We will provide a brief overview of that process and a summary of this document for your information.

Respectfully submitted,



Gabriel J. Bolas II
President and CEO

RESOLUTION NO. 1465

A Resolution Authorizing the Execution of Tranche Amendments to the Knoxville Utilities Board's ("KUB") Green Invest Agreement with the Tennessee Valley Authority ("TVA"), Replacing Previously Executed Tranche Amendments for the Purchase of 270 MW of New Solar Energy under the Green Invest Program

Whereas, the KUB Board of Commissioners ("Board") previously adopted Resolution No. 1410, which among other things, authorized KUB's participation in TVA's Green Invest Program; and

Whereas, KUB entered a series of Green Invest Tranche Amendments in March 2020 and November 2020, respectively, to purchase a total of 502 MW of new solar in the Tennessee Valley, representing four new solar development projects in the Valley; and

Whereas, the solar industry has been impacted by global policies, regulations, and other economic factors, which have resulted in supply constraints and significant price increases for critical components of solar equipment; and

Whereas, like many other solar development projects across the nation, KUB's four solar installation projects in Green Invest are experiencing price increases and schedule pressures; and

Whereas, the developer of each KUB solar project has requested TVA and KUB provide price and time concessions to the original commitments so the projects can move forward; and

Whereas, KUB staff recommends KUB proceed with three of the four solar projects with revised costs and in-service dates, representing 325 MW of new solar, and the Board authorize the execution of a new series of Tranche amendments for the 325 MW; and

Whereas, while the new amendments reflect higher prices, the amendments also allow the potential for developer cost decreases associated with the new Inflation Reduction Act to reduce KUB's cost and would also provide KUB with a higher percentage of liquidated damages in the event of developer default; and

Whereas, Resolution No. 1465 authorizes the execution of new Tranche Amendments for 270 MW of new solar, replacing previously executed Tranche Amendments, staff anticipates an additional amendment in the coming months for 55 MW of new solar, which would also replace a previously executed amendment; and

Whereas, KUB staff has thoroughly reviewed the proposed Tranche Amendments and have determined that their execution is in the best interest of KUB and its customers; and

Now, Therefore, Be it Hereby Resolved by the Board of Commissioners of the Knoxville Utilities Board:

Section 1. The President and Chief Executive Officer is hereby authorized to execute the Green Invest Tranche Amendments providing for the purchase of 270 MW of new solar, in substantially the form attached hereto this Resolution as Exhibit A, with only such changes as approved by the President and Chief Executive Officer.

Section 2. The President and Chief Executive Officer is further authorized and empowered generally to take such action and to authorize such other persons to take such actions as may be necessary, proper, or convenient to carry into effect this Resolution and to carry out the terms of the executed amendments.

Section 3. This Resolution shall take effect from and after its passage.

Jerry Askew, Chair

Mark Walker, Board Secretary

APPROVED ON 1st
& FINAL READING: 10-20-22
EFFECTIVE DATE: 10-20-22
MINUTE BOOK 45 PAGE 11800-11805

TRANCHE AMENDMENT # 6

TV-75110A, Supp. No. ____

This Green Invest Tranche Amendment ("**Amendment**") is between Knoxville Utilities Board (Acting for and on behalf of the City of Knoxville, Tennessee) ("**Distributor**"), and Tennessee Valley Authority ("**TVA**"), and is subject to the provisions of the Green Invest Agreement ("**Agreement**") Contract No. TV-75110A, Supp. No. 115, as amended. This Amendment is effective as set out in Conditions Precedent below.

Applicable Renewable Energy Facility	<p>Distributor will purchase from TVA the <u>Product</u> derived from new renewable generation on an as-generated basis contingent on the availability of the new renewable generation resource at MS Solar 5 Solar Project, accounting for 35% of that facility's total renewable generation, being obtained by TVA under a power purchase agreement, Contract Number _____ ("PPA").</p> <p>Contract Output (MWac): 200 MW (of which 35% equals 70 MWac) Coordinate Location: Latitude: 33.458 and Longitude: -88.628 Expected Delivery Point: TVA's 161-kV Artesia Substation or alternative point as determined through the interconnection process Expected Initial Delivery Date: June 30, 2024 Delivery Period (years): 20</p>
Term	<p>The term of this Amendment runs through the expiration of the term of the PPA or the earlier termination thereof.</p>
Product Price	<p>The <u>Product</u> price for generation from the applicable <u>Renewable Energy Facility</u> is \$3.23 per REC.</p>
Additional Incentives Benefit	<p>On August 16, 2022 the Inflation Reduction Act of 2022 (the "IRA") was signed into law. In the event of a per/MWh price reduction under the PPA due to a provision requiring the PPA seller to share IRA benefits with TVA, the <u>Product</u> price will be reduced as follows:</p> <p>$PR = PPAPR \times 50\%$</p> <p>Where:</p> <p>PR = <u>Product</u> price reduction (rounded to the nearest cent). PPAPR = reduction in the Contract Price, as set forth in an amendment to the PPA that documents the sharing of IRA benefits.</p>
Renewable Energy Facility Underperformance	<p>TVA will pay Distributor 10.15% of its proportionate share of the total damages owed and received by TVA from the PPA, specifically in Section 3.3, "Failure to Meet the Expected Initial Delivery Date," and Article 8, "Supply Guarantee; Disconnection or Curtailment;" provided that, pursuant to Section 5.4 of the Agreement, Distributor shall have the right to receive replacement RECs in the event they are received by TVA under the PPA.</p> <p>In the event of early termination pursuant to Article 9, "Early Termination; Remedies" under the PPA, the percentage and allocation of damages paid to Distributor will be as set out in Section 5.4 of the Agreement.</p>
Early Termination	<p>Section 7.3 of the Agreement will establish the early termination amount.</p>
Conditions Precedent	<p>This Amendment will become effective on the date TVA grants the Notice to Proceed of the underlying <u>Renewable Energy Facility</u> of the PPA; in the event that the PPA is not executed within 30 days of the execution of this Amendment, this Amendment will not become effective.</p>

Transparency of Distributor Renewable Commitments	By signing this Tranche Amendment, Distributor represents and warrants that the cost and benefits associated with this Amendment were discussed at a public meeting open to Distributor's electric system ratepayers and that ratepayers were provided with a Distributor contact to address any inquiries regarding the effects of this arrangement.
General Terms and Conditions:	<p><u>Ratification of the Agreement.</u> The Agreement as amended by this Amendment, is ratified and confirmed as the continuing obligation of the parties.</p> <p><u>Defined Terms.</u> Capitalized and underlined terms not otherwise defined in this Amendment have the same meaning as in the Agreement.</p> <p><u>Conflicts.</u> In the event of any conflict between this Amendment and the Agreement, this Amendment controls.</p> <p><u>Assignment.</u> This Amendment will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Neither party may transfer or assign this Amendment, in whole or in part, without the other party's prior written consent.</p> <p><u>Amendment.</u> This Amendment may be amended only by a written agreement signed by both parties.</p> <p><u>Counterparts.</u> This Amendment may be executed in multiple counterparts, each of which will be considered an original and all of which together will be considered to be but one and the same instrument. Facsimile or PDF transmission of any signed original document, and retransmission of any facsimile or PDF transmission, will be the same as delivery of any original document.</p>
Performance Assurance	Section 6 of the Agreement shall govern Distributor's <u>Performance Assurance</u> obligations with TVA throughout the term of this Amendment.
Previous Agreements:	Contract No. TV-75110A, Supp. No 116, and Contract No. TV-75110A, Supp. No 123 are hereby terminated and replaced by this Amendment.

By signing below, the parties agree to be bound by the terms and conditions contained in this Amendment and the Agreement.

Knoxville Utilities Board (Acting for and on behalf of the City of Knoxville)		Tennessee Valley Authority	
<i>Signature:</i>	<i>Title:</i>	<i>Signature:</i>	<i>Title:</i>
<i>Printed Name:</i>	<i>Date:</i>	<i>Printed Name:</i>	<i>Date:</i>

TRANCHE AMENDMENT # 7

TV-75110A, Supp. No. ____

This Green Invest Tranche Amendment ("Amendment") is between Knoxville Utilities Board (Acting for and on behalf of the City of Knoxville, Tennessee) ("Distributor"), and Tennessee Valley Authority ("TVA"), and is subject to the provisions of the Green Invest Agreement ("Agreement") Contract No. TV-75110A, Supp. No. 115, as amended. This Amendment is effective as set out in Conditions Precedent below.

Applicable Renewable Energy Facility	<p>Distributor will purchase from TVA the <u>Product</u> derived from new renewable generation on an as-generated basis contingent on the availability of the new renewable generation resource at MS Solar 7, LLC, accounting for 100% of that facility's total renewable generation, being obtained by TVA under a power purchase agreement, Contract Number 6556687, as amended ("PPA").</p> <p>Contract Output (MWac): 200 MW Coordinate Location: Latitude: 33.636 and Longitude: -88.653 Expected Delivery Point: TVA's 161-kV Clay/West Point Substation Expected Initial Delivery Date: March 31, 2025 Delivery Period (years): 20</p>
Term	The term of this Amendment runs through the expiration of the term of the PPA or the earlier termination thereof.
Product Price	The <u>Product</u> price for generation from the applicable <u>Renewable Energy Facility</u> is \$5.02 per REC.
Additional Incentives Benefit	<p>On August 16, 2022 the Inflation Reduction Act of 2022 (the "IRA") was signed into law. In the event of a per/MWh price reduction under the PPA due to a provision requiring the PPA seller to share IRA benefits with TVA, the <u>Product</u> price will be reduced as follows:</p> <p>$PR = PPAPR \times 50\%$</p> <p>Where: $PR = \text{Product price reduction (rounded to the nearest cent)}$ $PPAPR = \text{reduction in the Contract Price, as set forth in an amendment to the PPA that documents the sharing of IRA benefits.}$</p>
Renewable Energy Facility Underperformance	<p>TVA will pay Distributor 14.82% of the total damages owed and received by TVA from the PPA, specifically in Section 3.3, "Failure to Meet the Expected Initial Delivery Date," and Article 8, "Supply Guarantee; Disconnection or Curtailment;" provided that, pursuant to Section 5.4 of the Agreement, Distributor shall have the right to receive replacement RECs in the event they are received by TVA under the PPA.</p> <p>In the event of early termination pursuant to Article 9, "Early Termination; Remedies" under the PPA, the percentage and allocation of damages paid to Distributor will be as set out in Section 5.4 of the Agreement.</p>
Early Termination	Section 7.3 of the Agreement will establish the early termination amount.
Conditions Precedent	This Amendment will become effective on the date TVA grants the Notice to Proceed of the underlying <u>Renewable Energy Facility</u> of the PPA; in the event that the PPA is not executed within 30 days of the execution of this Amendment, this Amendment will not become effective.

Transparency of Distributor Renewable Commitments	By signing this Tranche Amendment, Distributor represents and warrants that the cost and benefits associated with this Amendment were discussed at a public meeting open to Distributor's electric system ratepayers and that ratepayers were provided with a Distributor contact to address any inquiries regarding the effects of this arrangement.
General Terms and Conditions:	<p><u>Ratification of the Agreement.</u> The Agreement as amended by this Amendment, is ratified and confirmed as the continuing obligation of the parties.</p> <p><u>Defined Terms.</u> Capitalized and underlined terms not otherwise defined in this Amendment have the same meaning as in the Agreement.</p> <p><u>Conflicts.</u> In the event of any conflict between this Amendment and the Agreement, this Amendment controls.</p> <p><u>Assignment.</u> This Amendment will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Neither party may transfer or assign this Amendment, in whole or in part, without the other party's prior written consent.</p> <p><u>Amendment.</u> This Amendment may be amended only by a written agreement signed by both parties.</p> <p><u>Counterparts.</u> This Amendment may be executed in multiple counterparts, each of which will be considered an original and all of which together will be considered to be but one and the same instrument. Facsimile or PDF transmission of any signed original document, and retransmission of any facsimile or PDF transmission, will be the same as delivery of any original document.</p>
Performance Assurance	Section 6 of the Agreement shall govern Distributor's <u>Performance Assurance</u> obligations with TVA throughout the term of this Amendment.
Previous Agreements:	Contract No. TV-75110A, Supp. No 122, is hereby terminated and replaced by this Amendment.

By signing below, the parties agree to be bound by the terms and conditions contained in this Amendment and the Agreement.

Knoxville Utilities Board (Acting for and on behalf of the City of Knoxville)	Tennessee Valley Authority
<i>Signature:</i> _____ <i>Title:</i> _____	<i>Signature:</i> _____ <i>Title:</i> _____
<i>Printed Name:</i> _____ <i>Date:</i> _____	<i>Printed Name:</i> _____ <i>Date:</i> _____

RESOLUTION NO. 1466

A Resolution Amending the Knoxville Utilities Board Procurement Procedures

Whereas, Section 1106(T) of the Charter of the City of Knoxville (the "Charter") provides that the Knoxville Utilities Board has the authority to adopt procedures governing purchasing for the KUB system requiring competition when practical; and

Whereas, the KUB Board of Commissioners ("Board") previously adopted Resolution No. 1067, establishing the Knoxville Utilities Board Procurement Procedures ("KUB Procurement Procedures"); and

Whereas, the Board adopted Resolution No. 1197, amending the KUB Procurement Procedures to reflect certain changes in state law; and

Whereas, the Tennessee General Assembly recently amended state law to increase the threshold amount for purchases requiring public advertising and competitive bidding; and

Whereas, KUB staff has recommended the Board further amend the KUB Procurement Procedures to reflect the increase in the threshold amount; and

Whereas, the Board finds it in the best interest of KUB and its customers to replace the existing KUB Procurement Procedures with the amended KUB Procurement Procedures attached hereto as Exhibit "A".

Now, Therefore, Be it Hereby Resolved by the Board of Commissioners of the Knoxville Utilities Board:

1. The KUB Procurement Procedures attached hereto and incorporated herein as Exhibit "A" to this Resolution are approved by the adoption of this Resolution.
2. The KUB Procurement Procedures shall be liberally interpreted and applied to promote the underlying principles.
3. The President and Chief Executive Officer is authorized to amend the KUB Procurement Procedures in response to any future changes in state law regarding the threshold amount for purchases requiring public advertising and competitive bidding, provided the Board's Audit and Finance Committee be provided no less than 60 days' advance notice prior to the effective date of the amendment to the KUB Procurement Procedures.

4. The President and Chief Executive Officer is authorized and empowered generally to take such actions and authorize such persons to take such actions as may be necessary, proper, and convenient to carry into effect this Resolution.

Be It Further Resolved that this Resolution shall take effect upon its passage.

Jerry Askew, Chair

Mark Walker, Board Secretary

APPROVED ON 1st
& FINAL READING: 10-20-22
EFFECTIVE DATE: 10-20-22
MINUTE BOOK 45 PAGE 11806-11815

EXHIBIT A

KNOXVILLE UTILITIES BOARD PROCUREMENT PROCEDURES

Section I. Principles

It is the intent of the Knoxville Utilities Board ("KUB") that these procedures promote the following principles:

- a. Purchase goods and services in a manner that is both the most cost efficient and uses competition when practical.
- b. Promote effective competition for all other procurement activities when it is in KUB's best interests.
- c. Promote fair treatment to all suppliers and contractors (or prospective suppliers and contractors) of goods and services.
- d. Maintain public confidence in KUB procurement.
- e. Adhere to the requirements set forth in T.C.A. § 12-4-101 (Personal interests of officers prohibited) and T.C.A. § 6-54-107 (Interest of officer in municipal contracts prohibited).
- f. Support of the development of a diverse supplier community that reflects the communities KUB serves by encouraging small business, women and minority owned business enterprises to participate in KUB's procurement processes.
- g. Simplify, clarify, and modernize the guidelines describing KUB procurement.
- h. Ensure that the procurement practices of the various KUB organizational elements are as uniform as possible.
- i. Promote the continued evolution and development of procurement guidelines.

Section II. Procurement Defined

For these Procurement Procedures, the term "procurement" shall refer to all rights, powers, duties, and authorities relating to the purchase and other acquisition of supplies, materials, vehicles, equipment, services, construction, and real estate; the management, control and distribution of supplies, materials, vehicles, equipment, services, construction, and real estate; and the sale and other disposal of surplus real property and personal property.

Section III. Source Selection Using Competition

1. Solicitation of Bids and Proposals. When practical, purchases and leases or lease-purchase agreements by authorized KUB officials will be made using competition. The following are the authorized not-to-exceed monetary limits for the solicitation of bids and proposals for goods and services to KUB.

- a. \$0-\$19,999.99. No advertisement or competitive bidding is required.
- b. \$20,000.00-\$49,999.99. KUB authorized officials will obtain at least three (3) written (including but not limited to e-mail) quotations, when possible.
- c. \$50,000.00 and above. KUB authorized officials will advertise and conduct a competitive bidding process.

The President and Chief Executive Officer is authorized to amend the KUB Procurement Procedures in response to any future changes in state law regarding the threshold amount for purchases requiring public advertising and competitive bidding, provided the Board's Audit and Finance Committee be provided no less than 60 days' advance notice prior to the effective date of the amendment to the KUB Procurement Procedures.

2. Procedures for Public Advertising, Securing and Opening Bids. The President and Chief Executive Officer or his/her designee will implement procedures for public advertising, securing, and opening bids.

- a. Public Advertising
 - i. Purchase, lease, lease-purchase, or other agreements for material or services in the amount of \$50,000.00 and above, unless exempt from competitive bidding by these Procedures, shall be advertised for a competitive selection process.
 - ii. The President and Chief Executive Officer or his/her designee shall develop an advertisement for bids/proposals for each purchase or agreement for services meeting the requirements of this part which, at a minimum, shall include:
 - (For service contracts) KUB's project name and control number.
 - (For purchases of goods and materials) A description of the item and estimated quantity to be purchased.

- A description of and charge for any Bid Documents.
 - Instructions on where to obtain and return Bid Documents.
 - A timetable for the bidding/proposal process.
 - A statement of KUB's reservation of rights with respect to bidding/proposing.
 - Any licensing requirements.
 - Any requirement for bid deposit and bid coversheet.
 - Any limitation on withdrawal of bids/proposals.
- iii. The President and Chief Executive Officer or his/her designee shall determine and implement for each purchase meeting the requirements of this part, a schedule for publication of advertisements for bids/proposals, the date for any pre-bid or pre-proposal meetings, deadlines for questions and KUB responses, and the deadline for submitting bids or proposals. The schedule and deadlines shall be included with the Bid Documents for each purchase or agreement for services.
- iv. Advertisements required by this part shall be published in a manner that best meets the needs of each purchase or agreement for service, which may include, but not be limited to, the KUB website, the local newspaper of general circulation, trade journals, KUB bid board, electronic message board, KUB phone bid line, or third-party distribution (Plan Rooms). KUB procurement personnel may also engage in direct communication to potential bidders or proposers in a particular project where it is determined to be in the best interest of KUB.
- b. Securing Bids/Requests for Proposals
- i. The President and Chief Executive Officer or his/her designee is authorized to develop and implement those actions, guidelines, or processes necessary to maximize a full, diverse, and confidential competitive process for all purchase, lease, lease-purchase, or other agreements for materials or services under this part.
- ii. KUB will make available, upon request and at a reasonable charge, the Bid Documents for all prospective bidders/proposers for KUB purchases or agreements for services. The Bid Documents will include a description of the project or item to be purchased and/or services to be

employed, a description of the competitive process, appropriate background information, references, and definitions, relevant timelines, and deadlines, bidding/proposing requirements, and evaluation criteria. The Bid Documents may also include, but not be limited to the following, when applicable:

- Instructions to bidders
 - Form of Agreement
 - Specifications
 - Form of Bid, Performance and Payment Bonds
- iii. KUB will determine for each competitive process whether it is necessary to conduct a pre-bid/pre-proposal meeting. Where necessary, the time, location and tentative agenda for such meeting will be provided with the Bid Documents.
- iv. KUB will determine for each competitive process whether it is necessary to conduct a question-and-answer period for bidders/proposers. Where determined to be necessary, the deadline for questions and deadline for responses will be stated in the Bid Documents. KUB will provide to all bidders/proposers who obtain Bid Documents from KUB, a list of the questions asked and KUB responses to those questions.
- v. For Sealed, Low Bid competitive processes, KUB will receive and maintain the sealed bids, unopened, in a secure location, until the date and time designated for the opening of bids.
- vi. For all RFPs, Evaluated Bids, or other evaluated competitive processes, KUB will receive and maintain confidentiality of all bids/proposals submitted to KUB. Any communication between KUB and a bidder/proposer will be conducted to clarify the bid or proposal and will be conducted in a manner that will not provide any bidder/proposer an advantage or disadvantage in the competitive process. KUB's evaluation and conclusions shall be confidential until the date KUB announces the successful proposer.
- c. Opening Bids and Request for Proposals
- i. Sealed Low Bid Competitive Processes.

- KUB will establish a date to open and announce the apparent low bidder (“Bid Date”), which shall be communicated in the Bid Documents.
 - The name of the apparent low bidder shall be announced on the Bid Date.
 - After all bids have been fully evaluated, a Notice of Award shall be communicated in writing to the successful bidder which shall describe the process and include necessary documents for completion of the contract process.
 - A letter concerning the announcement of successful bidder and including a return of any Bid Security shall be sent to all unsuccessful bidders.
 - KUB reserves the right to reject any and all bids received.
- ii. For RFPs, Evaluated Bids, or other Evaluated Competitive Processes:
- KUB will establish a date to receive all proposals (“Proposal Date”), which shall be communicated in the RFP Documents.
 - A Notice of Award letter to the successful proposer will be sent after all evaluations are complete, along with any documents and instructions necessary for completion of the contract process.
 - A letter announcing the successful proposer and returning any required Bid Security, where applicable, shall be mailed to all unsuccessful proposers.
 - KUB reserves the right to reject all proposals received.
- iii. All Bid Documents, bids, proposals, and other written documentation in connection with a competitive bidding or proposal process shall be maintained by the KUB Procurement Department in the normal course of its business.

Section IV. Intergovernmental and Industry Partnering

The President and Chief Executive Officer or his/her designee is authorized to enter into cooperative purchasing agreements with other public utilities and governmental agencies pursuant to T.C.A. § 12-3-1009 (Cooperative purchasing agreements); T.C.A. § 12-3-1003 (Purchase of secondhand articles or equipment by municipalities); T.C.A. § 12-3-1004 (Purchase for other local governmental units); and T.C.A. 12-3-1005 (Transfer of surplus personal property among governmental entities) including agreements for the cooperative use of inventory.

Section V. Procurement Records

The President and Chief Executive Officer or his/her designee shall establish practices related to the retention of procurement records.

Section VI. Exemptions from Competitive Bidding

The following shall be exempt from public advertisement and competitive bidding.

1. Purchases costing less than \$50,000.00, subject to the requirements of Section III (1);
2. The purchase of goods or services that may not be procured by competitive means because of the existence of a single source of supply or because of a proprietary product;
3. Purchases or leases of any supplies, materials, or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work;
4. Leases or lease-purchase agreements requiring total payments of less than \$50,000.00 in each fiscal year, subject to the requirements of Section III (1), provided that this exemption shall not apply to leases of like or related items that individually may be leased or lease-purchased with total payments of less than \$50,000.00 in any fiscal year, but that are customarily leased or lease-purchased in numbers of two or more, if the total for lease-purchase payments for such items under a single agreement would be \$50,000.00 or more in any fiscal year;
5. Purchases, leases, or lease-purchases of real property;
6. Purchases, leases, or lease-purchases from federal, state, or local governmental units or agencies of secondhand articles or equipment or other materials, supplies, commodities and equipment;
7. Purchases of perishable commodities when such items are purchased in the open market;
8. Fuel and fuel products may be purchased in the open market without public advertisement, but shall, whenever possible, be based upon at least three competitive bids (including but not limited to telephone, fax, or e-

mail). Fuel and fuel products may be purchased from the Department of General Services Contract where available;

9. Purchases for resale of electric power, natural gas, and propane gas (T.C.A. §§ 6-56-304 and 7-51-910);
10. Contracts for certain professional services. Except as otherwise provided in this section, the President and Chief Executive Officer or his/her designee shall determine if a service constitutes a professional service pursuant to TCA § 12-4-106 (Contracts for Professional Services) and shall have the authority to negotiate contracts for such professional services.
11. The selection of KUB's general counsel and outside auditors are specifically excluded from these Procurement Procedures. The Board reserves for itself the responsibility for selecting, retaining, or replacing both the general counsel and the outside auditors.
12. A record of all purchases made pursuant to the exemptions in subsections 2, 3 and 7 of this section shall be made by the Procurement Manager or his/her designee and shall specify the amount paid, the item purchased and from whom the purchase was made. For any emergency purchases pursuant to subsection 3, the report shall include the nature of the emergency.

The Procurement Manager, not less than semi-annually, shall make a report to the President and Chief Executive Officer of all purchases made pursuant to the exemptions in subsections 2, 3, and 7 of this section. Not less than annually, the President and Chief Executive Officer or his/her designee shall make a report of such purchases to the Audit and Finance Committee of the Board.

Section VII. Inventory Management and the Sale, Lease, or Other Disposal of Surplus Real and Personal Property

The President and Chief Executive Officer or his/her designee is responsible for the management of all KUB inventory. Upon a determination in writing by a Senior Vice President that certain personal property is no longer necessary and useful for the continued operation of the affected system, and after a further determination in writing by the President and Chief Executive Officer that such personal property is not needed by any other organizational element, the President and Chief Executive Officer or his/her designee will be authorized to sell, lease or otherwise dispose of such personal property in accordance with the procurement guidelines and these Procurement Procedures.

Upon a finding by the Board, by a Resolution duly adopted, that real property is no longer necessary and useful for the continued operation of the affected system, and after a

further determination in writing by the President and Chief Executive Officer that such real property is not needed by any other organizational element, the President and Chief Executive Officer or his/her designee shall sell, lease, or otherwise dispose of such real property in a manner that is in the best interest of KUB and is in accordance with the procurement guidelines.

Section VIII. Administrative Remedies

The President and Chief Executive Officer or his/her designee(s) shall have the authority to resolve the protest of a bidder, proposer, or contractor, actual or prospective, who claims to be aggrieved, concerning the solicitation, selection, or awarding of a contract. The President and Chief Executive Officer or his/her designee is authorized to establish processes addressing the resolution of said protests and determine appropriate remedies.

Section IX. Procurement Guidelines

The President and Chief Executive Officer shall approve Procurement Guidelines addressing KUB procurement activities. Those guidelines may further limit but shall not exceed the authority granted by these Procurement Procedures.

The President and Chief Executive Officer will provide notification in writing to the Board's Audit and Finance Committee of any changes to the Procurement Guidelines. Any changes to the Procurement Guidelines will not take effect until at least sixty (60) days after the written notification.