

**APPLICATION FOR APPOINTMENT**  
**Murfreesboro Community Investment Trust**  
**Board of Trustees**

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_

Years As City Resident: \_\_\_\_\_

**Employment Information**

Employer: \_\_\_\_\_

Employer Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Occupation/Title: \_\_\_\_\_

Length of Employment: \_\_\_\_\_

Professional Credentials: \_\_\_\_\_

Professional Organizations: \_\_\_\_\_

**Education Information**

Degree: \_\_\_\_\_

Date Awarded: \_\_\_\_\_

Institution: \_\_\_\_\_

Degree: \_\_\_\_\_

Date Awarded: \_\_\_\_\_

Institution: \_\_\_\_\_

**Community Service**

Elected Offices: \_\_\_\_\_

Civic Organizations: \_\_\_\_\_

Other Service: \_\_\_\_\_

\_\_\_\_\_



**MURFREESBORO COMMUNITY INVESTMENT TRUST**

This Trust Agreement is made and entered into between the City of Murfreesboro, Tennessee (“Grantor”), and the trustees set forth on Exhibit A (the “Trustees”).

**1. Effective Date**

The effective date of this Trust Agreement is \_\_\_\_\_, 2022.

**2. Trust Funding**

The Grantor hereby assigns, transfers, and delivers to the Trustees the property described in Exhibit B annexed hereto and intends to transfer additional amounts to the Trust as set forth on the schedule included in Exhibit B. The Trustees hereby acknowledge receipt of such property and agree to hold such property, together with any additional property transferred to the Trust, in trust and to manage and dispose of the same in accordance with the provisions of this Trust Agreement.

**3. Trust Name**

The Trust hereby created shall be known as the Murfreesboro Community Investment Trust.

**4. Irrevocability**

This Trust Agreement is irrevocable and, except as set forth in paragraph 15(c), Grantor does not retain the right to alter, amend, revoke or terminate the Trust, or any of the terms of this Trust Agreement, in whole or in part.

**5. Trust Purposes**

The purposes of the Trust are:

- a. to support projects and programs of the City or other non-profit institutions that benefit the City’s inhabitants and improve or enhance the quality of life of the City’s inhabitants or aid civic or other public improvements;
- b. to advance the general welfare of the City and its residents;
- c. to promote and support recreational programs, facilities, and opportunities;
- d. to promote and support economic development and employment opportunities within the City; and
- e. to fund public works.

**6. Taxation**

It is intended that this Trust be qualified under and therefore exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended, or any corresponding provisions of any future federal tax laws, regulations, and rulings (the “Code”, as further defined in paragraph 17), as an organization described in or promulgated under, directly or indirectly, Section 501(c)(3) of the Code.

**7. Trustees**

- a. The Trust shall be managed and governed the Board of Trustees (collectively, the “Board of Trustees” or the “Board”) consisting of seven members who, after the term of their initial

appointment, will serve five-year terms and be eligible for reappointment to one additional five-year term.

- (i) The initial Trustees who shall first compose the Board shall be appointed by the Mayor of the City of Murfreesboro with the consent of a majority of the City Council. Two of the seven nominated Trustees will be designated to serve an initial two-year term, three of the nominated Trustees will be designated to serve an initial three-year term, and one Trustee will be designed to service an initial four-year term.
  - (ii) After initial appointment, prospective Trustees for appointment or reappointment of the Trustees will recommend to Council by a  $\frac{3}{4}$  vote of the Trustees not then holding seats subject to appointment or reappointment. The process for securing qualified applicants after initial appoint will be established in the Bylaws of the Board of Trustees.
  - (iii) The Trustee's slate of recommended Trustees will be forwarded to Mayor who place before the Council the slate of recommendations for consent. If a majority of Council does not consent, the Trustee's will as soon as possible thereafter recommend another slate of prospective Trustees to the Council.
  - (iv) A Trustee who has left the Board for any reason may not be reappointed to the Board for two years.
- b. Trustees shall reside within the City and a Trustee who subsequently comes to reside outside the City shall vacate his or her seat on the Board. Trustees shall each possess a level of education and experience in the areas of financial management, investments, accounting, or business such that they have demonstrated the knowledge and judgment necessary to manage more than \$50 million in investment assets.
- d. A Trustee may, by written instrument signed and acknowledged, resign his seat on the Board. The Board may remove a Trustee for any reason or no reason. The Board must, however, remove a Trustee in the event a Trustee:
- (i) is convicted of any felony or any crime of moral turpitude, or Trustee is involved in any action that would, in the judgment of the Board may bring disrepute upon the Board, the Trust, or the City;
  - (ii) fails to attend and material participate in at least 50% of the Board's regular meetings during the Fiscal Year of the Trust; or
  - (iii) is recommended for removal by a majority of the Board for good cause provided.
- e. Trustees have full authority to act even though one or more vacancies may exist on the Board. Vacancies on the Board resulting from the death, resignation, or removal will be filled by the Board within 45 days. A Trustee appointed to serve a Board seat that has been vacated shall serve the remaining term of that seat and be eligible for one reappointment unless the Trustee filling a vacancy has served one year or less, in which case the Trustee may be eligible for two reappointments. A successor Trustee shall, upon his acceptance of a seat on the Board by written instrument signed and acknowledged, have the same powers, rights, duties, and responsibilities as the then serving Trustees.

- f. Board Members shall serve without compensation and may be reimbursed from expenses directly incurred as necessary to fulfill their duties.

**8. Committee on Contributions.**

- a. A committee of not fewer than five or more than nine persons shall be appointed by the Council and will serve as the Committee on Contributions with the purpose to make recommendations on Charitable Contributions as specified in paragraph 11(c).
- b. Committee Members shall be natural persons who have attained the age of 35 years, shall be members of the community and residents of the City who have experience in and a history of participation in charitable and civic activities consistent with the organizations and activities that traditionally have been supported by the City.
- c. The term of service of Committee Members shall be three years; provided that the terms of the initial Committee Members shall be one year, two years, and three years as designated in the appointment of the Committee Members so that no more than  $\frac{1}{3}$  of the terms of the Committee Members shall expire each year.
- d. Each Committee Member shall be a member until his or her term expires and until his or her successor is selected and qualified, or until his earlier resignation, removal, or death.
- e. A Committee Member may be removed by the Board for failure to fulfill the Committee Member's duties as a Committee Member or for other good cause as determined by the Board's discretion. Whenever a vacancy in the membership of the Committee occurs, that vacancy shall be filled by the Council in accordance with the provisions of this paragraph 8 and such appointee shall serve for the unexpired term of the Committee Member which such appointee replaces.

**9. Additional Contributions.**

- a. The Board shall have the authority to receive and accept property, whether real, personal or mixed, by way of gift or bequest, from any person, firm, trust or corporation, to be held, administered and disposed of in accordance with and pursuant to the provisions of this Trust Agreement, including the proceeds of the sale of any property owned by the City or other available City funds as a means of providing additional funding for the Trust; provided that the City shall not appropriate, transfer, or otherwise allocate any tax revenue, special assessment, fee income, fine or monetary penalty collected by the City to the Trust.
- b. No gift or bequest of any such property shall be received and accepted if it is conditioned or limited in such a manner as to require the disposition of its income or principal to any person or organization other than for the purposes set forth in this Trust Agreement, or shall, in the opinion of the Trustees, jeopardize the federal income tax exemption of this Trust.
- c. In the event that a gift or bequest of property is conditioned or restricted in a manner that is consistent with the terms of this paragraph 9, the Board shall have the authority to determine whether to accept or reject such property.

**10. Trust Administration.**

This Trust shall be administered in accordance with, and subject to, the following special provisions:

- a. The Trustees have the authority to and shall within 30 days of initial appointment of the Board, to adopt bylaws, rules, and regulations for the management and administration of the Trust that, in the Board's sole discretion, are deemed appropriate or necessary, provided that such bylaws, rules and regulations are not inconsistent with the provisions of this Trust Agreement. The bylaws, rules, and regulations of the Trust may be amended by the Board as its deems prudent and necessary to assure continuing compliance with the Trust Agreement and efficient operations of the Trust.
- b. The Board has the authority to and shall within 30 days of the appointment of the Committee on Contributions, adopt bylaws, rules, and regulations for the Committee that, in the Board's sole discretion, are deemed appropriate or necessary, provided that such bylaws, rules and regulations are not inconsistent with the provisions of this Trust Agreement. The bylaws, rules, and regulations of the Committee may be amended by the Board as its deems prudent and necessary to assure continuing compliance with the Trust Agreement and efficient operations of the Committee.
- c. The Board may retain an administrator and the necessary staff to facilitate and assist the Board in the Trust's operations. The Board may maintain offices and incur expenses as deemed necessary and efficient to carry out the Trust's obligations. The Board may accept assistance from the City for administration of the Trust in the form of personnel, space, and equipment, so long as the Board determines that its operations are separate and apart from the City's operations.
- d. The Board shall initially operate the Trust on a calendar year basis as its fiscal year ("Fiscal Year"). By December 15<sup>th</sup> of each year the Board will prepare or cause to be prepared an operating budget that will detail the operating expenses and any capital expenses anticipated to be incurred during the subsequent calendar year. The Board will amend the Budget as necessary during the year. The Board may alter its fiscal year from a calendar year to another to such other 12-month accounting period that best aligns with its obligations and financial reporting under federal or state law.
- e. The Board will provide or cause to be provided to City Council annual financial statements accurately reflecting the condition of the Trust and the Trust's investments. To assist the City with its budgeting, the Board shall present to the City staff by February 15<sup>th</sup> a projection of disbursements to the City under paragraph 11.
- f. The Board shall invest the assets of the Trust to generate the highest and best practical investment return in accordance with the Tennessee Prudent Investor Act (T.C.A. § 35-14-101, *et seq.*) Notwithstanding the foregoing, the Board shall invest the Trust assets in accordance with an investment policy, approved by the Board and generally consistent with the requirements and limitations imposed on the Board of Trustees of the Tennessee Consolidated Retirement System in T.C.A. § 8-37-104(a) and (c) to the extent such requirements and limitations serve the Trust purposes.
- g. Except as otherwise provided in paragraph 16, the Trustees may access, distribute, or otherwise expend the principal of this Trust only in the event of an emergency declared by resolution approved by a  $\frac{2}{3}$  vote of the members of the City Council present, requesting an emergency loan from this Trust of not more than 20% of the Trust corpus, for which the City will execute a promissory note payable to the Trust providing bearing an interest rate and quarterly payments equal to the true interest rate of the City's last bond issuance or debt

agreement with a term of more than 10 years' provided, however, if the City has not issued bonds or incurred such debt within the last 24 months, the note shall bear an interest rate equal to the average yield of not less than five municipal bond issuances with rating comparable the Moody's or Standard & Poor's rating for the City currently outstanding debt as compiled by the City's financial advisors. The promissory note shall require full repayment the loan from the City's property tax revenues within 10 years amortized by quarterly payments. Upon the presentation of such resolution to the Board, the Trustees shall transfer the requested funds upon the City's execution of the required promissory note.

- e. Except as provided herein, no part of the net earnings of this Trust shall directly inure or be payable to or for the benefit of any private entity or individual. Additionally, no part of the activities of this Trust shall be the carrying on of propaganda, or otherwise attempting, to influence legislation; and no part of the activities of this Trust shall be the participation in, or intervention in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.
- f. Notwithstanding any other provision of this Trust Agreement, the Trust shall not carry on any other activities not permitted to be carried on by an organization that is exempt from federal income tax under Section 501(c)(3) of the Code, contributions to which are deductible under Sections 170(c)(2), 2055(a) and 2522(a) of the Code.
- g. Any other provisions of this Trust Agreement notwithstanding, if the Trust is a private foundation or otherwise is subject to the provisions of the Code enumerated below, the Trust shall make distributions at such time and in such manner as not to subject the Trust to tax under Section 4942 of the Code; shall not engage in any act of self-dealing, as defined in Section 4941(d) of the Code; shall not retain any excess business holdings, as defined in Section 4943(c) of the Code; shall not make any investments in a manner that would subject it to tax under Section 4944 of the Code; and shall not make any taxable expenditures, as defined in Section 4945(d) of the Code.
- h. The Board is authorized to employ administrative, legal, accounting, auditing, and financial professionals reasonably necessary to carry out the functions and purposes of this Trust and to negotiate the fees for such professional services, and to pay such may be paid from the Trust's assets.
- i. In the administration of this Trust, the Trustees may act personally or by, or in reliance upon the advice of, attorneys, accountants, investment advisors and managers, agents and other persons, organizations and entities and shall not be responsible to the Trust or to any beneficiary of such trust for the acts or omissions or negligence of any thereof but shall be held only to the exercise of reasonable care in selecting, employing and retaining the same.
- j. No person, organization or entity dealing with the Board hereunder shall be under any obligation, duty or liability to inquire into the power or authority of the Board to do any act done or requested or sought to be done in the performance of any duty or in the exercise of any power or discretion conferred upon the Trustees; nor shall any person, organization or entity be under any obligation, duty or liability to see to the proper application or disposition by the Trustee of the purchase price or other consideration for any property or to see to the proper disposition of any money or property loaned or delivered to the Trustees.

**11. Trust Distributions**

- a. The Board shall cause to be determined the value of the corpus of the Trust as of the last day of the Fiscal Year, calculate 5% of that value from which the Board will then deduct Fees and Expenses, as defined below, which were incurred during the Fiscal Year and make the appropriate arrangements for the resulting amount to be distributed as of March 31<sup>st</sup> (the “Annual Distribution”).
- b. Not later than March 31<sup>st</sup> of each year following the Effective Date, the Board shall distribute to the City 85% of the Annual Distribution.
- c. The Board is authorized to distribute 15% of the Annual Distribution to Qualified Beneficiaries as recommended by the Committee on Contributions (“Charitable Contributions”). Qualified Beneficiaries shall be charitable and civic organizations traditionally supported by the City and organizations recommended by the Committee whose purposes and missions are consistent with the charitable organizations traditionally supported by the City. The Committee shall make its recommended of Charitable Contributions by February 15<sup>th</sup> of each year.
  - (i) The Board shall have authority to make distributions recommended by the Committee as approved or amended by the Board; provided that the Trustees are authorized to decline to make distributions that the Trustees, in their sole discretion, determine to be inconsistent with the terms of this Trust Agreement.
  - (ii) Charitable Contributions will be allocated such that a Qualified Beneficiary receives not more than 25% of the total distribution for Charitable Contributions to one Qualified Beneficiary or to a combination of more than one Qualified Beneficiary that will use the combined funds in service to the same or a similar goal or mission.

**12. Trustees Investment Powers**

The Trustees have the powers and discretion conferred generally upon fiduciaries by T.C.A. § 35-50-110, and the introductory paragraph and all subparagraphs thereof, and the provisions of T.C.A. §§ 35-15-815 and 35-15-816, all to the extent not inconsistent with the express provisions of this Trust Agreement, which provisions are hereby incorporated herein by reference, all as in force on the date of the establishment of this Trust. Without limiting the foregoing, and subject to the limitations in paragraph 10(f), the Trustees have the following powers and discretion with regard to all property of whatever kind at any time held by them, including income held by them until its distribution, which they may exercise as they deem advisable:

- a. To invest and reinvest the principal and income of the Trust in such property, real, personal, or mixed, and in such manner as they shall deem proper, and from time to time to change investments as they shall deem advisable; to invest in or retain any stocks (common or preferred), shares, bonds, mortgages, notes, obligations, or personal or real property (including, without limitation, any interests in or obligations of any corporation, association, business trust, investment trust, common trust fund, investment company, mutual fund, money market or liquid asset fund, or other short-term liquid investments) limited partnerships, limited liability companies, limited liability partnerships, limited liability limited partnerships, hedge funds, and other pass-through taxable entities, alternative investments, private equity, venture capital, investments in regulated investment companies or other mutual funds, investment trusts, interests in any common trust fund maintained by any



entity although some or all of the property so acquired or retained is of a kind or size which, but for this express authority, would not be considered proper, and although all of the trust funds are invested in the securities of one company. No principal or income, however, shall be loaned, directly or indirectly, to any Trustee nor shall any loan be made to any other entity, corporate or otherwise, who has at any time made a contribution to this Trust, nor to anyone except on the basis of an adequate interest charge and with adequate security.

- b. To improve, partition, sell, lease, or exchange any personal, mixed, or real property, at public auction or by private contract, for such consideration and on such terms as to credit or otherwise; to make alterations in and extraordinary improvements to any building now or hereafter located on any trust property or to demolish the same, or to construct new buildings thereon; and to make such contracts and enter into such undertakings relating to the trust property, as they consider advisable, whether or not such leases or contracts may extend beyond the duration of the Trust.
- c. To lease, as lessor or lessee, with or without options to purchase, renew or otherwise, grant easements over, make any agreements or contracts whatever with respect to, grant options upon, sell, exchange or in any other way dispose of, convey or transfer, all or any part or asset of the Trust for such consideration, on such terms and conditions, and for such period(s) of time (even though such period(s) may or does or do extend beyond the administration of the term of an applicable trust) as the trustee may deem desirable.
- d. To manage, operate and administer all real property and interests therein; to make repairs or alterations (ordinary or extraordinary), to erect, maintain, replace, tear down, demolish, and raze, any improvements, buildings or other structures placed or to be placed on any such real property.
- e. To subdivide, develop, or dedicate land to public use, make or obtain the vacation of plats and adjust boundaries; to adjust differences in valuation on exchange or partition by giving or receiving considerations; and to dedicate easements to public use without consideration
- f. To conduct environmental assessments, audits, and site monitoring to determine compliance with any environmental law or regulation thereunder; to take all appropriate remedial action to contain, clean up, or remove any environmental hazard, either on the trustee's own accord or in response to an actual or threatened violation of any environmental law or regulation; to institute legal proceedings concerning environmental hazards or contest or settle legal proceedings brought by any governmental agency concerned with environmental compliance or by a private party; and to comply with any order of a governmental agency or court directing an assessment, abatement, or cleanup of environmental hazards;
- g. To borrow money for such periods, at such rates of interest, and upon such terms as the Trustees consider advisable, and, as security for such loans, to mortgage or pledge any real or personal property with or without power of sale; to acquire or hold any real or personal property, subject to any mortgage or pledge on or of property acquired or held by this Trust.
- h. To consent to the modification, renewal or extension of any note, whether or not secured, or any bond or mortgage, or of any term or provisions thereof, or of any guarantee thereof, or to the release of such guarantee; to release obligors on bonds secured by mortgages or to refrain from instituting suits or actions against such obligors for deficiencies; to use property held hereunder for the protection of any investment in real property or in any mortgage of real property.

- i. To execute and deliver deeds, assignments, transfers, mortgages, pledges, leases, covenants, contracts, promissory notes, releases, and other instruments, sealed or unsealed, incident to any transaction in which they engage.
- j. To abandon any property, real or personal, which the Trustees shall deem to be worthless or not of sufficient value to warrant keeping or protecting; to abstain from the payment of taxes, water rents, assessments, repairs, maintenance and upkeep of such worthless property; to permit such worthless property to be lost by tax sale or other proceedings, or to convey any such worthless property for nominal or no consideration.
- k. To manage, and to vote in person or by general or limited proxy with or without full power of substitution, all stock, securities and rights and interests evidenced by any other type of paper in any public or private corporation, trust, general partnership, limited partnership, limited liability company, registered limited liability partnership or association, in respect of all matters ordinary and extraordinary, including without limitation: the borrowing of money; the issuance or retirement of any of such stock, securities and other paper; the sale, exchange or other disposition of some or all assets; conversion; consolidation; merger; recapitalization; liquidation; dissolution; any other transaction or reorganization of any character whatever, whether or not in bankruptcy; and to retain any or all property received as a consequence thereof, without limitation as to time
- l. To vote, to give proxies, to participate in the reorganization, recapitalization, liquidation, partial liquidation, dissolution, merger or consolidation of any concern, or in the sale, lease, mortgage, disposition, or distribution of its assets; to join with other security holders in acting through a committee, depository, voting trustees, or otherwise, and in this connection, to delegate authority to such committee, depository, or trustees and to deposit securities with them or transfer securities to them; to pay assessments levied on securities or to exercise subscription rights in respect of securities.
- m. To compromise, settle, adjust or submit to arbitration any matter of dispute;
- n. To institute, prosecute, defend, become a party to, and participate in, any formal or informal actions, suits or proceedings, whether at law, in equity, or merely administrative;
- o. To keep the Trust assets insured against casualty; and to insure the owners or users thereof or those beneficially interested therein against loss or damage with reference to the same;
- p. To establish and change trust-accounting years and to establish, maintain or change the accounts, the bookkeeping and accounting systems and the periods of time with respect to which the records of the trusts created under this Indenture are maintained and taxes, income, gains and losses, and capital changes are determined.
- q. To employ a bank, trust company, individual or other organization to serve as an agent or as custodian of any funds or securities and to delegate to it such powers as they deem appropriate; to hold trust property without indication of fiduciary capacity but only in the name of a registered nominee, provided the trust property is at all times identified as such on the books of the Trust; to keep any or all of the trust property or funds in any place or places in the United States of America; to employ administrators, experts, agents, auditors, clerks, accountants, legal counsel, investment counsel, investment agents, and any other special services, and to pay the reasonable compensation and expenses of all such services.

- r. To do any and all acts, to exercise any and all rights, to take any and all proceedings, and to enter into any and all contracts and other instruments (whether or not specified above and including, but not limited to, the preparation and filing of any and all registration statements and papers, documents and instruments of whatever kind and nature with the Securities and Exchange Commission and the payment of any and all expenses in connection therewith) necessary or proper in the opinion of the Trustees in the administration of the Trust, as fully as if the Trustees were the absolute owner of such property.

**13. Fiduciary Status of Trustees.**

The powers of the Trustees are exercisable solely in a fiduciary capacity consistent with and in furtherance of the purposes of this Trust, as specified herein, and not otherwise. Trustees shall not be required to furnish any bond or surety. No Trustee shall be responsible or liable for the acts or omissions of any other Trustee or of any predecessor, or of a custodian, agent, depository, or counsel that are selected with reasonable care.

**14. Indemnification and Advancement of Expenses.**

The following indemnification provisions shall apply to Trustees, Committee Members, employees, and agents of the Trust acting in their respective capacities, as well as the heirs, executors, administrators and legal representatives of each of the forgoing (collectively, "Indemnified Parties" and individually, an "Indemnified Party").

- a. Indemnification of Indemnified Parties. To the maximum extent permitted by law, Trust shall indemnify and advance expenses to any Indemnified Party for the defense of any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal (any such action, suit, or proceeding being hereinafter referred to as the "Proceeding"), to which such person was, is, or is threatened to be made, a named defendant or respondent, which indemnification and advancement of expenses include counsel fees actually incurred as a result of the Proceeding or any appeal thereof, reasonable expenses actually incurred with respect to the Proceeding, all fines, judgments, penalties and amounts paid in settlement thereof, subject to the following conditions:
  - (i) The Proceeding was instituted by reason of the fact that such person is or was Trustee, Committee Member, employee, or agent of the Trust; and
  - (ii) The Indemnified Party conducted himself or herself in good faith, and he or she reasonably believed (1) in the case of conduct in his or her official capacity with the Trust, that his or her conduct was in its best interest; (2) in all other cases, that his or her conduct was at least not opposed to the best interest of the Trust; and (3) in the case of any criminal proceeding, that he or she had no reasonable cause to believe his or her conduct was unlawful.
  - (iii) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Indemnified Party did not meet the standard of conduct herein described.
- b. Non-Exclusive Application. The rights to indemnification and advancement of expenses set forth in this paragraph 14 are contractual between the Trust and the Indemnified Party and are not exclusive of other similar rights of indemnification or advancement of expenses to

which such person may be entitled, whether by law, by this Trust Agreement, by a resolution of the Board, by the purchase and maintenance by the Trust of insurance on behalf of an Indemnified Person, or by an agreement with the Trust providing for such indemnification, all of which means of indemnification and advancement of expenses are hereby specifically authorized.

- c. Non-Limiting Application. The provisions of this paragraph 14 shall not limit the power of the Trust to pay or reimburse expenses incurred by an Indemnified Person in connection with such person's appearing as a witness in a Proceeding at a time when he or she has not been made a named defendant or respondent to the Proceeding.
- d. Prohibited Indemnification. Notwithstanding any other provision of this paragraph 14, the Trust shall not indemnify or advance expenses to or on behalf of an Indemnified Party:
  - (i) In connection with a Proceeding by or in the right of the Trust in which such person was adjudged liable to the Trust;
  - (ii) In connection with any other Proceeding charging improper personal benefit to such person, whether or not involving action in his or her official capacity, in which he or she was adjudged liable on the basis that personal benefit was improperly received by him or her;
  - (iii) For any breach of the Trustee's or Committee Member's duty of loyalty to the Trust;
  - (iv) For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law.
- e. Repeal or Modification Not Retroactive. No repeal or modification of the provisions of this paragraph 14, either directly or by the adoption of a provision inconsistent with the provisions of this paragraph 14, shall adversely affect any right or protection, as set forth herein, existing in favor of a particular individual at the time of such repeal or modification.

**15. Amendments.**

This Trust Agreement may not be amended except as follows:

- a. This Trust Agreement may be amended by the City and Trustees to the extent necessary in order to comply with the provisions of the Code and the federal tax laws and regulations, and state laws and regulations as necessary for the Trust shall be exempt from federal income taxes and state taxes. An amendment of the provisions of this paragraph 15 (or any amendment to it) shall be valid only if and to the extent that such amendment further restricts the amending power of the Trustees.
- b. This Trust Agreement may be amended by the Board to modify the procedure for appointing Trustees and Members of the Committee on Contributions except for the qualifications required for a Trustee or Committee Member.
- c. The City Council may amend the date set forth in paragraph 11(b) of disbursement to a date later in the City's fiscal year and the types of charitable causes specified in paragraph 11(c)(ii); provided, however, the limitation on allocation to a single Qualified Beneficiary may not be altered.

- c. All amendments to this Trust Agreement pursuant to this paragraph 15(a) shall be in writing and signed by a majority of the Trustees and, on behalf of the City, in a form of resolution of the City Council. Amendments pursuant to paragraph 15(b) shall be in writing and signed by a majority of the Trustees. Amendments pursuant to paragraph 15(c) shall be in the form of a resolution by the City Council and acknowledged by the Board. All instruments amending this Trust Agreement shall be noted upon or kept attached to the executed originals of this Trust Agreement held by the Trustees and City.

**16. Term and Termination.**

The Trust shall be perpetual and may not be terminated by the Board or the City unless:

- a. As of December 31<sup>st</sup> of any Fiscal Year, the fair market value of the Trust's assets is less than \$10,000,000, or
- b. A majority of the qualified voters of the City voting in an election pursuant to an initiative under Section 26 of the Act or a referendum on a duly enacted ordinance in accordance with Section 27 of the Act approve the liquidation of the assets of this Trust and the distribution of the proceeds thereof in full liquidation of this Trust.
- c. When the Trust is terminated pursuant to this paragraph 16, the Trustees shall take all reasonable and necessary actions necessary to liquidate the Trust's assets in an orderly and business-like manner that is most financially beneficial, and thereby convert the Trust's assets to cash deposits, and the Trustees shall distribute such deposits to the City in full liquidation of this Trust. Trustee's will continue to hold instruments to maturity the earlier termination of which would be financially detrimental, and which cannot be transferred to the City during its term.
- d. Following the liquidation of the Trust's assets and the distribution of the proceeds of such liquidation as provided in this paragraph 16, the Trust Agreement shall terminate.

**17. Definitions.**

For purposes of this Trust Agreement and any amendment to it, the following terms shall have the following meanings:

“**Act**” means Chapter 429 of the Private Acts of 1931, as amended, that constitutes the Murfreesboro City Charter.

“**Annual Distribution**” has the meaning ascribed thereto in paragraph 11(a).

“**Board of Trustees**” and “**Board**” has the meaning ascribed thereto in paragraph 7.

“**City**” means the City of Murfreesboro, Tennessee.

“**Code**” means the Internal Revenue Code of 1986, as such Code is now in force or may be subsequently amended, or any future federal tax code

“**Charitable Contributions**” has the meaning ascribed thereto in paragraph 11(c).

“**Charitable Purposes**” is limited to and includes only religious, charitable, scientific, literary or educational purposes within the meaning of those terms as used in Section 501(c)(3) of the Code, or corresponding section of any future federal tax code, but only such purposes as also constitute public charitable purposes under the laws of trusts of the State of Tennessee.

“**Committee Member**” means a member of the Committee on Contributions appointed as provided in paragraph 8.

“**Fees and Expenses**” means the investment costs, management fees, and administrative expenses, and other costs incurred by the Trust in generating the investment income and managing the Trust consistent with the fiduciary duties of the Trustees.

“**Fiscal Year**” means the 12-year period as defined in paragraph 10(d).

“**Grantor**” has the meaning ascribed thereto in the Preamble of this Trust Agreement.

“**Indemnified Party**” and “**Indemnified Parties**” have the meanings ascribed thereto in paragraph 14

“**Proceeding**” has the meaning ascribed thereto in paragraph 14(a).

“**Qualified Beneficiaries**” means corporations, trusts, funds, foundations or community chests created or organized in the United States or in any of its possessions, whether under the laws of the United States, any state or territory, the District of Columbia, or any possession of the United States, organized and operated exclusively for Charitable Purposes, no part of the earnings of which inures or is payable to or for the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which do not participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office. An organization described in this paragraph shall be an organization described in Section 501(c)(3) of the Code and paragraph (1), (2) or (3) of Section 509(a) of the Code. It is intended that the organizations described in this paragraph shall be entitled to exemption from federal income tax under Section 501(c)(3) of the Code, or corresponding section of any future federal tax code; and contributions to such organizations shall qualify for the deduction provided under Sections 170(c), 642(c) and 2055(a) of the Code, or corresponding sections of any future federal tax code. Qualified Beneficiaries shall also include states, territories or possessions of the United States, any political subdivision of any of the foregoing, or the United States or the District of Columbia, provided that distributions made to any of the foregoing are used exclusively for Charitable Purposes. Qualified Beneficiaries must also be permitted under Tennessee law to receive contributions from a municipality.

“**Trust Agreement**” shall mean this agreement pursuant to which the City established this Trust.

“**Trustee**” has the meaning ascribed thereto in the Preamble of this Trust document and, except as may be expressly provided to the contrary, means one or more Trustees, whether original or successor, for the time being in office.

**18. Miscellaneous**

- a. Governing Law. This Trust Agreement has been executed by the City and accepted by the Trustees in the State of Tennessee, and all questions pertaining to the validity, construction and administration of this Trust shall be determined in accordance with the laws of the State of Tennessee.

- b. Reliance on Copy of Agreement. Any person may rely on a copy, certified by a notary public, of the executed original or this Trust Agreement held by the Trustees, and of any of the notations on it and writings attached to it, as fully as one might rely on the original documents themselves. Any such person may rely fully on any statements of fact certified by anyone who appears from such original documents or from such certified copy to be a Trustee under this Trust Agreement. No one dealing with the Trustees need inquire into the validity of anything the Trustees purport to do, and no one dealing with the Trustees need to see to the application of anything paid or transferred to or upon the order of the Trustees.
- c. Captions. Titles or captions of paragraphs contained in this Trust Agreement are inserted only as a matter of convenience and for reference and do not define, limit, extend or prescribe the scope of this Trust Agreement or the intent of any provision.
- d. Severability. If any provision of this Trust Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Trust Agreement will remain in full force and effect. Any provision of this Trust Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

**IN WITNESS WHEREOF**, the parties execute this Trust Agreement as of the Effective Date.

**GRANTOR:**  
**City of Murfreesboro, Tennessee**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

**TRUSTEES:**

\_\_\_\_\_  
[name]

\_\_\_\_\_  
[name]

\_\_\_\_\_  
[name]

\_\_\_\_\_  
[name]

\_\_\_\_\_  
[name]

\_\_\_\_\_  
[name]

\_\_\_\_\_  
[name]

**FORM OF CITY ACKNOWLEDGMENT**

STATE OF TENNESSEE  
COUNTY OF RUTHERFORD

Personally appeared before me, \_\_\_\_\_ Notary Public in and for said County and State, the within named \_\_\_\_\_, the bargainer, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he/she is the \_\_\_\_\_ of the City of Murfreesboro, Tennessee, and in the capacity as such \_\_\_\_\_ he/she is authorized to execute this Trust Agreement, and that he executed this Trust Agreement for the purposes therein contained.

WITNESS my hand and official seal at Murfreesboro, Tennessee, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



**FORM OF TRUSTEE ACKNOWLEDGMENT**

STATE OF TENNESSEE

COUNTY OF RUTHERFORD

Personally appeared before me, \_\_\_\_\_ Notary Public in and for said County and State, the within named \_\_\_\_\_ the bargainer, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he/she executed this Trust Agreement, as Trustee, for the purposes therein contained.

WITNESS my hand and official seal at Murfreesboro, Tennessee, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_

Notary Public

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**TRUSTEES**

## EXHIBIT B

### PROPERTY CONTRIBUTED TO TRUST

The property contributed by the City of Murfreesboro to this Trust consists of funds in the initial amount of \$24,865,070 and a portion of the additional proceeds, as set forth on the schedule below, received by the City of Murfreesboro under that certain promissory note dated July 1, 2020, with Middle Tennessee Electric Membership Corporation as the maker and the City of Murfreesboro as the Payee, received by the City of Murfreesboro with respect to the sale of substantially all of the assets of the Murfreesboro Electric Department to Middle Tennessee Electric Membership Corporation in the original principal amount of \$202,000,000 payable in equal annual installments of \$17,290,133.78 including interest at the rate of three and <sup>3</sup>/<sub>10</sub> percent (3.3%) for 15 years, with the first payment due on July, 2020 and each successive payment due on the anniversary of the first payment.

Trust Fiscal Year	Contribution to Trust
Initial Contribution	\$24,865,070.00
Year 1	\$ 7,040,134.78
Year 2	\$ 9,290,134.78
Year 3	\$10,040,134.78
Year 4	\$10,290,134.78
Year 5	\$10,540,134.78
Year 6	\$13,315,134.78
Year 7	\$16,040,134.78
Year 8	\$16,540,134.78
Year 9	\$17,040,134.78
Year 10	\$17,290,134.78
Year 11	\$17,290,134.78
Year 12	\$17,290,134.78
Year 13	\$17,290,134.78
Year 14	\$17,290,134.78
Year 15	\$17,290,134.78